

# EAST NANTMEAL TOWNSHIP

CHESTER COUNTY, PENNSYLVANIA

## ZONING ORDINANCE OF 2011

Adopted September 14, 2011  
by the  
East Nantmeal Township Board of Supervisors

## EAST NANTMEAL TOWNSHIP ZONING ORDINANCE OF 2011

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## Zoning Map



## ARTICLE I

### GENERAL PROVISIONS AND ESTABLISHMENT OF ZONING DISTRICTS

#### Section 100 SHORT TITLE

This Ordinance shall be known and may be cited as the **East Nantmeal Township Zoning Ordinance of 2011**, as amended, and restated. This Zoning Ordinance amends and supersedes the East Nantmeal Township Zoning Ordinance of 1994 and all subsequent text amendments and revisions including those of 2005 and 2006 (e.g., Ordinances 2005-1, 2006-3 and 2006-4).

#### Section 101 PURPOSE

This Ordinance is designed and intended:

- A. To promote, protect and facilitate the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense, disaster evacuation, airports and national defense facilities, the provisions of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewage, schools, public grounds-and other public requirements, as well as
- B. To prevent 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.

Toward these ends, this Ordinance is in accordance with the Comprehensive Plan of East Nantmeal Township with consideration for the character of the Township, its various parts and the suitability of the various parts for particular uses and structures.

#### Section 102 INTERPRETATION

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety,

morals and general welfare. Where provisions of this Ordinance impose standards and restrictions different from those imposed by any other statute, ordinance or regulation, the provisions of the more stringent shall be deemed controlling.

#### Section 103           SCOPE

From and after the effective date of this Ordinance, use of all land, every building or portion of a building erected, altered in respect to height or area, added to or relocated, and every use hereafter established with any building or use accessory thereto in the Township of East Nantmeal shall be in conformity with the provisions of this Ordinance.

Any building, structure or use of a building or land lawfully existing at the effective date of this Ordinance, which is not in conformity herewith, may be continued, extended or changed only in accordance with the regulations herein contained relating to nonconforming buildings, uses, structures and lots and not otherwise.

#### Section 104           CONFLICT

It is not intended by this Ordinance to repeal, abrogate, annul or interfere with any existing ordinance or enactment or with any rule, regulation or permit adopted or issued there under except insofar as the same may be inconsistent or in conflict with any of the provisions of this Ordinance. To the extent possible, this Ordinance and every other ordinance of East Nantmeal Township shall be construed together and conflicts resolved in accordance therewith but, where conflicts are otherwise irreconcilable, the more stringent provision shall be deemed to prevail.

#### Section 105           VALIDITY

If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any other part thereof, but this Ordinance shall be then construed as if the same had been adopted without the offending provision.

Section 106            REPEALER

All ordinances or parts of ordinances inconsistent herewith in general and in particular the East Nantmeal Township Zoning Ordinance of 1972, the Zoning Ordinance of 1994, and the Zoning Ordinance of May 5, 2005 and subsequent text amendments shall be and hereby are repealed. Ordinances hereby repealed include:

Ordinance 2005-1  
Ordinance 2006-3  
Ordinance 2006-4

Section 107            STATEMENT OF COMMUNITY DEVELOPMENT  
OBJECTIVES

The community development objectives, being more fully set forth in the East Nantmeal Township Comprehensive Plan, as amended, are as follows:

- A.     Guiding and encouraging the future development of East Nantmeal Township in accordance with the comprehensive planning of the land use and population density that represents the most beneficial and convenient relationship among agricultural, residential, commercial, industrial and other areas within the Township having regard to their suitability for the various uses appropriate to each of them and their potentiality for such uses.
- B.     Protecting the character and social and economic stability of the Township as a whole and of each of the various use areas, and encouraging orderly and beneficial growth.
- C.     Protecting and conserving the value of land and buildings throughout the Township appropriate to the various uses proposed.
- D.     Bringing about through proper timing the gradual conformity of land use to the Comprehensive Plan and minimizing conflicts among users of land and buildings.
- E.     Aiding in bringing about the most beneficial relationship between land use and circulation of traffic throughout the Township, having particular regard to traffic and to the avoidance of congestion in the roads, and the provision of safe and convenient access appropriate to the various land uses.

- F. Aiding in providing a guide for public policy and action in the efficient provision of public facilities and services in the provision of safe and proper sanitary sewage disposal, in the establishment and regulation of flood hazard areas for maximum protection to persons and property, as well as soils, vegetation and groundwater supply, and for private enterprise in building development, investment and other economic activities related to land use.
- G. To protect, preserve and maintain the essential rural character of East Nantmeal Township, preserving, as a public trust, the agricultural economy upon which the Township is based.
- H. Preserving farmland and encouraging the development of agriculture, and preserving lands particularly well-suited thereto.
- I. Insuring that each use within a district is environmentally compatible with its surrounding uses and reducing the incompatibility of uses to the greatest extent permitted by law.
- J. Providing for the reasonable needs and all reasonable uses within the Township and insuring that the location, construction, maintenance and operation of adjacent units do not detract from the peaceful enjoyment of surrounding uses or impair the public health, safety, morals or welfare.
- K. Preserving, to the greatest extent- compatible with reasonable use of land, the forest, watercourses, slopes and other natural features from damage, injury or destruction by adjacent incompatible uses.
- L. Encouraging developments in areas of moderate slope and non-agricultural soils in order to retain the dedication of prime farmland to agricultural uses.
- M. Providing reasonable facilities and Infrastructure to meet the needs of the residents, occupants and commerce of East Nantmeal Township, including, but not limited to, such facilities as adequate roads, parks, playgrounds, and sewage and water facilities.
- N. Providing reasonable, affordable and adequate housing of the widest variety and selection to present and future residents of East Nantmeal Township.

## Section 108 ESTABLISHMENT OF ZONING DISTRICTS

For the purpose of this Ordinance, East Nantmeal Township is hereby divided into six (6) zoning districts, which shall be designated as follows:

1. Agricultural Preservation (AP)
2. Agricultural/Residential (AR)
3. Commercial (C)
4. Industrial/Agricultural (IA-1)
5. Industrial/Agricultural (IA-2)
6. Educational/Institutional (EI)

## Section 109 DISTRICTS OF APPROXIMATE ANNEXED AREAS

Any territory hereinafter added to the Township by annexation shall be considered to be zoned and lying within an Agricultural/Preservation District (AP) unless the annexation ordinance or an amendment to this Ordinance establishes a different zoning district.

## Section 110 ZONING MAP

The boundaries of zoning districts shall be as shown upon the map made a part of this Ordinance which shall be designated the Zoning Map of East Nantmeal Township. The said map, and all notations, references and other things shown thereon, shall be made a part of this Ordinance as if the matters and things shown by said map were all fully described herein. An official zoning map shall be established and, as amended from time to time, continuously maintained in the Office of the Township of East Nantmeal, where the same may be examined during regular business hours.

## Section 111 BOUNDARIES OF DISTRICTS

The boundaries between districts are, unless otherwise indicated, either the centerline of streets or railroad rights-of-way or such lines extended, or parallel thereto. Where figures are shown on the Zoning Map between a street and a

district boundary line, they indicate the district boundary line runs parallel to the right-of-way line at a distance therefrom equal to the number of feet so indicated.

## ARTICLE II

### DEFINITIONS

#### Section 200 INTERPRETATION

Unless otherwise expressly stated or the context clearly indicates another meaning, the following words and phrases shall be construed throughout this Ordinance so that:

- A. The present tense includes all other tenses; the singular includes the plural and the plural includes the singular; the masculine gender includes the feminine and neuter.
- B. The word "person" includes any individual, estate, trust, fiduciary, partnership, firm, association, corporation or any other organization or entity, including the principle officers thereof or any other individual or entity acting directly or indirectly by, through or under any of the foregoing.
- C. The word "shall" is always mandatory; the word "will" is always directory; and the word "may" is always permissive.
- D. The word "used" shall include the words "arranged", "designed", or "intended to be used".
- E. The word "structure" shall include the word "building".
- F. The word "built" shall include the words "constructed", "erected", or "altered".
- G. The terms "such as", "including" and the like are intended to introduce matters that are illustrative of the meaning of the sentence, clause or phrase in which such terms appear without limiting or derogating from the general application of the sentence, clause or phrase in which such terms appear.
- H. The words "as amended" as applied to any statute, ordinance, code, regulation, plan or map, include replacements, supplements or restatements thereof; and reference to a particular Article, Section or Subsection which inherently refers to other Articles, Sections or Subsections, includes all Articles, Sections and Subsections referred to.

- I. The word "Township" means East Nantmeal Township, Chester County, Pennsylvania; the term "Township Officials" means the Township Officials of Nantmeal Township; the term "Planning Commission" means the Planning Commission of East Nantmeal Township; the term, "Board" means Board of Supervisors of East Nantmeal Township; and the term "Zoning Hearing Board" means the Zoning Hearing Board of East Nantmeal Township.
- J. Where a word appears in this document, and also appears in the Pennsylvania Municipalities Planning Code, as amended, the definition or the implied definition based on its use in context within this Ordinance shall apply.
- K. When terms, phrases or words are not hereafter defined, they shall have the first mentioned relevant definition given in the most recent edition of Webster's Unabridged Dictionary. If not found in the aforementioned dictionary their meaning shall have the ordinarily accepted meaning or such as the context may imply.
- L. Where any activity is regulated by any act of the Commonwealth of Pennsylvania and specific definitions are set forth in such act, the definition set forth in the act shall apply if not specifically defined otherwise in this Ordinance.

## Section 201            DEFINITION OF TERMS

In this Ordinance, words, terms and phrases shall have the following meanings:

AASHTO - American Association of State Highway and Transportation Officials.

ACCELERATED EROSION - The removal of the surface of the land, through the combined action of man's activities and natural processes, that occurs at a rate greater than would occur from natural processes alone.

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.

ACCESSORY USE RESIDENCE - For the purpose of this Ordinance an accessory use residence shall be a building constructed as a single-family dwelling and used to house persons engaged in agricultural activities. In



addition, this type of residence shall only be allowed within the Class I AP District and only on the same tract or property of the landowner for whom the employees work.

**ADAPTIVE REUSE** - The development of a new use for an older building or for a building originally designed for a special or specific purpose.

**AGRICULTURE, EXTENSIVE** - Extensive agriculture shall be deemed to include the customary growing of crops and raising of livestock for production of meat, dairy products, skins and like activities, excluding intensive agriculture as hereinafter defined. Extensive agriculture shall also be deemed to include the raising of horses, excluding, however, boarding stables, hack stables, horse shows, horse riding lessons, horse clinics and horse camps. Extensive agriculture envisions a demand for substantial areas of land and, by reason of dispersed activity, will present few unusual environmental problems, such as runoff, animal waste concentrations and the like.

**AGRICULTURE, INTENSIVE** - Intensive agriculture is intended to include, but not be limited to, the following activities: the raising of poultry, dog kennels, mushroom houses, fattening pens and pig farming. In addition to all of the foregoing, the land application of sewage sludge shall not be deemed an accessory use to extensive agriculture but shall be deemed intensive agriculture, subject to all of the terms, conditions and limitations of the engaging in intensive agriculture under the terms of this Ordinance. The hallmarks of intensive agriculture include one or more of the following: relatively small lot areas, strong offensive odors, substantial runoff, large concentrations of animal waste, noise, and extensive use of chemicals, compost, and manure piles. Intensive and extensive agriculture may coexist upon the same tract of land and those portions of a farm dedicated to intensive agriculture shall be separately addressed and deemed a separate and distinct use.

**AGRICULTURAL DORMITORY** - A dwelling unit housing any number of migrant or temporary employees working upon the same tract or a tract adjacent thereto and under common ownership and control as the said dormitory is erected and employed within a principal use on said tract authorized under Sections 302.A.1 or 302.A.2.

**AGRICULTURAL SOILS** - Agricultural soils are those soils designated in the Soil Survey of Chester and Delaware Counties, Pennsylvania, United States Department of Agriculture Soil Conservation Service, May, 1963, Series 1959, No. 19, Pages 4 and 5, as falling within the soil capability groups Class I and Class II.

ALLEY - An improved right-of-way or easement providing secondary access to the side or rear of two (2) or more lots. It may be public or private and is not intended for through traffic use. Its primary function is to provide access to the side or rear of the abutting lots.

ANIMAL, LARGE - Any animal that measures more than thirty- (30) inches from ground to shoulder in height or weighs more than 300 pounds, not including household pets.

ANTENNA - A device used to receive and/or transmit wireless radio, television, telephone, digital or other communications, including microwave dishes, panels, grids and poles.

ANTENNA FOR PERSONAL WIRELESS SERVICE - An antenna and associated equipment used for commercial mobile services, unlicensed wireless services and common carrier wireless exchange access as governed by Section 704 of the Telecommunication Act of 1996. Such an antenna and associated equipment are not public utility structures or facilities, as those terms are used in this Ordinance.

ANTENNA FOR PRIVATE USE - See Private Antenna.

ANTENNA FOR PUBLIC BROADCAST - An antenna used only for transmission by commercial and public organizations of radio or television to the general public or a sector of the general public and which do not possess a highly limited transmission range with resultant site-specific location requirements.

ANTENNA SUPPORT STRUCTURE - Any monopole, telescoping mast, tower, tripod, truss or lattice structure or any other type of structure use to support antenna(s), a.k.a. communication tower.

ANTENNA SUPPORT STRUCTURE HEIGHT - The vertical distance, measured along the vertical centerline of the antenna support structure from the grade of original and undisturbed ground to the highest point of the antenna(s) and antenna support structure.

ANTIQUE CAR - A car for which the Commonwealth has issued a current antique or classic license plate.

APARTMENT - A dwelling unit with either independent or shared access to the exterior of a multi-family residential building or a building which has other nonresidential uses where the dwelling unit is an accessory use.

**AUTOMOTIVE/MECHANICAL REPAIR SHOP** - A structure, building or area of land or any portion thereof that is used principally for mechanical or body repair of motor vehicles, and which may or may not be used for the sale of motor fuel, lubricants, parts and accessories.

**BASE DEVELOPMENT VOLUME** - The Base Development Volume is the projected volume that would be expected to arise by the development at the density and use of one dwelling unit per one and one-half (1½) acres of net lot area, as hereinafter defined, of all of the land within an area of consideration that is neither developed, approved for development nor part of the development application under consideration. Basically, it refers to trip generations for superimposition onto the road net, consumptive water use, anticipated sewage flows, runoff computations for storm water and similar quantitative computations required under the impact standards of this Ordinance. An area under consideration may be the roads within the defined road net, the area within a zoning district, the area within an aquifer, the area within a watershed or any other areas of consideration designated in the applicable performance standards.

**BASE DISTRICT DENSITY (BDD)** - A term used in the calculation of the maximum number of dwelling units permitted in the AP District when utilizing the Cluster Development Option of Article III. It is an interim result of subtracting all non-developable lands from the gross tract acreage within the AP District and then dividing that number by the base district minimum lot acreage.

**BASEMENT** - An enclosed area of a building which is partially or completely below grade. A basement shall be considered as a story for the purpose of height measurement if the basement ceiling is five (5) feet or more above the average ground level around the building. For the purpose of administration of Article X (Flood and Water Hazard District) only the term "Basement" shall be deemed to include only those areas of a building having its floor below ground level on all sides.

**BED AND BREAKFAST** - A use in a single-family detached dwelling within which the owner(s) of such dwelling provides overnight accommodations for not more than eight (8) short-term (not more than seven (7) days) transient guests, including the service of breakfast but not other meals.

**BUFFER AREA** - An area within a required setback with natural ground-cover adjacent to a property boundary that does not contain any structures, except for those permitted in Section 1303, and which is landscaped and maintained as

required by this Ordinance (See Section 1305 and the applicable district regulations).

**BUFFER PLANTING STRIP** - A strip of land within the required buffer area that is landscaped with trees and shrubs of sufficient height and density to conceal from the view of abutting property owners the structures and uses on the premises on which the screening is located. The buffer strip shall be installed and maintained as required by this Ordinance in the manner as required in Section 1305 and the applicable district provisions.

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

**BUILDING AND STRUCTURAL SEPARATION AREA (BSA)** - The area between buildings and other structures as measured along the horizontal distance between such buildings and other structures.

**BUILDING AREA** - The aggregate of the maximum horizontal cross sectional areas of the buildings on a lot, excluding: cornices, eaves, gutters, or chimneys projecting not more than eighteen (18) inches; steps, balconies and bay windows not extending through more than one (1) story and not projecting more than five (5) feet; and one (1) story open porches projecting not more than ten (10) feet, ("projecting" means extending from the building wall).

**BUILDING COVERAGE** - The ratio of the building area to the net lot area.

**BUILDING SETBACK LINE, FRONT YARD** - The line parallel to the public or private street which provides access to a lot, such line measured from the street right-of-way line at a distance equal to the minimum depth of the required front yard. All yards adjacent to a public or private street right-of-way normally shall be considered front yards. In the case of an interior, such setback line shall be measured from the property line parallel to, or nearly parallel to, the property line nearest the public or private street that provides access to the lot.

**BUILDING SETBACK LINE, SIDE YARD** - The line normally perpendicular to the front lot line and equal to the minimum depth of a required side yard.

**BUILDING SETBACK LINE, REAR YARD** - The line normally parallel to the front lot line and equal to the required minimum depth of the rear yard.

**BULK** - The term used to describe the size of buildings or other structures and their relationship to each other, to open areas such as yards and to lot lines. The term may include the size, height and floor area of buildings or other structures and all open areas in yard space relating to buildings and other structures.

**CARTWAY** - The paved area of a public or private street, within which vehicles are permitted, including travel lanes, but not including shoulders, curbs, gutters, sidewalks or drainage swales.

**CAR WASH** - Any building or premises or portion thereof used for washing motor vehicles.

**CENTERLINE, STREET** - A line in the center of a street that is equidistant from and parallel to the street lines.

**CHURCH** - A building or group of buildings primarily including customary accessory buildings designed or intended for organized religious uses. The word church shall also include chapel, cathedral, temple, synagogue and mosque.

**CLASS I AP LANDS** - Those tracts within the AP District held under single and separate ownership or control and having an area of ten (10) acres or more.

**CLASS II AP LANDS** - Those tracts, within the AP District, held in single and separate ownership or control and having an area of less than ten (10) acres.

**CLEAR CUTTING** - The removal of essentially all trees from a stand as defined herein.

**CLEAR SIGHT TRIANGLE** - An area of unobstructed vision at the intersection of two streets, or a street and a driveway defined by line of sight between points at given distances from the intersection of the street, or street and driveway centerlines.

**COMMUNICATION TOWER** - See Antenna Support Structure.

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

**COMPREHENSIVE PLAN** – The East Nantmeal Township Comprehensive Plan, as may be amended from time to time.

**CONSERVATION EASEMENT LANDS (CEL)** - A term used in the formula for determining maximum allowed dwelling unit density when utilizing the Cluster Development Option of Article III. It refers to any lands within the (AP) District that have conservation easements recorded against them, whether these easements are in favor of a Conservancy or to a government agency or department.

**CONSTRAINED LAND RATIO (CLR)** - A term used in the formula for determining maximum allowed dwelling unit density when utilizing the Cluster Development Option of Article III. It is a municipal determined percentage applied to the constrained lands within the tract under development plan.

**CONTRACTOR USE** - The use of a structure or land by a general contractor, heavy equipment contractor or any contractor for parking or marshalling of equipment, goods or personnel, or for the storage of equipment and/or bulk materials for use in the contractor's business. "Contractor use" does not include a no-impact home based business of a contractor.

**CRITICAL ENVIRONMENTAL AREA** - Those areas which, by reason of steep slope, erosive soils, water hazard soils, flood plain, limestone formations or other physiographic features, either prohibit or restrict development or use or require special engineering considerations in the design and placement of structures.

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

**CONVERSION, RESIDENTIAL** - The change in density and dwelling type of an existing residence resulting in the creation of party walls and independent working lavatory and sleeping facilities.

**COUNTY** - Any reference to the "County" contained herein shall refer specifically to Chester County.

**COURTYARD** - An unoccupied open space, other than a yard, on the lot with a building or several buildings which space is bounded on two (2) or more sides by the walls of such building or buildings.

**DAY CARE CENTER** - Any premises in which day care is provided for persons who are not relatives of the operator and shall include Child Day Care Centers and Group Day Care Homes as defined and licensed by the Pennsylvania

Department of Public Welfare and Older Adult Daily Living Centers as defined and licensed by the Pennsylvania Department of Aging.

DBH (Diameter at Breast Height) - The diameter of the trunk of a tree measured in inches at a height of four and one-half (4½) feet above the ground surface at the point of the highest elevation in contact with the trunk of the tree. If the tree divides or splits into multiple trunks below four and one-half (4½) feet, the trunk is measured at its most narrow point below the split.

DECIBEL - For the purposes of this Ordinance Decibel shall mean the sound pressure level as measured by a sound meter using the “A” weighted scale and the slow meter response as specified by the American National Standards Institute.

DENSITY BONUS RATIO (DBR) - A term used in the formula for determining maximum allowed dwelling unit density when utilizing the Cluster Development Option of Article III. It is a Township determined factor used to increase the base district density.

DENSITY, GROSS - Gross density is determined by dividing the total number of dwelling units by the total amount of the net lot area as hereinafter defined.

DENSITY, NET - The number of dwelling units in relation to the net lot area actually in use or proposed to be used, exclusive of public rights-of-way, streets, sidewalks, parks, easements, playgrounds, common open spaces, etc.

DENSITY RESIDENTIAL DEVELOPMENT - The basic residential development permitted by right throughout the AR District and the Class II AP lands is one dwelling unit per one and one-half (1½) acres of net lot area. More intense development shall be permitted in the AR District whenever the applicant can demonstrate compliance with all of the standards set forth in Articles IV and XIV or incorporated therein by reference. The maximum density provisions set forth for density residential development may be permitted by right provided every environmental constraint and design and performance standard, set forth in or incorporated by reference in Articles IV and XIII as they relate to density residential development, has been achieved. Density residential development envisions any form or configuration of housing, regardless of how denominated, and envisions the clustering of that development and the preservation of areas of agricultural, environmental and common open space.

DESIGNATED CONSTRAINED LANDS (DCL) - A term used in the formula for determining maximum allowed dwelling unit density when utilizing the Cluster Development Option of Article III. It is defined as any lands within the AP

District that are determined to contain flood plains, wet soils, wetlands or slopes in excess of twenty-five percent (25%).

DETENTION CENTER - The lawful use of any lot for:

1. A prison;
2. A work release program for persons sentenced by a court for committing a criminal act;
3. A residential facility for juveniles who are required by court order to reside at the facility; or
4. Any other use where the persons are required by court order to reside on the property for some period of time.

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.

DRIPLINE - The line extending vertically from the exterior edge of the outermost leaves and branches on the tree to the ground.

DRIVE, INTERNAL ACCESS - A private driveway within a tract of land designed to serve multiple units or buildings, linking parking lots and individual driveways to adjacent streets.

DUMP - A tract of land or a portion thereof used primarily for the disposal of, by abandonment, dumping, burial, burning or other means and for whatever purpose, garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

DWELLING, MULTI-FAMILY - A building designed for and occupied exclusively as a residence for two (2) or more households living independently of each other.

DWELLING, SINGLE-FAMILY DETACHED - A building, designed for and occupied, exclusively as a residence for only one (1) family and having no party wall in common with an adjacent dwelling unit. Where a garage is structurally attached to such building, it shall be considered a part of the dwelling.



DWELLING UNIT - One (1) dwelling occupied by one (1) family.

DWELLING UNIT, ACCESSORY (ADU) - A dwelling unit on the same lot as the principal dwelling unit housing one or more members of the family related by blood or marriage or otherwise permitted under Section 307.D or living together as a single housekeeping unit and not sharing common eating and cooking facilities. If created for the occupancy of a handicapped family member, immediately upon cessation of occupancy by the handicapped family member, the ADU use shall be removed from the premises and any structure not lawful shall be made lawful.

EDUCATIONAL USE - Use of land or building(s) such as an institution for the establishment and maintenance of a public or private college, secondary or elementary school, or other educational institution for the academic cultivation of the mind and/or the inculcation of a clearer sense of moral and spiritual values or manipulative skills, including equestrian training and riding skills but excluding schools for instructing the operation of construction equipment, tractor/trailers, or helicopters. Such training endeavors, for the purposes of this ordinance, are considered commercial uses.

EFFECTIVE DATE OF ORDINANCE - September 6, 1994

ENGINEER, TOWNSHIP - A licensed professional engineer or engineering firm designated by the Township to perform the duties of engineer as herein specified.

EQUIVALENT DWELLING UNIT (EDU) - An equivalent dwelling unit represents that amount of water needed or sewage generated by a particular use that is not residential. A single-family dwelling unit shall be deemed to generate one (1) EDU. Unless specifically set forth otherwise, an EDU shall be four hundred (400) gallons per day.

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

EXISTING UTILITY EASEMENTS (EUE) - A term used in the formula for determining maximum allowed dwelling unit density when utilizing the Cluster Development Option of Article III. It refers to any existing, at the time of development plan submission, utility easements for communications transmission, electricity, pipe transmission lines, and sewer and water.

**FAMILY** - One or more persons living in a single dwelling unit and functioning as a common household unit. A family shall include no more than five (5) persons who are not related to each other by blood, marriage, adoption or official foster relationship. The term “family” specifically includes a maximum of five (5) unrelated persons living within a permitted group home.

**FELLING** - The act of cutting a standing tree so that it falls to the ground.

**FENCE** - Any freestanding and uninhabited structure consisting of wood, glass, metal, plastic, wire, wire mesh, masonry or vegetation singly or in combination with other materials, 2 1/2 feet or higher, erected to secure or divide one property from another or part of a property from a remaining part, to assure privacy, to protect the property so defined, or to enclose all or part of the property; a freestanding masonry wall is considered a fence.

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

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

**FLOOD FRINGE** - That portion of the floodplain of the One Hundred Year Flood that is outside the Floodway.

**FLOOD HAZARD AREA** - Those areas as described in Article X and delineated on the Flood Plain Conservation District Map.

**FLOOD INSURANCE STUDY (FIS)** - The Flood Insurance Study is that study prepared by the Federal Emergency Management Agency for East Nantmeal Township dated March 17, 2002 or any later revision thereto.

**FLOOD INSURANCE RATE MAP (FIRM)** - The Flood Insurance Rate Map is that map prepared by the Federal Emergency Management Agency for East Nantmeal Township, dated March 17, 2002 or any later revision thereto.

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

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

**FLOOD PRONE AREA** - An area as described in Article X and delineated on the Flood Plain Conservation District Map.

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

**FLOOR AREA, GROSS LEASABLE AREA (GLA)** - The total internal measurements of all horizontal floor areas of a building, excluding stair wells, elevator and/or service shafts, common hallways and/or walkways, public toilet facilities, building maintenance and utilities, janitorial rooms for supporting the building operation and all common lobby, mezzanine and balcony areas.

**FLOOR AREA RATIO** - The gross leasable floor area divided by the net area of that lot.

**FORESTRY** - The management of forests and timberlands when practiced in accordance with accepted silvacultural principles, through developing, cultivating, harvesting , transporting and selling trees for commercial purposes, which does not involve any land development.

**FUNERAL HOME** - A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

**GARAGE, PRIVATE** - An accessory use or part of a permitted principal building used for the storage of motor vehicles owned and used by the owner, residents, employees or visitors of such permitted principal building.

**GARAGE, PUBLIC** - A building, not a private garage, used for the storage or repair of motor vehicles.

**GRADE, FINAL** - The completed surfaces of lawns, walks and roads brought to grades as shown on submitted plans or designs relating thereto.

**GROUP HOME** - The use of any lawful dwelling unit which meets the following criteria:

1. Involves caring for a maximum of five (5) persons;
2. Involves providing non-routine services and oversight to persons who need such assistance because of physical disability, old age, mental retardation or other handicap as defined by applicable federal law;
3. Does not meet the definition of “treatment center” or “detention center”; and
4. Does not involve the housing or treatment of persons who could reasonably be considered a threat to the physical safety of others.

**HEDGEROW** - A linear plant community, either natural or planted, dominated by trees and/or shrubs, and occurring along roads, fence lines, property lines or between fields.

**HEIGHT, BUILDING** - The height of a structure shall be the distance between the mean level of the ground surrounding the structure and a point midway between the highest and lowest points of the roof, provided that chimneys, spires, towers or antennas, roof structures for housing stairways, air conditioning, ventilating or elevator equipment, tanks and similar projections shall not be included in calculating the height.

**HIGH VALUE SPECIES** - Trees of the following species that are twelve (12) inches DBH or greater: Sugar Maple; Bitternut Hickory; Pignut Hickory; Shagbark Hickory; Mockernut Hickory; White Ash; American Beech; Eastern Black Walnut; White Oak; Swamp White Oak; Scarlet Oak; Chestnut Oak; Pin Oak; Northern Red Oak; Black Oak.

**HISTORIC STRUCTURE** - Any structure that is:

- (i) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (ii) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or district preliminarily determined by the Secretary to qualify as a registered historic district;

- (iii) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (iv) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

**HISTORIC RESOURCES** - Resources that are determined to be of historical and/or architectural significance to East Nantmeal Township and appropriately documented by the East Nantmeal Township Historical Commission in accordance with one or more of the following criteria:

1. Has significant character, interest or value as part of the development, heritage or cultural characteristics of the Township, County, Region, commonwealth or Nation, or is associated with the life of a person significant in the past; or,
2. Is associated with an event of importance to the history of the Township, County, Region, Commonwealth or Nation; or,
3. Embodies distinguishing characteristics of an architectural style or engineering specimen; or,
4. Is noteworthy work of a designer, architect, landscape architect, or engineer whose work has significantly influenced the historical architectural, economic, social or cultural development of the Township, County, Region, Commonwealth or Nation; or,
5. Has yielded, or may be likely to yield, information and/or artifacts important in prehistory or history; or,
6. Exemplifies the cultural, political, economic, social or historic heritage of the community.

**HISTORIC RESOURCES INVENTORY** - A comprehensive listing and documentation of the historic resources in East Nantmeal Township, which

inventory shall show resource classification, supported by documentation on file in the East Nantmeal Township municipal building.

**HISTORIC RESOURCES MAP** - The Historic Resources Map is a supportive document driven by the Historic Resources Inventory.

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

1. The business or commercial activity shall be compatible with the residential use of the property and surrounding residential uses.
2. The business or commercial activity shall employ no employees other than family members residing in the dwelling.
3. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
4. There shall be no outside appearance of a business or commercial use, including, but not limited to, parking, signs or lights.
5. The business or commercial activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electronic interference, including interference with radio or television reception that is detectable in the neighborhood.
6. The business or commercial activity may not generate solid waste or sewage discharge, in volume or type, which is not normally associated with a residential use in the neighborhood.
7. The business or commercial activity shall be conducted only within the dwelling and may not occupy more than twenty-five percent (25%) of the habitable floor area.
8. The business or commercial activity shall not involve any activity that is illegal.

**HOME OCCUPATION** -

Home occupations are uses other than no-impact home based business that are accessory to use of the premises for dwelling purposes. Home occupations are divided into two (2) categories:

1. Class I home occupations, are permitted by right in any single-family detached dwelling unit or building accessory thereto, provided the limitations and criteria set forth in the relevant sections hereof, relating to design standards for home occupations, and Sections 1317 through 1323, hereof relating to performance standards for home occupations, are fully complied with.

Class I home occupations include and are limited to (a) small office uses, such as professional offices, manufacturers' representatives, real estate brokers; (b) boarding houses used for no more than four (4) persons, with not more than two (2) rooms dedicated to boarding house uses; (c) studio uses, such as artist studios, musician studios, handicraft and antique shops; (d) retail service uses, such as barber shops, dress making, sewing shops, tailor shops and the like (but excluding funeral directors and undertakers establishments); (e) educational uses, such as tutorial services, day care for not more than three (3) persons at any one time, music, art or similar instruction for not more than three (3) persons at any one time (but excluding equestrian training). Provided, however, in all such cases, the practitioner shall reside within the principal dwelling unit and the principal activity or use is that of a residence and not a business. No more than three (3) persons, of which two (2) may be non-residents of the premises, shall be employed in a Class I home occupation. No more than twenty-five percent (25%) of the total floor area may be used for such activities.

2. CLASS II - As with Class I home occupations, a Class II home occupation shall be an accessory use and the principal use of the premises upon which the Class II home occupation is conducted shall be and remain a single-family detached dwelling unit. The Class II home occupation shall be, in like manner, an accessory use and shall be demonstrated by the applicant to be clearly subordinate to the residential use as well as being the principal residence of the practitioner. Class II home occupations shall only be permitted by special exception because of the wide variety of uses that may fall within the category of this class of home occupations.

No Class II home occupation shall employ more than four (4) persons not residing in the principal dwelling house and all such activities shall be conducted in the principal dwelling, buildings accessory thereto or in

open areas adequately screened from public roads and adjacent properties.

The Class II home occupations are somewhat larger commercial enterprises, and include and are limited to (a) office uses; (b) studio uses; (c) educational uses, including day care facilities for not more than six (6) students at any one time, art, music and classroom instructions for not more than twelve (12) students at any one time, equestrian training for not more than six (6) students at any one time, or more students subject to approval by the Board of Supervisors; (d) animal raising and breeding for not more than six (6) horses at any one time, subject to large animal acreage requirements, and veterinary offices, but not the keeping of animals; (e) the production and sale of handicraft items, furniture repair, custom cabinet making, and antique shops; (f) boarding house uses with not more than six (6) persons or three (3) bedrooms dedicated to boarding house use; (g) indoor retail activities containing less than one thousand (1,000) square feet of floor area, including sales and storage areas; (h) outdoor nurseries containing less than ten thousand (10,000) square feet of area, properly screened from view of adjacent properties and public roads. The sale, lease or otherwise trading in motor vehicles, mobile homes, recreational vehicles, boats, trailers and the like shall not be deemed home occupations. Not more than twenty-five (25%) percent of the floor area of all buildings or ten (10%) percent of the land area of the tract shall be utilized for Class II home occupations. The owner or operator of the Class II home occupation shall reside upon the premises.

Class I and Class II Home Occupations shall not include No-Impact Home-Based Businesses.

**HOMEOWNERS ASSOCIATION** - A non-profit organization comprised of homeowners or property owners, planned and operated under negotiated and approved bylaws, for the purpose of administering the needs of residents through the maintenance of community-owned property. This term is synonymous with property owners association.

**HOTEL, MOTEL OR INN** - A building or group of buildings containing ten (10) or more guest rooms, without cooking facilities of any kind, especially designed for the temporary lodging of transient guests. Such establishments shall provide guests with customary hotel services such as maid service and the furnishing and laundering of linen. Eating and drinking facilities may be an accessory use to the hotel, motel or inn.



**HOUSEHOLD PETS** - Domestic animals normally considered to be kept in or in conjunction with a dwelling unit for the pleasure of the resident family, such as dogs, cats, small birds, gerbils and other similar pets normally sold by retail pet stores.

**HYDRIC SOILS** - For the purpose of determining compliance with the provisions of this Ordinance, those soil types identified as hydric soils or soils with hydric inclusions by the U.S. Soil Conservation Service, as mapped for the Soil Survey of Chester and Delaware Counties, shall be considered hydric soils in East Nantmeal Township.

**IDENTIFIED FLOODPLAIN AREA** - The floodplain area specifically identified in this Ordinance or on a Land Development Plan filed pursuant to the East Nantmeal Subdivision and Land Development Ordinance or other permit or application as being inundated by the One Hundred Year (100-Year) Flood.

**IESNA** - Illuminating Engineering Society of North America

**IMPERVIOUS SURFACE COVERAGE** - The coverage of the net lot area by impervious materials with a CN of .95 or over, as defined in TR-55, that normally shed most rainfall, e.g., buildings, paved areas including streets, parking lots and similar surfaces and other improvements that generate significant stormwater runoff.

**IMPROVEMENTS, SITE** - Physical additions and changes to land such as grading, paving, streets, curbing, fire hydrants, water mains, sanitary sewers, capped sewers, storm sewers, storm drains, catch basins, culverts, sidewalks, monuments, crosswalks, bridges, earthworks, street lights, street trees and other plantings and other structures that may be necessary to produce usable and desirable land development.

**IMPROVEMENT, SUBSTANTIAL** - Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either: (1) before the improvement or repair is started; or (2) if the structure had been damaged and was being restored after the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either: (1) any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or (2) any alteration

of a structure listed on the National Register of Historic Places or State inventory of historic places.

**IMPULSIVE SOUND** - A single sound pressure peak or a single burst (multiple sound pressure peaks) of a less than one second duration.

**INDUSTRIAL PARK** - A grouping of three (3) or more buildings housing industrial or warehouse principal uses developed according to a unified plan on a tract held in single and separate ownership, and sharing common utilities and streets.

**INVASIVE PLANT SPECIES** - Plants, not native to the area, including, but not limited to, multi-flora rose, autumn olive, Japanese honeysuckle, oriental bittersweet, Norway maple, mile-a-minute weed and all poisonous plants.

**JUNK** - Any non-vehicle farm or construction machinery or equipment, or other machinery and equipment stored outdoors, including but not limited to, tractors, implements and other machinery and equipment which are so disabled, disassembled, dismantled or damaged as to be incapable of being used safely for its intended purposes and is left in such condition for thirty (30) days or more.

**JUNK VEHICLE** - Any vehicle, stored outdoors, which is so disabled, disassembled, dismantled or damaged as to be incapable of being used safely for its intended purposes and is left in such condition for thirty (30) days or more; vehicles stored for their parts or scrap value.

**JUNK YARD** - A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition, or for the sale of parts thereof.

**KENNEL** - Where permitted by right, a facility or structure, for no more than four (4) animals, in which household pets are kept, boarded, groomed, trained, raised or bred. A kennel for more than four (4) animals may be permitted only by special exception.

**KENNEL, COMMERCIAL** - A for-profit establishment where five (5) or more household pets, above six (6) months in age, are kept, boarded, groomed, trained, raised or bred. All animals are to be kept inside after sunset and no outside facilities are use during that time. The maximum number of animals at any establishment is limited to fifty (50) animals, unless a special exception, granted by the Zoning Hearing Board, is obtained.

LAND DEVELOPMENT - Any of the following activities:

- (1) The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
  - (i) 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
  - (ii) 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.
- (2) A subdivision of land.

LAND DISTURBANCE - Any activity that exposes soils, or alters topography and/or vegetation, except for removal of invasive vegetation. Customary agricultural practices such as tilling, plowing, mowing and harvesting are excluded from the definition of land disturbance.

LANDFILL, SANITARY - A tract of land used for the permanent storage and disposal of solid wastes, as defined in the current regulations of the Department of Environmental Protection.

LANDING - Within the context of a timber harvesting operation, a place where logs, pulpwood and firewood are assembled for transportation to a processing facility or otherwise off-site.

LANDSCAPED AREA - The landscaped area includes, in addition to any required landscaped buffer planting strip those plantings which serve a functional and/or aesthetic purpose and are located around and between buildings, roads, parking area, sidewalks, walkways, sitting areas, service or maintenance structures, courtyards and the like. The landscaped area is pervious and includes that portion of a tract or lot that is not occupied by any buildings or other structures, or paved surfaces.

LANDSCAPING PLAN - A plan for the installation and maintenance of plantings, prepared according to the provisions of Section 1305.

**LANE, ACCELERATION OR DECELERATION** - A lane adjacent to the primary cartway and attached thereto for the use only by vehicles entering, leaving or crossing a lane of forward travel without interrupting the flow of traffic.

**LITTER** - Discarded items not naturally occurring on a site, such as, tires, oil cans, equipment parts, and other refuse.

**LIVESTOCK** - Animals of any kind raised for sale, resale or agricultural field production. (For the purposes of this Ordinance, the keeping of common household pets as previously defined, shall not be considered as the keeping of livestock.)

**LIVING SPACE** - The area of a building or structure that is heated in the winter and suitable for human habitation. Included in these areas are bedrooms, living rooms, recreation rooms and the like, dining rooms and kitchen eating areas, and heated/insulated attics or basements. Excluded from these areas are closets for storage, bath or shower areas, hallways and laundry rooms, and unheated/un-insulated attics or basements.

**LOADING SPACE, OFF-STREET** - A space in a building or on a lot which is accessible from the public street system for the temporary use of vehicles while loading or unloading merchandise, materials or passengers.

**LOP** - The cutting of tops, as defined herein, and slash, as defined herein, into smaller pieces to allow settlement of such material close to the ground.

**LOT OR TRACT AREA, GROSS** - The total planar area within the lot lines of any lot or tract of land.

**LOT OR TRACT AREA, NET** -

The definition of "Lot or Tract Area, Net" shall apply only to the Cluster Development Option as provided under Section 304.C, herein.

The gross area of a lot or tract reduced by the following:

The entire area of all lands lying within: (1) any road right-of-way, existing or proposed, public or private. For the purpose of the computation of a private road, such road shall be deemed to have a right-of-way equal to the right-of-way required for a comparable public road with the center line of each being congruent; (2) the area within the exterior perimeter of any drainage retention or detention basin serving or intended to serve more than the lot on which it is located; (3) all

possessory servient easements or rights-of-way burdening the lot, including, but not limited to, utility easements, above or on the ground, railroad rights-of-way and private easements of passage for the benefit of adjacent land; (4) lands under conservation easements or prohibitory building restrictions; (5) all areas within the mapped flood hazard district, and all areas comprised of wetlands, prohibitive slopes, seasonally high water table soils, surface water, and riparian buffers.

**LOT AREA, BUILDABLE** - The net lot area further reduced by: (1) Perimeter setbacks, and (2) Total required open space.

**LOT, CORNER** - A lot abutting upon two (2) or more streets or upon two (2) parts of the same street, forming an interior angle of less than one hundred thirty-five (135) degrees. A corner lot has two (2) front yards and two (2) side yards.

**LOT COVERAGE** - The percentage of the lot area that is occupied by the building area.

**LOT DEPTH** - The distance along a straight line drawn from the midpoint of the front lot line to the midpoint of the rear lot line.

**LOT, INTERIOR** - A lot that has limited frontage on public street and has access to a public street by a relatively thin strip of land; a "flag-shaped" lot or a lot that has access to a street only by way of a narrow strip of land less than forty five (45) feet wide which fronts on a public street.

**LOT LINE, FRONT** - The lot line abutting a street and coinciding with the street line. In the case of a corner lot, the street abutting lot line identified on the approved subdivision and/or land development plan, as the front lot line; or in the case of an existing lot, the lot line designated on an approved site plan; or in the case of any other lot, the front lot line shall be construed to be the lot line on the side of the main entrance.

**LOT LINE, SIDE** - Any lot line which is not a street line or a rear lot line.

**LOT LINE, REAR** - The lot line that is opposite to the street line or in the case of an interior lot, the front yard.

**LOT, REVERSE FRONTAGE** - A lot extending between and having frontage on two generally parallel streets with vehicular access limited to one street. Access shall be from a Local rather than a Collector or Arterial street.

**LOT WIDTH** - The horizontal distance measured between the side lot lines at the required or proposed front yard building setback line.

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

**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** - A parcel of land under single ownership) which has been planned and improved for the placement of two or more manufactured homes for non-transient use.

**MINING AND QUARRYING** - The removal from the earth, at or below its surface, any mineral deposit, fossil fuel or other useable material including, without limitation, topsoil, coal, stone, oil, sand, water or gravel for use or useable in any further manufacturing process on or off the premises or for transportation off the premises and disposal or use or placing into channels of consumption, commerce or distribution. The term is intended to include both organic and inorganic material and materials whether fixed in location such as coal or fugitive materials such as oil or water. Excluded from the definition are extraction of water for consumptive use upon the property without intention of resale or distribution to others, grading, earth-moving incident to normal construction activities and normal farming operations.

**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.

**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 manufactured or mobile home.

**MOTEL** - (See Hotel, Motel or Inn).

**MPC** - The Pennsylvania Municipalities Planning Code, as amended.

**MUNICIPAL USE** - A use conducted by East Nantmeal Township such as: parks, playgrounds and other recreational, cultural and conservation areas, and sites for sewage treatment or other public facilities.

**NEW CONSTRUCTION** - Structures for which the start of construction commenced on or after September 5, 1978, and includes any subsequent improvements thereto.

**NO-IMPACT HOME-BASED BUSINESS** - See Home-Based Business, No-Impact.

**NURSING HOME OR FACILITY** - Any facility that provides nursing care and related medical or other personal health services for twenty four (24) hours per day and seven (7) days per week to individuals who require full-time care or supervision but do not require more intensive hospital-based care.

**OFFICE BUILDING** - A building used primarily for conducting the clerical and administrative affairs of a business, profession, service, industry or government or similar activity.

**OPEN SPACE, CONSERVATION** - Conservation open space is that area within a density residential development that falls within those critical environmental areas that are sufficiently environmentally sensitive as to preclude actual construction thereon.

**OPEN SPACE, COMMON OR COMMUNITY** - Common or community open space are those areas within the Density Residential Development dedicated to the use and enjoyment of the residents thereof or to the public generally. The common open space shall include, but is not limited to, those areas dedicated to water and sewage treatment facilities, parks and recreation areas, active or passive, sedimentation and erosion control facilities, common parking areas and like amenities, but shall exclude from the definition sewer lines, water lines and electrical easements not otherwise used for the purposes herein described, and shall exclude roads and sidewalks and required yard distances and spaces between structure perimeter setbacks.

**OPEN SPACE, DESIGNATED** – Areas identified on an applicant's plan that will be limited to open space use in perpetuity.

**OPEN SPACE, TOTAL** - Total open space within a Density Residential Development shall be deemed to include the agricultural, common and conservation open space in total acreage. A portion of the open space may be both common and conservation open space or a portion may be both conservation and agricultural open space in proper circumstances. Provided, however, that where open space is both common and conservation or is both conservation and agricultural, the total open space required shall not be reduced below the sum total of required common open space, plus the required conservation open space, plus the required agricultural open space, separately computed. The total open space shall not duplicate that acreage, but the total acreage shall be deemed to include the sum total of all acreage dedicated to one or more of the open space areas defined in the paragraphs above.

**PARK** - A tract of land designated and used by the public primarily for recreation of an active or passive nature.

**PARKING SPACE** - A reasonably level space, available for the temporary parking of one (1) motor vehicle, exclusive of passageways, driveways or other means of circulation or access. A parking space shall include either covered garage spaces or uncovered parking lot spaces located off the street right-of-way. The size of parking spaces shall be as required in Section 1207. Parking shall include and shall be limited to parking spaces for private passenger motor vehicles of (1) occupants of the premises; (2) employees of the occupants; and (3) customers and suppliers of the occupant. It shall not be deemed to include storage or parking areas for (1) trucks, tractor trailers, buses, taxicabs or other commercial vehicles; (2) motor vehicle inventories such as new or used motor vehicles; and (3) work in process such as vehicles awaiting service, repair or disposal.

**PASTURE** - An area of grassed land used for the grazing of animals. For the purposes of this Ordinance, pasture and pastureland shall not include woodlands.

**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.



**PHASE** - An area or tract that is part of a proposed development which will be constructed according to a timetable for development over a period of years included by the applicant in the development plan.

**PLAT** - The map or plan of a subdivision or land development either preliminary or final.

**PNDI** - PENNSYLVANIA NATURAL DIVERSITY INVENTORY

**PRIVATE ANTENNA** - An antenna privately owned and used for radio transmission and reception by a private individual or commercial business on wavelengths available to the general public and with the antenna support structure not exceeding thirty-five (35) feet in height. Such an antenna shall be permitted as an accessory use where its use is clearly and customarily incidental to an existing principal use.

**PROCESSING** - A function involved in the manufacture or assembly of materials, goods or products in which such products are not physically changed except for assembly, cleaning, packaging or sizing.

**PROFESSIONAL CONSULTING FORESTER** - A forester who has obtained a Certified Foresters® certification from the Society of Certified Foresters (SAF), or who is a full member of the Association of Consulting Foresters (ACF). In the alternative, the Board of Supervisors may approve an individual, not meeting the above qualifications, as a Professional Consulting Forester, if such individual petitions the Board, prior to any request for a timber harvesting permit, and submits his or her educational and professional qualifications, samples of previous timber harvesting plans authored, and references from Pennsylvania municipalities. The minimum requirements for consideration as a Professional Consulting Forester are; (1) the individual must have a Bachelor of Science degree in Forestry from a college accredited by the Society of American Foresters; (2) the individual must demonstrate that his or her principle business activity is forestry consulting; (3) the individual must demonstrate that he or she does not have an economic interest in a timber purchasing or procurement entity; and (4) the individual must demonstrate that he or she has prepared a minimum of five (5) timber harvesting plans within the Commonwealth of Pennsylvania.

**PUBLIC NOTICE** - Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the Township. When such notice is for a public hearing it shall state the time and place of the hearing and the particular nature of the matter to be considered. The first publication shall be

not more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

**PUBLIC GROUNDS** - Any real property, including structures thereon, that is owned, leased or controlled by a governmental entity.

**REAL PROPERTY LINE** - The imaginary line including its vertical extension that separates one parcel of real property from another.

**RECORDED** - Properly recorded at the office of the Chester County Recorder of Deeds.

**RECREATION, ACTIVE** - Leisure time sports activities, of a formal nature and performed with others requiring specialized equipment and taking place at prescribed structures or playing fields specifically constructed for active recreational sports.

**RECREATION, AREA/FACILITY** - A place designated and equipped for the conduct of leisure time activities such as games, sports and other customary and usual active recreational activities.

**RECREATION, PASSIVE** - Any leisure time activity not considered active and not requiring structures or playing fields specifically constructed for said activity.

**RECREATION, PRIVATE** - Any recreation area or facility, as defined herein, that is accessory to and intended to be used exclusively for a principal residential use.

**RECREATION, PUBLIC** - Any recreation area or facility, as defined herein, whether publicly or privately owned that is intended for the use of the general public.

**RECREATIONAL VEHICLE** - A vehicle or piece of equipment, whether self-powered or designed to be pulled or carried, intended primarily for leisure time or recreational use. Recreational vehicles or units include travel trailers, truck-mounted campers, motor homes, folding tent campers and autos, buses or trucks adapted for vacation use and other vehicles not suitable for daily conventional family transportation. Snowmobiles, mini-bikes, all-terrain vehicles, go-carts, watercraft and boat trailers are also deemed recreational vehicles. For the purpose of the administration of Article X (Flood and Water Hazard Districts), the following shall apply in lieu of the foregoing definition:

A vehicle which is (i) built on a single chassis; (ii) not more than 400 square feet, measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light-duty truck; and, (iv) not designed for use as a permanent dwelling unit, but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REGULATORY FLOOD ELEVATION** - The one hundred (100) year flood elevation plus a freeboard safety factor of one and one-half (1.5) feet.

**REHABILITATION** - The process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions and features of the property that are significant to its historical, architectural, and cultural values.

**RELIGIOUS USE** - A use, involving a structure or place, where a religious group holds regular worship and ceremonies.

**REPETITIVE LOSS** - Flood related damages sustained by a structure on two separate occasions during a 10-year period, for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the property before the damage occurred.

**RESEARCH LABORATORY** - An establishment or other facility for carrying on investigation in the natural, physical or social sciences, or engineering and development as an extension of investigation with the objective of creating end products.

**RESTAURANT** - A building used for the purpose of furnishing food to the public to be consumed on the premises and within the building. Such a restaurant does not include drive through services.

**RESTAURANT, FAST FOOD** - A building used for the purpose of furnishing food to the public for consumption inside such building. Such a restaurant may include drive-thru service to allow for the serving and pick-up of food, without leaving the vehicle, for off-premise consumption.

**RESERVE STRIP** - A parcel of ground in separate (sometimes public) ownership separating a street from other adjacent properties, or from another street.

**RETENTION BASIN** - A reservoir, formed from soil or other material, designed to permanently retain stormwater runoff to detain temporarily additional

stormwater runoff and/or to retain perennial or intermittent surface water flow from permanent or intermittent streams. Retention basins always contain water and include man-made ponds and lakes.

RIDING ACADEMY - Any establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

RIPARIAN BUFFER - Any area of trees or other vegetation adjacent to a watercourse that forms a transition between the aquatic and the terrestrial environment. A riparian buffer separates more intensively developed land uses from sensitive water resources and functions to intercept runoff to mitigate the effects of nutrients, sediment, organic matter, pesticides and other pollutants prior to entering surface water. Riparian buffers are divided into two (2) zones:

Zone One Riparian Buffer - Any area within thirty (30) feet of the top of the bank along any perennial stream or other water body as mapped on the U.S. Geological Survey 1:24,000 scale quadrangle maps. Such distance shall be measured horizontally along a line perpendicular to the top of the bank. Where slopes in excess of twenty-five percent (25%) are located within or extend beyond the zone one buffer, the zone one buffer shall extend to include the entirety of the steep slope area up to a maximum of one hundred (100) feet.

Zone Two Riparian Buffer - Any additional area extending outward beyond zone one, if any, a distance of one hundred (100) feet from the top of the bank of any perennial stream or other water body. In the case of exceptional value and high quality streams, the Zone Two Riparian Buffer shall extend from the Zone One Riparian Buffer, a distance of one hundred and twenty (120) feet.

ROAD NET - The road net for the purpose of determining road capacity impact of a proposed use shall include the following: (1) all local streets within the proposed use, (2) all local and collector streets between the proposed use and the nearest intersection to an arterial street along that road, (3) all intersections of any streets within the road net, (4) all intersections of the road net with the arterial streets and exit and entrance ramps to arterial streets, (5) any portion of any arterial collector streets wherein the traffic generated from the proposed use exceeds five percent (5%) of the traffic thereon during any fifteen minute interval when the level of service of that street is below Level of Service C (hereinafter called "undiluted traffic"). Excluded from the road net are those portions thereof wherein undiluted traffic is less than five percent (5%) of total

traffic and also those portions of the road net beyond the municipal boundaries of the Township.

**SEASONALLY HIGH WATER TABLE SOILS** - Those soils in which the groundwater surface is one (1) foot or less from the ground surface at certain or all times of the year.

**SEDIMENT** - Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by water.

**SELECTIVE CUTTING** - The felling of certain, but not all, trees in an area for the purposes of: removing dead, diseased, damaged, mature or marketable timber; improving the quality of a tree stand or species; or meeting personal domestic needs.

**SERVICE STATION** - A structure, building or area of land or any portion thereof that is used for the sale of gasoline and/or other motor vehicle fuel, which may or may not include facilities for lubrication, service, washing or minor repair of motor vehicles, but not for body repair or painting or for the sale of new or used vehicles. Any use dispensing motor fuel for its own vehicles will not be deemed to be a service station.

**SHED** - An accessory structure no greater than two hundred fifty (250) square feet for the storage of garden or lawn equipment, or used as a workshop.

**SIGHT DISTANCE** - The required length of roadway visible to the driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic, as defined by applicable PennDOT regulations.

**SIGN** - Any permanent or temporary structure or part thereof, or any device attached, painted or represented directly or indirectly on a structure or other surface that displays or includes any letter, work, insignia, flag or representation which is in the nature of an advertisement, announcement, visual communication, direction or is designed to attract the eye or bring the subject to the attention of the public. Flags of any governmental unit or branch of any charitable or religious organization, interior signs not visible from a public right-of-way or adjoining property and cornerstones built into or attached to a wall of a building are excluded.

**SIGN, ACCESSORY** - Any sign which specifically relates to the permitted use of the premises on which said sign is erected and which serves as a further description of products available to or services provided for the general public.

**SIGN AREA** - The area of a sign shall be construed to include all lettering, working and accompanying designs and symbols together with the background, whether open or enclosed, on which they are displayed but not including any supporting framework and bracing which are incidental to the display itself. Where the sign consists of individual letters or symbols attached to a surface, building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape, including the sign background that encompasses all of the letters and symbols.

**SIGN, FLASHING** - A sign, the illumination of which, when in use, is not kept constant in intensity at all times, and which exhibits sudden or marked changes in lighting effects. Illuminated signs that indicate the time, temperature or date information shall not be considered a flashing sign.

**SIGN, GROUND** - Any sign supported by uprights or braces placed upon the ground, and not attached to any building.

**SIGN, ILLUMINATED** - A sign designed to give forth artificial light directly (or through transparent or translucent material) from a source of light within such sign or a sign with illumination derived from an external artificial source so arranged that no direct rays of light are projected from such artificial source to areas other than the sign being illuminated.

**SIGN, MENU BOARD OR MENU SIGN** - A free-standing sign which depicts the menu of food for sale at the drive-through section of a fast food restaurant. Such sign shall not exceed twenty-five (25) square feet.

**SIGN, ON-PREMISES** - A sign relating in its subject matter to the premises on which it is located or to products, accommodations, services or activities available on the premises.

**SIGN, OFF-PREMISES** - A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

**SIGN, PARALLEL** - A sign which is mounted parallel to a wall or other vertical building surface not extending beyond the edge of any wall or other surface to which it is mounted and not projecting more than fifteen (15) inches from the wall surface.

**SIGN, POLE** - A sign mounted on a freestanding pole or other single support.

**SIGN, PROJECTING** - A sign that is attached directly to the wall of a building or other structure which extends more than fifteen (15) inches from the face of such wall.

**SIGN, REAL ESTATE** - A sign pertaining to the sale or lease of the premises on which the sign is located.

**SIGN, ROOF** - Any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support of the sign on the roof structure.

**SIGN, TEMPORARY** - Any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for thirty (30) days or less.

**SIGN, WALL** - A sign set into a freestanding wall or fence that is not connected to any structure.

**SIGN, WINDOW SIGN** - A sign which is oriented to the public right-of-way, is legible to persons in vehicles and is located on the outside or inside of a window to direct attention to an activity conducted on the same lot.

**SKIDDING** - The dragging, by any means, of trees, or parts thereof, along the ground.

**SKID ROAD (HAUL ROAD)** - A primary pathway, intended for repeated skidding from skid trails to a landing where excessive exposure of soils can be expected from heavy use.

**SKID TRAIL** - A secondary pathway, intended for skidding from a tree or small group of trees to a skid road where extensive exposure of soils is not expected.

**SLASH** - The woody debris left in the woods after timber harvesting, including logs, chunks, bark, branches, uprooted stumps, and broken or uprooted trees and/or shrubs.

**SLOPE, PRECAUTIONARY** - The area of land which is characterized by a change in elevation of fifteen percent (15%) or more but not exceeding twenty-five percent (25%) over a specified distance as set forth in Article IX.

**SLOPE, PROHIBITIVE** - The area of land which is characterized by a change in elevation of twenty-five percent (25%) or more over a specified distance as set forth in Article IX.

**SMALL STREAMS** - Any watercourse lying outside of the FM Mapped Flood Hazard District having a drainage basin in excess of one-half (1/2) square mile.

**SOIL PERCOLATION TEST** - A field test conducted to determine the suitability of the soil for on-site sanitary sewage disposal facilities by measuring the absorptive capacity of the soil at a given location and depth.

**SOIL SURVEY** - The Soil Survey of Chester and Delaware Counties, as prepared by the U.S. Soil Conservation Service.

**SPECIAL EVENT** - A special event shall constitute an activity on the land open to the general public or a specialized segment thereof wherein admission thereto is by advertisement or invitation (whether or not a fee is charged). No lot shall be used for special events more than ten (10) days per calendar year nor shall more than four (4) special events be conducted on a lot in any calendar year. Special events include, but are not limited to, the sale of items or services such as carnivals, the conduct of flea markets, the providing of lawful games of chance and activities constituting competition with awards of prizes. Excluded from the definition of "normal functions" are private parties by invitation at which no admission charge is made, liquidation sales or events at institutions having permanent facilities designed for such events, such as stadiums, auditoriums, etc.

**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 designed portion of a floodplain.

**SPECIMEN VEGETATION** - A tree or plant that has been bred for unusual or rare characteristics, such as form, leaf color or texture, bloom, bark, being a dwarf variety of a larger tree species, or possessing characteristics different than customary plants of the species. A tree or plant that is at or near its maximum size may be considered specimen vegetation.

1. Any tree in healthy condition, which equals or exceeds the following diameter size:
  - A. 24" DBH for deciduous trees such as but not limited to oaks, hickories, yellow poplars, and sweet gums.



- B. 24" DBH for evergreen trees such but not limited to pines.
  - C. 4" DBH for trees other than deciduous trees and evergreen trees, including but not limited to trees such as dogwoods, hollies, cedars, or ornamentals such as crape myrtle.
2. All specimen trees must also meet all of the following minimum standards:
- A. A life expectancy of greater than 15 years.
  - B. A structurally sound trunk, not hollow and having no extensive decay and less than 20 percent radial trunk dieback.
  - C. No more than one major and several minor dead limbs (hardwoods only).
  - D. No major insect or pathological problems.

STABLE - Any building, structure or portion thereof which is used in whole or in part for the shelter or care of horses or cattle, either permanently or transiently.

STABLE, BOARDING - A stable with stalls for hire and pasture area of not less than two acres for the first horse and one acre per additional horse, and a total area of not less than ten acres minimum.

STAND - With respect to woodlands, timber harvesting and clear cutting, the term "stand" shall mean a contiguous group of trees sufficiently uniform in species composition, arrangement of age classes, and condition to be a homogenous and distinguishable unit.

STORY - That part of a structure included between any floor and the floor or roof next above. When applied to the permissible height of buildings, the term "story" shall not include basement if the floor thereof is more than five (5) feet below the average ground level around the structure.

STREET LINE - The dividing line between a lot and the outside boundary or right-of-way line of an opened or officially-platted public street, or between a lot and a privately owned street easement line. Also known as right-of-way line.

STREET, EXPRESSWAY OR BY-PASS - This class of highway facility is devoted entirely to the task of moving large volumes of traffic and performs little

or no land service function and is generally characterized by some degree of access control. Normally, this classification should be reserved for multi-lane, divided roads with few, if any, at-grade intersections.

**STREET, ARTERIAL OR THROUGH** - This class brings traffic to and from the expressway and serves major movements of traffic within or through the areas not served by the expressways. An arterial street serves primarily to move traffic but also performs a secondary function of land service. The average length of a trip on an arterial or through street normally exceeds three (3) miles.

**STREET, COLLECTOR OR FEEDER** - This class of road serves the internal traffic movement within the Township and connects developed areas within the arterial system. A collector street does not accommodate long, through trips and is not continuous for any appreciable length. The principal difference between collector and arterial roads is the length of trip accommodated. The collector system, both primary and secondary, is intended to simultaneously supply abutting property with the same degree of land service as a local street and accommodate local internal traffic movements.

**STREET, CUL-DE-SAC** - A local street intersecting another street at one end and terminating at the other end by a permanent vehicular turnaround, with a radius subject to the applicable District.

**STREET, LOCAL** - Its sole function is to provide access to immediately adjacent land and does not connect with other streets in such manner as to encourage through traffic. This class normally represents a fairly large percentage of the total street miles but carries a small percentage of the vehicle miles traveled daily.

**STREET, RURAL** - Rural streets or roads are roads carrying through traffic into and through communities and includes, but is not limited to, roads not arterial that are part of the state or federal highway systems. Generally these roads are typified by low-density development and agricultural uses along them, and by the absence of dividers, curbs and other extensive highway construction and facilities.

**STREET, MARGINAL ACCESS** - A local street parallel and adjacent to an arterial street, (but separated from it by a reserve strip) which provides access to abutting properties.

**STREET, PRIVATE** - A local street, serving only abutting lots, that is not offered for or required to be offered for dedication.

**STREET, SINGLE ACCESS** - A local street, including, but not limited to, cul-de-sac and loop designs, which has only one (1) point of intersection with an existing or proposed street having more than one (1) access point.

**STORAGE** - The deposit of goods, materials or products intended for future disposition.

**STRUCTURE** - Anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds, manufactured homes, and other similar items. This term includes any man-made object having an ascertainable stationary location on, or in land, or water whether or not affixed to 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 of distribution to heirs, or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

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

**SUBSTANTIAL IMPROVEMENT** - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" or "repetitive loss" regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project of 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, or;
- (2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a historic structure. "

**SURFACE, ALL-WEATHER** - A pavement constructed of graded stone or slag, with or without a surface of penetration macadam, bituminous concrete or Portland cement concrete.

**SURFACE RUNOFF** - That part of the precipitation that passes over the surface of the soil to the nearest surface stream without first passing beneath the surface.

**SURVEYOR** - A licensed surveyor registered within the State.

**SWIMMING POOL, PRIVATE** - Any body of water, tank, or other receptacle for water containment, whether indoors or outdoors, in or above ground, even if portable or temporary, having a depth at any point of eighteen (18) inches or more, or containing over seven hundred fifty (750) gallons of water; which is used, or intended to be used, for swimming or bathing by the owner, resident or occupant and their guests. A private swimming pool is considered an accessory use to a residence under this Ordinance.

**TIMBER HARVESTING OPERATION** - The felling and removal of four (4) trees, of greater than six (6) inches DBH, per acre to be converted to any forest product or for sale to others. The felling and/or removal of diseased or dead trees, or invasive trees or other invasive herbaceous species, or the felling and removal of trees for personal firewood use, or the removal of trees from an orchard, Christmas tree farm or tree nursery, or the clearing of trees in an area in accordance with an approved subdivision or land development plan or building permit or the shall not constitute timber harvesting provided that such activity shall not occur more than once in a three (3) year period. Forestry, as defined in Article II, herein, shall be considered a timber harvesting operation, and shall require a timber harvesting permit.

**TIMBER HARVESTING PLAN** - A description by means of text and maps of a proposed timber harvesting operation, in compliance with the requirements of Section 1327.A of this Ordinance, required for a timber harvesting permit.

**TOPS** - The upper portions of felled trees that, because of small size, taper or defects, have no commercial value.

**TRACT** - One (1) or more tax parcels under common ownership assembled for the purpose of development.

**TRACT BUFFER** - An area with natural ground-cover adjacent to a property boundary that does not contain any structures, and which is landscaped and

maintained as required by this Ordinance (See Section 1305 and the applicable district regulations).

**TRACT, EFFECTIVE DATE TRACT AREA** - The tract area of a tract within the AP District, as herein defined, as of the effective date of this ordinance, subject to the following adjustments.

1. The addition of other lands to a Class II tract subsequent to the effective date of this Ordinance whereby the tract area equals or exceeds ten (10) acres shall constitute, for purposes of use classification, a reclassification to Class I AP lands.
2. The subdivision or conveyance subsequent to the effective date of this Ordinance whereby the Class I AP tract or part thereof is reduced to less than ten (10) acres shall not constitute a reclassification to Class II AP lands.
3. A subdivision or land development plan pending or approved prior to the effective date of this Ordinance, whereby Class I AP lands or parts thereof are reduced to less than ten (10) acres, shall constitute a reclassification of each lot therein as a separate tract during all applicable protected periods provided in Article V of the Pennsylvania Municipalities Planning Code. At the expiration of the protected periods, all lands still in single and separate ownership and contiguous to each other shall constitute a single tract and shall be reclassified according to the tract area thereof as Class I AP land or Class II AP land as if no subdivision thereof had occurred or was pending on the effective date of this ordinance.

**TREATMENT CENTER** - The lawful use of any lot for:

1. The treatment or rehabilitation of persons on a residential or outpatient basis for drug or alcohol dependence or abuse.
2. The care or treatment of juveniles who have been adjudicated dependent, delinquent or otherwise required by a court to attend or reside at the treatment center for a period of time.
3. A residential facility, other than a group home, for persons with mental illness.

**TREE MASS** - Areas, groves, or stands of mature trees (i.e., greater than six (6) inches DBH) covering an area greater than one-fourth (1/4) acre; or groves

of mature trees (i.e., greater than twelve (12) inches DBH) consisting of more than ten (10) individual trees.

**UNDERSTORY** - Trees whose leaves occupy the intermediate level of a forest or woodlands in a natural ecological situation. Such trees are also found as dominant species in old field succession.

**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 Commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

**USE, ACCESSORY** - An accessory use is a use or activity conducted on the same lot as a principal use having all of the following definitional attributes: (1) it is clearly subordinate to the principal use; (2) it is customarily associated therewith; and (3) it complies with all special and general requirements set forth herein applicable generally or by special application to that accessory use.

**USE, INDOOR** - An indoor use is a use in which no operations other than parking, driveways or drive-in facilities are conducted outside of an enclosing building. Outdoor storage or display, in particular, is prohibited. Thus, an automobile agency, with both a display room and outdoor lot, does not qualify as an indoor use.

**USE, INSTITUTIONAL** - Uses which are not predominantly commercial, industrial or business in nature, including, but not limited to, government administrative uses, hospitals, nursing homes, convalescent homes, rehabilitation facilities, assisted living facilities, facilities for the handicapped and disabled, fire stations, schools (both day and residential), churches, community auditoriums, civic centers and similar facilities. Hotels, motels, apartment houses and group homes are not institutional uses.

**WAREHOUSE STORAGE FACILITY** - A structure for the storage of merchandise or commodities. Normally these operations store goods and equipment for other businesses but may also house articles for private individuals.

**WATERCOURSE** - A stream with year-round or substantially year-round flow such as a creek, run or other body of running water, whether natural or man-made.

**WATER HAZARD SOILS** - Water hazard soils are those soils with high water tables, either continuous or seasonal, whereby the soil, by reason of its instability or high water table, requires special consideration be given to the structural aspect of footings or foundations of buildings or that special flood-proofing or waterproofing considerations be given to basement or other subsurface structures to protect against infiltration of water or damage or instability of structure. Water hazard soils shall be deemed to include the following soils as described in the Soil Survey of Chester and Delaware Counties, Pennsylvania, prepared by the United States Department of Agriculture, Soil Conservation Service issued May, 1963 as series 1959, No. 19: All soils listed as lying within the building groups 11, 12 and 13 and include Aldino silt loam, Aldino very stony silt loam, Bowmansville silt loam, Calvert silt loam, Chewacla silt loam, Congaree silt loam, Croton silt loam, Glenville silt loam., Guthrie silt loam, Lawrence silt loam, Lehigh silt loam, Lehigh very stony silt loam, Lindside silt loam, Melvin silt loam, Othello silt loam, Rowland silt loam, Rowland silt loam dark surface, Tidal marsh, Watchung silt loam, Watchung very stony silt loam, Worsham silt loam, Worsham very stony silt loam, and Wehadkee silt loam.

## **WATER SUPPLY**

1. Individual - A safe and healthful supply of water, permitted by the Chester County Department of Health, to a single user from a private well located on the lot in which the use is located.
2. Community - A system for supplying adequate quantities of potable water from a common source or sources to all dwellings and other buildings within a development. The water supply source may be located on-site or off-site and is privately owned and permitted by Pennsylvania Department of Environmental Protection.
3. Public - A system for supplying potable water in sufficient quantities to all dwellings or other buildings of a development, which is administered by a municipality, municipal authority or public utility as defined and regulated by the Pennsylvania Public Utilities Commission and permitted by Pennsylvania Department of Environmental Protection.

**WATER TABLE** - The upper surface of a zone of saturation except where that surface is formed by an impermeable body.

**WETLANDS** - Those areas with hydric soils inundated or saturated by surface water or groundwater for at least two (2) weeks of the year and which support hydrophytic vegetation as further defined by the Federal Manual for Identifying and Delineating Jurisdiction Wetlands as adopted by the Pennsylvania Department of Environmental Protection.

**WETLANDS BUFFER** - A three hundred (300) foot border surrounding a wetland, measured from the boundary of the wetland as delineated under the provisions of this Ordinance.

**WHOLESALE DISTRIBUTION, SALES AND STORAGE** - The distribution, sale or storage of commodities in large quantities by a middleman or business. These goods or services are usually sold to a retail merchant. These types of operations are generally not open to the public and have limited counter sales. They do require large storage facilities with access for truck delivery and pick-up.

**WOODLANDS** - A tree mass or plant community, covering one-quarter ( $\frac{1}{4}$ ) acre or more, in which tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete, aerial canopy. Woodlands do not include commercial horticultural enterprises, such as orchards, Christmas tree farms, and commercial nurseries.

**WOODLAND DISTURBANCE** -

- A. Any activity which alters the existing structure of woodlands. Alterations include the felling or removal of canopy trees, sub-canopy trees, under-story shrubs and vines, woody and herbaceous woodland floor species.
- B. Any activity which constitutes a land disturbance, as defined in this Zoning Ordinance.
- C. Woodland disturbance does not include the selective cutting of invasive trees, shrubs, vines or other invasive herbaceous species.

**YARD** - An open area with no buildings that lies between the permitted principal or accessory building or buildings and the nearest lot line. Such yard shall be unoccupied and unobstructed from the ground upward, except as provided otherwise in Section 1303.



**YARD, FRONT** - A yard extending the full width of the lot along the front lot line and extending in depth from the front lot line to the nearest point on the lot where a building is located. In the case of corner lots or reverse frontage lots, front yards of the required depth shall be provided along all streets.

**YARD, REAR** - A yard extending the full width of the lot along the rear lot line and extending in depth from the rear lot line to the nearest point on the lot where a building is permitted.

**YARD, SIDE** - A-yard extending the full depth of the lot along the side lot line and extending in width from such side lot to the nearest point on the lot where a building is permitted.

**ZONING MAP** - The Official Land Use Zoning Map of the Township, as amended.

**ZONING OFFICER** - The municipal officer charged with enforcing the literal terms of this Ordinance.

**ZONING ORDINANCE** - The Official Township Zoning Ordinance, as amended.

## ARTICLE III

### AP AGRICULTURAL PRESERVATION DISTRICT

#### Section 300 PURPOSE AND SPECIFIC INTENT

The use of land in, and the economy of East Nantmeal Township are primarily oriented toward agricultural activity and it is, therefore, the intent of the Township to preserve farming as an important economic feature and to maintain, within constitutional limits, viable farmland as an irreplaceable asset. Because conflicts can occur when residential uses are permitted in predominantly agricultural areas, it is further the intent of the Township to remove development pressures in such agricultural areas and to minimize residential intrusion in the Agricultural Preservation District. It is further the intent to permit within the AP District certain compatible farm service uses and to permit dwellings accessory to farm operations. It is also the intent to permit the subdivision of land according to predetermined formulae so that viable farmland will not be reduced in area below minimum size requirements for effective farming operations.

In order to achieve these purposes the lands in the AP District have been classified as Class I AP lands and Class II AP lands. The Class I AP lands consist of those tracts that, as of September 6, 1994, were ten (10) or more gross acres in area, whereas the Class II AP lands consist of those tracts that, as of September 6, 1994 were less than ten (10) gross acres in area. Tracts of land that are bisected by a street shall be, for the purposes of this Article, considered as a single tract of land.

Within Class I AP lands an owner may be permitted to modify the area and bulk requirements for single-family detached dwellings by use of the Clustering Option, as contained in Section 304.C. In addition, in order to avoid undue hardship on owners of Class I AP lands, there shall be the option for the conveyance of transferable development rights from the Class I AP lands for use within the AR, Agricultural Residential District.

There are also other permitted uses that are most compatible with agricultural uses but since they may cause potential conflicts with adjacent uses they shall be permitted by conditional use or special exception and shall be subject to the performance and design standards set forth in Article XIII.

## Section 301

## PERMITTED USES WITHIN CLASS I AP LANDS

### A. Uses Permitted by Right

In Class I AP lands a building may be erected, altered or used and land may be used for any one of the following uses and no other:

1. Intensive agriculture if and only to the extent the land lies within an agricultural security area, and not otherwise, subject to the provisions of Section 304.D.
2. Extensive agriculture, including one (1) single-family detached dwelling (exclusive of manufactured or mobile homes), subject to the provisions of Section 303.B.
3. Veterinary hospitals, veterinary clinics and veterinary offices, subject to the provisions of Section 303.C.
4. Single-family detached dwellings (exclusive of manufactured or mobile homes) subject to the provisions of Section 303.A, on lots of no less than ten (10) acres.
5. Sale of transferable development rights, pursuant to Article XIV, including intensive and extensive agriculture and single-family detached dwellings (exclusive of manufactured or mobile homes).
6. Land application sewage disposal systems for the purpose of enabling development in the AR, C, IA-1 and IA-2 Districts.
7. Timber harvest in accordance with the provisions of Section 1327, including intensive and extensive agriculture and single-family detached dwellings (exclusive of manufactured or mobile homes).
8. Equestrian facilities provided that:
  - a. Such facilities include a residential dwelling (exclusive of manufactured or mobile homes) which shall be occupied, by the owner of the facility or a leaseholder at all times that the equestrian facility is in use.
  - b. A minimum of two (2) acres of pasture for the first horse and one (1) additional acre of pasture for each additional horse is provided. For the purpose of calculation of the

required pasture, pasture shall not include areas of prohibitive slope, woodlands and areas located within the FM, Mapped Flood Hazard District, as defined in Article X of this Ordinance.

**B. Uses Permitted as a Conditional Use**

In Class I AP lands a building may be erected, altered or used and land may be used for any one of the following uses and no other when authorized as a conditional use by the Board of Supervisors in accordance with the provisions of Article XIX and Section 304 of this Ordinance.

1. Single-family detached dwellings (exclusive of manufactured or mobile homes) as provided in Section 304.B
2. Single-family detached dwellings (exclusive of manufactured or mobile homes) as provided in Section 304.C
3. Intensive agriculture on lands not within any agricultural security area, subject to the provisions of Section 304.E.
4. One-time or annual auctions of livestock provided the minimum lot area for such use shall be not less than ten (10) acres and provided further the applicant demonstrates compliance with Section 304.F.
5. Special events provided the applicant demonstrates compliance with Section 304.G.
6. Combinations of uses permitted by right, where not otherwise permitted in Section 301.A, subject to all applicable requirements of this Ordinance.
7. Combinations of permitted accessory uses, where not otherwise permitted in Section 301.D, subject to all applicable requirements of this Ordinance.

**C. Uses Permitted by Special Exception**

In Class I AP lands a building may be erected, altered or used and land may be used for any one of the following uses and no other when authorized as a special exception by the Zoning Hearing Board in

accordance with the provisions of Article XVIII and Section 305 of this Ordinance.

1. Class II home occupations, subject to the provisions of Section 305.A.
2. A single minor trade or office use provided the applicant has demonstrated compliance with Section 305.C. Furthermore, the maximum floor area for each such use shall be limited to one thousand (1,000) square feet. Multiple minor uses are not permitted.
3. Public recreational facilities, not accessory to a residential use, such as golf or country clubs, swim clubs, tennis courts and similar facilities, excluding however athletic fields provided the applicant has demonstrated compliance with Section 305.B.

D. Accessory uses

In Class I AP lands a building may be erected, altered or used and land may be used for any one of the following uses when accessory to a permitted principal use subject to the provisions of Section 306:

1. Food processing provided that it is clearly an accessory use subordinate to existing primary agricultural uses permitted by right and provided further the applicant demonstrates compliance with the provisions of Section 306.B.
2. Nonresidential accessory uses to a permitted use.
3. Residences (exclusive of manufactured or mobile homes), subject to the requirements of Section 306.C, as accessory to uses described in Section 301.A.1, Section 301.A.2 or Section 301.B.3, provided that no subdivision thereof from the principal use shall be permitted if the effect shall be to reduce the lot area for either the principal use or the accessory residence below the required minimum.
4. Accessory uses when accessory to a residence permitted under Section 301 but excluding class II home occupations.
5. Private stable, provided the same is not for boarding of horses owned by persons not residing on the premises or for other

commercial uses and further provided that two (2) acres of pasture for the first horse and one (1) acre of additional pasture for each additional horse shall be required. For the purpose of calculation of the required pasture, pasture shall not include areas of prohibitive slope, woodlands and areas located within the FM, Mapped Flood Hazard District, as defined in Article X of this Ordinance.

6. Accessory dwelling units (ADU s) pursuant to Section 306.D.
7. Private recreational facilities such as swimming pools, tennis courts and similar facilities, accessory to and for the exclusive use of the residence.
8. No-impact home-based business.
9. Class I home occupation.

## Section 302 PERMITTED USES WITHIN CLASS II AP LANDS

### A. Uses Permitted by Right

In Class II AP lands a building may be erected, altered or used and land may be used for any one of the following uses and no other:

1. Single-family detached dwellings (exclusive of manufactured or mobile homes), subject to the provisions of Section 307.
2. Extensive agriculture, including one (1) single-family detached dwelling (exclusive of manufactured or mobile homes), subject to the provisions of Section 303.B.
3. Veterinary hospitals, veterinary clinics and veterinary offices, subject to the provisions of Section 303.C.
4. Forestry in accordance with the provisions of Section 1328.

### B. Uses Permitted as a Conditional Use

In Class II AP lands a building may be erected, altered or used and land may be used for any one of the following uses and no other, when authorized as a conditional use by the Board of Supervisors in

accordance with the provisions of Article XIX and Section 303.A of this Ordinance:

1. Single-family detached dwellings (exclusive of manufactured or mobile homes), subject to the provisions of Section 308.
2. Special events provided the applicant demonstrates compliance with Section 304.G.
3. Combinations of uses permitted by right, where not otherwise permitted in Section 302.A, subject to all applicable requirements of this Ordinance.
4. Combinations of permitted accessory uses, where not otherwise permitted in Section 302.D, subject to all applicable requirements of this Ordinance.

C. Uses Permitted as a Special Exception

In Class II AP lands a building may be erected, altered or used and land may be used for any one of the following uses and no other when authorized as a special exception by the Zoning Hearing Board in accordance with the provisions of Article XVIII and Section 305.A of this Ordinance:

1. Class II home occupations, subject to the provisions of Section 305.A.
2. Public recreational facilities, not accessory to a residential use, such as swim clubs, tennis courts and similar facilities, excluding however athletic fields provided the applicant has demonstrated compliance with Section 305.B.
3. A single minor trade or office use provided the applicant has demonstrated compliance with Section 305.C. Multiple uses are not permitted.

D. Accessory Uses

In Class II AP lands within the Agricultural Preservation District, a building may be erected, altered or used and land may be used for any one of the following uses when accessory to a permitted principal use, subject to the provisions of Section 306.

1. Food processing provided that it is clearly an accessory use subordinate to primary agricultural uses permitted by right and provided further the applicant demonstrates compliance with the provisions of Section 306.B.
2. Nonresidential accessory uses to a permitted use.
3. Residences (exclusive of manufactured or mobile homes), subject to the requirements of Section 306.C, as accessory to uses described in Section 302.A.2, provided that no subdivision thereof from the principal use shall be permitted if the effect shall be to reduce the lot area for either the principal use or the accessory residence below the required minimum.
4. Accessory uses when accessory to a residence permitted under Section 302 but excluding class II home occupations.
5. Private stable, provided the same is not for boarding of horses owned by persons not residing on the premises or for other commercial uses and further provided that two (2) acres of pasture for the first horse and one (1) acre of additional pasture for each additional horse shall be required. For the purpose of calculation of the required pasture, pasture shall not include areas of prohibitive slope, woodlands and areas located within the FM, Mapped Flood Hazard District, as defined in Article X of this Ordinance.
6. Private recreational facilities such as swimming pools, tennis courts and similar facilities, accessory to and for the exclusive use of the residence.
7. No-impact home based business.
8. Accessory dwelling units (ADU s) pursuant to Section 306.D
9. Antennas for personal wireless service, not exceeding ten (10) feet in length, may be installed as an accessory use on existing structures located within the right-of-way of any major collector road (as defined in the Comprehensive Plan of the Township) existing in the District, or no further than two hundred and twenty-five (225) feet from the outside boundary of the right-of-way of any major collector road existing in the district, so long as the following conditions are met by any applicant for a building permit to



construct, install, use or operate and antenna for personal wireless service:

- a. The applicant shall hold a license from the Federal Communications Commission to operate the antenna for personal wireless service.
- b. The applicant shall present to the Township a written certification signed and sealed by a professional engineer, licensed in the Commonwealth of Pennsylvania, stating that (i) a gap or deficiency in reliable radio service exists, (ii) such gap or deficiency shall be filled, in whole or in part, under then existing conditions and circumstances by the operation of the antenna for personal wireless service for which the permit is sought, and that (iii) such gap or deficiency in service cannot be filled by feasible enhancements, modifications or redirection of existing antenna(s).
- c. The applicant shall provide a map or maps depicting, by customary radio frequency engineering methods, the gap in service described in the certification, such map or maps to be attached to and made part of the certification required by subpart b, above.

No other setbacks or minimum yard standards of the Zoning Ordinance shall apply to an antenna for personal wireless service that otherwise meets the requirements of this Section.

## Section 303                      DESIGN STANDARDS FOR PERMITTED USES

- A. For residential uses permitted by right, the following design standards shall apply:
  1. There shall be a minimum lot area of ten (10) acres.
  2. The minimum lot width at the building setback line shall be four hundred (400) feet.
  3. The minimum lot width at the street line shall be two hundred (200) feet.

4. The minimum building setback lines for dwellings shall be as follows:
    - a. Front yard                      Seventy-five (75) feet
    - b. Side yard                      Twenty-five (25) feet
    - c. Rear yard                      Fifty (50) feet
  5. Maximum building height - No dwelling or other structure, except as provided herein, shall exceed thirty-five (35) feet or three (3) stories, whichever is less. Barns, silos, water towers, chimneys, windmills, antennae and stacks shall not exceed seventy (70) feet in height.
  6. Barns or accessory buildings existing as of the adoption of this Ordinance may be adapted to contain no more than two (2) apartments, subject to all of the applicable building and health codes and regulations. Further, the existing exterior character or general appearance of the structure shall be maintained or limited to those changes essential to the residential adaptive reuse.
- B. For extensive agricultural uses permitted by right, the following design standards shall apply:
1. There shall be a minimum lot area of ten (10) acres.
  2. The minimum lot width at the building setback line shall be four hundred (400) feet.
  3. The minimum lot width at the street line shall be two hundred (200) feet.
  4. The minimum building setback lines for dwellings shall be as follows:
    - a. Front yard                      Seventy-five (75) feet
    - b. Side yard                      Twenty-five (25) feet
    - c. Rear yard                      Fifty (50) feet

5. The minimum setback from all lot lines for farm buildings or any structure used to house farm animals or poultry or to store manure, fertilizer, compost or other odorous materials shall be at least one hundred (100) feet.
  6. All other farm buildings or structures shall be set back from all lot lines at least fifty (50) feet. Permitted structures in excess of fifty feet shall be set back a distance equal to the height of the structure.
  7. Maximum building height - No dwelling or other structure, except as provided herein, shall exceed thirty-five (35) feet or three (3) stories, whichever is less. Barns, silos, water towers, chimneys, windmills, antennae and stacks shall not exceed seventy (70) feet in height.
- C. For veterinary hospitals, veterinary clinics and veterinary offices uses permitted by right, the following design standards shall apply:
1. The minimum lot area shall be five (5) acres, subject to the provisions of Section 308.
  2. The minimum setback from all lot lines for all buildings shall be fifty (50) feet.
  3. The minimum setback from all lot lines for exterior kennel runs shall be one hundred (100) feet.
  4. The minimum setback from all lot lines for outdoor storage and manure and waste piles shall be one hundred (100) feet.
  5. Parking - One all-weather surface parking space shall be provided per three (3) stalls or boxes capable of keeping animals overnight. Parking and loading shall conform to the requirements set forth in Article XII.

## Section 304                      DESIGN STANDARDS FOR CONDITIONAL USES

- A. The following standards shall apply to all conditional uses:
1. When authorized as a conditional use under Article XIX of this Ordinance, the general standards set forth in Article XIII, including

all of the specific performance standards set forth in Sections 1312 through 1322, shall be made applicable by this Section 304 to further regulate the nature, intensity, density, design, layout and operation of land uses permitted as conditional uses. Upon the recommendation of the Planning Commission, the Board may waive the requirements for demonstration of compliance with certain of the specific performance standards if the use proposed poses no potential for significant negative impact upon such standard(s). The burden of proof of absence of any negative impact shall be placed upon the applicant. Notwithstanding an applicant's ability to conform to all applicable standards at higher densities, under no circumstances shall the density be increased beyond the maximum densities set forth herein.

2. A landscaped buffer in accordance with the provisions of Section 1305 herein shall be an integral part of any conditional use application and approval and shall be sufficient to screen the subject use from view. The landscaped buffer plan shall be presented to the Board of Supervisors as a required part of the conditional use application and the Board may attach such or different buffering requirements as it may deem appropriate to effectuate the purposes of this Section.
3. The applicant shall demonstrate compliance with the applicable provisions of this Ordinance relating to design standards, including, but not limited to, access, parking, signs, sight triangles at points of entrance and exit, as well as exterior lighting and parking lot construction.

**B. Single-family detached dwellings on Class I AP Lands**

1. A landowner may subdivide, from Class I AP lands, lots for construction and occupancy of single-family detached (SFD) dwellings (exclusive of manufactured or mobile homes) without the use of the cluster option in accordance with the following schedule:

Tract Area As of September 6, 1994	Number of Lots That May Be Subdivided	Minimum Lot Area	Total Number of Lots
10 Acres to Less Than 15 Acres	4 Lots	1½ Acres	4
15 Acres to 20 Acres	1 Additional Lot	1½ Acres	5
Each Additional 10 Acres	1 Additional Lot	1½ Acres	

Each lot shall be not less than one and one-half (1½) acres and contain only one (1) single-family detached dwelling (exclusive of manufactured or mobile homes) and uses accessory thereto. Each subdivided lot shall comply with the following standards:

- a. The minimum lot width at the building line shall be one hundred and fifty (150) feet.
- b. The minimum lot width at the street line shall be one fifty (50) feet.
- c. The minimum front yard shall be seventy-five (75) feet.
- d. The minimum side yard shall be twenty-five (25) feet.
- e. The minimum rear yard shall be fifty (50) feet.
- f. The minimum setback of a corner lot from the side lot line shall be fifty (50) feet.
- g. The minimum setback from any lot line for accessory structures (excluding fences) shall be twenty (20) feet.
- h. The maximum building coverage shall be ten percent (10%).
- i. The maximum impervious surface area coverage shall be fifteen percent (15%).
- j. The maximum building height shall be thirty-five (35) feet.

See Section 304.C for the use of the cluster development option and also see Article XIV for the use of transferable development rights from Class I AP lands, a transfer out district. An applicant may use the cluster development option on AP Lands outside the French Creek Corridor (see Appendix D) under Section 304.C subject to the following provisions:

- a. The maximum number of dwelling units that may be permitted shall be determined on the basis of one (1) dwelling unit for every 100,000 square feet of net lot or tract area.

- b. The maximum net lot area shall be forty thousand (40,000) square feet.
  - c. The minimum net lot area shall be thirty thousand (30,000) square feet.
  - d. Compliance with Section 304.C.5.c (4) and 304.C.5.c (7).
2. Where a subdivision is forty (40) acres to less than one hundred (100) acres, the applicant is permitted by right to subdivide lots for construction and occupancy of single family detached dwellings (exclusive of manufactured or mobile homes), subject to the provisions of Section 303.B provided that each lot contains no less than ten (10) acres. To achieve a higher density on AP Lands outside the French Creek Corridor (see Appendix D) the applicant must use the cluster development option under Section 304.C. subject to the following provisions:
- a. The maximum number of dwelling units that may be permitted shall be determined on the basis of one (1) dwelling unit for every 100,000 square feet of net lot or tract area.
  - b. The maximum net lot area shall be forty thousand (40,000) square feet.
  - c. The minimum net lot area shall be thirty thousand (30,000) square feet.
  - d. Compliance with Section 304.C.5.c (4) and 304.C.5.c (7).
3. Where a subdivision is one hundred (100) acres or more, the applicant is permitted by right to subdivide lots for construction and occupancy single-family detached dwellings (exclusive of manufactured or mobile homes), subject to the provisions of Section 303.B provided that each lot contains no less than ten (10) acres. To achieve a higher density on AP Lands outside the French Creek Corridor (see Appendix D) the applicant must use the cluster development option for single-family detached dwellings only, under Section 304.C, and subject to the following provisions:

- a. The maximum net density shall be one (1) dwelling unit per three (3) acres.
  - b. The maximum net lot area shall be forty thousand (40,000) square feet.
  - c. The minimum net lot area shall be thirty thousand (30,000) square feet.
  - d. Compliance with Section 304.C.5.c (4) and 304.C.5.c (7).
- C. Clustering of single-family detached dwellings only shall be permitted as a conditional use on Class I AP lands outside the French Creek Corridor (see Appendix D). An applicant may be allowed to modify the area and bulk standards for any single-family detached dwellings (exclusive of manufactured or mobile homes) provided the following conditions are met:
  - 1. Any Class I tract of land within the AP District may be eligible to use the cluster development option provisions, except those tracts within the French Creek Corridor (see Appendix D), provided all applicable controls and standards of this Article are met.
  - 2. In any development of a tract of land where farm land is to be created and/or retained, the landowner/applicant shall, whenever possible and in conjunction with all other applicable ordinances, include in the farm lands those agriculturally suited soils whose acreage, configuration, and location offer the best future opportunity for agricultural use.
  - 3. Any portion of a tract of land within the AP District that is utilized for any purpose other than agriculture or residential use, including any required setbacks or minimum lot areas for that use, are expressly excluded as being eligible for inclusion within the calculation of gross tract area under this Article.
  - 4. The following development controls shall be maintained when using the cluster development option:
    - a. The maximum gross density of developments using cluster development shall not be more than allowed through the cluster development option and zoning district standards.

- b. Site planning, including layout of streets and lots, placement of structures and the layout of open space areas shall be in compliance with the purposes of this section. Layout of open space in cluster developments shall protect those resources identified in the Township Comprehensive Plan.
  - c. Not less than the minimum required percentage of the total area in a cluster development shall be designated as, and used exclusively for, open space. The ownership, location, design, layout, and maintenance of open space within the cluster development shall be in accordance with all other provisions contained in this Ordinance.
  - d. A minimum tract buffer of one hundred and fifty (150) feet shall be provided along all existing perimeter roads.
5. The following design standards shall apply to any permitted residential development using the cluster development option in the AP District outside the French Creek Corridor as the corridor is identified in Appendix D.
- a. A cluster development shall be served by a community sewer and water system.
  - b. A tract of land utilizing the cluster development option shall be held in single ownership or shall be the subject of an application filed jointly by the owners of the entire tract and it shall be agreed that the tract shall be developed according to a single plan within a reasonable period of time under single direction and in the manner approved. If an area is developed with two or more parcels, all parcels shall be contiguous to each other however they may be divided by minor roads.
  - c. Cluster development option
    - (1) On tracts of ten (10) to less than forty (40) acres, up to twenty percent (20%) of all permitted single-family detached lots may be withheld from the cluster configuration provided that no withheld lot is less than ten (10) acres.



- (2) The maximum density (dwelling units per acre) of a tract shall be determine according to the size of the tract pursuant to the provisions of Section 304.B.1.j.a, Section 304.B.2.a, and Section 304.B.3.a, respectively. The net acreage shall be established according to the definition of "Lot or Tract Area, Net". The maximum density allowed is contingent on meeting all applicable standards and requirements within the district.
- (3) Within a subdivision, the maximum density (dwelling units per acre) of the tract shall be determine according to the size of the tract pursuant to the provisions of Section 304.B.1.j.a, Section 304.B.2.a, and Section 304.B.3.a, respectively, single-family detached dwellings (exclusive of manufactured or mobile homes) are permitted.
- (4) On tracts of land of ten to less than one hundred (10 to < 100) acres a minimum of sixty percent (60%) of the gross tract area, and on tracts of land of one hundred (100) acres and greater a minimum of sixty-five percent (65%) of the gross tract area, shall be retained as permanent open space, seventy-five percent (75%) of which shall be free of environmentally constrained land, and which shall be suitable for and limited to agricultural or forestry uses.
- (5) The following setback, height, and net lot area standards shall apply to all single-family detached uses:
 

(a)	Minimum front yard	Fifty (50) feet
(b)	Minimum rear yard	Seventy-five (75) feet
(c)	Minimum side yard	Twenty-five (25) feet each
(d)	Height	The lesser of three stories or

- |     |                                    |  |
|-----|------------------------------------|--|
|     |                                    | thirty-five (35) feet                  |
| (e) | Minimum lot width at building line | One hundred and twenty-five (125) feet |
| (f) | Minimum lot width at street line   | Forty (40) feet                        |
| (g) | Maximum net lot area               | 40,000 square feet                     |
| (h) | Maximum impervious coverage        | Thirty percent (30%)                   |
| (i) | Maximum building coverage          | Fifteen percent (15%)                  |
- (6) The following provisions shall also apply:
- (a) A topographic sketch plan, marked in two (2) foot contours, shall be required for any area to be disturbed.
  - (b) As a design objective, all dwelling units should be visually screened from off-site/perimeter roads, such that no more than 25% of the structure is visible.
  - (c) Whenever possible, no roofline should rise above any property ridgeline.
  - (d) A complete site analysis and environmental impact statement, as defined in the East Nantmeal Township Subdivision and Land Development Ordinance, with mitigation measures shall be required. In addition, the analysis shall contain an inventory of all trees above six (6) inches caliper within the buffer area and proposed areas to be disturbed and in developed areas significant trees, six (6) inches or greater caliper, shall be retained to the fullest extent possible.

- (e) A conservation plan shall be required. The conservation plan shall delineate the lands required to be conserved under Section 304.C.5.c (2) and provide the calculations for the number of permissible lots and resultant tract density.
  - (7) When maximum density is not achieved, due to performance or site limitations, the developer/landowner may also utilize the unrealized area as transfer-out TDR s computed in accordance with Section 1402 of this Ordinance. This number of dwelling units is then reduced by the number of approved and existing dwelling units for and on the tract. The remainder is the number of TDR s available for sale.
- 6. The following design standards shall be observed with the use of the cluster development option.
  - a. Natural features/resource protection: Shall conform to the provisions of Articles IX, X and XV of this Ordinance.
  - b. Parking: Shall conform to the provisions of Article XII of this Ordinance.
  - c. Signs: Shall conform to the provisions of Article XI of this Ordinance.
  - d. Access and circulation: Shall conform to the provisions of Article XII of this Ordinance.
  - e. Landscaped buffer: Shall conform to the standards of Article XIII, Section 1305, of this Ordinance.
  - f. Utilities: All utility service shall be placed underground.
- D. For Intensive Agricultural uses, whether permitted by right according to the provisions of Section 301.A.1 or by conditional use according to the provisions of Section 301.B.3, the following design standards shall apply:

1. Intensive agricultural activities shall be located upon a tract of land dedicated solely thereto and of sufficient area to contain the buildings proposed to be erected thereon plus all required parking, driveways, access ways and supportive facilities and structures, as well as all sedimentation basins, sewage beds, on-site wells, storage facilities for supplies or equipment and a complete perimeter buffer area of not less than one hundred (100) feet for all such activities and facilities. Except for entrance and exit driveways, all facilities and uses shall be constructed only within the building envelope inside the perimeter buffer area. In no event shall the tract be less than ten (10) acres in area.
2. Where the intensive agricultural activity is conducted on the same premises as an extensive farming operation or any other activity, including, but not limited to, residential use, the area dedicated to intensive farming shall be deemed a separate tract of land. Uses accessory to extensive farming operations, including, but not limited to, residences for owners and employees, shall not be deemed accessory uses to the intensive farming operation and shall not be permitted upon the same tract which is dedicated to intensive agricultural uses.
3. With respect to minimum lot area, above described in paragraph (1), above, the applicant shall demonstrate that the land, the subject of its application, includes such areas as may be anticipated for reasonable expansion. No variance may be granted from the one hundred (100) foot buffer area around the entire lot due to expansion of the intensive agricultural activity whether or not the expansion is alleged by the applicant to have been foreseeable. It is the intention of the Board of Supervisors in the adoption of this Ordinance that the flexible lot area herein provided is necessary due to the wide variations in the nature and extent of intensive agricultural operations, but that the 100 foot setback from all lot lines is necessary for the public welfare and that any such application before the Zoning Hearing Board for a variance or other relief to encroach within the one hundred (100) foot setback area shall be deemed per se conclusive evidence of a violation of the public welfare.
4. The maximum structural and impervious coverage shall not exceed the amounts set forth in this paragraph, unless the applicant can demonstrate, to the satisfaction of the Board of Supervisors, that such coverage can be exceeded without

adverse consequences impacting upon the environment, such as runoff of high levels of storm water pollutants. The maximum building coverage shall not exceed thirty percent (30%), and the maximum impervious area coverage shall not exceed fifty percent (50%).

5. In addition to the performance standards set forth in Article XIII, the tract of land dedicated to intensive agricultural uses shall be deemed a separate tract of land, notwithstanding the fact that the owner thereof owns and controls adjacent lands upon which he conducts extensive agricultural operations. Therefore, the tract dedicated to intensive agriculture shall have its own facilities for storm water and waste water management, sedimentation and erosion control, which facilities shall be sufficient for the independent management thereof on the tract and shall be totally independent of the general storm water, waste water, sedimentation and erosion control facilities of the extensive agricultural tract and any dwelling or other facilities or uses erected thereon.

E. For one time or annual livestock sales & auctions permitted by conditional use, the following standards shall apply:

1. The minimum lot area shall be ten (10) acres.
2. The minimum lot width at the building line shall be four hundred (400) feet.
3. The minimum lot width at the street line shall be two hundred (200) feet.
4. The minimum setback from all lot lines for all buildings and structures (other than perimeter fences) shall be one hundred (100) feet.
5. The minimum setback from all lot lines for outdoor storage and manure and waste piles shall be one hundred (100) feet.
6. The maximum building coverage shall be twenty percent (20%).
7. The maximum impervious coverage shall be forty percent (40%).
8. The maximum building height shall be thirty-five (35) feet.

9. Parking - One all weather surface parking space shall be provided per five (5) stalls or boxes capable of keeping animals overnight. Parking and loading shall conform to the requirements set forth in Article XII.

F. For special events, the following standards shall apply:

1. The applicant shall demonstrate the availability of approved drinking water supply, sanitary sewage facilities, parking, and loading (where loading is to be provided as part of such event) sufficient to accommodate one hundred twenty five percent (125%) of the estimated number of attendees and participants at such event.
2. The applicant shall present a plan demonstrating the provision of sufficient trained personnel and the points of location of stations by which to assist in the directing and control of increased traffic arising from such activity.
3. The applicant shall provide adequate facilities to accommodate the special event in a safe and convenient manner, including, by way of illustration and not limitation, the securing of animals and equipment on the premises and protecting persons attending the special event from risk of injury by reason of contact with such animals or equipment.
4. The applicant shall present as an integral part of the application a plan for the collection, cleaning and removal of trash and the removal of all signs from public rights-of-way, property of others and the subject tract and shall post financial security in a form and amount satisfactory to the Board of Supervisors.
5. Any conditional use application for the conduct of a special event shall be limited to the single scheduling thereof and applications to conduct one special event shall not be deemed an approval for the conduct of subsequent repetitions thereof or for the conduct of other special events.

## Section 305

## DESIGN STANDARDS FOR USES PERMITTED BY SPECIAL EXCEPTION

A. The following standards shall apply to all special exceptions:

1. When authorized as a special exception under Article XVIII of this Ordinance, the general standards set forth in Article XIII including all of the specific performance standards set forth in Section 1312 through Section 1322, shall be made applicable by this Section 305 to further regulate the nature, intensity, density, design, layout and operation of land uses permitted by special exception. Upon the recommendation of the Planning Commission, the Zoning Hearing Board may waive the requirements for demonstration of compliance with certain of the specific performance standards if the type of use proposed poses no potential for significant negative impact upon such standard(s). The burden of proof in this event shall be placed upon the applicant. Notwithstanding an applicant's ability to conform to all applicable standards at higher densities, under no circumstances shall the density be increased beyond the maximum densities set forth herein.
2. A landscaped buffer in accordance with the provisions of Section 1305 herein shall be an integral part of the special exception use application and approval and shall be sufficient to screen the use granted by special exception from view of incompatible uses. The landscaped buffer plan shall be presented to the Zoning Hearing Board as a required part of the special exception use application and the Zoning Hearing Board may attach such other or different buffering requirements, as it may deem appropriate, to effectuate the purpose of this Section 305 as a condition to such approval.
3. The applicant shall demonstrate compliance with the applicable provisions of this Ordinance relating to design standards, including, but not limited to, access, parking, signs, sight triangles at points of entrance and exit, as well as exterior lighting and parking lot construction.

B. For public recreational facilities, the following standards shall apply:

1. Recreational facilities shall be placed upon a tract of land of sufficient area to contain the buildings, structures, facilities and activities proposed to be erected or conducted thereon, plus all required parking, driveways, access ways, playgrounds, athletic fields, recreational areas, supportive facilities, such as sedimentation basins, sewage beds, on-site wells etc., and a perimeter setback of not less than fifty (50) feet for all such

activities and facilities. Except for entrance and exit driveways, wells, subsurface sewage facilities and perimeter fences, all facilities, buildings and structures shall be constructed in and only within the building envelope inside the perimeter buffer area.

2. The applicant shall demonstrate that the land, the subject of its application, includes such areas as may be anticipated for reasonable expansion. No variance may be granted from the required fifty (50) foot buffer area around the entire lot due to expansion of the recreational use whether or not the expansion is alleged by the applicant to have been foreseeable. It is the intention of the Board of Supervisors in the adoption of this Ordinance that the flexible lot area herein provided is necessary due to the wide variation of types of recreational uses, but that the fifty (50) foot setback from all lot lines is necessary for the public welfare and that any such application before the Zoning Hearing Board for a variance or other relief to encroach within the fifty (50) foot setback area shall be deemed, per se, conclusive of a violation of the public welfare.
3. The maximum structural and impervious coverage shall not exceed the amounts set forth in this paragraph, unless the applicant can demonstrate, to the satisfaction of the Zoning Hearing Board at the public hearing, that such coverage can be exceeded without adverse consequences impacting upon the environment, such as runoff of high levels of storm water pollutants. The maximum building coverage shall not exceed ten percent (10%), and the maximum impervious area coverage shall not exceed twenty-five percent (25%).
4. Where a risk of injury exists by reason of persons utilizing the recreational use entering the highways or adjacent grounds, or where a risk that unauthorized persons entering upon the premises might be injured by conditions existing with respect to the said recreational use, an adequate safety fence, not less than six (6) feet in height and otherwise adequate to prevent such entry or exit, shall be installed around the entire perimeter of the lot lines and right-of-way lines, or such other area as may be designated by the Zoning Hearing Board, and shall be equipped with self-closing and self-locking gates. The burden shall be upon the applicant to demonstrate that his proposed use does not require fencing or that the fencing required is less than the standard herein set forth.



C. For minor trade or office uses the following standards shall apply:

1. Any minor trade or office use permitted, as a special exception, under Section 301.C and Section 302.C shall be placed upon a tract of land of not less than two (2) acres in gross area. Notwithstanding the minimum lot area herein contained, the lot shall also be sufficient in area to contain the building proposed to be erected thereon, plus all required parking areas, driveways, access ways, supportive facilities, such as sedimentation basins, sewage beds, on-site wells etc., and a perimeter setback of not less than fifty (50) feet for all such activities and facilities. Except for entrance and exit driveways, signs, subsurface sewage facilities and water facilities, all facilities and activities shall be constructed and conducted only within the building envelope.
2. The maximum structural and impervious coverage shall not exceed the amounts set forth in this paragraph, unless the applicant can demonstrate, to the satisfaction of the Zoning Hearing Board at the public hearing, that such coverage can be exceeded without adverse consequences impacting upon the environment, such as runoff of high levels of storm water pollutants. The maximum building coverage shall not exceed five percent (5%), and the maximum impervious area coverage shall not exceed fifteen percent (15%).

## Section 306 DESIGN STANDARDS FOR ACCESSORY USES

A. For all accessory uses, the following design standards shall apply:

1. No accessory structure or use shall be placed in any required yard setback area.
2. Any agricultural accessory building or structure shall maintain the yard requirements as set forth in Section 303.B.4 and subsections 5 and 6 of this Article.
3. There shall be no less than two (2) acres of pasture for one (1) large animal and one (1) additional acre for each additional large animal. A large animal stands taller than thirty (30) inches at the shoulder or weighs over 300 pounds. For the purpose of calculation of the required pasture, pasture shall not include areas

of prohibitive slope, woodlands and areas located within the FM, Mapped Flood Hazard District, as defined in Article X of this Ordinance.

- B. For food processing facilities, the following standards shall apply:
1. The maximum portion of the lot used for food processing facilities shall be twenty percent (20%) of the total lot area.
  2. The minimum setback from all lot lines for all food processing facilities and structures shall be seventy-five (75) feet.
  3. The minimum setback from all lot lines for outdoor storage and manure and waste piles shall be one hundred (100) feet.
  4. The maximum building coverage shall be twenty percent (20%).
  5. The maximum impervious coverage shall be forty percent (40%).
  6. The maximum building height shall be thirty-five (35) feet.
- C. For accessory use residences, the following standards shall apply:
1. Single-family detached dwellings (exclusive of manufactured or mobile homes) shall be permitted for housing of persons employed in the operation of uses permitted in Section 301.A.1, Section 301.A.2 and Section 301.B.3 conducted on the same tract of land, provided, however, (a) there shall be no more than one (1) dwelling for each twenty (20) acres of the tract on which such residence(s) is located; (b) each dwelling shall have a designated lot area of not less than one and one-half (1½) acres nor more than two (2) acres; (c) each dwelling shall be so located on the tract in relation to roads, access drives, setbacks and other buildings and structures so that the same may be subdivided in accordance with Section 303.B.4, upon a conforming lot and in conformity to all area, coverage and setback standards; and (d) the number of dwelling units permitted under Section 304.B.1 shall be reduced by any dwellings constructed upon the tract and/or subdivided from the tract pursuant to this Section 306.
- D. Accessory Dwelling Units (ADU)

1. Purpose: The people of East Nantmeal Township recognize the importance of family, the unique and special relationships implied in the concept and the responsibilities inherent therein. Members of the family, because of physical and mental handicaps arising from illness, aging or accident, become dependent upon others for daily living requirements, and it is both the privilege and the responsibility of the family to provide that sustenance. Further, the cost of extended care furnished by group homes, nursing homes and other similar facilities has risen to a point that extreme financial hardships are visited upon families where they seek such third party help in providing the care which they themselves are able to provide. The handicapped family member also needs a feeling of independence rather than one of total dependency upon strangers. Thus, there is an important need to furnish independent living facilities for these dependent persons in such proximity to the family as will permit the maintenance of independence while allowing the convenient exercise of care and supervision by the concerned family. In this context, the definition of a single family dwelling is too restrictive to permit these independent living arrangements, but to permit a second dwelling unit on the same lot to accommodate dependent family members invites claims for variances or other relief to permit the rental of such dwelling units to third parties when the dependent family member no longer occupies the unit. Thus, the condition for the grant of a permit to construct such a unit must be clearly understood in advance and the cost thereof weighed by the family against the cost and other disadvantages of third party care. Therefore, in order to meet the needs of families with dependent members, while at the same time preventing the proliferation of nonconforming dwelling units, the Board of Supervisors has determined that accessory dwelling units shall be permitted as an accessory use to a residential dwelling, subject to the following restrictions.
2. Qualified family member: For the purposes of this Section 306.D, a "qualified family member" shall mean and be limited to a person meeting all of the following qualifications:
  - a. That person shall be either (a) a parent, grandparent, child or sibling, niece or nephew of one or more of the occupants of the dwelling unit to which the ADU is accessory; or (b) some other person who has for a period of two (2) or more years, immediately preceding the date of the application for the ADU, been a member of such principal dwelling unit

occupant's family, as defined in paragraph (1), above, and Article II of the definition of "family" contained in this Ordinance.

- b. For and during the time that the ADU is occupied by a "qualified family member", the ADU may also be occupied by the spouse of the qualified family member and not more than one person employed by the qualified family member or the occupant of the principal dwelling unit for the purpose of rendering physical assistance to the qualified family member. Such persons include, by way of illustration and not limitation, a practical nurse or housekeeper.
3. Accessory dwelling units shall be occupied only by qualified family members, as herein defined, and his or her spouse and those assistants described in paragraph 2(b) above.
4. The ADU shall be located on the same lot and clearly accessory and subordinate to the principal dwelling unit. Further, no mobile home, manufactured home or trailer shall be permitted for use as an ADU.
5. No ADU shall be permitted when accessory to a multifamily dwelling or attached dwelling.
6. The ADU shall not be located within the front yard of the lot nor within any mandated side or rear yard setback.
7. The applicant shall demonstrate a plan of storm water management whereby the post-construction flow will not exceed the velocity of pre-construction flow at the lot lines.
8. The ADU shall be served by approved water and sewage facilities.
9. The applicant shall execute, acknowledge and deliver to the Township Secretary, contemporaneously with the application for a building permit, a declaration stating (a) that the application is made for the purposes herein set forth; (b) that the costs incurred are for the purpose of enabling the family to give the requisite care and aid to the occupant; (c) that the use of the ADU will be discontinued within sixty (60) days after the termination of occupancy by the qualified family member; and (d) that the applicant acknowledges that any expense or hardship incurred in

the construction, discontinuance or removal of the ADU is a self-incurred hardship and, therefore, no variance may be obtained to permit the occupancy by other than a qualified family member.

## Section 307            DESIGN STANDARDS FOR SINGLE FAMILY DETACHED DWELLINGS LOCATED ON CLASS II AP LANDS

On Class II AP lands, a landowner may subdivide no more than three (3) lots for single-family detached dwellings (exclusive of manufactured or mobile homes) pursuant to Section 302.A.1. Such lots shall conform to the following area, bulk and dimensional standards:

- A.     The minimum lot area shall be two (2) acres per single-family detached dwelling (exclusive of manufactured or mobile homes).
- B.     The minimum lot width at the building line shall be one hundred and fifty (150) feet.
- C.     The minimum lot width at the street line shall be fifty (50) feet.
- D.     The minimum front yard shall be seventy-five (75) feet.
- E.     The minimum side yard shall be twenty five (25) feet .
- F.     The minimum rear yard shall be fifty (50) feet.
- G.     The minimum setback of a corner lot from the side lot line shall be fifty (50) feet.
- H.     The minimum setback from any lot line for accessory structures (excluding fences) shall be twenty (20) feet.
- I.     The maximum building coverage shall be ten percent (10%).
- J.     The maximum impervious coverage shall be fifteen percent (15%).
- K.     The maximum building height shall be thirty-five (35) feet.

## SECTION 308            GENERAL DESIGN STANDARDS

- A. For interior lots, the following standards shall apply:
1. The minimum width of the access strip shall be forty (40) feet, and shall not exceed forty-five (45) feet.
  2. The access strip shall not be included in the computation of the minimum lot area of an interior lot.
  3. Interior lots shall comprise no more than ten percent (10%) of the total lots within a subdivision.

Section 309                      GENERAL LIMITATION ON SUBDIVISION OF CLASS I  
AP LAND

- A. As of September 6, 1994, no subdivision of any Class I AP lands shall be permitted if any lot, other than a lot created pursuant to Section 301.B.1 shall have a lot area of less than ten acres.
- B. The development rights of a lot created pursuant to Section 301.B.1 shall be deemed utilized.
- C. No Class I AP lands shall be permitted to be Class II AP lands.

## ARTICLE IV

### AR AGRICULTURAL RESIDENTIAL DISTRICT

#### Section 400 PURPOSE AND SPECIFIC INTENT

It is recognized that East Nantmeal Township is essentially rural in character and the economic base is primarily agricultural. The Township is comprised of large areas of Class I and Class II soils that are uniquely suited for agricultural purposes. It is also recognized that the Township must accommodate growth and a variety of housing types.

The Agricultural Preservation District has been created to preserve, insofar as possible, the farmlands and farm economy of the Township. Residential development is restricted in the AP District to ensure that the farmlands remain for future generations and the intent of the AR District is to shift, as much as possible, residential development that would occur in the AP District to the AR District.

The road network within East Nantmeal Township is neither designed nor constructed for handling large volumes of traffic, nor is it anticipated that demand for intense commercial or industrial uses will emerge within the Township. To accommodate the inevitable demand for residential uses, the Agricultural Residential (AR) District has been established to provide sufficient lands for residential uses. Transferable development rights have been provided as a mechanism to shift residential development from the AP District to the AR District. The AR District is located in that area of the Township most suitable for higher intensity residential development by virtue of superior roads, most direct access to regional employment centers, and the nearby location of community facilities and services.

The provisions of this Ordinance are designed to attempt to create buffers between agricultural and residential uses to reduce potential conflicts to the greatest extent possible, to encourage proposed uses to locate adjacent to other similar uses compatible with the proposed activities. Accordingly, these districts are subject to use and area standards that facilitate the conservation and proper utilization of groundwater supplies, control pollution, minimize surface water flooding and erosion, and thereby protect the health, safety and general welfare of the residents of the Township.

Section 401

PERMITTED USES WITHIN THE AGRICULTURAL  
RESIDENTIAL DISTRICT

- A. A building may be erected, altered or used and land may be used for any one of the following uses by right and no other:
1. Single-family detached dwelling (exclusive of manufactured or mobile homes), subject to the provisions of Section 402.A.
  2. Extensive agriculture, including one (1) single-family detached dwelling (exclusive of manufactured or mobile homes), subject to the provisions of Section 402.B.
  3. Forestry in accordance with the provisions of Section 1327.
  4. Equestrian facilities provided that such facilities include a residential use (exclusive of manufactured or mobile homes).
- B. A building may be erected, altered or used and land may be used for any one of the following uses and no other, when authorized as a conditional use by the Board of Supervisors in accordance with the provisions of Article XIX of this Ordinance:
1. Density residential development (exclusive of manufactured or mobile homes), subject to the provisions of Section 403.B.
  2. Class I home occupation
  3. Only to the extent each proposed use is permitted in the AR District, multiple uses may be permitted on the same lot provided the applicant complies with the provisions of Section 403.A.
  4. A conditional use permit, for multiple uses on a tract, shall not exempt a proposed use from any requirement of special exception or conditional use approval for that specific use.
- C. A building may be erected, altered or used and land may be used for any one of the following uses and no other, when authorized as a special exception by the Zoning Hearing Board in accordance with the provisions of Article XVIII of this Ordinance:
1. Class II home occupations, subject to the provisions of Section 404.A.



- D. A building may be erected, altered or used and land may be used for any one of the following accessory uses and no other:
1. Residential accessory uses on the same lot with, customarily incidental to, and clearly subordinate to any of the foregoing permitted uses, including, but not limited to, the following:
    - a. Private parking or private garage.
    - b. Private home swimming pool, cabana or private home tennis court, or similar recreation facilities.
    - c. Private home greenhouse.
    - d. Private stable, provided the same is not for boarding of horses owned by persons not residing on the premises or for other commercial uses and further provided that two (2) acres of pasture for the first horse and one (1) acre of additional pasture for each additional horse shall be required. For the purpose of calculation of the required pasture, pasture shall not include areas of prohibitive slope, woodlands and areas located within the FM, Mapped Flood Hazard District, as defined in Article X of this Ordinance.
    - e. No-impact home based business.
    - f. Accessory dwelling unit (ADU) (exclusive of manufactured or mobile homes) pursuant to Section 306.D.
  2. Agricultural accessory uses on the same lot with, customarily incidental to, and clearly subordinate to any of the foregoing permitted uses, including, but not limited to, the following:
    - a. Farm buildings or structures used accessory to the farming operation, such as maintenance shed, storage shed, silo, corncrib and similar buildings and structures.
    - b. Farm dwelling (exclusive of manufactured or mobile homes) pursuant to the requirements of Section 402.B.
    - c. Retail sale of farm products, provided adequate off-street parking is provided and such parking areas and driveways

are so located as to be off of all public road rights-of-way and with adequate sight distance for safe ingress and egress.

- d. Boarding of horses owned by others, provided that the total number of horses, regardless of ownership, on any lot shall not exceed twenty-five (25) horses, and further provided that two (2) acres of pasture is provided for the first horse and one (1) acre of pasture is provided for each additional horse. For the purpose of calculation of the required pasture, pasture shall not include areas of prohibitive slope, woodlands and areas located within the FM, Mapped Flood Hazard District, as defined in Article X of this Ordinance.
3. Antennas for personal wireless service, not exceeding ten (10) feet in length, may be installed as an accessory use on existing structures located within the right-of-way of any major collector road (as defined in the Comprehensive Plan of the Township) existing in the district, or no further than two hundred and twenty-five (225) feet from the outside boundary of the right-of-way of any major collector road existing in the district, so long as the following conditions are met by any applicant for a building permit to construct, install, use or operate and antenna for personal wireless service:
- a. The applicant shall hold a license from the Federal Communications Commission to operate the antenna for personal wireless service.
  - b. The applicant shall present to the Township a written certification signed and sealed by a professional engineer, licensed in the Commonwealth of Pennsylvania, stating that (i) a gap or deficiency in reliable radio service exists, (ii) such gap or deficiency shall be filled, in whole or in part, under then existing conditions and circumstances by the operation of the antenna for personal wireless service for which the permit is sought, and that (iii) such gap or deficiency in service cannot be filled by feasible enhancements, modifications or redirection of existing antenna(s).

- c. The applicant shall provide a map or maps depicting, by customary radio frequency engineering methods, the gap in service described in the certification, such map or maps to be attached to and made part of the certification required by subpart b, above.

No other setbacks or minimum yard requirements of the Zoning Ordinance shall apply to an antenna for personal wireless service that otherwise meets the requirements of this Section.

## Section 402                      DESIGN STANDARDS FOR USES BY RIGHT

The following standards shall apply to all uses permitted by right according to the provisions of Section 401.A:

- A. For standard development of single family developments under Section 401.A.1, the following standards shall apply:
  1. The minimum lot area shall be one and one half (1½) acres per single-family dwelling unit.
  2. The minimum lot width at the building line shall be one hundred and fifty (150) feet.
  3. The minimum lot width at the street line shall be sixty (60) feet.
  4. The minimum setback from the street line shall be fifty (50) feet.
  5. The minimum setback from the side lot lines shall be twenty (20) feet and fifty (50) feet in aggregate.
  6. The minimum setback from the rear lot line shall be fifty (50) feet.
  7. The minimum setback of a corner lot from the side lot line shall be fifty (50) feet.
  8. The minimum setback from any lot line for accessory structures (excluding fences) shall be twenty (20) feet.
  9. The maximum building coverage shall be fifteen percent (15%).

10. The maximum impervious coverage shall be twenty percent (20%).
  11. The maximum building height shall be thirty five (35) feet.
- B. For extensive agricultural uses permitted by right, the following design standards shall apply:
1. There shall be a minimum lot area of ten (10) acres.
  2. The minimum lot width at the building setback line shall be four hundred (400) feet.
  3. The minimum lot width at the street line shall be two hundred (200) feet.
  4. The minimum building setback lines for dwellings shall be as follows:
    - a. Front yard: Seventy-five (75) feet,
    - b. Side yard: Twenty-five (25) feet,
    - c. Rear yard: Fifty (50) feet.
  5. The minimum setback for farm buildings or any structure used to house farm animals or poultry or to store manure, fertilizer, compost or other odorous materials shall be at least one hundred (100) feet.
  6. All other farm buildings or structures shall be set back at least fifty (50) feet or the height of the structure whichever is greater.
  7. Maximum building height - No dwelling or other structure, except as provided in this paragraph 7, shall exceed thirty-five (35) feet or three (3) stories, whichever is less provided, however, barns, silos, water towers, chimneys, windmills, antennas and stacks shall not exceed seventy (70) feet in height.

#### Section 403            DESIGN STANDARDS FOR CONDITIONAL USES

- A. The following standards shall apply to all conditional uses:

1. When authorized as a conditional use under Article XIX of this Ordinance, the general standards set forth in Article XIII including all of the specific performance standards set forth in Section 1312 through Section 1322, shall be made applicable by this Section 403 of this Ordinance to further regulate the nature, intensity, density, design, layout and operation of land uses permitted as conditional uses. Upon the recommendation of the Planning Commission, the Board may waive the requirements for demonstration of compliance with certain of the specific performance standards if the generic type of use proposed poses no potential for significant impact upon such standard(s). The burden of proof in this event shall be placed upon the applicant. Notwithstanding an applicant's ability to conform to all applicable standards at higher densities, under no circumstances shall the density be increased beyond the maximum densities set forth herein.
  2. A landscaped buffer in accordance with the provisions of Section 1305 herein shall be an integral part of any conditional use application and approval and shall be sufficient to screen the subject use from view of incompatible uses. A plan for landscaped buffers, in accordance with the provisions of Section 1305, shall be presented to the Board of Supervisors as a required part of the conditional use application and the Board may attach such other or different buffering requirements, as it may deem appropriate, to effectuate the purposes of this section as a condition to any such approval.
  3. The applicant shall demonstrate compliance with the applicable provisions of this Ordinance relating to design standards, including, but not limited to, access, parking, signs, sight triangles at points of entrance and exit, as well as exterior lighting and parking lot construction.
- B. Density residential development - Residential dwelling units of any configuration (except for mobile home parks) may be included within a density residential development subject to the following limitations that shall apply with respect to applications for density residential developments permitted in Section 401.B.I:
1. The minimum gross tract area shall be forty (40) acres.

2. A maximum density of four (4) dwelling units per acre shall be permitted; provided, however, that such development shall comply with all of the other standards and criteria set forth herein or incorporated by reference herein.
3. The maximum building coverage, including overhangs of all buildings and structures shall not exceed 15% of the area of the tract.
4. The maximum impervious coverage including the coverage of all new roads, parking areas, sidewalks and other impervious cover, shall not exceed 30% of the area of the tract.
5. The minimum building setback from tract boundaries and existing road rights-of-way shall be fifty (50) feet.
6. The minimum building setback from proposed road rights-of-way shall be twenty (20) feet.
7. The minimum building setback from lot lines other than street lines or tract boundaries not involving common or party walls shall be fifteen (15) feet.
8. No less than fifty percent (50%) of the gross tract acreage shall be set aside and continually maintained as open space, of which a minimum of fifteen percent (15%) of such open space shall not be constrained by natural or cultural resources and shall be improved with recreational and/or community facilities for the use and enjoyment of the residents of the density residential development. The location and design of the recreational and/or community facilities shall be subject to the approval of the Board of Supervisors. The required open space shall not contain any rights-of-way or easements or public or private roads except those necessary to serve the recreational and/or community facilities. All open space shall be owned and perpetually maintained by a homeowners association established according to the provisions of Section 406 of this Article.
9. In addition to the standards set forth in the Subdivision and Land Development Ordinance and the standards of other applicable ordinances, the applicant shall demonstrate compliance with all of the standards set forth in Article XIII hereof and the specific performance standards set forth in Sections 1312, 1313, 1314

and 1315. All density residential developments shall provide, at the completion of the development, a perimeter screen that shall be seventy-five percent (75%) opaque.

10. Applications for density residential development shall not be deemed planned residential development under Article VII of the MPC, but shall be deemed conditional uses authorized under Article VI of the Code. Further, the application for and approval of a conditional use for density residential development shall not be construed to be in lieu of, nor a waiver of compliance with the terms of the Subdivision and Land Development Ordinance. Upon approval of the conditional use for density residential development, the developer shall thereupon submit within six (6) months of the date of the grant of the conditional use an application under the Subdivision and Land Development Ordinance consistent in every particular with the conditional use granted.

#### Section 404                      DESIGN STANDARDS FOR USES BY SPECIAL EXCEPTION

- A. The following standards shall apply to all uses permitted by the granting of a special exception:
  1. When authorized as a special exception under Article XVIII of this Ordinance, the general standards set forth in Article XIII including all of the specific performance standards set forth in Section 1312 through Section 1322, shall be made applicable by this Section 404 of this Ordinance to further regulate the nature, intensity, density, design, layout and operation of land uses permitted by conditional uses. Upon the recommendation of the Planning Commission, the Board may waive the requirements for demonstration of compliance with certain of the specific performance standards if the type of use proposed poses no potential for significant negative impact upon such standard(s). The burden of proof in this event shall be placed upon the applicant. Notwithstanding an applicant's ability to conform to all applicable standards at higher densities, under no circumstances shall the density be increased beyond the maximum densities set forth herein.

2. A landscaped buffer in accordance with the provisions of Section 1305 herein shall be an integral part of any application for a special exception and approval and shall be sufficient to screen the subject use from view of incompatible uses. The landscaped buffer plan shall be presented to the Zoning Hearing Board as a required part of the special exception application and the Zoning Hearing Board may attach such other or different buffering requirements as it may deem appropriate to effectuate the purposes of this section as a condition to any such approval.
3. The applicant shall demonstrate compliance with the applicable provisions of this Ordinance relating to design standards, including, but not limited to, access, parking, signs, sight triangles at points of entrance and exit as well as exterior lighting and parking lot construction.

#### Section 405            DESIGN STANDARDS FOR ACCESSORY USES

- A. The following design standards shall apply to all accessory uses and structures:
  1. No accessory structure shall be placed in any required yard setback area.
  2. Any agricultural accessory building or structure shall maintain the yard requirements as set forth in Section 402.B of this Article.

#### Section 406            HOMEOWNERS ASSOCIATIONS

- A. Homeowners associations shall be governed by the following requirements:
  1. The developer shall provide the Township a description of the homeowners association including its by-laws and documents governing open space, and recreation and community facilities maintenance and use restrictions.
  2. The homeowners association shall be established by the developer and shall be operating before the sale of any lots within the development.



3. Membership in the homeowners association shall be mandatory for all lot owners and their successors.
4. The homeowners association shall be responsible for the maintenance of open space, and recreation and community facilities, and for the provision of insurance thereon, and shall be responsible for the payment of real estate taxes on open space, and recreation and community facilities only where the following preferred alternative is not utilized. The developer of any development wherein open space is provided may arrange with the Chester County Board of Assessment a method of assessment of the open space, and recreation and community facilities that allocates to each parcel in the development a share of the total assessment of such open space and facilities. Where this alternative is utilized, the method of allocation shall be approved by the Board of Supervisors.
5. The members of the homeowners association shall share equitably in the costs of maintaining and improving open space, and recreation and community facilities in accordance with the procedures established by such homeowners association.
6. In the event of the proposed transfer of open space or recreation and community facilities by the homeowners association, or the assumption of maintenance by the Township notice of such action shall be provided by the homeowners association to all property owners within the development.
7. The homeowners association shall have adequate staff, or shall contract for such services, to properly administer and maintain open space, and recreation and community facilities.
8. The homeowners association may manage or lease back open space, and recreation and community facilities to the developer, his heirs or assigns, or to any other person or corporation qualified to manage, operate and maintain open space, and recreation and community facilities however such lease agreement shall provide the following:
  - a. That the residents of the development shall have, at all

times, access to the open space, and recreation and community facilities.

- b. That the open space, and recreation and community facilities to be leased shall be maintained only for the purposes set forth in this Ordinance.
- c. That the operation of open space, and recreation and community facilities may be for the benefit of the residents of the development only or may be open to the residents of the Township.

The lease shall be subject to the approval of the Board of Supervisors, as shall any transfer or assignment of the lease. Such lease agreements shall be recorded with the Recorder of Deeds of Chester County within thirty (30) days of execution and a copy thereof filed with the Township.

## ARTICLE V

### C COMMERCIAL DISTRICT

#### Section 500 PURPOSE AND SPECIFIC INTENT

East Nantmeal Township will, for the foreseeable future, remain essentially rural in character. It is the intent of this Article to make provisions for specific areas wherein commercial uses may be concentrated so that (a) these uses, singly or cumulatively, shall not create conditions incompatible with the residential and agricultural uses in the Township; (b) the concentration of these uses will minimize the demands upon the infrastructure within the Township, thus avoiding inefficient extension of sewer interceptor lines, extensive road improvements, demands for dispersed Township-wide police protection, etc.; (c) retail and office uses may benefit by the increased attraction of customers generated, thereby encouraging trade and commerce; and (d) these more intensive uses may be encouraged to locate in areas with roads capable of accommodating increased traffic.

Further, it is intended that the Commercial District shall be dedicated to retail and small office uses to encourage pedestrian accessibility and discourage interruptions in continuity in the shopping district.

#### Section 501 USE REGULATIONS

- A. A building may be erected, altered or used and land may be used for any of the following uses and no other:
1. Indoor retail uses for the sale of retail products or services such as restaurants. All activities other than parking shall be confined entirely within the building, and shall not include those uses specifically set forth in Section 501.B or Section 501.C, below.
  2. Small office uses, defined as office buildings or complexes that, in aggregate, provide no more than 10,000 square feet of gross leasable floor area.
  3. Bank or financial institutions.
  4. East Nantmeal Township municipal uses.

5. All uses permitted by right in the AP District, except for land application sewage disposal systems.
  6. Forestry in accordance with the provisions of Section 1327.
  7. Public recreational facilities, not accessory to a residential use, such as golf or country clubs, swim clubs, tennis courts and similar facilities, excluding however athletic fields provided the applicant has demonstrated compliance with Section 305.B.
- B. A building may be erected, altered or used and land may be used for any of the following uses when approved by the Board of Supervisors as a conditional use:
1. Multiple permitted uses on the same lot in accordance with the provisions of Section 503.A.
  2. Passenger transportation terminals.
  3. Offices, defined as office buildings or complexes that, in aggregate, provide more than ten thousand (10,000) square feet but less than twenty five thousand (25,000) square feet of gross leasable floor area.
  4. Antenna support structures for personal wireless service and public broadcast in accordance with Section 1322.
- C. A building may be erected, altered or used and land may be used for any of the following uses when approved by the Zoning Hearing Board as a special exception:
1. Outdoor retail uses for the sale of retail products or services such as nurseries and automobile sales. The sale and display of such uses may occur anywhere on the premises except within the buffer area.
  2. Drive-in facilities such as fast food restaurants, and public garages, automobile service stations and mechanical repair shops.
  3. Hotels, motels or inns.
  4. Multiple dwelling units over indoor retail or office uses.

5. Car wash.
  6. Self-storage facilities.
- D. A building may be erected, altered or used and land may be used for any of the following accessory uses, provided they comply with the applicable provisions of Section 502:
1. A single dwelling unit constructed over or behind an indoor retail or office use.
  2. Wholesale use when accessory to a retail use on the same lot.
  3. Other uses accessory to permitted principal uses.
  4. Class I or class II home occupation.

## Section 502 DESIGN STANDARDS

### A. Computation of the minimum lot area:

1. It is the intent of this Article that lot areas, except for those uses permitted under Section 501.A.5, above, shall conform to the reasonable needs of the use proposed. In the determination of minimum lot area, potential expansion and growth is an integral part of the reasonable needs. Furthermore, a use may change and, thus, change the parking area requirements. Therefore, to compute the minimum lot area for any use, the building footprint, specific parking requirements, driveway and circulation requirements, accessory use areas, setbacks, sanitary sewage facilities, wells and storm sewer detention basin requirements, plus a percentage for growth, change and expansion combine to determine minimum lot area.
2. Specific computation of minimum lot area (MLA) shall be according to the following formula:

$$MLA = 1.5 (RP + BF + SA + FA + SWF + RA) + PSB$$

Where: MLA is based upon the lot area as defined in Article II.

And:

- RP = Required parking, driveways, walkways and other areas for vehicle and pedestrian movement, storage and loading.
- BF = Building footprint(s), including accessory uses and structures.
- SA = Service areas, such as outdoor storage, loading docks, trash storage, shopping cart storage, etc.
- FA = Facilities areas such as well sites, sewage facilities, electric generating and distribution facilities, telephone facilities, gas storage, fuel storage, etc.
- SWF = Storm water, sedimentation and erosion control facilities.
- RA = Reserve areas such as reserve sewage bed areas.
- PSB = Perimeter setback area.

- 3. In no event shall the minimum lot area be less than ten thousand (10,000) square feet.
- 4. For uses permitted under Section 501.A.5, the minimum lot area shall be as provided in Section 303 or Section 307 as applicable.

B. Perimeter setbacks shall conform to the following:

- 1. Front yard setback - There shall be a front yard setback of seventy (70) feet wherein no building or other above-ground structures, other than lighting and other utility standards, curbs and approved signs, shall be permitted. Parking areas and internal access drives shall be permitted within the front yard setback.
- 2. Front parking setback - A buffer strip, twenty five (25) feet in width, shall be installed and continuously maintained along each front lot line wherein no parking areas or paving, except for exit and entrance driveways perpendicular to the front lot line, shall be permitted. All shrubbery planted in the buffer according to the provisions of Section 1305 shall be so maintained as not to exceed three and one half (3½) feet in height nor shall any

shrubbery be permitted to grow in such a manner as to interfere with any clear sight triangle.

3. Side and rear yard setbacks - Unless exempted under Section 502.B.4, below, on any lot line that adjoins a residential use or is a district boundary separating the lot from any Agricultural Preservation District or Agricultural Residential District, a twenty five (25) foot wide setback shall be required, wherein no building, internal access drives, parking areas or structures shall be erected or established. The side and rear setback area shall contain a landscaped buffer in accordance with the provisions of Section 1305. The landscaped buffer shall be so planted and maintained as to provide a complete visual barrier at maturity.

On any lot line that does not adjoin a residential use or is a district boundary separating the lot from any Agricultural Preservation District or Agricultural Residential District, the required side and rear setback shall be ten (10) feet. The side and rear setback area shall contain a landscaped buffer in accordance with the provisions of Section 1305.

4. The Zoning Hearing Board may, by special exception, waive the side and rear landscaped buffers adjacent to residential districts along all or part of the building envelope where the applicant affirmatively proves to the satisfaction of the Board all of the following factors:
  - a. The proposed use is compatible with the adjacent use.
  - b. A landscaped buffer in accordance with the provisions of Section 1305 herein is provided to protect adjacent uses.
  - c. All parking, storm water management and expansion areas can be provided.
  - d. All other applicable design and performance standards will be met.
  - e. The applicant will comply with all of the requirements and has proven all of the elements set forth in Section 1808 of this Ordinance.

- C. The lot width shall conform to the following standards:
1. Except for self-storage facilities, the minimum lot width shall be no less than seventy-five (75) feet.
  2. Self-storage facilities are not intended to occupy lands fronting on commercially zoned road frontage, and because of the nature of the operating characteristics of this use, it is intended that these facilities shall be developed to the rear of retail and office uses in a flag lot configuration with only a minimum entrance road width along the street line. Thus, for this use, the lot width at street line shall be not less than 30 feet or more than 45 feet.
- D. The lot coverage shall conform to the following standards:
1. Impervious surface coverage, maximum - Seventy-five percent (75%)
  2. Landscaped area, minimum - Twenty-five percent (25%)
- E. The maximum building height shall be no more than 2 stories or 35 feet.
- F. The applicant shall demonstrate compliance with the applicable provisions of this Ordinance relating to design standards, including, but not limited to, access, parking, signs, sight triangles at points of entrance and exit, as well as exterior lighting and parking lot construction.
- G. The applicant shall demonstrate compliance with the applicable provisions of this Ordinance relating to specific performance standards set forth in Sections 1312 through 1322. Upon the recommendation of the Planning Commission, the Board of Supervisors may waive the requirements for demonstration of compliance with certain of these standards if the generic type of use proposed poses no potential for significant impact upon such standard(s). The burden of proof in this event shall be placed upon the applicant.
- H. The applicant shall demonstrate full compliance with the following ordinances, as well as all other ordinances related to the construction of buildings and the specified uses included therein:
1. Subdivision and Land Development Ordinance.
  2. Storm Water, Sedimentation and Erosion Control Ordinance.



3. Driveway Ordinance.

Section 503 SUPPLEMENTAL STANDARDS FOR CONDITIONAL  
USES

A. Multiple uses on a single lot shall conform to the following standards:

1. Except pursuant to the grant of a conditional use, there shall be only one principal use on a lot. Multiple uses shall conform to all requirements set forth in Section 502 and all uses shall be uses permitted by right, approved as a special exception, or approved as a conditional use.
2. The standards for the grant of conditional uses as set forth in Section 1909 shall apply. In addition to the specific performance standards set forth in Section 502.G, the performance standards set forth in Section 1313 shall apply.

B. Passenger transportation terminals shall conform to the following standards:

1. Taxicab stands, carpool and vanpool stations, bus stops and terminals and railroad passenger stations and other such terminals shall be so located as to be readily accessible to commercial (retail and/or office) areas.
2. All passenger waiting-areas, vehicle standing areas, ticket sales areas and accessory facilities shall be located outside of any road right-of-way.
3. Ticket sales, food and convenience sales and waiting areas shall be within buildings or shelters.
4. The standards for the grant of conditional uses as set forth in Section 1909 shall apply. In addition to the standards set forth in Section 502.G, the performance standards set forth in Section 1312 and Section 1313 shall apply.

C. Office Uses shall conform to the following standards:

1. In addition to the standards set forth in Section 502.G, the performance standards set forth in Section 1312 and Section 1313 shall apply.

Section 504                      SUPPLEMENTAL STANDARDS FOR SPECIAL  
EXCEPTIONS

A. Outdoor retail uses shall conform to the following standards:

1. Landscaped Buffers - A landscaped buffer in accordance with the provisions of Section 1305 herein shall be an integral part of any special exception approval of an outdoor retail use. Such landscaped buffer shall be sufficient to screen the outdoor portion of the use from view of incompatible uses and other uses requiring such protection. The Zoning Hearing Board may attach such other or different or additional requirements, as it deems necessary, to effectuate the purposes of this Section as conditions to any approval.
2. The standards for the grant of special exceptions, as set forth in Section 1807, shall apply. In addition, the performance standards set forth in Section 502.G shall apply.

B. Drive-in Facilities shall conform to the following standards.

1. Landscaped buffers - A landscaped buffer in accordance with the provisions of Section 1305 herein shall be an integral part of any special exception approval of a drive in facility. Such landscaped buffer shall be sufficient to screen the outdoor portion of the use from view of incompatible uses and other uses requiring such protection. The Zoning Hearing Board may attach such other or different or additional requirements, as it deems necessary, to effectuate the purposes of this Section as conditions to any approval.
2. The standards for the grant of special exceptions, as set forth in Section 1807, shall apply. In addition to the standards set forth in Section 502.G, the performance standards set forth in Section 1312 and Section 1313 shall apply.

- C. Motel, hotel or inn, or multiple dwelling units over indoor retail or office uses shall conform to the following standards:
1. Landscaped buffers - A landscaped buffer in accordance with the provisions of Section 1305 herein shall be an integral part of any special exception approval of a motel, hotel or inn. Such landscaped buffer shall be sufficient to screen the outdoor portion of the use from view of incompatible uses and other uses requiring such protection. The Zoning Hearing Board may attach such other or different or additional requirements, as it deems necessary, to effectuate the purposes of this Section as conditions to any approval.
  2. All multiple dwelling units shall have individual or common, direct or indirect access that is separate and apart from the interiors of retail or office uses. The dwelling unit entrance(s) shall not be located on the same side of the building as the entrance(s) for the principal use.
  3. The standards for the grant of special exceptions, as set forth in Section 1807, shall apply. In addition to the standards set forth in Section 502.G, the performance standards set forth in Section 1312 shall apply.
- D. Car washes shall conform to the following standards:
1. Landscaped buffers - A landscaped buffer in accordance with the provisions of Section 1305 herein shall be an integral part of any special exception approval of a car wash. Such landscaped buffer shall be sufficient to screen the outdoor portion of the use from view of incompatible uses and other uses requiring such protection. The Zoning Hearing Board may attach such other or different or additional requirements, as it deems necessary, to effectuate the purposes of this Section as conditions to any approval.
  2. Interior circulation - The premises shall be so designed, constructed and operated as to provide safe and convenient lanes for waiting vehicles, entering and exiting vehicles. Such circulation shall also be separated from pedestrian areas, and shall accommodate users of the facility without causing waiting vehicles to obstruct adjacent roads. Minimum centerline radii for the primary flow of traffic shall be adequate for vehicles to proceed

without reversing direction and in no event shall a radius be less than twenty (20) feet.

3. The standards for the grant of special exceptions, as set forth in Section 1807, shall apply. In addition to the standards set forth in Section 502.G, the performance standards set forth in Section 1312 and Section 1313 shall apply.

## Section 505                      HOURS OF OPERATION

All retail, office, bank or other financial institution, public recreation, passenger transportation terminal, drive-in facility, hotel, motel and inn, car wash, self-storage facility, wholesale, veterinary hospital, clinic or office, equestrian facility, livestock auction, special event, and permitted commercial, office, or industrial accessory uses, or any permitted combination of the above uses, whether permitted by right, special exception or conditional use, shall be open to the public, or allow customers or patrons to enter or remain within the premises of such uses, only between the hours of 6 a.m. and 9 p.m., Sunday through Saturday, or such other hours as may be permitted under grant of a special exception, conditional use or other provision.

## ARTICLE VI

### IA-1 INDUSTRIAL / AGRICULTURAL DISTRICT

#### Section 600 PURPOSE AND SPECIFIC INTENT

In the event of development of more intensive uses in the Township, many of those uses could not be so confined by performance standards as to make them compatible with the general uses and development envisioned in the AR District. Therefore, certain uses are separated and provision made in the Commercial District. Certain other uses, however, are not only incompatible with the uses provided in the AR District, but are also incompatible with the uses provided in the Commercial District and tend to discourage the concentration and development of those uses, thus discouraging efficient use of land in the Commercial District, and eroding the tax base and economic value of Commercial District land. To address these incompatible uses, an additional zoning district, designated the Industrial/Agricultural (IA-1) District, is herein created.

The IA District is intended to accommodate large office complexes, light industrial and wholesale and warehousing uses, contractor establishments and their respective accessory uses. These activities have certain characteristics in common, such as a requirement for good roads capable of accommodating truck traffic, a minimum of customer-generated traffic and an independence from surrounding uses. These uses have minimal impacts upon surrounding uses beyond the traffic generated and aesthetics.

#### Section 601 USE REGULATIONS

- A. A building may be erected, altered or used and land may be used for any of the following uses by right and no other:
1. Extensive agriculture.
  2. East Nantmeal Township municipal uses.
  3. Contractor uses.
  4. Public recreational facilities, not accessory to a residential use, such as golf or country clubs, swim clubs, tennis courts and similar facilities, including athletic fields and similar active

recreational facilities provided the applicant has demonstrated compliance with Section 305.B.

5. Single-family detached dwelling.
  6. Forestry in accordance with the provisions of Section 1327.
- B. A building may be erected, altered or used and land may be used for any of the following uses when approved by the Board of Supervisors as a conditional use:
1. Warehouse storage facilities.
  2. Wholesale sales, storage, and distribution facilities.
  3. Multiple permitted uses on the same lot in accordance with the provisions of Section 503.A.
  4. Large offices, defined as office buildings or complexes that, in aggregate, provide more than 25,000 square feet of gross leasable floor area.
  5. Industrial parks and research laboratories.
  6. Treatment centers.
  7. Detention centers.
- C. A building may be erected, altered or used and land may be used for any of the following uses when approved by the Zoning Hearing Board as a special exception:
1. Airports and heliports.
  2. Truck parking areas and/or maintenance areas and facilities.
  3. Freight terminal, utility, equipment and materials storage areas and freight transfer stations, excluding solid waste treatment, storage, distribution or transport facilities.
- D. A building may be erected, altered or used and land may be used for any of the following accessory uses:

1. Apartments or residences to be used and occupied only by guards or other persons, and their families, who are required by both the nature of their work and the policy of the owner or operator of the facility to reside upon the premises.
2. Retail sales when accessory to wholesale or manufacturing uses on the same lot.
3. Other accessory uses to uses permitted in Sections 601.A, 601.B or 601.C above, including, but not limited to, structures and/or services, such as cafeterias and day care centers, provided exclusively to the employees of the facility and their families.
4. Offices provided that they are utilized exclusively in support of the principal use.
5. Antennas for personal wireless service, not exceeding ten (10) feet in length, may be installed as an accessory use on existing structures located within the right-of-way of any major collector road (as defined in the Comprehensive Plan of the Township) existing in the District, or no further than two hundred and twenty-five (225) feet from the outside boundary of the right-of-way of any major collector road existing in the District, so long as the following conditions are met by any applicant for a building permit to construct, install, use or operate and antenna for personal wireless service:
  - a. The applicant shall hold a license from the Federal Communications Commission to operate the antenna for personal wireless service.
  - b. The applicant shall present to the Township a written certification signed and sealed by a professional engineer, licensed in the Commonwealth of Pennsylvania, stating that (i) a gap or deficiency in reliable radio service exists, (ii) such gap or deficiency shall be filled, in whole or in part, under then existing conditions and circumstances by the operation of the antenna for personal wireless service for which the permit is sought, and that (iii) such gap or deficiency in service cannot be filled by feasible enhancements, modifications or redirection of existing antenna(s).

- c. The applicant shall provide a map or maps depicting, by customary radio frequency engineering methods, the gap in service described in the certification, such map or maps to be attached to and made part of the certification required by subpart b, above.

No other setbacks or minimum yard standards of the Zoning Ordinance shall apply to an antenna for personal wireless service that otherwise meets the requirements of this Section.

## Section 602                      DESIGN STANDARDS FOR NON-RESIDENTIAL USES

- A. Lot area - The minimum lot area for a non-residential use shall be computed as provided in Section 502.A. Any computation notwithstanding, in no event shall the minimum lot area be less than one acre.
- B. Perimeter setbacks - Perimeter setbacks shall conform to the following standards:
  - 1. General - Unless exempted under subparagraph 2 below there shall be a perimeter setback of fifty (50) feet from all property lines and one hundred (100) feet from the street line. Except for entrance and exit driveways, no building or other above-ground structure, other than lighting and other utility standards, curbs and approved signs, shall be installed within the perimeter setback. No parking facilities or areas shall be constructed within the perimeter setback.

The perimeter setback area, at the side and rear lot lines, shall contain a landscaped buffer in accordance with the provisions of Section 1305.
  - 2. Exemptions - The Zoning Hearing Board may, by special exception, reduce perimeter setbacks to an amount not less than 50% of the required perimeter setback along all or part of the rear or side lot lines (but not along any street line) where the applicant affirmatively proves to the satisfaction of the Board all of the following factors:
    - a. The proposed use is compatible with the adjacent use.



- b. A landscaped buffer in accordance with the provisions of Section 1305 herein is provided to protect adjacent uses.
  - c. All areas for parking, storm water management and expansion can be provided.
  - d. All design and performance standards will be met.
  - e. The applicant will comply with all of the requirements and has proven all of the elements set forth in Section 1807 of this Ordinance.
- C. Lot width - The minimum lot width at the building setback line shall be one hundred and fifty (150) feet and the minimum lot width at the street line shall be one hundred (100) feet.

For interior lots the minimum width at the street line shall be thirty (30) feet, and shall not exceed forty-five (45) feet. The minimum lot width at the building setback line shall be one hundred and fifty (150) feet.
- D. Lot Coverage - The lot coverage shall conform to the following standards:
  - 1. Impervious area coverage, maximum - Seventy-five percent (75%).
  - 2. Landscaped area, minimum - Twenty-five percent (25%).
- E. Maximum building height - The building height shall not exceed the following standards:
  - 1. No non-residential building or structure shall exceed forty (40) feet in height except as provided in Section 602.E.2. Non-residential structures exceeding thirty-five (35) feet in height shall have a sprinkler system installed.

Residential structures in the IA-1 District shall not exceed a height of thirty-five (35) feet.
  - 2. The height limitation set forth in Section 602.E.1 shall not apply to communication or power transmission towers, or antennas, water towers, fire observation platforms, or silos for the storage of grains or other materials.

- F. The applicant shall demonstrate compliance with the applicable provisions of this Ordinance relating to design standards, including, but not limited to, access, parking, signs, sight triangles at points of entrance and exit, as well as exterior lighting and parking lot construction.
- G. The building and structural separation area (BSA) shall be sufficient to permit subdivision without violation of perimeter setback standards as provided in Section 602.B.
- H. The applicant shall, for all uses authorized under Section 601.B and 601.C, demonstrate compliance with each and every specific performance standards set forth in Article XIII.

### Section 603                      DESIGN STANDARDS FOR SINGLE-FAMILY DETACHED DWELLINGS

- A. Lot area - The minimum lot area shall be one and one-half (1½) acres.
- B. Lot width - The minimum lot width at the building setback line shall be one hundred and fifty (150) feet and the minimum lot width at the street line shall be fifty (50) feet.  
  
For interior lots the minimum width at the street line shall be thirty (30) feet, and shall not exceed forty-five (45) feet. The minimum lot width at the building setback line shall be one hundred and fifty (150) feet.
- C. Front yard - The minimum front yard shall be seventy-five (75) feet.
- D. Side yard - The minimum side yard shall be twenty-five (25) feet.
- E. Rear yard - The minimum rear yard shall be fifty (50) feet.
- F. Lot coverage - The lot coverage shall conform to the following standards:
  - 1. The maximum building coverage shall be ten percent (10%).
  - 2. The maximum impervious area coverage shall be fifteen percent (15%).
- G. Maximum building height - The maximum building height shall be thirty-five (35) feet.

## Section 604

## HOURS OF OPERATION

All contractor, public recreation, warehouse, wholesale, office, industrial, research laboratory, treatment center, detention center, airport or heliport, truck parking and/or maintenance area or facility, freight terminal, utility, equipment and material storage area, freight transfer station, storage, distribution or transport facility, and permitted commercial, office or industrial accessory uses, or any permitted combination of the above uses, whether permitted by right, special exception or conditional use, shall be open to the public, or allow customers or patrons to enter or remain within the premises of such uses, only between the hours of 6 a.m. and 9 p.m., Sunday through Saturday or such other hours as may be permitted under grant of a special exception, conditional use or other provision.

## ARTICLE VII

### IA-2 INDUSTRIAL / AGRICULTURAL DISTRICT

#### Section 700 PURPOSE AND SPECIFIC INTENT

In the event of development of intensive uses In the Township, certain of those uses cannot be so confined by performance standards as to make them compatible with the general uses and development envisioned in the Agricultural/Residential (AR) District. Therefore, certain uses are separated and provision is made in the Commercial (C) and IA-1 Districts. Certain other uses, however, are not only incompatible with the uses provided in the AR District, but are also incompatible with the uses provided in the C and IA-1 Districts and tend to discourage the concentration and development of those uses, thus discouraging efficient use of land in the C and IA-1 Districts and eroding the tax base and economic value of Commercial and Industrial/Agricultural 1 District lands. To address these incompatible uses, an additional zoning district, designated the Industrial/Agricultural 2 (IA-2) District, is herein created.

Because it is impossible to anticipate every conceivable use that may arise, any use not otherwise provided for in the various other zoning districts and not constituting a nuisance per se, is permitted as a conditional use in the IA-2 District. These other uses have major environmental impacts that may tend to have negative impacts on surrounding uses. Such uses include, but are not limited to, heavy industry; mining and quarrying; solid waste transportation, storage, treatment and/or disposal facilities; junk-yards; cemeteries and crematoriums; truck transportation terminals, truck parks, truck and trailer washing and/or repair facilities, truck transfer stations; airport and heliports; power production; and storage facilities for public utility equipment and supplies. These uses may be permitted in the Industrial/Agricultural 2 (IA-2) District.

#### Section 701 USE REGULATIONS

- A. A building may be erected, altered or used and land may be used for any one of the following uses by right and no other.
  - 1. Extensive agriculture.
  - 2. East Nantmeal Township municipal uses.

3. Wholesale sales, storage, and distribution uses.
  4. Manufactured and mobile home parks in accordance with the provisions of Section 703.
  5. Forestry in accordance with the provisions of Section 1327.
  6. Any use permitted by right in the IA-1 District.
- B. A building may be erected, altered or used and land may be used for any one of the following uses when approved by the Board of Supervisors as a conditional use:
1. Cemeteries and crematoriums.
  2. Intensive agriculture.
  3. Any use permitted in 601.B, subject to all applicable design standards.
  4. Antenna support structure for personal wireless service and public broadcast in accordance with Section 1322.
- C. A building may be erected, altered or used and land may be used for any one of the following uses when approved by the Zoning Hearing Board as a special exception:
1. Mining and quarrying.
  2. Landfills, incinerators and other solid waste transportation, storage, treatment and/or disposal facilities for which a Pennsylvania Department of Environmental Protection permit is required under the Solid Waste Management Act.
  3. Junk yards (excluding solid waste transportation, storage, treatment and/or disposal facilities for which a Pennsylvania Department of Environmental Protection permit is required under the Solid Waste Management Act.
  4. Boarding houses.
  5. Industrial or construction equipment, operation and maintenance training facilities, or other facilities where the instruction in operating heavy equipment occurs.

6. Group homes.
  7. Any other use not otherwise provided for and not inherently a public or private nuisance.
  8. Any use permitted in Section 601.C, subject to all applicable design standards.
- D. A building may be erected, altered or used and land may be used for any one of the following uses as accessory uses:
1. Apartments and/or residences to be used and occupied only by guards or other persons, and their families, who are required by both the nature of their work and the policy of the owner or operator of the facility to reside upon the premises.
  2. Retail sales when accessory to wholesale or manufacturing uses on the same lot.
  3. Other accessory uses to uses permitted in Section 701.A, Section 701.B or Section 701.C above.
  4. Offices provided they are exclusively utilized in support of the principal use.
  5. Antennas for personal wireless service, not exceeding ten (10) feet in length, may be installed as an accessory use on existing structures located within the right-of-way of any major collector road (as defined in the Comprehensive Plan of the Township) existing in the District, or no further than two hundred and twenty-five (225) feet from the outside boundary of the right-of-way of any major collector road existing in the district, so long as the following conditions are met by any applicant for a building permit to construct, install, use or operate and antenna for personal wireless service:
    - a. The applicant shall hold a license from the Federal Communications Commission to operate the antenna for personal wireless service.
    - b. The applicant shall present to the Township a written certification signed and sealed by a professional engineer,

licensed in the Commonwealth of Pennsylvania, stating that (i) a gap or deficiency in reliable radio service exists, (ii) such gap or deficiency shall be filled, in whole or in part, under then existing conditions and circumstances by the operation of the antenna for personal wireless service for which the permit is sought, and that (iii) such gap or deficiency in service cannot be filled by feasible enhancements, modifications or redirection of existing antenna(s).

- c. The applicant shall provide a map or maps depicting, by customary radio frequency engineering methods, the gap in service described in the certification, such map or maps to be attached to and made part of the certification required by subpart b, above.

No other setbacks or minimum yard standards of the Zoning Ordinance shall apply to an antenna for personal wireless service that otherwise meets the requirements of this Section.

## Section 702                      GENERAL DESIGN STANDARDS FOR ALL USES

- A. Lot area - The minimum lot area shall conform to the following standards:
  1. Except for uses permitted under Section 701.A.6, the minimum lot area for any use shall be computed as provided in Section 502.A.
  2. Notwithstanding any calculation, in no event shall the minimum lot area be less than one acre for the uses set forth in Section 701.A.6 and Section 701.B.3, above.
  3. Except as provided in Section 702.A.1 or Section 702.A.2, above, no other use shall be less than two acres.
- B. Perimeter setbacks - Perimeter setbacks shall conform to the following standards:
  1. General - Unless exempted under Section 702.B.2, below, there shall be a perimeter setback of one hundred (100) feet, except where the property adjoins other IA-2 District lands, in which case a fifty (50) foot setback from those lands shall be allowed. Except

for entrance and exit driveways, no building or other above-ground structure, other than lighting and other utility standards, curbs and approved signs, shall be installed within the perimeter setback. No storage shall be permitted within the perimeter setback area. Ground-level parking facilities or areas may be constructed with a twenty-five (25) foot setback from the perimeter.

The perimeter setback area, at the side and rear lot lines, shall contain a landscaped buffer in accordance with the provisions of Section 1305.

2. Exemptions - The Zoning Hearing Board, by special exception or, in the case of uses permitted by right, the Board of Supervisors by conditional use, may reduce perimeter setbacks to an amount not less than 50% of the required perimeter setback along all or part of the rear or side lot lines (but not along any street line) where the applicant affirmatively proves to the satisfaction of either Board all of the following factors:

- a. The proposed use is compatible with the adjacent use.
- b. A landscaped buffer in accordance with the provisions of Section 1305 herein is provided to protect adjacent uses.
- c. All areas for parking, storm water management and expansion can be provided.
- d. All design and performance standards will be met.
- e. The Applicant will comply with all of the requirements and has proven all of the elements set forth in Section 1807 or Section 1909 of this Ordinance, as applicable.

- C. Lot width - The minimum lot width at the building setback line shall be two hundred fifty (250) feet and the minimum lot width at the street line shall be one hundred fifty (150) feet.

For interior lots the minimum width at the street line shall be thirty (30) feet, and shall not exceed forty-five (45) feet. The minimum lot width at the building setback line shall be two hundred and fifty (250) feet.

- D. Lot coverage - The lot coverage shall conform to the following standards:



1. Impervious surface coverage, maximum - Seventy-five percent (75%)
  2. Landscaped area, minimum - Twenty-five percent (25%)
- E. Building height - The maximum building height shall not exceed the following standards:
1. No non-residential building or structure shall exceed forty (40) feet in height except as provided in Section 702.E.2 and Section 702.E.3. Non-residential structures exceeding thirty-five (35) feet in height shall have a sprinkler system installed.
- Residential structures in the IA-2 District shall not exceed a height of thirty-five (35) feet.
2. The height limitation set forth in Section 702.E.1 shall not apply to communication or power transmission towers or antennas, water towers, fire observation platforms, or silos for the storage of grains or other materials.
  3. The Zoning Hearing Board may authorize, as a special exception, or the Board of Supervisors, as a conditional use, buildings and/or structures not included in Section 702.E.2, above, to a height not exceeding sixty (60) feet, provided the applicant demonstrates conformity to all of the standards set forth in Section 1807 or Section 1909, as applicable and also provides evidence which shall include, but need not be limited to, certification by the chief of the fire company having first call jurisdiction over the subject premises that any portion of the building or structure higher than forty (40) feet is adequately protected by in-place fire fighting equipment to be installed by and at the expense of the applicant. The applicant shall also provide conclusive evidence that the building must of necessity be higher than forty (40) feet.
- F. The applicant shall demonstrate compliance with the applicable provisions of this Ordinance relating to design standards, including, but not limited to, access, parking, signs, sight triangles at points of entrance and exit, as well as exterior lighting and parking lot construction.
- G. No subdivision shall be permitted between buildings and/or structures that would create a non-conformity, i.e. insufficient area to comply with use and bulk standards.

- H. The applicant shall, for all uses authorized under Section 701.B and Section 701.C, demonstrate compliance with all specific performance standards set forth in Article XIII.

Section 703                      SPECIFIC DESIGN STANDARDS FOR MOBILE HOME PARKS

- A. The minimum lot area and minimum tract area shall conform to the following standards:
  - 1. The individual mobile home lot area may be no less than seventy five hundred (7,500) square feet. In no event may the density of mobile homes within the park exceed four (4) dwelling units per acre.
  - 2. The minimum tract area shall be no less than four (4) acres.
- B. The perimeter setbacks shall conform to the following standards:
  - 1. There shall be a perimeter setback of one hundred (100) feet, except where property adjoins other IA-2 District lands, in which case a fifty (50) foot setback from those lands shall be allowed. Except for entrance and exit driveways, no building or other above-ground structure, other than lighting and other utility standards, curbs and approved signs, shall be installed within the perimeter setback. No storage shall be permitted within the perimeter setback area. Parking areas may be constructed with a twenty-five (25) foot setback from the perimeter. The setback area shall be planted with a landscaped buffer according to the provisions of Section 1305.
- C. The interior setbacks shall conform to the following standards:
  - 1. Dwelling units shall be setback a minimum of twenty-five (25) feet from the edge of the cart way.
  - 2. Dwelling side and rear yard setbacks shall be a minimum of twenty (20) feet from the lot line.
- D. The lot widths shall conform to the following standards:

1. Single width mobile homes shall have a minimum lot width of fifty five (55) feet.
  2. Double width mobile homes shall have a minimum lot width of sixty five (65) feet.
- E. The lot and tract coverage shall conform to the following standards:
1. Impervious surface coverage shall be a maximum of forty percent (40%) for any individual lot and a maximum of fifty percent (50%) for the entire tract.
  2. Landscaped area for the tract shall be a minimum of twenty percent (20%), which shall be in addition to the landscaped setback area required in Section 703.B.1. Other open space areas, in addition to the above landscaped area standards, shall be a minimum of thirty percent (30%).
- F. The building height shall conform to the following standard:
- No building or structure within the mobile home park shall exceed two (2) stories or twenty-five (25) feet in height.
- G. The applicant shall demonstrate compliance with the applicable provisions of this Ordinance relating to design standards, including, but not limited to, access, parking, signs, sight triangles at points of entrance and exit, as well as exterior lighting and parking lot construction.
- H. No subdivision shall be permitted between buildings and/or structures that would create a non-conformity, i.e. insufficient area to comply with use and bulk standards.
- I. The applicant shall demonstrate compliance with all specific performance standards set forth in Article XIII.

## Section 704 HOURS OF OPERATION

All wholesale, storage and distribution, contractor, public recreation, institutional, cemetery and crematorium, detention center, treatment center, mining and quarrying, landfill, incinerator, solid waste, transportation, storage, treatment and/or disposal facility, junk yard, industrial or construction equipment operation and maintenance training facility, other commercial, office,

and industrial not elsewhere provided, airport and heliport, truck parking and/or maintenance area or facility, freight terminal, utility, equipment and material storage area, freight transfer station, storage, distribution or transport facility, and permitted commercial, office or industrial accessory uses, or any permitted combination of the above uses, whether permitted by right, special exception or conditional use, shall be open to the public, or allow customers or patrons to enter or remain within the premises of such uses, only between the hours of 6 a.m. and 9 p.m., Sunday through Saturday, or such other hours as may be permitted by special exception, conditional use or other provision.

## ARTICLE VIII

### EI EDUCATIONAL / INSTITUTIONAL DISTRICT

#### Section 800 PURPOSE AND SPECIFIC INTENT

To accommodate the inevitable demand for educational and institutional uses, the EI, Educational/Institutional District has been established to provide sufficient lands for these and other similar uses. The provisions of this Ordinance are designed to create buffers between educational and institutional uses and residential uses to reduce potential conflicts to the greatest extent possible and to encourage such uses to locate adjacent to other similar and compatible uses. The EI District is subject to use regulations and area standards that facilitate the conservation and proper utilization of groundwater supplies, control pollution, minimize surface water flooding and erosion, and thereby protect the health, safety and general welfare of the residents of the Township.

#### Section 801 USE REGULATIONS

- A. A building may be erected, altered or used and land may be used for any one of the following principal uses by right.
  - 1. Educational uses.
  - 2. Religious and Institutional uses.
  - 3. Extensive Agriculture.
  - 4. Recreational uses.
  - 5. Timber Harvesting in accordance with the provisions of Section 1327.
- B. A building may be erected, altered or used and land may be used for any one of the following principal uses upon the grant of a conditional use by the Board of Supervisors:
  - 1. Single-family uses, exclusive of manufactured or mobile homes.
  - 2. Municipal, state and federal government office uses.

3. Museums and observatories.
  4. Conservation and environmental protection facilities and uses.
  5. Antenna support structures for personal wireless service and public broadcast on Township-owned property in accordance with the Section 1322.
- C. A building may be erected, altered or used and land may be used for any one of the following accessory uses:
1. Apartments and/or residences, exclusive of manufactured or mobile homes, to be used and occupied only by guards or other persons and their respective families who are required by both the nature of their work and the policy of the owner or operator of the facility to reside upon the premises.
- Any such dwelling shall be considered in the computation of density as required by Section 802.A, below.
2. Offices provided they are used exclusively in support of the principal use.

## Section 802            GENERAL DESIGN STANDARDS FOR ALL USES

- A. The minimum lot area shall be computed as provided in Section 502.A. Notwithstanding any computation, in no event shall the minimum lot area be less than four (4) acres.

Any institutional structure in excess of 25,000 square feet of total floor area shall be limited to the IA-2 District.

- B. Tract buffers shall be provided and conform to the following standards:
1. General - Unless exempted under Sections 802.B.2, 802.B.3 or 802.B.4, below, there shall be a tract buffer of one hundred fifty (150) feet, except where a property adjoins another EI District in which case a seventy-five (75) foot buffer shall be permitted. Except for entrance and exit driveways, no building or other above-ground structure, other than lighting and other utility standards, curbs and approved signs, shall be permitted within

the tract buffer. No storage shall be permitted within the tract buffer area. Ground level parking areas shall be set back a minimum of seventy-five (75) feet from the tract boundary.

2. The minimum tract buffer for any residential use shall be seventy-five (75) feet.
  3. The tract buffer for any non-residential use shall be established by the Board of Supervisors as part of a conditional use approval process.
  4. Exemptions - The Zoning Hearing Board may, by special exception, or the Board of Supervisors, by conditional use approval, reduce tract buffers to an amount not less than 50% along all or part of the rear or side lot lines (but not along any street line) where the applicant demonstrates, to the satisfaction of either Board, all of the following factors:
    - a. The adjacent use is compatible with the proposed use and will not be adversely affected.
    - b. Adequate screening is provided to protect adjacent uses.
    - c. All required parking, storm water management facilities and areas for expansion are provided.
    - d. All design and performance standards are met.
    - e. Compliance with all of the applicable requirements of Section 1807 or Section 1909 of this Ordinance.
- C. Lot width - The minimum lot width at the building setback line shall be two hundred fifty (250) feet and the minimum lot width at the street line shall be one hundred fifty (150) feet.
- For interior lots the minimum width at the street line shall be fifty (50) feet and shall not exceed seventy-five (75) feet. The minimum lot width at the building setback line shall be two hundred fifty (250) feet.
- D. Lot coverage - The lot coverage shall conform to the following standards:
1. Impervious area coverage, maximum - Thirty percent (30%)

2. Building coverage, maximum - Fifteen percent (15%)
  3. Landscaped area, minimum - Twenty-five percent (25%)
- E. Maximum building height - The building height shall not exceed the following standards:
1. No non-residential building or structure shall exceed thirty five (35) feet or three (3) stories in height, whichever is less, except as provided in Section 802.E.2. Any residential use or dormitory use is limited to two (2) stories in height.
  2. The height limitation set forth in Section 802.E.1, hereof shall not apply to communication or power transmission towers or antennas, water towers, fire observation platforms or silos for the storage of grains or other materials.
- F. The applicant shall demonstrate compliance with the applicable provisions of this Ordinance relating to design standards, including, but not limited to, access, parking, signs, sight triangles at points of entrance and exit, as well as exterior lighting and parking lot construction.
- G. The applicant shall, for all uses authorized under Sections 801.B and C, demonstrate compliance with all specific performance standards set forth in Article XIII.
- H. Manufactured or mobile homes shall not be used for any purpose, including but not limited to dwellings, classrooms, and offices within the EI District.



## ARTICLE IX

### STEEP SLOPE CONSERVATION DISTRICT

#### Section 900 INTENDED PURPOSES

The purposes of this Article are as follows:

- A. To promote the public health, safety and welfare by protection of steep slope areas.
- B. To permit only those uses of steep slope areas that are compatible with the conservation of natural conditions and that maintain stable soil conditions by minimizing disturbances to vegetative ground covers and restricting the re-grading of steep slope areas.
- C. To limit soil erosion and the resultant destruction of the land, siltation of streams, and damage to property.
- D. To protect low-lying areas from flooding by limiting the increase in stormwater runoff caused by the grading of slope areas, changes of ground cover, or the erection of structures.
- E. To maintain the ecological integrity and habitat value of steeply sloped areas, i.e., indigenous vegetation and wildlife, that could be adversely affected by otherwise permitted disturbances.
- F. To allow the continuing replenishment of groundwater resources and the maintenance of springs.

#### Section 901 GENERAL PROVISIONS

- A. No area within the Steep Slope Conservation District shall be used without full compliance with the terms of this Article and other applicable regulations. The Steep Slope Conservation District shall be an overlay on any Zoning District(s), now or hereafter enacted, to regulate the use of land in the Township.
- B. The Steep Slope Conservation District shall have no effect on the permitted uses in the underlying zoning district, except where said uses are intended to be located within the boundaries of the Steep Slope

Conservation District, as defined herein and said uses are in conflict with the permitted uses set forth in this Article.

- C. In those areas of the Township where the Steep Slope Conservation District applies, the requirements of this Article, to the extent they are more restrictive, shall supersede the requirements of the underlying zoning district.
- D. Each application for construction or land disturbance within the Steep Slope Conservation District shall be submitted in accordance with Section 902. Any area of the Steep Slope Conservation District that falls within the subject lot or lots shall be delineated on the site plan required under Section 902 through shading of such area or areas.
- E. Should the Steep Slope Conservation District boundaries be revised, to exclude previously included lands, as a result of legislative or administrative actions or judicial decision, the zoning requirements applicable to the area in question shall revert to the requirements of the underlying zoning district(s).
- F. For any parcel or any part thereof on which the Steep Slope Conservation District is an overlay, should the underlying zoning classification(s) be changed as a result of legislative or administrative actions or judicial decision, such change(s) in classification shall have no effect on the boundaries of the Steep Slope Conservation District.
- G. It is not intended by this Article to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail.
- H. The granting of a zoning permit or approval of a subdivision or land development plan within or near the Steep Slope Conservation District shall not constitute a representation, guarantee, or warranty of any kind by the Township, or by any official or employee thereof, of the practicability or safety of the proposed use and shall create no liability upon the Township, its officials or employees. This Article does not imply that areas outside the Steep Slope Conservation District boundaries or land uses permitted within said Steep Slope Conservation District will always be totally free from the adverse effects of erosion.

- A. The Steep Slope Conservation District consists of two (2) areas that are delineated and defined as follows:
1. Prohibitive Slope - Prohibitive slopes are those of twenty-five percent (25%) or greater slope (e.g., sloping twenty-five (25) feet or more vertical over a distance of one hundred (100) feet horizontal). Slopes shall be deemed prohibitive when there are five (5) adjacent contour intervals of two (2) feet each such that, in aggregate, they delineate a slope of at least twenty-five percent (25%).
  2. Precautionary Slope - Precautionary slopes are those of fifteen percent (15%) to twenty-five percent (25%) slope [e.g., sloping fifteen (15) to twenty five (25) feet vertical over a distance of one hundred (100) feet horizontal]. Slopes shall be deemed precautionary when there are four (4) adjacent contour intervals of two (2) feet each such that, in aggregate, they delineate a slope between fifteen percent (15%) and twenty-five percent (25%).
- B. Steep slopes shall be determined by either aerial photogrammetric methods or by field survey. The contour intervals shall be set forth at no more than two (2) feet per interval on slopes less than twenty-five percent (25%) and may be set forth at five (5) feet per interval on slopes over twenty-five percent (25%). U.S.G.S. 7.5 minute Quadrangles may be used as the source of slope information, subject to the approval of the Zoning Officer upon the recommendation of the Township Engineer.
- C. In instances where interpretation is required to determine the exact location of the Steep Slope District boundaries, an initial determination shall be made by the Township Engineer. Any party seeking such a determination may submit a topographic survey of the property and any other pertinent documentation for consideration. The Township Engineer shall prepare a written report of his initial determination, a copy of which shall be provided to the Board of Supervisors.
- D. Any party aggrieved by any such determination of the Township Engineer or other decision or determination under this Article may appeal to the Zoning Hearing Board. The party contesting the location of the Steep Slope District boundary shall have the burden of proof in such appeal.

## Section 903

## USES PERMITTED BY RIGHT

- A. In any part of the Steep Slope Conservation District, no grading shall be undertaken except where approved in conjunction with a use permitted under the terms of this Article.
- B. The following uses shall be permitted by right in areas of prohibitive slope, provided they are in compliance with the base Zoning District and all other applicable provisions of this Ordinance and shall not involve the erection of buildings, construction of streets, installation of sewage disposal systems, or permanent removal of top soil.
  - 1. Parks and outdoor recreational uses.
  - 2. Yard areas of a building.
  - 3. Agricultural uses when conducted in conformity with conservation practices, including minimum tillage methods, approved by the U.S. Department of Agriculture Natural Resources Conservation Service or the Chester County Conservation District.
  - 4. The minimum possible grading for a driveway accessing a single-family dwelling or other building when it can be demonstrated that the avoidance of prohibitive slopes is neither feasible nor economically reasonable.
  - 5. The minimum possible installation of public or private transmission lines such as power, phone, gas, water, sewer or storm sewer lines when it can be demonstrated that the avoidance of prohibitive slopes is neither practicable nor economically reasonable.

Within any lot, the maximum extent of areas classified as prohibitive slopes that may be permanently disturbed for the installation of site improvements shall be limited to twenty percent (20%) of the prohibitive slope area, or ten percent (10%) of the lot area, whichever is the lesser, subject to the approval of the Zoning Officer upon recommendation of the Township Engineer. Any such disturbance in excess of either twenty percent (20%) of the prohibitive slope area or ten percent (10%) of the lot area shall require a special exception. On any lot, the total amount of impervious surface that may be installed within areas of prohibitive slope

shall not exceed twenty percent (20%) of the total impervious area permitted under the base Zoning District.

- C. The following uses shall be permitted by right in areas of precautionary slope, provided they are in compliance with the base Zoning District and all other applicable provisions of this Ordinance.

1. All uses permitted in areas of prohibitive slopes.
2. Tree farming, forestry and timber harvesting in conformance with the provisions of Section 1327, herein.
3. Access roads for the passage of emergency vehicles in the event of fire or accident.
4. Accessory uses (except swimming pools), necessary for the operation and maintenance of the above permitted uses.

On any lot, the maximum extent of areas classified as precautionary slopes that may be permanently disturbed for the installation of site improvements shall be limited to forty percent (40%) of the precautionary slope area, or twenty percent (20%) of the lot area, whichever is the lesser, subject to the approval of the Zoning Officer upon recommendation of the Township Engineer. Any such disturbance in excess of either forty percent (40%) of the precautionary slope area or twenty percent (20%) of the lot area shall require a special exception. On any lot, the total amount of impervious surface that may be installed within areas of precautionary slope shall not exceed forty percent (40%) of the total impervious area permitted under the base Zoning District.

#### Section 904                      USES PERMITTED BY SPECIAL EXCEPTION

- A. Any of the following uses are permitted within the Steep Slope Conservation District when approved as a special exception in accordance with Section 1805:
1. Any structure permitted by right, special exception or conditional use under the base zoning district.
  2. Any road necessary to provide primary access to a use and the minimum grading necessary for its construction permitted by this Ordinance, when no practical alternative, in an area of lesser slope, exists.

In areas of prohibitive slopes, the above uses shall not be approved unless the applicant demonstrates that there are no alternatives to encroachment. In making its determination, the Zoning Hearing Board shall give particular consideration to the criteria and standards in Section 906, below.

## Section 905                      ADMINISTRATION

Administration of this Article is governed by Article XX. In addition, the following specific requirements shall apply:

### A.      Application Procedures

Prior to the issuance of a permit for any construction or land disturbance in the Steep Slope Conservation District, the following shall be submitted for review by the Zoning Officer or the Zoning Hearing Board:

1.      An earth moving plan for the property, drawn to a scale of not less than one inch equals one hundred feet (1" = 100'), that indicates existing grades, with contour lines at two (2) foot intervals, and proposed grades within the area of any proposed activity, disturbance, or construction. All areas of prohibitive and/or precautionary slope shall be shaded accordingly.
2.      A site plan, drawn to a scale of not less than one inch equals one hundred feet (1" = 100'), indicating existing and proposed structures, other impervious surfaces, storm drainage facilities and retaining walls. The site plan also shall locate and identify existing vegetation and ground cover within areas of prohibitive and precautionary slopes, as well as proposed landscaping material to be installed.
3.      Architectural plans, elevations, and sections, drawn to a scale of not less than one eighth inch equals one foot (1/8" = 1'), with such specifications as may be pertinent.
4.      A statement signed and sealed by a registered architect or engineer, explaining the building methods to be used in overcoming foundation and other structural problems created by slope conditions, preserving the natural watersheds, and

preventing soil erosion and excessive surface water runoff to neighboring properties and/or streets.

5. Engineering plans, profiles, and typical cross-sections, sealed by a registered professional engineer, of any proposed street, emergency access or driveways within areas of prohibitive and precautionary slopes.
6. A sediment and erosion control plan, with construction narrative, setting forth the measures to control sediment generated on site by the proposed activity. The plan shall be prepared according to the standards and procedures established by the Chester County Conservation District and the Pennsylvania Department of Environmental Protection.
7. A statement, signed by the owner or future occupant at the time of subdivision, land development, or building permit application, that there is a full understanding of any problems that may be associated with access due to steep slopes. In the case of subdivisions and land developments, such statement shall appear as a note on the final plan.

The permit application shall be reviewed by the Zoning Officer when the disturbed land contains no steep slopes. The permit application shall be considered by the Zoning Hearing Board when the disturbed land contains steep slopes. No zoning permit shall be issued by the Zoning Officer and no special exception shall be granted by the Zoning Hearing Board without the Township Engineer's review of the application and recommendation thereon.

## Section 906                      STANDARDS AND CRITERIA FOR REVIEW OF SPECIAL EXCEPTIONS

In evaluating any application for a special exception within the Steep Slope Conservation District, the Zoning Hearing Board shall determine consistency of the proposal with the following:

- A. Disturbance to particularly sensitive features of the site shall be minimized. Special emphasis in planning for the site should be given to the protection of:

1. The areas of steepest slope, especially those approaching or exceeding twenty-five percent (25%).
  2. Soils with seasonal high water table.
  3. Underlying geology that comprises or contributes to a major groundwater resource including the flow of existing springs.
- B. Disturbance shall be minimized where the length or area of steep slopes, both on the site and on adjacent lands within two hundred (200) feet of the site is extensive.
- C. The proposed development, any impervious ground cover, and the resultant disturbance to the land and existing vegetative cover will not cause runoff and/or related environmental problems off-site.
- D. Removal of, or disturbance to, existing vegetation on the site shall be minimized. The proposed impacts on existing vegetation shall be evaluated in terms of the potentially detrimental effects on slope stability, transportation and recharge of stormwater, aesthetic and traditional characteristics of the landscape, and existing drainage patterns. The Zoning Hearing Board, at its discretion, may require mitigation measures.
- E. The design, construction procedures, and sediment and erosion control measures are such that there is no risk of damage or impairment to adjacent slopes, neighboring properties, or down-slope watercourses as a result of the proposed activities.
- F. Important visual qualities of the site shall, to the maximum extent feasible, be retained. In addition to vegetation, these may include hilltops/ridgelines, rock outcroppings, topography and the natural terrain of the site.
- G. Road construction shall follow the natural topography, with cuts, fills and grading minimized.
- H. Innovative building techniques that are well suited to slope conditions shall be encouraged, consistent with other applicable codes and regulations.
- I. Disturbance to the equilibrium of the slope, as characterized by the existing inter-relationships among soil, water, and vegetation, shall be minimized.



- J. Finished slopes of all cuts and fills shall not exceed thirty three percent (33%), unless the applicant can demonstrate that steeper slopes can be stabilized and maintained to the satisfaction of the Township Engineer.
- K. Exposed cut slopes within or below prohibitive slopes shall be protected, to the greatest extent practicable, by engineered retaining walls or other structures to maintain the stability of the disturbed slopes and reduce the risk of harm by reason of erosion and potential slope failure that could result in mudslides.
- L. In addition to all other applicable provisions of this Ordinance, all activities within the Steep Slope Conservation District shall conform to all of the applicable performance standards set forth in Article XIII, and shall also conform to the requirements of Section 604 of the Subdivision and Land Development Ordinance relating to stormwater management, and sediment and erosion control.

Section 907                      USES AND/OR STRUCTURES RENDERED  
NON-CONFORMING BY THE PROVISIONS OF THIS  
DISTRICT

As of September 6, 1994, any use or structure that was situated within the boundaries of the Steep Slope Conservation District and that does not conform to the permitted uses specified in Section 903 of this Article shall become a non-conforming use or structure, regardless of its conformance to the underlying base zoning district. The expansion or continuance of such non-conforming use or structure shall be governed by the requirements of Article XVII of this Ordinance. However, the Zoning Hearing Board shall also ensure that the standards contained in Section 905 of this Article are applied to the expansion or change of such non-conforming use or structure.

## ARTICLE X

### FLOOD HAZARD (FM) AND FLOOD AND WATER HAZARD SOILS (FG) DISTRICTS

#### Section 1000 GENERAL PROVISIONS

A. Purpose. The purpose of this Article is to prevent:

1. The loss of property and life;
2. The creation of health and safety hazards;
3. The disruption of commerce and governmental services;
4. The extraordinary and unnecessary expenditure of public funds for flood protection and relief; and
5. The impairment of the tax base.

Such purposes shall be accomplished by:

1. Regulating uses, activities and development that, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies.
2. Restricting or prohibiting certain uses, activities and development from locating within areas subject to flooding.
3. Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage.
4. Protecting individuals from buying lands and structures that are not suited for intended purposes because of flood hazard.
5. Assuring that buildings, structures and activities otherwise constructed or conducted upon areas subject to water hazard damage shall be so constructed or conducted as to mitigate to the greatest extent possible any risks arising from the use, activity or

construction otherwise permitted to be carried on within areas subject to flood or water hazards.

- B. Applicability - These provisions shall apply to all lands within the jurisdiction of East Nantmeal Township and shown as being located within the boundaries of any identified flood plain district which is considered as part of the Official Zoning Map. In addition, these provisions shall apply to any lands, whether or not delineated on the Flood Hazard Map, subject to inundation by flooding or the hazards attendant to high water tables, whether constant, seasonal or periodic.
- C. Compliance - No structure or land shall hereafter be used and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this Article and any other applicable ordinances and regulations.
- D. Warning and Disclaimer of Liability - The degree of flood protection sought by the provisions of this Article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. In addition, certain areas may be subject to periodic flooding or high water table, but may not fall within the jurisdiction of this Article by reason of other exclusions. This Article does not imply that areas outside of the identified flood plain districts or that land uses permitted within such districts will be free from flooding or flood damages. The nature of the regulations herein undertaken are for the public benefit and are not to be construed to cause any user, purchaser or occupier to be deemed a third party beneficiary. The provisions of this Article are intended for the benefit of the public in general and not for any particular user or occupier, existing or potential. Therefore, the provisions of this Article shall not create any liability on the part of East Nantmeal Township or any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision made hereunder.
- E. Building Permit Requirement - It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township unless a Building Permit has been obtained from the Permit Officer.

## 1. Issuance of Building Permit

- a. The Building Permit Officer shall issue a Building 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 zoning permit, the Building Permit Officer shall review the application for the permit to determine if all other necessary government permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended.); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33 U.S.C. 1344. No permit shall be issued until this determination has been made.
- c. In the case of existing structures, prior to the issuance of any Development / Building permit, the Development/Building Permit Officer shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.
- d. 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 Township and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.

In addition, the Federal Emergency Management Agency (FEMA) and the Pennsylvania Department of Community and Economic Development shall be notified by the Township prior to any alteration or relocation of any watercourse.

## 2. Application. Procedures and Requirements

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

- (1) Name and address of applicant.
  - (2) Name and address of owner of land on which proposed construction is to occur.
  - (3) Name and address of contractor.
  - (4) Site location including address.
  - (5) Listing of other permits required.
  - (6) Brief description, of proposed work and estimated cost, including a breakout of the flood-related cost and the market value of the building before the flood damage occurred.
  - (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 Building Permits shall provide all the necessary information in sufficient detail and clarity to enable the building Permit Officer to determine that:
- (1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
  - (2) All utilities and facilities, such, as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage, and
  - (3) Adequate drainage is provided so as to reduce exposure to flood hazards.
- c. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Building Permit Officer to make the above determination:
- (1) A completed Building Permit Application Form.

- (2) A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
  - (a) north arrow, scale, and date;
  - (b) topographic contour lines, if available;
  - (c) all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
  - (d.) the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;
  - (e) the location of all existing streets, drives, and other access ways; and,
  - (f) 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 National Geodetic Vertical Datum of 1988;
  - (b) the elevation of the one hundred (100) year flood;
  - (c) if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood;
  - (d) detailed information concerning any proposed floodproofing measures; and,

(e) supplemental information as may be necessary under 34 PA Code, Chapter 401-405 as amended, and Sec. 1612.5.1, Section 104.7 and 109.3 of the 2003 IBC and Section RI06.1.3 and RI04.7 of the 2003 IRC.

(4) The following data and documentation:

(a) documentation, certified by a registered professional engineer or architect) to show that the cumulative effect of any proposed development within an FE (Special Floodplain Area), when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one (1) foot at any point.

(b) 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 one hundred (100) year flood.

Such statement shall include a description of the type and extent of flood proofing measures which, have been incorporated into the design of the structure and/or the development.

(c) detailed information needed to determine compliance with Section 4.03 F., Storage, and Section 4.04, Development Which May Endanger Human Life, including:

- i) the amount, location and purpose of any materials or substances referred to in Section 4.03 F. and 4.04 which are intended to be used, produced., stored or otherwise maintained on site.
- ii) a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous

.materials or substances listed in Section 4.04 during a one hundred (100) year flood.

(d) the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."

(e) where any excavation of grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

Section 1001      ESTABLISHMENT OF FLOOD HAZARD AND FLOOD  
AND WATER HAZARD SOILS DISTRICTS

A.      Description of Districts:

1. Basis of districts: Two Flood Hazard Districts are herein established; the FM, Mapped Flood Hazard District and the FG, Flood and High Water Table District. The identified floodplain area of the FM District shall be those areas of East Nantmeal Township, Chester County, which are subject to the one hundred (100) year flood, as identified in the Flood Insurance Study (FIS) dated September 29, 2006 and the accompanying maps as prepared 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.

The FG, Flood and High Water Table District includes those areas subject to small stream flooding or inundation by reason of a high water table or seasonal high water table wherein special engineering considerations are necessary. The FM and FG Districts shall be deemed an overlay to the existing Township Zoning Map. To the extent not prohibited by this Article, the uses permitted in the underlying zoning district shall be deemed the permitted uses and, where the FM and FG District boundaries are revised those areas no longer within the FM and FG Districts shall be deemed to be zoned according to the underlying existing zoning districts. However, lands that are delineated as lying within the FM District or within the floodway of small streams in the FG District, the use regulations of Section 1002.A shall be the only permitted uses, and the prohibitions of Section 1002.C shall apply.



2. The FM, Mapped Flood Hazard District shall consist of the following areas as identified in the *Flood Insurance Study* (FIS).
  - a. FW (Floodway Area) - The floodway area is that area identified as "floodway" in the AE Zone in the *Flood Insurance Study* prepared by the Federal Emergency Management Agency (FEMA). The term shall also include floodway areas that have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the *Flood Insurance Study*.
  - b. FF (Flood-Fringe Area) - The flood-fringe area is the remaining portion of the one hundred-year floodplain (100-year floodplain) in those areas identified as an AE Zone in the *Flood Insurance Study* or otherwise identified where a floodway has been delineated.

The basis for the outermost boundary of this area shall be the one hundred year flood (100-year flood) elevation shown in the flood profiles contained in the *Flood Insurance Study*.

- c. FA (Approximated Floodplain Area) - The approximated floodplain area is that area identified as Zone A in the *Floodplain Insurance Study* for which no one hundred-year flood (100-year flood) elevation has been provided. When available, information from other federal, state and other acceptable sources shall be used to determine the one hundred-year flood (100-year flood) elevation as well as a floodway area, if possible. When no other information is available, the one hundred-year flood (100-year flood) elevation shall be determined by using a point on the boundary of the identified floodplain area that is nearest the construction site in question. In lieu of the above, the applicant may determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be conducted only by a professional engineer who shall certify that the technical methods used correctly reflect currently acceptable concepts and methodology. Plans, studies, analyses and computations etc. shall be submitted to the Township Engineer for his

review and approval. Any persons aggrieved by the determination of the Township Engineer may appeal such determination, pursuant to the provisions of Section 909.1(a) (9) or 909.1(b) (6) of the MPC as applicable. All such plans, studies, analyses and computations shall bear the seal of the professional engineer in responsible charge of the preparation thereof.

3. The FG (Flood and Water Hazard Soils) District shall constitute all land subject to periodic flooding of streams not included within the FM Mapped Flood Hazard District, and all areas subject to inundation or saturation by reason of a high or seasonally high water table. The precise boundary delineations of the FG Flood Hazard District shall be determined as set forth in Section 1001.B.3.

B. Establishment of District Boundaries:

1. FM Mapped Flood Hazard District - The district boundaries of the FM Mapped Flood Hazard District shall encompass those lands designated on the Flood Insurance Rate Map (FIRM) as lying within the FW, FF and FA areas.
2. The areas designated as lying within the FM Mapped Flood Hazard District shall be deemed the precise boundary areas and from which no withdrawal of lands shall be made except by approval of the East Nantmeal Township Zoning Hearing Board as a special exception. The jurisdiction to hear and determine any such application with respect to the lands within the areas designated as lying within the FM District shall be conditioned upon filing, with such application for hearing, a letter of map amendment of the Federal Emergency Management Agency, a certificate or letter of approval of the Department of Environmental Protection and a certificate or letter of approval of the Department of Community and Economic Development with respect to such change. The Zoning Hearing Board shall have no jurisdiction to hear such applications unless all of the required letters or certificates accompany the application.
3. FG Flood and Water Hazard Soils District - Where any landowner desires to undertake any grading, filling, storage of material or construction of any buildings or structures on lands within the floodplain of any small stream, as herein defined, outside the FM

Mapped Flood Hazard District or desires to conduct any such activities on lands mapped as water hazard soils, as defined in Section 201 of this Article, the landowner shall submit an application for delineation with respect thereto to the Township, accompanied by:

- a. Detailed plans prepared by a professional engineer showing the asserted location of the flood-fringe and floodway of any such small streams and the boundaries of any such water hazard soils and the activities proposed to be conducted within such areas.
- b. Sufficient supportive data to enable the Township Engineer to delineate the boundaries of the FG District.

The floodway of any small stream shall be regulated by the use regulations set forth in Section 1002 and the flood-fringe of small streams and the water hazard soil area shall be regulated by the provisions of Section 1002.B. The Township Engineer shall certify the boundaries within the subject tract of the FG District and shall certify the boundary locations of the floodways of small streams included therein. The applicant or any other person having standing so aggrieved by the determination of the Township Engineer shall have the right to appeal such determination to the Zoning Hearing Board, which shall hear evidence and determine the precise boundaries of the FG District in accordance with the provisions of subsection 2 above. The filing of the determinations with governmental agencies other than the Department of Environmental Protection, with respect to small stream floodways shall not apply.

4. Procedure for resolution of boundary delineation disputes

- a. The boundary lines of the FM District as shown on the FIRM shall be deemed the precise boundaries thereof and from which no withdrawal of lands shall be made except by approval of the East Nantmeal Township Zoning Hearing Board as a special exception. The jurisdiction to hear and determine any such application with respect to lands within the areas designated as lying within the shall be conditioned upon filing, with such application for hearing, a letter of map amendment of the Federal Emergency Management Agency and a certificate or letter of approval

of the Department of Environmental Protection, and a certificate or letter of approval of the Department of Community and Economic Development with respect to such change. The Zoning Hearing Board shall have no jurisdiction to hear such applications unless all of the required letters or certificates accompany the application.

- b. In filing the application with the Township for the development of any tract of land wherein any portion thereof lies within the FM or FG District, the applicant shall file plans prepared by a professional engineer showing thereon the boundaries of the FM and FG Districts, the boundary lines delineating the floodway from the flood fringe within said district and the nature of existing and proposed development of building and structures on said tract. The applicant shall also show thereon any proposed deviation from the FM boundary limits shown on the FIRM. The applicant, the Township or any other person having standing so to do, may challenge the accuracy of the FM District boundaries as shown on the FIRM, or may allege that the limits as shown on the applicant's plan do not properly reflect the areas subject to such regulation. The challenging party shall furnish detailed engineering studies demonstrating the inaccuracy of the FM boundaries as shown on the FIRM and the burden of proof shall lie with the challenger. Such studies shall be referred to the Township Engineer who shall certify in writing on a plan prepared by him, or approved by him, the precise boundaries of the FM District, as shown on said plan, and shall, where applicable, also certify the precise boundary separation between the floodway and flood-fringe areas. Such plan and certification by the Township Engineer shall be submitted to the Zoning Hearing Board as an application for special exception, provided the application is accompanied by the jurisdictional letters and/or certificates as required in Section 1001.B.4.a.
- c. Any person having standing so to do, and affected thereby may appear before the Zoning Hearing Board for such hearing and determination with respect to the application for special exception.

- d. Copies of the plan designating the precise boundaries of the FM and FA District on the lands included therein, as determined by the Zoning Hearing Board, shall be filed with the Department of Community and Economic Development, the Federal Emergency Management Agency and the Department of Environmental Protection.
- C. Modification of District Boundaries - No modification of the district boundaries by means of relocation of streams, change of grade by cutting, excavation or filling or by any other means shall occur, except by special exception granted by the Zoning Hearing Board upon application of the landowner. As a jurisdictional prerequisite for the Zoning Hearing Board to hear such application, the applicant shall file therewith fully engineered plans prepared by a professional engineer, together with all supporting and explanatory data, along with the certificates of approval of the Department of Environmental Protection, and, if in an FM District, the Department of Community and Economic Development and, when required, a letter of map amendment from the Federal Emergency Management Agency, as well as the approvals of any other state, federal or county office, agency or authority required for such modification. The application shall be forwarded to the Township Engineer who shall report, in writing, any objections he may have, which report shall be a part of the hearing record. The applicant shall have the burden of proof to demonstrate compliance with the standards for the grant of special exceptions, as set forth in Section 1004. A copy of the Zoning Hearing Board's order shall be filed with each agency for which a certificate of approval and/or a letter of map amendment are required.

## Section 1002          USE REGULATIONS:

Notwithstanding the development policies of other agencies having jurisdiction over lands subject to periodic flooding, it is the policy of East Nantmeal Township to restrict development within the FM Mapped Flood Hazard District, within the floodways of small streams, and within areas of water hazard soils, in the FG Flood Hazard District. Such development restrictions shall be to the maximum extent permitted by law. It is further the policy of the Township to permit development within the FG District, except within the floodways of small streams, and within areas of water hazard soils, in accordance with the underlying zoning regulations, subject only to the special considerations set forth in the applicable provisions of the Building and Subdivision and Land Development Ordinances of East Nantmeal Township. Any use with respect to lands within the FM District shall be permitted only if such use is permitted both

in the FM District as provided in Section 1002.A and also in the underlying zoning district. Where a use is permitted in the FM District, but prohibited in the underlying zoning district, or prohibited in the FM District, but permitted in the underlying district, any such use application shall be deemed an application for variance and not for special exception and shall be determined under the provisions of Section 1005.

A. Permitted Use Regulations for FM District - In the FM Mapped Floodway District, the following uses and activities are permitted provided they are in compliance with the provisions of the underlying district and are not prohibited by this or any other ordinance and provided that such uses do not require structures, fill or storage of materials or equipment:

1. Agricultural uses such as general farming, pasture grazing, outdoor plant nurseries, horticultural uses, truck farming, forestry, sod farming, and wild crop harvesting, but excluding such agricultural uses as mushroom culture, poultry production, pig farming, fattening pens and other forms of intensive agriculture.
2. Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, hunting and fishing areas and outdoor athletic fields, excluding structures.
3. Public or private airports or heliports, provided that all aircraft and accessory and supportive facilities may be dismantled and removed from the FM District or otherwise secured from the danger of flood within four (4) hours after notice, and provided a removal plan is approved by the Zoning Officer.
4. Accessory residential uses such as yard areas, gardens, play areas, and pervious parking areas. However, no such approval for utilization of any portion of the FM District as part of the required yard areas shall be permitted unless the plan demonstrates that access to the dwelling is possible during a one hundred-year flood (100-year flood) without use of areas within the FM District.
5. Accessory industrial and commercial uses such as yard areas, pervious parking and loading areas, airport landing strips, heliports, etc., but excluding outdoor storage areas, except

pursuant to the grant of a special exception as provided in Section 1002.B.5.

- B. Except within the floodways of the streams within the FM and FG Districts, the following uses and activities are permitted when authorized as a special exception by the Zoning Hearing Board, provided that they are in compliance with the provisions of the underlying zoning district and are not prohibited by this or any other ordinance:
1. Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipelines, water and sewage treatment plants (excluding subsurface disposal facilities) and other similar or related uses.
  2. Water related uses and activities such as marinas, docks, piers, and other similar or related uses.
  3. Excavation of sand, gravel and other materials.
  4. Temporary uses such as circuses, carnivals and similar activities, provided the same can be dismantled and removed or otherwise secured from the dangers of flood on four (4) hours notice. The Applicant shall file as a part of his application for such uses a dismantling and security plan satisfactory to the Township.
  5. Storage of materials and equipment provided that they are not buoyant, flammable or explosive, are not subject to damage by flooding, are not soluble and will not pollute or degrade the stream as the result of any inundation and provided such material, structures and equipment are firmly anchored to prevent flotation or movement and/or can be readily removed from the area within the time available after flood warning. Any such application shall include a dismantling or flood-proofing plan satisfactory to the Township.
  6. Other similar uses and activities provided they cause no increase in flood heights and/or velocities. All uses and activities shall be undertaken in strict compliance with the provisions of this and all other applicable codes and ordinances and shall not include the construction of buildings or above-ground structures in the FM Mapped Flood Hazard District.

7. Transmission lines, pipelines, bridges, streets and driveways within the floodway of streams.
- C. Prohibited Activities - In accordance with the Flood Plain Management Act, Act of 1978, P.L. 851, No. 166, and the regulations adopted by the Department of Community and Economic Development, no materials nor personal property shall be stored upon the premises which, if introduced into the carrying stream, could result in contamination of the waters of the Commonwealth or contamination of any water source, or injury to persons, or animal or plant life, or damage to property.
- Also, 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: 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; and (3) jails or prisons.
- D. FG General Flood Hazard Area:
1. Within the floodway of small streams as herein defined, the use regulations set forth in Section 1002.A shall apply.
  2. Within the flood fringe of small streams and areas of water hazard soils within the FG District, the regulations for use in the underlying zoning district shall apply, subject to the flood-proofing and other related requirements set forth in the East Nantmeal Township Building and Subdivision and Land Development Ordinances, and the prohibitions of Section 1002.C, above.

## Section 1003      EXISTING STRUCTURES

- A. No expansion or enlargement of an existing structure and/or use shall be allowed within the FM District that would cause any increase in flood heights or velocities or cause risk to any persons or property at, or upstream or downstream of the location of the structure nor introduce any source of pollution to the waters of the Commonwealth.
- B. Any modification, alteration, reconstruction or improvement to an existing structure and/or use to an extent or amount of fifty percent (50%) or



more of its total square footage shall constitute a substantial improvement and shall be undertaken only when authorized as a special exception in accordance with the provisions of Section 1004 and all other provisions relating to the grant of special exceptions.

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

- C. Any modification, alteration, reconstruction or improvement to an existing structure and/or use to an extent or amount of less than fifty percent (50%) of its total square footage shall be authorized only when approved by the Township Engineer who shall certify in writing to the Zoning Officer compliance with all of the criteria of Section 1004. The burden of proof of satisfying the Township Engineer and the cost thereof shall be upon the applicant.
- D. No change of use shall occur within any structure in the FM District without the grant of a special exception by the Zoning Hearing Board. In addition to the criteria set forth in Section 1004, the Zoning Hearing Board shall first determine that the proposed use will not cause any greater risk or hazard with respect to flooding, injury or pollution than did the prior existing use.

## Section 1004            STANDARDS FOR SPECIAL EXCEPTIONS

- A. In addition to all factors to be considered under the terms of this Zoning Ordinance and other applicable law with respect to the grant of special exceptions, the Board shall affirmatively find that all of the following additional factors and criteria have been met:
  - 1. That there is no increase in danger to life and/or property due to increased flood heights or velocities upstream or downstream of the subject property.
  - 2. That there is no danger that material may be swept onto other lands or downstream to the potential injury of others.
  - 3. That the proposed water supply and sanitary sewer systems are adequately protected to avoid causing disease, contamination and unsanitary conditions.

4. That the proposed use is not susceptible to flood damage or will there be any adverse effect of such damage to the owner or user.
5. That there are no alternative locations on the tract that are not subject to flooding and could accommodate the proposed use.
6. That the proposed use will not be incompatible with existing and foreseeable adjacent uses.
7. That the proposed use will be consistent with the Comprehensive Plan and the flood management program for the area.
8. That there is safe and convenient access during a one hundred-year (100-year) flood to the use, buildings and structures for ordinary and emergency vehicles.
9. That the proposed use or structure will not be damaged or cause injury to others by reason of the expected heights, velocities, duration, rate of rise, and sediment transport of the flood water expected at the site during a one hundred-year (100-year) storm.
10. That the permit, if granted, will not cause any impairment of the coverage of East Nantmeal Township and the residents therein by the Federal Emergency Management Programs nor will the proposed use or structure violate any regulations of the Federal Emergency Management Agency, the Department of Community and Economic Development or any other state or federal agencies whereby the advantages to East Nantmeal Township and its residents would be revoked or impaired.
11. No special exception or variance shall be granted for the construction of any building within the floodway of any stream within the FM District or the floodway of any stream within the FG District.
12. No special exception or variance shall be granted to permit the erection or installation of any structure, or the undertaking of any development in any FW area, or in the floodway of any stream within the FG District if such erection, installation or development would cause any increase in the one hundred- year flood (100-year flood) elevation, or within any other area within the FM and FG Districts if such erection, installation or development, together

with all other existing uses and all other uses therein approved or for which an application is pending, would increase the one hundred-year flood (100-year flood) elevation more than one (1) foot at any point.

13. Notwithstanding any of the foregoing, all structures and buildings permitted within any FM or FG Districts shall be so designed, elevated, flood-proofed, constructed and anchored as to have the capability of resisting all forces and damages arising from a one hundred-year flood (100-year flood).
  14. That the proposed use, if granted, would not adversely affect the public health, safety or welfare.
  15. Such other factors which the Zoning Hearing Board may find relevant to the purposes of this Article.
- B. In granting any special exception, the Zoning Hearing Board may attach reasonable conditions and safeguards in addition to those expressed in this Article, as it may deem necessary to implement the purposes of this Article.
- C. With respect to any application for special exception, the applicant shall comply with all of the elements set forth in Section 1004.A and the burden of proof of compliance with each of the elements shall be upon the applicant.

## Section 1005          VARIANCES IN FM DISTRICTS

In addition to the standards for the grant of Variances under the provisions of the MPC, applicable law and this Ordinance, the Zoning Hearing Board, prior to the grant of any variance, shall determine compliance with all of the criteria set forth for the grant of a special exception under Section 1004.A. In the grant of any variance, the Zoning Hearing Board may attach such reasonable conditions, as it deems necessary to effectuate the purposes of this Article.

## Section 1006          ADMINISTRATION

- A. The Township shall not accept any application for a special exception or variance, under the terms of this Article unless all applicable forms have been completed and filed, the applicable fee paid, and all of the

certificates and plans required under the terms of this Article have been filed.

- B. The Zoning Officer, except as herein otherwise provided, is charged with the administration of these floodplain regulations, subject to the determinations, reports and opinions of the Township Engineer. All determinations, reports and opinions of the Township Engineer shall be binding upon the Zoning Officer in the processing and evaluation of any application under this Article.
- C. Notwithstanding anything herein or elsewhere contained, no building permit shall be issued for any building, structure or development unless the applicant has established that any such structures, buildings or development have been designed and will be constructed and anchored to have the capability of resisting the effects of a one hundred-year (100-year) flood.
- D. Approvals, permits and certifications by state agencies shall not be binding upon the Zoning Officer in granting any permit, but no permit may be granted in the absence of such certification or the refusal of any such agency to so certify where, under the terms of this Article, such approval or certification is required.

## Section 1007 TECHNICAL PROVISIONS

### A. General

- 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 applicant, and until all required permits or approvals have been first obtained from the Department of Environmental Protection. In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development shall be notified prior to any alteration or relocation of any watercourse.
- 2. Any new construction, development, uses or activities permitted within any identified floodplain area shall be undertaken in strict compliance with the provisions of this Article and any other applicable codes, ordinances and regulations.

B. Special Requirements for FW and FA Areas

With any FW (Floodway Area), the following provisions apply:

1. Any new construction or development, use, activity, encroachment or disturbance that would cause any increase in flood heights shall be prohibited.
2. No new construction or development shall be permitted, unless a permit is obtained from the Department of Environmental Protection.

C. Elevation and Flood-Proofing Requirements

1. Residential structures

Within any identified floodplain area, any new construction or substantial improvement of a residential structure shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the one hundred-year flood (100-year flood) elevation.

2. Non-residential structures

a. Within any identified floodplain area, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the one hundred-year flood (100-year flood) elevation, or be designed and constructed so that the space enclosed by such structure shall remain either completely or essentially dry during any flood up to that height.

b. Any non-residential structure, or part thereof, having a lowest floor that is not elevated to at least one and one half (1½) feet above the one hundred-year flood (100-year flood) elevation, shall be flood-proofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the publication entitled *Flood-Proofing Regulations* published by the U. S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such flood-proofing shall be accompanied by a statement, certified by a registered

professional engineer or architect, that the proposed design and methods of construction are in conformance with the above referenced standards.

3. Space below the lowest floor

- a. Fully enclosed space below the lowest floor (including basement) is prohibited.
- b. Partially enclosed space below the lowest floor (including basement) which 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 "partially enclosed space" also includes crawl spaces.

Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
- (2) The bottom of all openings shall be no higher than one (1) foot above grade.
- (3) Openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Accessory Structures.

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

- a. The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material and equipment related to the principal use or activity.

- b. The floor area shall not exceed 600 square feet.
- c. The structure shall have a low damage potential.
- d. The structure shall be located on the site so as to cause the least obstruction to the flow of floodwaters.
- e. Power lines, wiring and outlets will be at least one and one-half (1½) feet above the one hundred-year flood (100-year flood) elevation.
- f. Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
- g. Sanitary facilities are prohibited.
- h. The structure shall be adequately anchored to prevent floatation or movement and shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - (1) A minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
  - (2) The bottom of all openings shall be no higher than one (1) foot above grade.
  - (3) Openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Design and Construction Standards

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

1. Fill

If fill is used, it shall:

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

2. Drainage facilities

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

3. Water and sanitary sewer facilities and systems

- a. All new or replacement water supply and sanitary sewer collection and treatment facilities and systems shall be located, designed and constructed to minimize or eliminate damage from flooding and the infiltration of flood waters.
- b. Sanitary sewer collection and treatment facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
- c. 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. 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.

5. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the one hundred-year flood (100-year flood) elevation.

6. Storage

All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal or plant life shall be stored a minimum of one (1) foot above the one hundred-year flood (100-year flood) elevation and/or flood-proofed to the maximum extent possible.

7. 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.

8. Anchoring

- a. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
- b. All air ducts, large pipes, storage tanks and other similar objects or components located below the one hundred-year flood (100-year flood) elevation shall be securely anchored or affixed to prevent flotation.

9. Floors, walls and ceilings

- a. Wood flooring used at or below the one hundred-year flood (100-year 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.
- b. Plywood used at or below the one hundred-year flood (100-year flood) elevation shall be of a marine or water resistant type.
- c. Walls and ceilings at or below the one hundred-year flood (100-year flood) elevation shall be designed and constructed of materials that are water resistant and will withstand inundation.
- d. Windows, doors and other components at or below the one hundred-year flood (100-year flood) elevation shall be made of metal or other water resistant material.

10. Paints and adhesives

- a. Paints and other finishes used at or below the one hundred-year flood (100-year flood) elevation shall be of marine or water resistant quality.
- b. Adhesives used at or below the one hundred-year flood (100-year flood) elevation shall be of a marine or water resistant type.
- c. All wooden components (doors, trim, cabinets etc.) shall be finished with a marine or water resistant paint or other finishing material.

11. Electrical components

- a. Electrical distribution panels shall be at least three (3) feet above the one hundred year flood (100-year flood) elevation.

- b. Separate electrical circuits shall serve lower levels and shall be dropped from above.

12. Equipment

Water heaters, furnaces, air conditioning and ventilating units and other electrical, mechanical or utility equipment or apparatus shall not be located below the one hundred-year flood (100-year flood) elevation.

13. 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.

14. Uniform Construction Code (UCC) Coordination.

The Standards and Specifications contained in 34 PA Code (Chapters 401-.405), as amended and not limited to the following provisions shall apply to the above and, other sections and subsections of this Ordinance, to the extent that they are more restrictive and/or supplement the requirements of this Ordinance. International Building Code (IBC) 2003 or the latest edition thereof: Sections 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G. International Residential Building Code (IRC) 2003 or the latest edition, thereof: Sections R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

E. Special Requirements for Manufactured Homes.

- 1. Within any FW (Floodway Area) manufactured homes shall be prohibited.
- 2. Within any FG (Flood and High Water Table District), manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

3. Where permitted within any floodplain area, all manufactured homes, and any improvements thereto, shall be:
  - a. Placed on a permanent foundation.
  - b. Elevated so that the lowest floor of the manufactured home is one and one half (1½) feet or more above the elevation of the one hundred year flood (100-year flood).
  - c. Anchored to resist flotation, collapse or lateral movement.

## ARTICLE XI

### SIGNS

#### Section 1100 ADMINISTRATION

- A. As of September 6, 1994, any sign erected, attached to, suspended from or supported by a building or other structure, and any sign altered and/or expanded shall conform to the provisions of this Article and any other regulations of the Township relating thereto. Any sign not specifically authorized by the provisions of this Article shall not be erected or maintained within the Township. Any sign, banner, poster or other display device that is not in compliance with the provisions of this Article shall be illegal.
- B. A sign permit shall be obtained from the Zoning Officer, upon submission of a proper application and fee, before erecting any sign under these requirements except as hereinafter provided. The Zoning Officer shall ensure that all signs erected or constructed under the provisions of this Article shall comply with the standards set forth in the building codes in effect in the Township at the time of submission of the application. Drawings submitted for sign permits shall show the size, the construction details and the location and illumination of the sign(s) in sufficient detail for review against all applicable codes and the provisions of this Article.
- C. The Zoning officer is hereby authorized and empowered to revoke any permit issued by the Township, upon failure of the holder of said permit to comply with any applicable provision of this Article. If the Zoning Officer finds that any sign or other advertising structure regulated herein is unsafe or is a hazard to the public, or is constructed, erected, or maintained in violation of the provisions of this Article, he shall give written notice thereof to the permit holder or property owner of such sign. If the permit holder or owner fails to alter or remove the sign so as to comply with the standards set forth herein within sixty (60) days after such notice, the Zoning Officer shall have such work accomplished at the expense of the permit holder or owner. Future permits shall not be issued to any permit holder or owner who refuses to pay the costs so assessed. The Zoning Officer or the Township Engineer may cause any sign that is an immediate hazard to persons or property to be removed without notice.

- D. The provisions of this Article shall not apply to signs erected and maintained by the Township for public purposes, provided the Township obtains all required permits prior to such use.
- E. Nonconforming signs may be maintained under the provisions of Article XVII of this Ordinance.

## Section 1101 INTERPRETATION

A sign shall be defined as any permanent or temporary structure or part thereof, or any device attached, painted or represented directly or indirectly on a structure or other surface that displays or includes any letter, work, insignia, flag or representation which is in the nature of an advertisement, announcement, visual communication, direction or is designed to attract the eye or bring the subject to the attention of the public. The following are excluded from this definition:

- A. Flags of any governmental unit.
- B. Flags of charitable or religious organizations.
- C. Interior signs not visible from a public right-of-way or adjoining property.
- D. Cornerstones built into, or attached to, a wall of a building.

A structure shall be considered a sign under this definition if it would have no other use except that of supporting a sign and such structure would not be permitted under any other applicable provision of this Ordinance not specifically pertaining to signs.

- A. All distances provided for in this Article shall be measured along straight lines between signs and from the near edge to the near edge of the sign or sign structure. Height shall be measured from the existing grade at the location of the sign. If re-grading is required to conform to the provisions of any other applicable regulations or ordinances, height shall be measured from the proposed final grade.
- B. Any sign located along the right-of-way of a state or federal highway shall comply with any more restrictive requirements that may be applicable.

## Section 1102      USE STANDARDS

- A. No sign shall be erected containing information that states or implies that a property may be used for any purpose not permitted under the provisions of this Ordinance.
- B. No sign, except an off-site directional sign, in the AP and AR Districts shall be erected on any premises except as may be related to a lawful principal use or permitted accessory use on the premises.
- C. Signs advertising activities or uses that have been ceased for a period of six (6) months shall be removed by the owner of the property on which the sign is located, or may be removed by the Township at such property owner's expense.
- D. All illuminated signs in the AP and AR districts shall be turned off on days when the advertised activity or use is not open and within one half (1/2) hour after closing.

## Section 1103      DESIGN AND CONSTRUCTION STANDARDS

- A. Structures erected to support a sign shall not exceed the sign area by an amount that is greater than four times the sign area as defined in this Ordinance.
- B. Every sign shall be constructed of durable material, and be kept in good condition. Any sign that, in the opinion of the Zoning Officer or the Township Engineer is dilapidated, hazardous or in disrepair 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 of the property on which the sign is located.
- C. All signs shall be securely mounted or fastened to the building upon which they are attached or, if freestanding, must be securely and safely installed in the ground. The installation of all signs shall be inspected and approved by the Zoning Officer.
- D. No sign shall be illuminated except by internal or concealed indirect lighting. Illumination of signs shall be so shielded that the source of light shall not be visible from any point off the lot on which the sign being

illuminated is erected, nor shall there be produced any glare reflected from the sign surface.

- E. No emblem, banner, sign or part thereof shall rotate or move in an intentional, repetitious or otherwise distracting manner or be illuminated by flashing, intermittent or animated lighting. No sign that emits smoke, visible vapors, particles, sound or odor shall be permitted. No mirror type device shall be used as a part of a sign.

#### Section 1104 LOCATION STANDARDS

- A. No sign shall be erected within the lines of a street right-of-way except traffic signs and similar regulatory notices of a duly constituted governmental body.
- B. Other than official street or traffic direction signs or signs indicating the address of a property, no sign shall be erected or maintained nearer to a street line or property line less than fifteen (15) feet, or less than a distance equaling the height of the sign, whichever is greater, unless attached to the main building or structure incident to the use.
- C. No sign shall be erected so as to obstruct free and clear vision of any intersection, traffic control sign or signal, and all signs shall meet and comply with Penn DOT requirements for clear sight distance. Any sign in the vicinity of a traffic intersection shall not have red, green or amber illumination or cause confusion with a traffic control device by reason of color, location, shape or other characteristic.
- D. No business sign may be located nearer to a residence or an AR, Agricultural Residential District lot line than permitted for buildings on the lot. If located nearer than thirty (30) feet and facing into a residence or an AR District, it shall be so designed as not to shine or reflect light upon such residence or district. In the AP or AR districts, the ambient light levels measured at the property line shall not exceed one foot-candle after normal business hours.
- E. No sign shall be erected or maintained so as to prevent free ingress or egress from any door, window or fire escape.
- F. No sign shall be placed on any utility pole.



## Section 1105        PROHIBITED SIGNS

The following signs shall be prohibited in all districts:

- A.     Portable Signs - Portable signs are defined as signs on mobile stands that can be moved from place to place and thereby not affixed to the ground, building or structure.
- B.     Vehicle Signs - Unless required by law, no sign shall be temporarily or permanently placed, erected, attached or painted on any vehicle if such sign is specifically intended to advertise or promote the use of a specific premises or a part thereof. Normal identification signs painted or affixed to a currently licensed vehicle incidental to the primary use of such vehicle as a means of transportation shall not be prohibited. All signs on a motorized vehicle or trailer not deemed incidental to the primary use shall be classified as portable, and as such are prohibited.
- C.     Advertising murals, posters, wall bulletins, or other types of signs directly painted upon the facade or wall of any building or structure are prohibited.
- D.     Outdoor advertising billboards of any size shall be prohibited in the AP and AR Districts.
- E.     Cloth, paper or plastic advertising banners, or signs of any similar character, suspended or hung from any structure are prohibited.
- F.     Curb or sidewalk signs painted, attached or suspended from any outdoor bench, chair or other structure are prohibited when they advertise any service or activity not sold on the premises where such sign is located.
- G.     Permanent residential subdivision and residential land development identification signs are prohibited.
- H.     Spinning, animated, twirling or any other moving objects used for advertising purposes, whether containing a message or not are prohibited.
- I.     Flashing, blinking, twinkling, or lighted moving signs of any type, except time and temperature signs, are prohibited.

Section 1106            SIGNS PERMITTED IN THE AP, AR AND EI DISTRICTS

The following types of signs shall be permitted in the AP, AR and EI Districts, provided that the signs comply with all requirements herein specified:

- A.     Official traffic signs.
- B.     Off-site directional signs, indicating only the name of the facility, organization or site, including location of meetings and/or directions or approximate distance to the facility, organization or site, shall be permitted only when approved by the Board of Supervisors as a conditional use provided that the size shall not exceed three (3) square feet in area. No advertising shall be displayed on signs of this type, and No more than four (4) such signs for each facility, organization or site shall be permitted.
- C.     Accessory use signs provided that:
  - 1.     The size of any such sign shall not exceed six (6) square feet.
  - 2.     Not more than one (1) such sign shall be erected for each permitted use.
  - 3.     The height shall not exceed six (6) feet.
- D.     Identification signs for farms or estates, schools, churches and other permitted uses, provided that:
  - 1.     The size of any such sign shall not exceed twelve (12) square feet.
  - 2.     Not more than one (1) such sign shall be placed on premises held in single and separate ownership unless such premises fronts on more than one (1) street, in which case one (1) such sign may be placed on each street frontage.
  - 3.     The height shall not exceed six (6) feet.
- E.     Real estate signs, including signs advertising the sale or rental of premises, provided that:

1. The size of any such sign shall not exceed six (6) square feet. Signs for tracts in excess of ten (10) acres shall not exceed twelve (12) square feet.
  2. Not more than one (1) such sign shall be placed on premises held in single and separate ownership unless such premises front on more than one (1) street, in which case one (1) such sign may be placed on each street frontage.
  3. The height shall not exceed six (6) feet.
  4. All such signs shall be removed within two (2) days of the conveyance or rental of the premises.
- F. Temporary subdivision and land development signs, including signs advertising prices or indicating financing provided that:
1. The area of such sign shall not exceed twenty four (24) square feet, and that no more than one (1) such sign shall be erected at each entrance to a public road.
  2. Not more than one (1) such sign shall be placed on premises held in single and separate ownership, unless such premises front on more than one (1) street, in which case one (1) such sign may be placed on each street frontage.
  3. The height shall not exceed six (6) feet.
  4. Off-site directional signs for subdivisions and land developments shall not be permitted.
  5. All such signs shall be removed upon completion of active work by the developer.
- G. Bulletin board signs for churches, schools, parks or institutions, provided that the sign area does not exceed twelve (12) square feet and the height shall not exceed six (6) feet.
- H. No sign in the AP, AR and EI Districts may be illuminated in any manner.

## Section 1107        SIGNS IN THE C, IA-1 AND IA-2 DISTRICTS

The following types of signs shall be permitted in the C, IA-1 or IA-2 Districts, provided that the signs comply with all requirements herein specified.

- A. All signs permitted in the AP and AR Districts;
- B. Freestanding signs provided that:
  - 1. Not more than one (1) freestanding sign shall be erected on the street frontage of a lot.
  - 2. Buildings, structures and/or lots having permitted uses in combination shall be required to install signs in combination identifying those uses.
  - 3. The total display area of all sides of a freestanding sign shall not exceed fifty (50) square feet per side or one hundred (100) square feet total.
  - 4. Freestanding business signs may be located no closer to a side or rear property boundary line or street right-of-way the greater of:
    - a. Fifteen (15) feet;
    - b. A distance equivalent to the height of the sign; or
    - c. The minimum side or rear yard required for the permitted use being identified.
  - 5. No freestanding sign shall exceed twelve (12) feet in height when measured from ground level except the maximum height may be increased two (2) feet (up to a maximum of thirty (30) feet) for each additional five (5) feet of setback from the front right-of-way line.
  - 6. In addition to one freestanding sign, automotive service stations shall also be permitted one (1) price sign for each street frontage, provided that:
    - a. The sign shall not exceed eighteen (18) square feet in area;

- b. The sign shall not exceed twenty (20) feet in height.
  - 7. In addition to one freestanding sign, a restaurant with drive through service shall also be permitted one (1) menu sign, provided that:
    - a. The sign shall not exceed eighteen (18) square feet in area;
    - b. The sign shall not exceed twenty (20) feet in height.
- C. A projecting business identification, or merchandising, sign shall be permitted on any wall of a building or structure incident to a permitted use provided that:
  - 1. Projecting signs shall be installed parallel to the supporting wall and project no more than fifteen (15) inches overall from the face of such wall.
  - 2. No part of a projecting sign shall be less than eight (8) feet above the ground or walking level.
  - 3. The maximum display area of a projecting sign shall not exceed two (2) square feet per lineal foot of the length of the wall on which the sign is mounted, provided that:
    - a. Such signs shall not exceed six (6) inches in height for each ten (10) feet of setback from the facing property line (up to a maximum of eight (8) feet and sixty (60) feet in overall length;
    - b. The total display area of such sign shall not exceed twenty percent (20%) of the total area of the wall on which the sign is mounted;
    - c. The total display area of all signs mounted on the sides and/or rear of a structure shall not exceed the area of the sign mounted on the front wall.
  - 4. No projecting sign shall extend above the roofline or cornice of the building on which the sign is located.

5. Signs mounted on a side or rear wall exposed to public view from either a street or parking area shall not extend above the height of the front wall-mounted sign.
  6. For integrated, multiple uses on a single lot or within a single building, each use will be permitted one (1) projecting sign for identification and/or merchandising purposes providing such signs shall comply with the requirements of this Article.
- D. An off-premises advertising sign (billboard) may only be permitted in the IA-2 District when approved by the Board of Supervisors as a conditional use, subject to the following standards:
1. Such sign shall be located no closer to a residential building than one thousand (1,000) feet.
  2. Such sign shall be located no closer to another such sign than three thousand (3,000) feet.
  3. Such sign shall have the lowest edge of its display face no more than ten (10) feet above grade and the highest edge of its display face no more than twenty five (25) feet above grade.
  4. Such sign shall be setback from any street right-of-way a minimum of six hundred (600) feet.
  5. The display face of such sign shall not exceed the dimensions of fifty (50) feet in length and fifteen (15) feet in height.
  6. Such sign shall not incorporate the use of any mechanical or electronically controlled movement or animation in the display.
- E. Any sign requiring illumination shall only be permitted upon approval of the Board of Supervisors as a conditional use.

## Section 1108 EXEMPT SIGNS

Excepting those signs installed by a governmental body to serve a public purpose, signs exempt from the requirements to obtain a permit shall conform to all other applicable requirements set forth herein as to use, location or construction standards. Where, in the sole discretion of the Zoning Officer, such conformance is clearly impractical a written request for waiver may be

filed and approved by the Zoning Officer. No sign exempt from requiring a permit shall be illuminated. Any site or building on which an exempt temporary sign was erected shall be restored to its original or better condition upon removal of the sign. No permit shall be required before erecting any of the following signs:

- A. Signs of a duly constituted government body.
- B. Signs or emblems of a religious, political, civic, philanthropic, historical or educational organization not exceeding four (4) square feet in area. Temporary signs of not greater than six (6) square feet for political campaigns, civic events, etc., must be removed within three (3) days after the event or election. In addition, permission must be obtained from the landowner or utility to post said temporary signs.
- C. Directional, information or public service signs provided for the safety and/or convenience of the public, such as those advertising availability of rest rooms, telephone or similar public conveniences, or signs advertising meeting times and places of nonprofit service or charitable organizations, provided that such signs do not advertise any commercial establishment, activity, organization, product, goods or services except those of public utilities. Directional and information signs erected under this provision shall not exceed four (4) square feet in area.
- D. No-trespassing signs, signs prohibiting or otherwise controlling hunting or fishing upon particular premises, signs indicating the private nature of a road, driveway or premises or signs indicating ownership of a property, and signs limiting equestrian activity liability provided that the separation distances and the sign area complies with Commonwealth of Pennsylvania standards.
- E. Temporary yard or garage sale signs not exceeding six (6) square feet in area or six (6) feet in height, provided they do not violate the provisions of Section 1104 and are removed within two (2) days of the completion of the sale.
- F. Temporary signs offering individual properties for sale or rent or indicating that a property has been sold provided that:
  - 1. Such signs shall be located entirely within the lot lines of the property to which they refer.
  - 2. Such signs shall not exceed six (6) square feet in area.

3. No more than one (1) such sign shall be placed on each street frontage.
  4. Such signs shall be removed within two (2) days of the date of settlement or lease.
- G. Temporary signs of contractors, mechanics and artisans, provided that:
1. Only one (1) such sign is erected upon the premises where such work is being performed.
  2. Such signs shall not exceed four (4) square feet in area.
  3. Such sign shall be removed within two (2) days of the completion of the work.
- H. Temporary signs announcing permitted special events or the temporary lawful sale of products, goods and/or services, such as the sale of Christmas trees or the sale of farm products grown on the premises, provided that:
1. Such signs shall not exceed sixteen (16) square feet in area.
  2. Only one (1) such sign shall be erected on each street frontage of the premises.
  3. Such sign shall be removed within two (2) days of conclusion of the special event or within two (2) days of when the products, goods, or services are no longer available.
- I. Window signs advertising the sale or rental of properties, goods or services shall be exempt, provided that the total area of the sign does not exceed twenty percent (20%) of the area of the window in or on which it is placed.
- J. Decorations for an officially designated holiday shall be exempt, provided that they conform to the provisions of Section 1105.



## ARTICLE XII

### ACCESS, PARKING, LOADING AND INTERNAL CIRCULATION

#### Section 1200 ACCESS

Safe and convenient access and egress from and to the public roads are essential elements of the use of land in East Nantmeal Township. Therefore, no building, use or occupancy permit shall be granted unless provision is made for the safe and efficient vehicular ingress and egress from such lot to and from public streets without undue congestion or interference with normal traffic flow.

If any person proposes access having the potential for interference with the safe and efficient flow of traffic, and highway improvements are therefore required by the Township or the Pennsylvania Department of Transportation, said person shall be responsible for the design, construction and costs of the any necessary traffic control device(s) and/or highway modifications or improvements.

East Nantmeal Township will not, as of the effective date of this Ordinance, accept by offer of dedication, or other means, any street, road or other facility designed to provide access to a lot, or right-of-way therefor. All streets, roads or other facilities designed to provide access to a lot, as of the effective date of this Ordinance, shall remain private, and shall be constructed in accordance with the street design and construction standards of the East Nantmeal Township Subdivision and Land Development Ordinance.

#### Section 1201 ACCESS DESIGN STANDARDS

No building permit or certificate of use and occupancy shall be issued except in strict conformity with the following design standards for all accesses proposed onto public streets:

- A. All vehicular accessways and proposed streets shall conform to the applicable provisions of the Subdivision and Land Development Ordinance and Driveway Ordinance.
- B. Where residential lots are proposed that will have frontage on expressways or arterial streets, as delineated in the Comprehensive Plan or defined in Article II, the proposed street pattern shall provide reverse frontage on local streets within the subdivision. All residential

developments that propose reverse frontage streets shall buffer the reverse frontage lots along the rear yard lot line in accordance with the Section 1305 and limit access to only those streets with the lowest possible functional classification.

- C. Unless clearly impractical due to tract configuration or the presence of regulated natural resource areas such as steep slopes or wetlands, proposed residential lots that will have frontage along collector streets, as delineated in the Comprehensive Plan or defined in Article II, shall have reverse frontage on local streets with access only onto streets of the lowest possible functional classification.

D. Common Driveways

Adjacent lots, buildings and uses shall be permitted to utilize a common driveway only to the extent of the curb cut and a distance of fifty (50) feet from the right-of-way line. All common driveways shall conform to the Penn DOT 408 specifications for drives serving more than one lot, building or use. Individual lots, buildings or uses shall not be served by common driveways beyond fifty (50) feet from the right-of-way unless:

1. Expressly permitted as part of a duly approved subdivision and/or land development plan.
2. The common driveway is intended to serve multiple permitted uses authorized in the C, Commercial District under the provisions of Section 501 and Section 503 as a conditional use or in an I/A 1 or I/A 2 Industrial/Agricultural Districts under the provisions of Section 601.B as a conditional use.
3. When authorized as a special exception, provided that the burden shall be upon the applicant to demonstrate to the satisfaction of the Zoning Hearing Board that no other layout of the premises is reasonable and such common driveways must be used to avoid encroachment into regulated natural resource areas such as steep slopes, flood plains and wetlands.

Any special exception granted for such common driveways and any conditional use involving multiple uses on the same premises, pursuant to Sections 1200.G.2 and 3, above, shall be subject to the submission of a satisfactory easement and maintenance agreement as part of such application and, upon grant of such application, duly recorded in the Chester County Office of the

Recorder of Deeds after review and approval by the Township Solicitor and Township Engineer.

Section 1202            INTERNAL ACCESS-DRIVE DESIGN STANDARDS AND CRITERIA

The circulation within the confines of the tract under development shall permit safe and convenient vehicular movement within prescribed driveways and parking areas and safe and convenient pedestrian movement. Pedestrian movement shall be within designated lanes and shall include crosswalks over vehicular travel lanes. Within parking areas and driveways vehicular speed shall be controlled consistent with the requirements of pedestrian movement and general safety.

An internal circulation plan shall be an integral part of any application for a building permit or certificate of occupancy for all uses, except single-family and two-family dwellings and agricultural uses on individual lots. Where the application is for multiple lot development, an internal circulation plan shall be an integral part of the application with respect to common and open areas. The following design criteria shall apply to the internal access drives within all lots containing uses other than single-family and two-family detached dwellings or agricultural uses:

- A. Internal access drives shall be designed to prevent the obstruction of vehicles entering or leaving the lot. Drives may be one-way or two-way. Areas designed for loading and unloading, refuse collection, fuel delivery and other service vehicles shall be arranged so as to prevent obstruction of the access drives, automobile parking facilities or pedestrian ways. All access drives shall have adequate turnaround areas so egress can occur without reversing direction.
- B. Internal access drives, parking areas and loading areas shall have clearly defined parking bays and travel lanes designated by markings, curbs, barriers and/or landscaped islands so that operators of vehicles intending to utilize such areas shall not impede other traffic as a result of any confusion as to the location of entrances, exits, parking and the travel lanes. The following standards shall be utilized:
  - 1. To assist in traffic channeling, raised islands shall be placed at the ends of parking bays so that the end of the bay adjacent to the internal access drive is clearly delineated. Such islands shall

be landscaped, and in such a manner that the visibility of the drivers is not impaired.

2. Traffic channeling shall be planned so that the main internal access drive(s) from the public street(s) to the parking areas is remote from the primary building(s) so as to minimize vehicular/pedestrian conflicts at the entrance to the building(s).
  3. Parking areas shall be designed so that a vehicle within any part of the parking area does not have to enter a public street to move to another part of the parking area. Within all parking areas, sufficient turnaround area shall be provided so that egress from the parking area can occur in a forward direction.
- C. All internal access drives shall be paved with an all-weather surface, approved by the Township Engineer, and shall be designed for proper drainage. The maximum grade of internal drives shall not exceed eight percent (8%), measured along the centerline for a distance of not less than twenty-five (25) feet from the street line of the public street to which it accesses. Beyond that point, internal access drives shall not exceed a ten percent (10%) grade.
- D. The following shall be the minimum permitted width of the internal access drives where no adjacent parking is proposed:

USE	TWO-LANE	ONE-LANE
Multifamily	Twenty (20) feet	Ten (10) feet
Commercial/Office	Twenty-four (24) feet	Twelve (12) feet
Industrial	Twenty-six (26) feet	Fourteen (14) feet

## Section 1203 FIRE LANE DESIGN STANDARDS

Fire lanes shall be provided according to the standards set forth by the chief of the fire department serving the property and the standards set forth below:

- A. Any use located more than one hundred and fifty (150) feet from a public street shall provide a duly dedicated fire lane easement to within one hundred and fifty (150) feet of said use. Internal access drives can be

utilized for this purpose if they meet all applicable standards of the chief of the fire department serving the property.

- B. Fire lane easements shall extend from existing and improved public streets and shall have a minimum unobstructed right-of-way width of not less than thirty (30) feet within which there shall be constructed an all-weather surface not less than twenty (20) feet wide. The surface shall be paved if used for an internal access drive and may be unpaved if separate from an access drive.
- C. Fire lane easements shall have a minimum radius of fifty-five (55) feet along the centerline and there shall be a minimum tangent of fifty (50) feet between reverse curves.
- D. Dead-end fire lanes shall not be permitted unless terminated with an unobstructed vehicular turnaround with a minimum radius of thirty-five (35) feet.

#### Section 1204 PEDESTRIAN AND EQUESTRIAN CIRCULATION

The following standards shall apply to pedestrian and equestrian circulation for all uses:

- A. Existing footpaths and horse trails shall be preserved as much as possible consistent with proposed development plans. Where existing trails or paths are proposed to be eliminated, alternative trails or pathways to maintain the continuity of the previously established trail network shall be provided.
- B. Where there are no existing footpaths or horse trails on a tract proposed for development a pedestrian and/or equestrian trail network shall be established so that:
  - 1. There is a logical continuation or linkage to the network of existing trails or sidewalks off-site.
  - 2. Pedestrian access is provided to existing or projected public transportation facilities or pick-up points, public parks, community facilities and commercial areas.

Such pedestrian and/or equestrian trail networks shall be owned and maintained by a homeowners association or, upon approval of the Board of Supervisors, a third party.

- C. There shall be convenient, logical and safe walkway connections between the various entrances of the principal buildings and the required parking areas, preferably in conjunction with landscaped islands to provide physical separation from the vehicles and shade and visual relief from glare.
- D. Sidewalks shall be a minimum of four (4) feet wide, except where adjacent parking stalls overhang the sidewalk according to the provisions of Section 1206 below, where such sidewalks shall be at least six (6) feet wide.
- E. The maximum possible separation between the pedestrian and vehicular circulation routes shall be provided for the safety and comfort of pedestrians. Separation can be in the form of any one or a combination of the following: elevation changes such as overpasses, underpasses or embankments, landscaping elements such as street trees, bollards or fences.

## Section 1205          PARKING REQUIREMENTS

No building or structure shall hereafter be constructed, enlarged or modified and no use or activity shall be conducted or expanded unless provision is made on the same or adjacent lot for off-street parking facilities. Such off-street parking may be located within a structure or in the open, and have proper and safe access from a street. In an effort to preserve open space and minimize impervious surfaces, the use of above or below ground parking structures is encouraged. The following shall apply to all uses, except single-family and two-family dwellings, unless otherwise specified:

- A. Required off-street parking facilities, as accessory to uses listed herein, shall be solely for the parking of passenger automobiles of patrons, occupants and/or employees.
- B. No motor vehicle repair work of any kind except emergency service shall be permitted on parking lots.
- C. Interior circulation within parking areas shall be in accordance with the provisions of Section 1202 above.

- D. Parking areas shall be landscaped in accordance with the applicable provisions of the Township Subdivision and Land Development Ordinance and Section 1305 of this Ordinance.
- E. Parking spaces shall be clearly delineated by suitable markings. Special use spaces such as short-term visitor parking, handicapped parking and pick-up/drop-off zones shall be differentiated by suitable markings from long-term employees spaces.
- F. Parking spaces shall have a paved all-weather surface unless otherwise approved by the Board of Supervisors. Pervious surfaces for reserve or overflow parking, such as porous paving, concrete lattice blocks or gravel may be substituted if approved by the Board of Supervisors.
- G. The overnight parking of tractor-trailers is prohibited in all residential districts within the Township. Said vehicles are required to obtain off-street overnight parking within the commercial or industrial districts.

#### Section 1206          PERMITTED PARKING LOCATIONS

- A. In no case shall any portion of a public or private street be utilized in complying with the parking requirements of this Section.
- B. All parking spaces shall be on the same lot as the principal buildings except when permitted by the Board of Supervisors.
- C. The parking spaces required in Section 1208, below, may be located elsewhere than on the same lot when authorized by the Board of Supervisors, subject to the following conditions:
  - 1. The owners of two (2) or more establishments shall submit with their application a site plan and agreement showing joint use, maintenance responsibility and location of a common off-street parking area.
  - 2. Some portion of the common off-street parking area shall lie within two hundred (200) feet of an entrance, regularly used by patrons of the use served thereby.
- D. No parking or paved area, except for permitted access ways, shall directly abut a public street. Each such area shall be separated from the street by a curb, planting strip, wall or other suitable barrier. Each such

area shall be at least ten (10) feet from the edge of the paving of any street for which a given right-of-way is not indicated or at least twenty (20) feet from the street line of an arterial or collector road.

- E. For residential dwellings, the spaces shall be within one hundred (100) feet of the dwelling unit they serve.
- F. A garage may be located wholly or partly inside the walls of the principal building, or may be attached to the outer walls. If separated from the principal building, the garage shall conform to all accessory building requirements and shall not be located in a required yard space. A garage may be constructed under a yard or court, when authorized as a special exception by the Zoning Hearing Board, but may not extend within ten (10) feet of any lot line. The space above an underground garage may be deemed to be part of the open space on the lot on which it is located to the extent determined by the Zoning Hearing Board.

#### Section 1207      PARKING STALL STANDARDS

- A. In all motor vehicle garages or in outdoor parking areas for establishments with a high volume of turnover such as supermarkets, the stall size for each vehicle shall be at least ten (10) feet by twenty (20) feet, including an overhang of two (2) feet over the adjacent sidewalk, if present.
- B. The parking stall sizes may be reduced to nine (9) feet by eighteen (18) feet for all parking lots in excess of 100 spaces, not to exceed twenty percent (20%) of the required spaces and for low turnover parking lots such as offices.
- C. The required parking area shall be measured exclusive of internal access drives or maneuvering areas.
- D. Angled parking shall be permitted, with the minimum required stall depths, stall widths and aisles as required by this Article.
- E. Parking areas shall have a minimum slope of one percent (1%) in any direction to provide for drainage and a maximum slope of six percent (6%) in any direction for safety, user convenience and storm water runoff control.



#### F. Handicapped Parking

Handicapped parking shall comply with the Americans with Disabilities Act and the following requirements which shall apply to commercial, industrial, professional office, institutional, religious and educational uses:

1. If the total number of parking spaces exceeds twenty (20), a minimum of two percent (2%) of the total number of parking spaces, but not less than two (2) parking spaces, shall be designed and designated for physically handicapped persons.
2. Said spaces shall be most accessible and approximate to the building or buildings that the parking spaces shall serve.
3. Each space or group of spaces shall be identified with a clearly visible marking and signs displaying the international symbol of access.
4. Each space shall be twelve and one-half (12½) feet wide to allow room for persons in wheelchairs or on braces or crutches to get in and out of either side of an automobile onto a level paved surface suitable for wheeling or walking.
5. Where possible, such spaces shall be located so that persons in wheelchairs or using braces or crutches are not compelled to wheel or walk behind parked cars.
6. Where applicable, curb ramps shall be provided to permit handicapped people access from the parking lot to the sidewalk or building entrance.

#### Section 1208 PARKING STALL REQUIREMENTS

In all districts, the residential parking requirements shall be two (2) spaces per dwelling unit including single-family and two-family dwellings.

Nonresidential Parking Requirements shall be as follows.

- A. Employee - One (1) space per employee. In the case of shifts, adequate allowance shall be made for overlapping of arrivals and departures.

- B. In addition to employee parking, additional spaces shall be provided by the application of the appropriate formula for each use as listed in this subsection.
- C. If a related or accessory use, such as a restaurant or auditorium, in connection with a principal use is open to the public, the off-street parking requirement for the related use shall be in addition to that for the principal use.
- D. Where the required parking standard is based on floor area, the Planning Commission may recommend the reduction of the number of parking spaces required to be paved initially for a use or establishment that involves few employees, customers or visitors relative to building area, provided that the plan submitted shows that sufficient land is reserved and properly identified as such to meet the full requirements of this Ordinance at such time as any such additional parking space may be required.
- E. The Board of Supervisors may authorize a reduction in the number of required parking spaces in cases where the Planning Commission has recommended such and the applicant can justify the reduction and still provide adequate facilities. Where a reduction is approved, the Board shall require the applicant to design a parking reserve area on the development plan for the number of additional spaces that would satisfy the requirements of this Section. The design for the parking reserve area shall comply with all applicable provisions of this Ordinance. The Board may require that the parking reserve area be developed if and when it determines the need. Until such time it is developed, the parking reserve area shall be landscaped.
- F. Minimum off-street parking requirements in addition to employee spaces shall be as follows:

Minimum Parking Requirements

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Industry, Wholesale, Storage Distribution, Laboratory	One (1) space per 5,000 square feet of or floor area or research area
Eating and Drinking Establishment	One (1) space per 200 square feet of floor area or two (2) seats, whichever is greater
Convenience Store	One (1) space per 100 square feet of gross floor area.
Driving Range and Batting Range	One (1) space per tee or box

Golf Course	Four (4) spaces per tee
Theater, Church, Meeting Place	One (1) space per three (3) seats
Bowling Alley	Three (3) spaces per alley
Motel, Hotel, Inn	One (1) space per guest room and the applicable requisite of parking for any auxiliary use
Hospital	One (1) space per eight (8) patient beds
Automobile Service Station	Two (2) spaces per fueling point
Laundromat	One (1) space per washing machine or 100 square feet
Elementary School	One (1) space per twenty (20) students
All Other Schools, Day Care Center	One (1) space per ten (10) students
Retail Stores, Antique Shops And Personal Service Establishments	One (1) space per 200 square feet of customer sales or service areas
Funeral home	One (1) space per 50 square feet devoted to assembly or viewing room purposes
Institution Medical and Dental Offices and Clinics	One (1) space per two (2) beds Four (4) spaces per doctor
All Other Offices and Office Buildings	One (1) space per 400 square feet of floor area, which includes required spaces for employees
All Other Uses	One (1) space per 500 square feet of floor area

## Section 1209      LOADING AND UNLOADING STANDARDS

In connection with any building or structure that is erected or substantially altered and that requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided a sufficient number of off-street loading and unloading berths for the intended use in accordance with the following minimum requirements:

- A. Such areas shall not be located between the building setback line and street line, and loading facilities shall be buffered in accordance with Section 1305.

- B. Space allocated 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, or any vehicular or pedestrian circulation area. Required off-street parking spaces or access ways shall not be used for loading and unloading purposes except during hours when business operations are suspended.
- C. Off-street loading and unloading areas shall be provided with proper and safe access, preferably separate from other vehicular and pedestrian circulation. Loading and unloading operations, including arrival and departure, shall not interfere with traffic and pedestrian circulation on public streets or within required off-street parking and interior vehicular and pedestrian circulation areas.
- D. Loading and unloading spaces shall be at least fifteen (15) feet wide and fifty-five (55) feet in length, provide sixteen (16) feet vertical clearance, and shall have an adequate maneuvering apron.
- E. Loading and unloading spaces shall have paved all-weather, dustless surfaces of sufficient load-bearing properties consistent with the intended use.

## ARTICLE XIII

### GENERAL DESIGN AND PERFORMANCE STANDARDS

#### Section 1300      APPLICABILITY

For the purposes of this Ordinance, the following general design and performance standards shall apply to all uses, whether granted by right, conditional use or special exception and to all zoning districts. In addition to the general design standards, specific performance standards shall apply when required by this Ordinance. Conditional use standards shall also apply to all conditional use applications.

#### Section 1301      PARKING

Access, internal circulation and off-street parking requirements and design standards for all uses shall conform to the provisions of Article XII of this Ordinance.

#### Section 1302      SIGNS

Sign design standards and requirements for all uses shall conform to the provisions of Article XI of this Ordinance.

#### Section 1303      PROJECTIONS INTO REQUIRED YARDS

- A. No structure or part of a structure shall be erected within or shall project into any required yard except:
  - 1. Arbors, trellises, garden sheds and similar uninhabitable structures, provided they are not more than twelve (12) feet in height, and at least ten (10) feet from all lot lines.
  - 2. Overhanging eaves, gutters, or cornices not exceeding two (2) feet in overall width.

#### Section 1304      FENCE AND FREE-STANDING WALL STANDARDS

The following standards for fences and walls shall be applied to all proposed uses:

- A. No fence or wall, except a retaining wall, or a wall of a building permitted under the terms of this Ordinance, over six (6) feet in height, shall be erected within any required yards, unless no more than fifty percent (50%) of the vertical plane of the fence or wall which exceeds six (6) feet in height is opaque.
- B. No fence or wall shall obstruct vision at street intersections or along streets, in accordance with Section 1201.C.
- C. No fence or wall may be constructed within any public right-of-way.
- D. No fence may be erected such that the exposed structural members thereof face a street or adjoining properties but excluding agricultural fencing.

#### Section 1305 LANDSCAPED BUFFER STANDARDS

- A. Landscaped buffers shall be required where proposed commercial, industrial, office, or intensive agricultural uses are to be located adjacent to residential zoning districts or existing residential uses, where proposed multi-family uses are to be located adjacent to existing single-family or two-family residences in the transfer-in district, and where otherwise required by this Ordinance.
- B. Landscaped buffers shall be located so that, at maturity, any building or structure with a height greater than twelve (12) feet or any storage or loading area, or parking area of more than five (5) spaces for the proposed uses, set forth above, is not visible from abutting lots, and building(s) thereon, in the adjacent residential zoning district. Landscaped buffers shall conform to the standards set forth in Section 1305.F, below.
- C. Landscaped buffer requirements may be waived by the Board of Supervisors upon recommendation of the Planning Commission if the uses or areas to be buffered according to Section 1305.A, above, are located greater than four hundred (400) feet from the adjacent residential uses or if the existing landscape provides a buffer that meets the intent of the standards set forth in this Section.
- D. To assure compliance with landscaped buffer requirements, the applicant shall provide graphic material to enable the Township to assess the impact of the proposed use upon the adjacent residential use and ensure that the proposed landscaped buffer will create an effective visual barrier. Graphic material may include any one or a combination of

the following: plot plans with view analysis, landscaping and grading plans, profiles, models, cross-sections and photographs.

E. Landscaped buffers shall be established through the use of any one or a combination of the following measures, or other measures that, in the opinion of the Planning Commission, will provide an equal or greater buffer:

1. Planting of trees and shrubs that are effective for the intended buffer. Plantings that require excessive maintenance, are not vigorous, or do not provide a visual barrier to the intended use shall not be permitted.
2. Existing natural landscape and/or topographic conditions.
3. Man-made barriers such as fences and walls, when architecturally compatible with the landscaping and architectural style of the adjacent residential uses.
4. Proposed grading of land to create mounds, berms or depressions that provides a visual barrier.

F. A landscape plan, prepared by a registered landscape architect, incorporating the above measures shall be submitted by the applicant and approved by the Township as part of the subdivision or land development plan. The landscape plan shall be designed in accordance with the following standards:

1. The plantings shall be composed of evergreen and deciduous plant material arranged to form both a low level and a high level buffer. The high level buffer shall consist of a combination of evergreen and deciduous trees planted with specimens no less than eight (8) feet in height and two and one-half (2½) inches dbh. The low level buffer shall consist of evergreen shrubs or hedges planted at an initial height of not less than three (3) feet and spaced at intervals of not more than five (5) feet. The low level buffer shall be placed in alternating rows to produce a more effective barrier. The width of planting material in the buffer shall be a minimum of twenty-five (25) feet.
2. The landscaped buffer plantings shall be so placed that at maturity they will be no closer than three (3) feet from any street or right-of-way.

3. In accordance with the provisions of Section 1201.C of this Ordinance, a clear sight triangle shall be maintained at all street intersections and at all points where private access ways intersect public streets.
  4. The landscaped buffer plantings shall be interrupted only at points of vehicular or pedestrian access and the buffer area shall not include structures, storage areas or parking in the buffer area.
  5. All mechanical equipment, loading areas and storage, not enclosed in a building, shall be fully and completely screened from view from any adjacent streets or residential districts or uses, through the use of measures set forth above and in a manner compatible with the architectural and landscape style employed on the lot.
- G. The landowner shall maintain the landscaped buffer plantings and shall guarantee for a period of one (1) year from the date of planting all plant material. Any diseased or dead plant material shall be replaced upon notification by the Township. Any replaced plant material shall be guaranteed by the landowner for an additional period of one (1) year from the date of replacement.

#### Section 1306            GENERAL OUTDOOR STORAGE STANDARDS

- A. In residential districts, no more than one (1) travel trailer, utility trailer, recreational vehicle, boat, unlicensed vehicle or similar item shall be stored outside at any one time on a single lot. In all districts, no travel trailer, utility trailer, recreational vehicle, boat, unlicensed vehicle or other similar item shall be stored outdoors within any required yard area, except in junkyards permitted under this Ordinance. Storage of travel trailers without a permit when left in place and used, as an extension to a building, shall not be permitted in residential districts.
- B. All refuse and other similar material, whether organic or inorganic, shall be stored in suitable containers and properly disposed of as soon as is practical. All garbage and similar material shall be stored in vermin-proof containers. Except for single-family and two-family dwellings, all incidental storage shall comply with the following:
1. All storage shall be buffered in accordance with Section 1305.



2. Outdoor storage structures for raw materials and/or finished products shall not be permitted within any required yard area, and shall not exceed ten (10) feet in height.
3. Outdoor storage facilities for fuel, hazardous or toxic raw materials and/or finished products shall conform to the standards and requirements set forth in Section 1322.

#### Section 1307 SEWAGE DISPOSAL STANDARDS

- A. The Applicant shall demonstrate the ability to provide safe, efficient and permanent facilities for the collection, treatment and disposal of sanitary sewage generated within the tract and shall further demonstrate that the proposed system is capable of so functioning without degradation of streams, pollution to or diversion of the underground water table. The Applicant shall further supply evidence satisfactory to the Board of the ability permanently to maintain the system in conformity with this standard.
- B. No building, zoning or use permits shall be issued with respect to any approved use granted hereunder until all necessary permits issued by regulatory authorities, agencies and public bodies have been issued and copies thereof furnished to the Zoning Officer. This provision shall be deemed incorporated into any approved use granted hereunder by reference whether or not actual reference thereto is made in any opinion or order.
- C. Sewage Disposal standards shall be those set forth in the East Nantmeal Township Subdivision and Land Development Ordinance.

#### Section 1308 WATER SUPPLY STANDARDS

- A. The Applicant shall demonstrate a safe and efficient permanent water supply capable of furnishing adequate, safe and potable water for the purposes envisioned within the proposed project. For residential uses and other uses where appropriate, in addition to evidence that the water is safe for human consumption, the Applicant shall demonstrate that the water supply is of such chemical composition as not to cause injury to persons or property nor corrode or damage pipes, drains or equipment.
- B. Wells shall be constructed according to the standards established by the Chester County Health Department. Water quality shall meet the most stringent requirements set forth in either the Regulations of the PA

Department of Environmental Protection, Chapter 109 or "Drinking Water Standards", 1962 Ed., U.S. published by the Public Health Service or applicable standards of the Chester County Health Department.

#### Section 1309            STORMWATER MANAGEMENT STANDARDS

Stormwater management standards shall be those set forth in the East Nantmeal Township Subdivision and Land Development Ordinance.

#### Section 1310            EXCAVATION AND EARTH DISTURBANCE

Excavation and earth disturbance activities that cause accelerated erosion, the deposition of fill and the exposure of sub-soils shall be conducted only in accordance with the regulations of the Department of Environmental Protection and the Chester County Conservation District and shall also conform to the requirements of the East Nantmeal Township Subdivision and Land Development Ordinance.

#### Section 1311            SPECIFIC PERFORMANCE STANDARD - CAPACITY OF THE ROAD NET

- A.    In addition to the general standards listed in Section 1301 through Section 1310, above, the applicant shall demonstrate compliance with this Section 1311 when required by this Ordinance.
- B.    The applicant shall submit a traffic impact study, prepared according to the requirements of Section 1323.A, demonstrating that the traffic generated by the proposed use, when superimposed upon existing traffic, plus: (i) The traffic to be generated by previously approved but yet uninstalled uses; and (ii) The base volume upon the road net, shall not cause or contribute to the reduction of the peak hour level of service of the road net nor any part or segment thereof nor any intersection therein below level of service D, unless improvements are proposed to be constructed that would maintain levels of service D or better.
- C.    Roadway capacity shall be determined as set forth in the most recent edition of the *Highway Capacity Manual, Special Report 20911*, Transportation Research Board of the National Research Council, Washington, D.C. Trip generation of the proposed use shall be determined according to the standards set forth in the most recent edition of *Trip Generation*, Institute of Transportation Engineers,

Washington, D.C. Traffic Studies shall conform to the standards set forth by Penn DOT in Chapter 201, *Engineering and Traffic Studies*.

Section 1312            SPECIFIC PERFORMANCE STANDARD - IMPACTS  
UPON THE ROAD NET

- A.     In addition to the general standards listed in Section 1301 through Section 1310, above, the applicant shall demonstrate compliance with this Section 1312 when required by this Ordinance.
- B.     The applicant shall submit a traffic impact study prepared according to the provisions of Section 1323.A, below, demonstrating that, separate and apart from traffic volumes, the construction and configuration of the road net and each portion or segment thereof and each intersection therein shall be so constructed, aligned and controlled that the traffic generated from the proposed use will not damage such road net, segment thereof or intersection or cause or contribute to operating hazards. Relevant to the satisfaction of these criteria are, among other things, the type and weight of the vehicles constituting part or all of the generated traffic.
- C.     The adequacy of the design shall be established according to the standards set forth by Penn DOT in Chapter 441, *Access to and Occupancy of Highways by Driveways and Local Roads*, Publication 70, *Guidelines for Design of Local Roads and Streets*, and Penn DOT Specifications, 1987. The ability of the cartway to adequately accommodate the loads shall be determined by the applicable AASHTO standards and specifications.

Section 1313            SPECIFIC PERFORMANCE STANDARD - WATER  
CONSUMPTION

- A.     In addition to the general standards listed in Sections 1301 through 1310, above, the applicant shall demonstrate compliance with this Section 1313 when required by this Ordinance.
- B.     The applicant shall demonstrate that the proposed extraction of water at the premises, whether for use thereon or removal therefrom, plus:
  - (i) The base volume of use; and, (ii) The estimated uses of water on previously approved but not implemented projects within the aquifer, less reasonable surface recharge of groundwater, shall not exceed the safe yield of the aquifer, nor shall it adversely affect existing wells or cause the movement of known sources of contaminated groundwater. In determining the effect upon groundwater, the underlying geology,

adjacent wells, surface hydrological features shall be examined. A minimum yield of three (3) gallons per minute shall be made available for individual on-lot wells, or three hundred fifty (350) gallons per day per equivalent dwelling unit.

- C. Quantities for estimated use shall be determined according to the provisions in Chapter 73 of the Pennsylvania Department of Environmental Protection Regulations. Estimation of aquifer yield shall be determined by the methods set forth in *Engineering Field Manual for Conservation Practices*, U.S. Dept. of Agriculture, Soil Conservation Service, chapter 11.
- D. Applicants proposing any new subdivision or land development that are classified as special water uses and are located within the French Creek Drainage Basin shall be required to prepare a water budget impact analysis in accordance with the requirements of the Subdivision and Land Development Ordinance.
  - 1. Uses classified as special water uses shall include:
    - a. Uses that are water intensive, having special water needs due to a specific process or activity relating to the use.
    - b. Uses where an especially large percentage of water use can be expected to be consumptive or depletive.
    - c. Water extraction/bottling operations.
    - d. Uses proposing wastewater treatment other than on-site treatment and disposal.
  - 2. Where the water budget impact analysis indicates a water reduction impact that exceeds the sub-basin standards set forth in the Subdivision and Land Development Ordinance, the applicant shall be required to mitigate such impact by:
    - a. Providing additional land area in the sub-basin adequate to balance the reduction impact. Such provision of land may be conveyed in such form, acceptable to the Board of Supervisors, to insure preservation of the land in perpetuity.
    - b. Providing and implementing a plan for reforestation or other measures which, taken together with other mitigation measures, will maintain the sub-basin water budget

standards set forth in the Subdivision and Land Development Ordinance.

- c. Demonstrating that the sub-basin water budget will be maintained through special water use restrictions that can be monitored and enforced.

#### Section 1314            SPECIFIC PERFORMANCE STANDARD - FIRE PROTECTION

- A. In addition to the general standards listed in Section 1301 through 1310, above, the applicant shall demonstrate compliance with this Section 1314 when required by this Ordinance.
- B. All activities and all storage of flammable and explosive material shall be provided with adequate safety devices against the hazard of fire and explosion, and adequate firefighting and fire suppression equipment and devices as detailed and specified by the laws of the Commonwealth of Pennsylvania. The applicant shall furnish a plan of fire protection approved by the chief of the fire department having first call jurisdiction demonstrating that fire fighting facilities are available to fight fires or similar casualties any place within the subject premises. Where, owing to the height or location of buildings or the activities to be conducted therein, the fire company having first call jurisdiction cannot reach or effectively combat the foreseeable fire or casualty, the applicant shall provide adequate in-place facilities for such emergencies. The plan shall include sufficient explanatory materials to demonstrate compliance with this section.
- C. All fire protection facilities and documentation shall conform to the standards set forth by the National Fire Protection Association (NFPA) as administered by the office of the State Fire Marshal. All buildings and structures and activities within such buildings and structures shall conform to the Building Code, the Fire Prevention Code, and other applicable Township Ordinances. Any explosive material shall conform to the requirements of *Chapter 211, Title 25, Rules and Regulations*, Pennsylvania Department of Environmental Protection, for *Storing, Handling and Use of Explosives*.

Section 1315                      SPECIFIC PERFORMANCE STANDARD - NOISE

- A.     In addition to the general standards listed in Sections 1301 through 1310, above, the Applicant shall demonstrate compliance with this Section 1315 when required by this Ordinance.
  
- B.     The sound level of any activity or operation from all properties in the Township, including public and private rights-of-way and public spaces, and received at residential, commercial, industrial and institutional properties, including all public spaces within the Township shall not equal or exceed the sound level limits set forth, for the timeframes indicated, below when measured at or within the real property line of any receiving property:

Time	Maximum A-Weighted Sound Level, Decibels
7 AM - 10 PM	65
10 PM - 7 AM	50

- C.     Impulsive sounds shall not equal or exceed eighty (80) decibels at all times.
  
- D.     Construction and demolition activities shall be exempt from the sound level limits as provided herein provided that such activity, excluding emergency work shall not be conducted between the hours of 6:00 PM and 7:00 AM on weekdays or between 6:00 PM and 9:00 AM on weekends and legal holidays, unless such activity complies with the sound level limits established herein.
  
- E.     The following activities or operations shall be excluded from the provisions of this Section:
  - 1.       Official Governmental Activities
  - 2.       Sports Events
  - 3.       Authorized Outdoor Events
  - 4.       Ringing of Church Bells or Chimes
  - 5.       Emergency Vehicles
  - 6.       Legally Required Audible Warning Devices

## 7. Agricultural Activities

### Section 1316 SPECIFIC PERFORMANCE STANDARD - SMOKE, DUST, AND VAPORS

- A. In addition to the general standards listed in Sections 1301 through 1310, above, the applicant shall demonstrate compliance with this Section 1316 when required by this Ordinance.
- B. No smoke, dust or particulate matter shall be emitted from any chimney, quarry, factory or other operation having a visible gray opacity greater than No. 1 on the *Ringleman Smoke Chart*, except that smoke of a shade not darker than No. 2 on the *Ringleman Smoke Chart* may be emitted for not more than four minutes in any thirty minute period. The emission of dirt, dust, fly ash, fumes, vapors or gases in sufficient quantities which may cause any damage to human health, to animals, to vegetation or to property, or which can cause any soiling or staining of persons or property at any point beyond the lot lines of the use creating the emission is prohibited. No emission of liquid or solid particles from any chimney or other source shall exceed three-tenths (0.3) grains per cubic foot of the carrying gas at any point beyond the lot line of the use creating the emission. For measurement of the amount of particles and gases resulting from combustion, standard correction shall be applied to a stack temperature of 500 degrees F and fifty percent (50%) excess air in stack at full load.
- C. Smoke and dust generation shall be measured according to the standards set forth in the *Ringleman Smoke Chart*. The standards for air pollution set forth in the Air Pollution Control Act, 35 P.S. Section 4001-4015 and the Department of Environmental Protection and regulations promulgated thereunder, and Title 2 PA. Code, Chapter 3 through 143 shall apply in determining emission of particulate matter. The emission of fumes and gasses shall conform to all applicable provisions of the Pennsylvania Air Pollution Control Laws, including the standards set forth in Chapter 123 (Standards for Contaminants) and Chapter 131 (Ambient Air Quality Standards), Article III, Title 25, Pennsylvania Department of Environmental Protection, Rules and Regulations.

### Section 1317 SPECIFIC PERFORMANCE STANDARD - ODOR

- A. In addition to the general standards listed in Sections 1301 through 1310, above, the applicant shall demonstrate compliance with this Section 1317 when required by this Ordinance.
- B. No use, other than extensive agricultural uses, shall emit odors, gases or other odorous matter in such quantities as to be offensive at any point on or beyond its lot lines on a consistent and sustained basis. The occasional occurrence of odors normally incident to extensive or intensive farming shall only be permitted pursuant to utilizing the least offensive practice currently available.
- C. The guide for determining offensive odors shall be the fifty percent (50%) response level of Table 1 (Odor Thresholds in Air), *Research on Chemical Odors: Part I, Odor Thresholds for 53 Commercial Chemicals*, October, 1968, Manufacturing Chemists Association, Inc., Washington, D. C. If not specifically referenced in that document, odor shall be determined according to the most restrictive provisions of Table III in Odor Threshold, Chapter 5 of *Air Pollution Abatement Manual*, 1951, American Chemists Association, Inc., Washington, D.C.

#### Section 1318            SPECIFIC PERFORMANCE STANDARD - HEAT

- A. In addition to the general standards listed in Sections 1301 through 1310, above, the applicant shall demonstrate compliance with this Section 1318 when required by this Ordinance.
- B. No use shall produce heat perceptible beyond its lot lines. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line.
- C. Heat shall be defined as a perceptible increase above the ambient temperature due to the activities of the use.

#### Section 1319            SPECIFIC PERFORMANCE STANDARD - GLARE

- A. In addition to the general standards listed in Sections 1301 through 1310, above, the applicant shall demonstrate compliance this Section 1319 when required by this Ordinance.
- B. No direct or sky-reflected glare, whether from floodlights or high temperature processes such as combustion or welding or otherwise, shall be permitted so as to be visible at the lot line. No use shall produce any strong or blinding light or direct specular reflection thereof beyond its



lot lines. Exterior lighting shall be directed downward and the actual light source shall be shielded from view above forty-five (45) degrees from horizontal. Direct or indirect lighting measured at the property line shall not exceed the levels set forth in Section 1306.

- C. Glare shall be defined as a source of bright light within forty-five (45) degrees of the horizon when measured at the property line, such source emitting light that is over three (3) times the ambient light level that would exist if there was no source of glare.

#### Section 1320            SPECIFIC PERFORMANCE STANDARD - VIBRATIONS

- A. In addition to the general standards listed in Sections 1301 through 1310, above, the applicant shall demonstrate compliance with this Section 1320 when required by this Ordinance.
- B. Except for vibrations produced as a result of construction activities upon the premises, no use shall cause earth vibrations or concussions detectable, without the aid of instruments, beyond its lot lines. All blasting operations in extractive industries shall be matted and so controlled as to avoid damage from vibrations to persons or property beyond its lot lines or impair the use and enjoyment of adjacent land and uses. A combination of screening, fencing and buffer areas shall be utilized to comply with this standard.
- C. Vibration shall be defined as that level of earth movement measured at the property line equivalent to Level 1 on the *Richter Scale for Seismic Measurements*.

#### Sections 1321            SPECIFIC PERFORMANCE STANDARD - WASTE STORAGE AND DISPOSAL

- A. In addition to the general standards listed in Sections 1301 through 1310, above, the applicant shall demonstrate compliance with this Section 1321 when required by this Ordinance.
- B. The applicant shall demonstrate a safe, convenient and effective plan for the collection, storage, treatment and disposal of industrial waste generated by any use upon the property. No materials or waste shall be deposited upon a lot in such a form or manner that they may be transported from approved storage areas by natural causes or forces. There shall be no discharge at any point into any public or private sewage system or onto any adjacent property or road, or into any

stream, lake or pond. Leachate, or any other pollutant, shall not enter the groundwater table in such a way as will contaminate the aquifer or otherwise cause the emission of hazardous materials into the environment.

All outdoor storage of hazardous materials shall be fully enclosed by an approved fence with a self-closing and self-locking gate. All storage of materials or chemicals causing fumes or which may attract rodents or insects or are flammable shall be stored in enclosed containers adequate to eliminate such hazards. In addition to a fence, bulk storage tanks shall be enclosed by a moat or berm to contain potential spillage. Open sedentary lagoons shall not be permitted for the storage, treatment or disposal of industrial waste.

- C. Storage of waste shall conform to the regulations set forth in the Solid Waste Management Act and other applicable laws of the Commonwealth of Pennsylvania, and specifically Chapters 73, 75, 95 and 97, Title 25 Pennsylvania Department of Environmental Protection, Rules and Regulations. The evidence of compliance shall include, but not necessarily limited to, appropriate permits issued by the Department of Environmental Protection, under the Solid Waste Management Act, and Regulations issued by the Department of Environmental Protection, promulgated under the Act.

## SECTION 1322 ANTENNA SUPPORT STRUCTURES

In addition to the general standards listed in Sections 1301 through 1310 above, the applicant shall demonstrate compliance with every provision of the performance standards set forth below when specifically referred to in the applicable provisions of this Ordinance.

Application of this section accommodates the provisions of the Federal Telecommunications Act of 1996 while regulating the process of siting and construction in the Township.

### A. Antenna Support Structures for Personal Wireless Service

The following requirements apply to support structures for personal wireless service antennas.

- 1. Applications for construction of antenna support structures shall be accompanied by:
  - a. A propagation study showing the need for the proposed antenna support structure or other communication facilities

and equipment.

- b. A description of the type and manufacturer of the proposed transmission/radio equipment, the frequency ranges (megahertz band) assigned to the applicant, the power in watts in which the applicant transmits, the design gain of the applicant's antenna(s), the subscriber equipment security expressed in dBm, and the design dBm of the transmission and receiving equipment.
  - c. The drive test conducted by the applicant in determining the need for the proposed structure.
2. The antenna support structure shall, whenever feasible, consist of existing structures such as electric power lines, timber poles or steel structures, tanks for public use water systems, standards for public lighting at turnpike plazas, etc. Where no adequate existing structure exists for the mounting of antennas, the applicant shall attempt to site antenna support structures on government or public authority properties serving utility functions such as toll highway fueling and maintenance facilities and maintenance depots. No school property or park property owned by a Township, Chester County or the Commonwealth of Pennsylvania shall be used.
3. It shall be the applicant's burden to demonstrate necessity for the structure by proving that the applicant cannot adequately extend or infill its communications system by the use of equipment such as radomes, repeaters, and other similar equipment installed on existing structures.
4. To facilitate Township review regarding necessity for the proposed location of the structure, the applicant shall furnish:
  - a. A list of existing structures in the Township and adjacent municipalities within the service area that have been considered for antenna support structure location and copies of correspondence with existing structure owners showing an attempt to negotiate use of the structures.
  - b. A list of prospective government or authority properties considered for an antenna support structure site where no existing structure is available.
5. Where a new structure is required for support of an antenna, the applicant shall design such structure for use by future additional

antennas. Sufficient space shall be made available on the structure for use by any emergency service provider designated by the Township, such as a fire company, ambulance service, rescue squad or police at no rental cost to the emergency service provider. The applicant shall further enter into a binding agreement with the Township providing as a condition of approval that the applicant and all succeeding owners shall act in good faith in negotiating and providing rental space on the support structure for antennas owned by others to minimize the number of communication structures in the Township.

6. The visual effects of antennas and antenna support structures shall be minimized by careful site location and proper design, including use of support structures simulating vegetation, or simulated farm silos, and adequate landscape screening. If the Board of Supervisors determines that the use of a simulated support structure is neither feasible nor desirable, the antenna support structure shall be a monopole.
7. All antenna support structures shall meet ANSI/EIA/TIA-222E (American National Standards Institute, Electrical Industry Association, Telecommunications Industry Association) tower specifications or its latest revision. Due to local weather characteristics, antenna support structures shall be built to withstand sustained one hundred (100) mph winds with a uniform wind loading of fifty (50) pounds per square foot, or short duration gusts of up to one hundred and fifty (150) miles per hour. The antenna support structure where technically feasible, shall be designed with a break point to ensure that it will fall within the setback area. Before the Township issues a permit authorizing construction and erection of an antenna support structure, a structural engineer registered in Pennsylvania shall issue to the Township a written certification of its ability to meet the aforesaid structural standards and certify the proper construction of the foundation and the erection of the antenna support structure. Where antennas are proposed to be attached to an existing structure, such engineer shall certify that both the structure and the antennas and their appurtenances meet minimum industry standards for structural integrity.
8. A soil report complying with the standards of geotechnical investigations, ANSI/EIA-222-E, as amended, shall be submitted to the Township to document and verify the design specifications of the foundation for the antenna support structure, and anchors for the guy wires, if used.

9. The maximum height of an antenna support structure shall be fifty (50) feet, measured from undisturbed ground level, except that a support structure of up to two hundred (200) feet may be permitted provided the applicant demonstrates to the Board of Supervisors that:
  - a. No part of the antenna support structure or antenna and equipment mounted thereon will fall on adjacent properties in the event of a support structure collapse.
  - b. The support structure is lighted to prevent interference with air traffic if required by the Federal Aviation Administration.
  - c. All health, safety and welfare issues have been properly addressed.
  - d. The requested height is the minimum height necessary to meet the particular communication requirements of the proposed facility.
  - e. It does not have the ability to use an existing structure for its communication requirements.
10. In no event shall the mounted communications antennas height on any structure extend more than ten (10) feet above the installed height of the structure.
11. Applicants shall document their compliance with the National Environmental Policy Act of 1969 (NEPA) as well as other mandatory Federal environmental statutes. The FCC rules that implement the Federal environmental statutory provisions are contained in 47 C.F.R., sections 1.1301 - 1.1319. Categories of compliance shall include, but not be limited to:
  - a. Floodplains
  - b. Wetlands
  - c. Wildlife preserves
  - d. Historical and Indian religious sites
  - e. High intensity white lights in residential neighborhoods
  - f. Endangered species

12. Antenna support structures shall be permitted only in the C, Commercial and IA-2, Industrial/Agricultural Districts, and on Township-owned property in the EI, Educational/Institutional District, by conditional use authorized by the Board of Supervisors, subject to the standards contained in Article XIX of this Ordinance as well as the standards of this Section 1322. In addition to the preceding, those standards include the following:
  - a. No antenna support structure may be located less than five hundred (500) yards from churches schools and historic landmarks, except that personal wireless antenna support structures on Township-owned property shall be exempt from this provision.
  - b. New antenna support structures:
    - (1) Shall not be permitted if suitable space is available on an existing antenna support structure within the geographic area that the new antenna(s) is to serve.
    - (2) Shall be located on a lot no smaller than two (2) acres.
    - (3) All portions of the antenna support structure, ancillary structures and facilities, including any guy wires and their bases, shall be set back no less than fifty (50) feet from each property line and right-of-way bounding the lot, and, if the antenna support structure is proposed to be more than fifty (50) feet in height, such additional setback as determined necessary by the Board of Supervisors to assure that no part of the antenna support structure or antenna and equipment mounted thereon will fall on adjacent properties or structures in the event of a support structure collapse.
13. Antenna support structures and associated equipment shall be enclosed by a completely opaque solid wood or composite fence or masonry wall, no less than seven (7) feet in height, the design of which shall be subject to approval by the Board of Supervisors. Chain link or other wire type fences shall be prohibited. The exterior of the fence or wall enclosure shall be landscaped in accordance with a landscape plan prepared by a Landscape Architect, registered in the Commonwealth of Pennsylvania, such

plan to be approved by the Board of Supervisors. All antenna support structures shall have an integral security platform, or other means of locked access, to prevent unauthorized entrance and/or climbing.

14. The owner of any antenna support structure shall submit to the Township proof of an annual inspection by a qualified inspector, and a maintenance program. Any structural faults, noted in an annual inspection or in the course of maintenance, shall be immediately corrected by the owner. Failure to provide proof of certified inspection will result in notification to the owner to cease operation and dismantle as required by subparagraph 15 below.
15. The antenna support structure owner is required to notify the Township immediately upon cessation of use or abandonment of the structure or any change in use. The owner has ninety (90) days from cessation of use or abandonment of the antenna support structure in which to dismantle and remove all structures from the property. At the time of issuance of approval for the construction of the support structure, the owner shall provide financial security in a form and amount acceptable to the Township to secure the expenses of dismantling and removing said structures.
16. In addition to the above standards, all other standards of the zoning district within which the antenna support structure is permitted shall apply to the structure and any associated support facilities or structures. This may require that plans be submitted for land development review and approval for any antenna support structure or other related facilities.

**B. Antenna Support Structures for Public Broadcast Antennas**

The following requirements shall apply to antenna support structures for public broadcast antennas:

1. Antenna support structures for public broadcast shall comply with all of the requirements described in Section 1322.A above, including Section 1322.A.12 which permits antenna support structures only in the C, Commercial and IA-2, Industrial/Agricultural Districts, and on Township-owned property in the EI, Educational/Institutional District, by conditional use.
2. Antenna support structures for public broadcast use must conform to applicable Federal Communication Commission (FCC) regulations.

3. Antenna support structures for public broadcast shall be at least five hundred (500) yards from churches, schools and historic landmarks.

C. Private Antenna Support Structures

The following requirements shall apply to antenna support structures for private antenna(s).

1. Private antenna(s) and its supporting structure shall meet all yard setback requirements of the zoning district in which it is located and no portion of the base of the antenna or antenna(s) support structure shall be located closer to any lot line than the combined height of the support structure and antenna.
2. The highest point of a private antenna attached to an existing building shall not exceed the peak of the roof of the building by more than ten (10) feet. Where a private antenna(s) is attached to an antenna support structure other than an existing building, the height of such structure shall not exceed thirty-five (35) feet.
3. No more than two (2) private antennas shall be permitted per lot, nor shall more than one (1) antenna support structure be permitted per lot.

Section 1323      IMPACT STUDIES

The following impact studies shall be required as part of the application for a special exception or zoning change that propose: (i) Residential development of forty (40) dwelling units or more; (ii) An institution or life care facility of forty (40) or more bedrooms or residential units; and (iii) Industrial, commercial and/or office development of fifty thousand (50,000) square feet of floor area or greater, or a subdivision of twenty (20) or more lots/units.

A. Traffic Impact Study

1. A traffic impact study (TIS) shall enable the Board of Supervisors to assess the likely impact of a proposed development on the transportation system in the Township. The purpose of the TIS shall be to identify any traffic problems likely to result from the proposed development, and to determine its impact on public transportation and pedestrian and non-vehicular circulation in the area. The applicant shall retain a qualified professional traffic engineer to prepare the traffic impact study. For purposes of this



provision, a qualified traffic engineer shall be any individual who conforms to the definition of a Municipal Traffic Engineer in 67 PA Code, Chapter 612, as amended, entitled *Municipal Traffic Engineering Certification*.

2. The study area shall be the road net, as defined by the traffic engineer, which represents the area that is likely to be affected by the proposed development. Prior to identifying the study area, the traffic engineer shall discuss possible study area boundaries with the applicant and the Township. Specific intersections to be included in the study shall be subject to mutual agreement prior to initiation of the study.
3. A traffic impact study shall contain the following information:

- a. General site description

The site description shall include the size, location, proposed land uses, construction staging, and completion date of the proposed development. A brief description of other major existing uses and approved recorded development plans that, as agreed upon by the Township and the traffic engineer, have bearing on the development's likely traffic impact shall be included as source data. The Township may, in addition, require consideration of development proposals not yet approved and recorded but with sufficient status and probable impact to warrant inclusion.

- b. Transportation facilities description

The description shall contain full documentation of the proposed internal and external circulation system within the study area and shall include:

- (1) Proposed internal vehicular, bicycle, and pedestrian circulation; all proposed ingress and egress locations; all internal roadway widths and rights-of-way; existing and proposed parking conditions; traffic channeling; and any traffic signals or other intersection control devices at all intersections within the site.
- (2) All major elements of the existing external roadway system within the study area.

- (3) All major existing and proposed public transportation services and facilities within the study area.
- (4) All future highway improvements, including proposed construction and traffic signaling. This information shall be obtained from the Pennsylvania Department of Transportation.

c. Existing traffic conditions

Existing traffic conditions shall be documented for all major roadways and intersections established as part of the study area under Section 1323.A.2, above. Existing traffic volumes for average daily traffic, peak hour(s) traffic shall be recorded. Mechanical or manual traffic counts at major intersections in the study area shall be conducted encompassing the peak highway and development generated hour(s) and documentation regarding said traffic counts shall be included in the traffic engineer's report. A volume/capacity analysis, based upon existing volumes, shall be performed during the peak hour(s) and the development generated peak hour(s) for all roadways and major intersections within the study area. The capacity analysis shall be conducted according to methods of analysis acceptable to the Pennsylvania Department of Transportation. The existing level of service associated with each major roadway and intersection evaluated shall be recorded. Data about the most recent available accident levels within the study area shall be indicated.

d. Impact of development on area circulation

Estimates of vehicle trips from the proposed development shall be completed for the design-day peak hour(s). For vehicle trip generation data, the traffic engineer shall use either his own database, subject to the approval of the Township Engineer, or the most current edition of the *Institute of Transportation Engineers Trip Generation* report. All turning movements associated with the proposed development generated trips shall be computed and contained in the study. Traffic volumes generated by the proposed use shall be distributed and assigned to existing roadways and intersections throughout the study area for which existing conditions were recorded. Documentation of all assumptions used in distribution and assignment of

traffic shall be provided. Any characteristics of the site that are likely to cause particular traffic management problems shall be noted.

e. Analysis of traffic impact

The traffic engineer shall evaluate the likely impact of the proposed development on the area's circulation system. Included shall be an evaluation of the proposal's likely impact on existing and planned public transportation improvements, the expected impact on pedestrian and non-vehicular circulation, an evaluation of the capacity of existing roadways within the study area to accommodate site-generated traffic, as well as total future traffic demand. (Total future traffic demand shall be defined to include existing vehicular volumes, plus vehicular volumes due to general annual traffic growth, and traffic volumes associated with approved developments within the study area). This demand shall consist of a combination of the existing traffic expanded to the completion year (using an annual traffic growth rate available from Delaware Valley Regional Planning Commission), the development-generated traffic, and the traffic generated by other proposed developments in the study area. The traffic engineer shall make a determination regarding the capacity of the existing roadway system to accommodate future traffic demand. If the determination indicates that the existing roadway system cannot accommodate anticipated traffic demand, the engineer shall make recommendations regarding necessary highway system improvements. The traffic engineer shall identify the relationship of the proposed development's traffic on overall demand, and the development's proportional relationship to the traffic system improvements that are required. The volume/capacity analysis shall be projected using the total future demand and future roadway capacity. In addition, if staging of the proposed development is anticipated, the volume/capacity analysis shall be performed for each stage. The analysis shall be conducted, on a design day, during the peak-highway hour(s) and at major intersections in the study area that will be affected by the proposed development. All access points and pedestrian crossings shall be evaluated, pursuant to Penn DOT's specifications for traffic signal warrants, as to the need for traffic signals or other traffic control devices.

f. Conclusions and recommended improvements

Projected levels of service for all roadways and intersections shall be identified at the conclusion of each phase of the development. All roadways and/or intersections showing a deficient peak-hour level of service shall be identified together with specific recommendations for the elimination of traffic problems associated with the proposed development. Levels of Service are defined in the most recent edition of the *Highway Capacity Manual*, Highway Research Board, National Academy of Sciences. A listing of recommended improvements shall include the following elements:

- (1) Internal circulation design.
- (2) Site access locations and design.
- (3) Improvements and widening.
- (4) Traffic signal installation and operation, including signal timing.
- (5) Transit design improvements.
- (6) Reduced intensities of use.

All physical roadway improvements shall be shown in sketches as a part of the report.

The improvements recommendations for vehicular, pedestrian, non-vehicular and transit modes shall include the proposed responsible party the cost and proposed funding, and the completion schedule for each improvement.

4. The Township, with the assistance of its own traffic engineer, shall review the methodology, assumptions, findings, and recommendations of the traffic impact study. The Board may impose upon the applicant additional improvements deemed necessary to accommodate impacts of the development.

B. Utilities Impact Study

A utilities impact study shall be prepared by a registered professional engineer and shall indicate the impact of the proposed development on the existing sewer, water, groundwater, solid waste, and drainage systems serving the Township. The utilities impact study shall identify the existing capacity and capability of those facilities to provide service to serve the proposed development, and any improvements that would be required as a result of the proposed development.

The study shall also identify the capability of the sewer, water, solid waste, and drainage systems to continue to provide efficient and economic service to existing residents and businesses within the Township, considering added service requirements of the proposed development. The study shall indicate what alternatives have been considered for sewage treatment and disposal, as well as measures to be initiated for solid waste recycling and water conservation.

C. Recreation Impact Study

The recreation impact study shall analyze the demand for recreational facilities that the proposed development will generate and determine the adequacy of existing and planned facilities. As a minimum, the study should include the following:

1. The projected age distribution of the residents of the proposed development.
2. A description of any recreational facilities to be provided by the applicant.
3. A description of the party(s) responsible for ownership and maintenance (public or private) of any recreational facilities to be provided by the applicant.
4. A description of existing municipal recreational facilities and the impact of the proposed development on these facilities. (Accepted standards for required recreation are indicated in the Township Open Space and Recreation Plan).
5. A discussion of the potential for recreational facilities to be provided by the applicant to compensate for any anticipated deficiencies of the Township's recreational facilities.

6. A description of accessibility of applicant-proposed facilities to general Township residents.
7. A description of any contributions the applicant plans to make for Township recreation to compensate for expected impacts.

## Section 1324 FISCAL IMPACT STUDY

### A. Applicability

A fiscal impact study shall be required as part of the application for a special exception or zoning change.

### B. Format

For special exceptions, the Zoning Hearing Board shall consider the impact of the proposed use on the Township and on the facilities and services required herein to be considered. The applicant shall provide all of the information, data and studies needed to permit the Board to evaluate the impacts of the proposed use on the applicable facilities and/or services. The Fiscal Impact Study should consist of a narrative and, where necessary, maps, tables, charts, etc., that shall be labeled as consecutively numbered exhibits and properly referenced throughout the text. The source of all data shall be appropriately documented.

### C. Content

The fiscal impact study shall identify the impact of the development on the Township's revenues and expenditures. Included shall be a determination of the revenue to accrue to the Township as a result of a proposed development, as well as an identification of the costs associated with delivering services to the proposed development. The fiscal impact study shall analyze the impact of the proposed development on the ability of the Township to deliver fire, police, administrative, public works and utility services to the development. In order to prepare the analysis, the applicant shall utilize a methodology outlined in *The Fiscal Impact Handbook*, Rutgers Center for Urban Policy Research, 1978, as modified from time to time, adapted as appropriate and to the Board's satisfaction. The case study method shall be the preferred alternative. In reviewing methodologies with the applicant, however, the Board may authorize a different methodology, for example, *Costs and Revenues of Residential Development: A Workbook for Local Officials and Citizens*, College of Agricultural Sciences and the Cooperative Extension, The Pennsylvania State University, 2000, if the

Applicant can demonstrate to the Board's satisfaction substantial advantages in results achieved and/or efficiencies realized. The Township Manager shall serve as the key provider of local information for the fiscal impact study. Particular aspects of the Township's service delivery capability to be analyzed shall include:

1. Public works

This shall include an analysis of the potential effects on the operation, maintenance and repair of roads, signal systems, sewer, water and drainage systems, open space and recreation areas or any other applicable facility that may be required by the Board. This analysis shall address projected cost increases, due to the proposed use, for these facilities and services in terms of administration, personnel, equipment and materials.

2. Administration

This shall include an analysis of the time that would be required by the Board of Supervisors and clerical personnel to process the application and administer the project during construction, as well as long-term administrative demands. Such administrative demands would include, but not be limited to, the review of plans, contracts, various legal instruments or agreements, permits, special problems, and escrow. Added demands on the code administration staff shall also be projected.

3. Fire and emergency services

This analysis shall incorporate the development's impact on the fire company(s) capabilities, including but not limited to, municipal water supply, pumping capacity, specialized equipment and training requirements.

4. Police

This analysis shall project the overall effects of the proposed development on existing Township police personnel, equipment, vehicles and working space. The plan should include whatever facilities or assistance the development will provide to handle emergencies, criminal investigation, and security related problems.

D. Any costs incurred by the Township, as agreed to by the applicant, to review and analyze the fiscal impact analysis and/or plans, either by the

Township Engineer or a professional specifically retained for this purpose, shall be reimbursed by the applicant to the Township before any use and occupancy permit is issued.

## Section 1325 ENVIRONMENTAL ASSESSMENT REPORT

A. An application for special exception or zoning change shall be accompanied by an environmental assessment report in accordance with the provisions of this section. The format and contents of the environmental assessment report shall be as follows:

1. Description of existing conditions

This section shall present a description of existing characteristics of the property with respect to geology, topography, ground and surface water hydrology, soils, vegetation, and existing improvements and uses.

2. Description of the proposed action

This section shall describe the proposed: (i) Types, locations and phasing of proposed site disturbances and construction; and (ii) The future ownership and maintenance of the property and the proposed improvements. Plans describing the above may be either included within or accompany the environmental assessment report.

3. Proposed measures to control potential adverse environmental impacts

This section shall describe all measures proposed by the applicant to control all adverse impacts that may occur as a result of the proposed development. It shall address all impacts cited by the Township Engineer in his report on the application, prepared in accordance with the procedures described in this Section.

4. Qualifications of authors

The names, addresses, telephone numbers and qualifications of persons directly responsible for preparing the environmental assessment shall be provided.



## 5. Appendices

Any additional information that the applicant wishes to provide may be included in one or more appendices.

- B. Where compliance with this Section is required as part of an application for subdivision or land development approval, the Board's decision on whether compliance has been achieved shall be made as part of its decision on the subdivision or land development application.
- C. Where the application is part of a request for a zoning permit, the Zoning Officer shall issue no such permit until the terms of this section, and any conditions imposed upon the use of the property at the time of subdivision or land development approval, are satisfied.

## Section 1326 AGRICULTURAL EXEMPTIONS

- A. In order to allow for the interests of landowners and promote the goals of this Ordinance, waiver of lot size and bulk requirements in all zoning districts is applicable according to the following schedule. This schedule has been adopted to allow landowners flexibility in subdividing lots of not less than one (1) acre by presenting to the Board of Supervisors a plan showing the subdivision as follows:

Size of Parcel Before Waiver	Subdivision and Time Frame	Limitations
50 Acres or More	2 Lots per 3 Years of 1 Ac. Min. Each Plus 1 Additional Lot for Each 50 Acres Over The Minimum.	Maximum of 10% of Tract Before Waiver May be Sub-Divided Under These Terms.
25 to 50 Acres	1 Lot per 5 Years of 1 Acre.	Maximum of 10% of Tract Before Waiver May be Sub-divided Under These Terms.
10 to 25 Acres	1 Time Opportunity of 1 Lot.	Maximum of 15% of Tract Before Waiver May be Sub-divided Under These Terms.

- B. The following additional limitations and requirements shall apply to the waiver of lot size and bulk requirements in all districts:

1. The intended recipients and owners of any property for which a waiver is sought must be related by blood, marriage or adoption. The recipients are further limited to being the children or siblings of the owner.
  2. No further subdivision pursuant to this Section shall be permitted by the landowner, or their assigns or successors, whereby the lot shall be reduced to less than the applicable area and bulk requirements of the district in which the parcel is located.
  3. No building permit shall be approved for lots that do not have direct access to a public street.
  4. Any such subdivision shall comply with the applicable district area and bulk requirements.
  5. Residential lots subdivided pursuant to this waiver shall be considered as a use by right. Other uses shall be governed by the appropriate district requirements of this Ordinance.
  6. In order to promote the long-term planning of the development of land under this provision, landowners are encouraged to plan the development in its entirety, incorporating phases that will coincide with the number of lots permitted under Section 1326.A, above.
- B. Barns or accessory buildings, existing in all districts as of September 6, 1994, may be adapted to contain no more than one (1) apartment, subject to all applicable building and health codes and regulations. Further, the existing exterior character or general appearance of the structure shall be maintained or limited to those changes essential to the residential adaptation.

## Section 1327            TIMBER HARVESTING REQUIREMENTS

A timber harvesting operation, as defined in Article II of this Ordinance, shall not be conducted until a permit is issued by the Township, in accordance with the provisions of this Section 1327.

### A.     Timber Harvesting Permit and Permit Application

A landowner or timber harvesting operator shall not conduct, or allow to be conducted, a timber harvesting operation, in the Township, without first securing a timber harvesting permit. An application for a timber

harvesting permit, and five (5) copies thereof, shall be filed with the Township at least sixty (60) days prior to the commencement of a timber harvesting operation. The application shall consist of the following:

1. A timber harvesting plan, prepared by a professional consulting forester, defined in Article II, herein, in accordance with the provisions of Section 1327.C, below.
2. An erosion and sedimentation pollution control plan, as required by 25 Pennsylvania Code Chapter 102, as well as any other state requirements, and a letter of approval of such plan from the Chester County Conservation District.
3. Proof of insurance, by the timber harvesting operator, of state workmen's compensation for all employees and employees of subcontractors, and proof of liability insurance, including damage to streams and public property.
4. Payment of the non-refundable permit fee and escrow of funds, based upon a reasonable estimate by the Township, for the review of the application. The fee schedule shall be established by the Board of Supervisors, by resolution, and amended from time to time as necessary to administer and enforce this Section 1327.
5. Signatures of the landowner and the timber harvesting operator, attesting to their liability, both jointly and severally for compliance with all timber harvesting requirements.

B. Review of the Timber Harvesting Permit Application

1. The applicant or his agent shall be responsible for and shall pay all reasonable expenses for inspection, review, legal and other consulting costs and expenses incurred by the Township in processing the timber harvesting application. In the event that scheduled fees do not cover the actual costs, the applicant shall be notified of the expenses and shall deposit said necessary funds prior to the cost being incurred.
2. Within ten (10) days of submission of an application for a timber harvesting permit, the Code Enforcement Officer shall review the application to determine that it is complete. If the application is determined to be complete, it will be accepted and forwarded to the Township Engineer for review. If determined to be incomplete, the application will be denied.

3. The Township, in addition to forwarding all timber harvesting applications to the Township Engineer for review, may also forward it to any appropriate government agency for review. In reviewing the application, the Township Engineer shall consider the extent to which the application addresses and complies with the standards described herein and all other applicable township ordinances.
4. Within forty-five (45) days of the request to review the application, the Township Engineer shall make a recommendation in writing to the Code Enforcement Officer approving or disapproving the plan stating the reasons for disapproval.
5. Within fifty-five (55) days of submission of a Timber Harvesting Plan to the Township, and based upon the review for compliance with the standards set forth herein and recommendations from the Township Engineer, the Code Enforcement Officer shall indicate to the applicant approval or denial of the submitted plan or approval subject to reasonable conditions.
6. The Township Code Enforcement Officer shall be notified by the applicant at least five (5) days before commencement of a timber harvesting operation and within five (5) days after the completion.
7. A permits granted for a timber harvesting operation shall remain in force and effective for a period of one (1) year. At the discretion of the Code Enforcement Officer, up to a 3-month extension may be granted, based upon an applicant's demonstration of good cause. In no event shall the total of all extensions, if there is more than one, exceed 6 months. If the timber harvesting operation has not been undertaken before the permit has expired, a new application is required.

C. Timber Harvesting Plan

1. The timber harvesting plan, as required under Section 1327.A.1, above, and as defined in Article II, herein, shall be prepared by a professional consulting forester, as defined in Article II, herein, and shall contain a narrative providing the following information:
  - a. Credential establishing that the preparer of the timber harvesting plan is a professional consulting forester.

- b. The name, address and telephone number of all landowners of property upon which the timber harvesting operation is to occur.
  - c. The name, address and telephone number of the timber harvesting operator.
  - d. The total area of the property upon which the timber harvesting operation is to occur and the total area of the land subject to the timber harvest.
  - e. The proposed dates of the commencement and completion of the timber harvesting operation.
  - f. The total number of trees on the area subject to the timber harvesting operation, total number of trees to be harvested and the total number of trees to remain. The trees to be harvested shall be described in terms of size, in DBH, and species.
  - g. A statement confirming that each tree to be harvested has been identified, by a professional consulting forester, with a paint or other distinguishable mark at two (2) points on the tree, one clearly visible to the timber harvesting operator, and one on the stump that will be visible after the tree has been removed.
  - h. A woodlands management plan that shall address the long term goals, objectives and management practices related to (a) woodland reforestation in terms of method, species, composition and density; (b) natural resource protection and erosion protection; and (c) maintenance of the natural vegetative system in terms of the management of invasive plant species. The woodlands management plan shall be prepared for a minimum ten (10) year period and the landowner(s) shall be responsible for ensuring that all land subject to a timber harvesting operation shall be reforested or maintained in a forested state.
2. The timber harvesting plan shall include a site plan, drawn in accordance with standard engineering practices at a scale of no less than 1" = 100'. The site plan shall include the following:
- a. The site location and boundaries of both the entirety of the property upon which the timber harvesting operation is to

occur and the specific area proposed for the timber harvesting operation. The Township may require a survey, or partial survey, to define the location of the property boundaries;

- b. The relationship of the site to surrounding properties as well as the location and name of all roads and all utility easements. The plan shall identify the names and deed book references of all owners of adjacent properties, including properties on the other side of boundary streets;
  - c. All natural features on the property and within 100 feet of the property including all floodplains, steep slopes, wetlands, wetland buffers, watercourses, riparian buffer zones, and specimen vegetation;
  - d. Topography with contour intervals of not more than five (5) feet which may be from published USGS maps;
  - e. A delineation and general description of soil classifications located on the site, including hydric soils and soils with a seasonally high water table shall be identified;
  - f. All structures on the property and within 100 feet of the property;
  - g. The location of any grading, skid trails or haul roads, and log landing areas proposed in connection with the timber harvesting operation; and,
  - h. A delineation of all required buffer areas related to any harvesting area, landing area, public road, and adjacent property.
3. The timber harvesting plan shall include a transportation map showing the general location of the proposed operation in relation to municipal and state highways and the proposed accesses to those highways.
- a. The map shall show the proposed hauling route through the Township. The Township may require the posting of a bond or other approved security, in an amount as may be determined by the Township, to cover any damage to Township roads. The gross vehicle weight of all logging

vehicles and equipment shall conform to existing weight limit restrictions or, if in excess of such restrictions, a special hauling permit shall be obtained.

- b. Deviation from the approved hauling route, without written permission from the Township, shall terminate the permit.
4. The timber harvesting plan shall include a sedimentation and erosion control plan in compliance with all applicable standards for sedimentation and erosion control, and the stream crossings regulations under 25 Pennsylvania Code, Chapter 102, Erosion Control Rules and Regulations, issued under Act of June 22, 1937, P.L. 1987 (Clean Stream Law), and 25 Pennsylvania Code, Chapter 105, Dam and Waterway Management Rules and Regulations, issued under Act of 1978, P.L. 1375, No.325 (Dam Safety and Encroachment Act). Minimum contents of the plan shall include:
- a. Any permits required by county, state, or federal laws and regulations shall be attached to and become part of the plan;
  - b. A description, design, location, construction, and maintenance of all stormwater management and erosion control measures, devices and structures;
  - c. Design, construction, maintenance, and retirement of the access system, including haul roads, skid roads, skid trails, and landings;
  - d. Design, construction, and maintenance of proposed stream and wetland crossings including any applicable county, state or federal permit. A wetlands report may be required by the Township; and,
  - e. The plan shall be submitted to the Chester County Conservation District for review and recommendation. An approval letter from the Chester County Conservation District shall be provided.
5. The timber harvesting plan shall include other information as may be required by the Township to determine compliance with this Article.

#### D. Timber Harvesting Operational Requirements

The following standards and practices shall govern all timber harvesting operations:

1. The operator and landowner shall be jointly and severally responsible for the restoration of any property, public or private, that may be damaged as a result of the timber harvesting operation.
2. Clear-cutting shall be prohibited.
3. Timber harvesting shall be prohibited on slopes of twenty-five percent (25%) and greater.
4. Timber harvesting shall be prohibited within a floodway, 100 year floodplain, zone one riparian buffer, or wetland.
5. Stream crossings shall be avoided, however where deemed necessary by the Township Engineer, crossings shall be made at right angles across suitable culverts or bridges. Hauling, skidding or placing fill or obstructions in watercourses is prohibited except for approved crossings.
6. No timber harvesting or removal of timber products shall take place between the hours of 7 pm and 8 am or on Sundays or legal holidays.
7. At least thirty percent (30%) of the forest canopy shall be preserved in good condition after the completion of any timber harvesting operation. The remaining trees shall be well distributed throughout the area subject to the timber harvesting operation. At least fifty percent (50%) of such remaining trees shall be comprised of high value species, as defined in Article II, herein. Where the number of trees comprising high value species that exist prior to the approval of any timber harvesting operation, is less than the number which would be required to comply with this provision, no high value species may be harvested. The percentages stated herein shall apply to all consecutive harvests and shall not be exceeded during any ten (10) year period.
8. Trees selected for harvesting shall be marked at two (2) distinctive locations thereon. The higher of the two marks shall be provided around the entire circumference of the tree. The lower mark must be visible on the stump after the tree is removed. All



tree stumps shall be cut to within two (2) feet of the average grade of the adjoining ground.

9. Felling and skidding of trees shall be undertaken in a manner which minimizes damage to trees or other vegetation not intended to be harvested.
10. Except when approved by the Township Engineer, all access roads, haul roads and skid trails shall be cut only horizontally across slopes.
11. Felling or skidding across any public street is prohibited without the express written consent of the Township or Penn DOT, whichever is responsible for the maintenance of said street. Such written consent shall be attached to and become part of the timber harvesting plan.
12. Trees or logs shall not be skidded or transported within fifty (50) feet of wetlands or watercourses, except at approved crossings.
13. A buffer area of seventy-five (75) feet in width along all streets and along all adjacent property lines shall be provided within which no timber harvesting, skidding or transporting shall take place. The buffer width, along streets, shall be measured from the ultimate street right-of-way. No trees shall be cut, removed, skidded or transported in these buffer areas except at approved access points.
14. No tree may be cut which is the largest of its species in the state or exceeds forty eight (48) inches DBH.
15. Slash or tops resulting from a timber harvesting operation shall either be cut to a height of four (4) feet or less and left on-site, or chipped and recycled onsite. The burning of slash shall be prohibited.
16. No tops or slash shall be left in any buffer area, stormwater swale, floodway, floodplain, zone-one riparian buffer or wetland.
17. All soil and debris washed or carried onto streets or adjoining property during a harvesting operation shall be cleaned immediately by the operator or landowner.

18. No processing of wood products or commercial sale of wood or logs shall be permitted on the property unless zoning approval is obtained.
19. Litter, as defined in Article II, herein, resulting from a timber harvesting operation shall be removed from the site daily.
20. No loading or unloading of vehicle, equipment or timber may take place upon any township or state road.
21. No temporary living quarters for workers may be placed upon the timber harvesting site.
22. When the harvest is completed, all access roads, skid and haul trails and landing areas must be graded to original contours and be seeded and mulched to establish a stable groundcover. The final grading and establishment of groundcover shall be consistent with the timber harvesting plan or with a separately approved subdivision or land development plan. In addition all necessary measures, as directed by the Township Engineer, to prevent erosion and sedimentation shall be undertaken.

## ARTICLE XIV

### TRANSFERABLE DEVELOPMENT RIGHTS

#### Section 1400 PURPOSE AND SPECIFIC INTENT

East Nantmeal Township is unique in its strong agricultural economic viability, characteristic farmlands and important environmental features that permeate the Township. The Township is essentially rural in character and the preservation of agricultural lands and farming activities are of prime importance. Therefore, only limited residential uses are permitted in the Agricultural Preservation District. In order to provide for reasonable housing accommodations for persons desiring to reside in East Nantmeal Township, higher densities are permitted in the Agricultural Residential District.

In order to avoid economic hardship on landowners outside of the Agricultural Residential Districts and at the same time encourage higher densities within the Agricultural Residential Districts, a system of transferable development rights is provided whereby development rights within the Agricultural Preservation District may be sold to persons desiring to construct higher density housing in the Agricultural Residential District. Through the use of transferable development rights, the community objectives of preservation of farmlands and protection of environmentally sensitive features are consistent with the community objective of providing a reasonable mix and availability of housing types.

By providing landowners in the Agricultural Preservation District the right to transfer some or all of the development rights granted hereunder and by providing other landowners, through the purchase of development rights, the option of increasing the density of development in the areas within the Township considered suitable for development, it is the intent of the Township to:

- A. Provide an equitable way to compensate landowners in the Agricultural Preservation District for the restrictions placed upon their land limiting residential development that is considered critical for maintaining the environmental and agricultural values that mark the present land use patterns in the Township;
- B. Provide an incentive for landowners in areas of the Township considered suitable for development to produce a variety of housing types and

densities consistent with the overall development capacity of the Township.

- C. To preserve thereby the agricultural, rural and scenic character of the Township as a regional resource while, at the same time, providing housing opportunities consistent with regional projections.

#### Section 1401            RECOGNITION OF THE TRANSFERABILITY OF DEVELOPMENT RIGHTS

- A. East Nantmeal Township hereby creates and recognizes the severability and transferability of development rights from Class I lands within the AP, Agricultural Preservation District to, and only to, lands within the AR, Agricultural Residential District. Such transfers shall be accomplished in accordance with the provisions of this Article.
- B. East Nantmeal Township, in accordance with the criteria set forth in Section 1402 shall recognize the transferability of development rights. The Township shall not, however, be obligated to determine the specific number of development rights for each tract, or give any formal notice to the owner thereof, other than by passage of this Ordinance, until such time as an application for the determination and transfer of development rights is made in accordance with Section 1404.
- C. No provision of this Section shall be construed to require any landowner to sell or purchase development rights as a condition of development, but the density of development shall be dependent upon the rights granted under the applicable provisions of this Ordinance adjusted by the sale and transfer of such development rights.

#### Section 1402            COMPUTATION OF DEVELOPMENT RIGHTS

The existence and extent of development rights on lands within the AP, Agricultural Preservation District shall be determined as follows:

- A. The gross tract acreage (GTA) of the tract shall be computed to include only that area lying within the AP, Agricultural Preservation District.
- B. There shall be deducted from the gross tract acreage (GTA) the following:

1. Any land burdened by deed restrictions or conservation easements (CEL), road or railroad rights-of way (ROW), utility easements (EUE) or other deed restrictions or covenants (other than a covenant with the County of Chester pursuant to Act 515 or Act 319) against residential development. Where such covenant restricts development to densities of less than one (1) dwelling unit per two (2) acres, the number of development rights shall be diminished proportionally.
2. There shall further be deducted from the gross tract acreage (GTA) any developed lands where such development is for other than extensive agriculture (NRA). Where a dwelling is erected on any such lands, the required land area for such dwelling shall be one (1) acre unless a deed description is set forth in an approved subdivision designating a different land area.
3. Where land is used and occupied for a purpose other than extensive agriculture permitted under Section 301 of this Ordinance, there shall be deducted from the gross tract acreage (GTA) the greater of the area dedicated to said use or the minimum acreage required under the applicable provisions of Article III of this Ordinance.
4. Where land contains a nonconforming use in the Agricultural Preservation District, the greater of the area dedicated to such use or the minimum lot size required in a zoning district where such use would be permitted shall be deducted from the gross tract acreage (GTA).
5. The area within the tract lying within the Flood and Water Hazard Districts shall then be computed and fifty percent (50%) of that area shall be deducted from the gross tract acreage (GTA).
6. The acreage remaining (hereinafter referred to as the "Net TDR Acreage") shall then be multiplied by five tenths (0.5) to determine the number of transferable development rights allocable to that tract. Any fractional units shall be lowered to a whole number.

#### Section 1403            TRANSFER AND USE OF DEVELOPMENT RIGHTS

- A. Development rights may be conveyed to any legal or equitable owner of a tract within an Agricultural Residential (AR) District. Each development

right shall constitute the right to construct one (1) additional dwelling unit on such tract, up to a maximum density of five (5) dwelling units per acre, provided, however, that the subdivision or land development complies with all applicable perimeter setback, coverage, building height, minimum common open space and other applicable area, bulk and dimensional requirements for development in an AR, Agricultural Residential District.

- B. Land, upon which transferable development rights have been sold shall not thereafter be used for the construction of any dwellings or other buildings, other than buildings for use in extensive agriculture (excluding dwellings), nor shall the land be used for other than extensive agriculture, open space, conservation or recreational purposes.
- C. The sale of transferable development rights may be conditioned upon approval of the subdivision or land development plan in the AR, Agricultural Residential District for which the development rights are proposed to be purchased.
- D. At such time as the sale of transferable development rights is permitted by the Township, there shall be recorded in the Chester County Office of the Recorder of Deeds a deed restriction satisfactory to the Township and enforceable by the Township restricting the use and occupancy of the described lands from which the transferable development rights have been sold and limiting the construction of buildings, structures and improvements thereon to uses consistent with the uses provided herein. Such restrictions shall extend in perpetuity.
- E. The Township Secretary shall maintain records of the transfer and sale of transferable development rights and the restrictions on land affected thereby, such data to be entered into the permanent tax parcel file. Such records shall be for the Township's convenience only, in the administration of the transferable development right provisions. The failure of the Township to maintain such records shall not in any way void or impair the validity or enforceability of such restrictions when filed in the Chester County Office of the Recorder of Deeds.
- F. The development rights conveyed shall be described in a deed designating the owner of the tract of land in the Agricultural Preservation District as grantor and the purchaser of the development rights as grantee. Such deed shall be known as the "Deed of Transfer of Development Rights" which shall be recorded with the Chester County Office of Recorder of Deeds. The area equal to two (2) net acres per

development right shall be so described by metes and bounds in said deed.

The deed shall be accompanied by a title report and plan showing in such detail as may be required by the Township Solicitor to demonstrate that all of the lands included therein are free from such limitations or restrictions as would exclude or diminish the net acreage by reason of rights-of-way, easements, restrictions or other limitations provided in this Ordinance. Prior to the approval of any transfer of transferable development rights, the Township Engineer shall certify that the net acreage so restricted is sufficient to meet the requirements of the number of transferable development rights conveyed. Such deed shall, in like manner, be recorded in the Chester County Office of the Recorder of Deeds.

#### Section 1404           PROCEDURE

An applicant for development who desires to utilize transferable development rights to increase the density of the proposed development shall comply with the following procedures:

- A.     Upon filing an application for approval, as a conditional use, of density development, or in the event of a standard subdivision upon the filing thereof, the applicant shall append thereto a plan, as required in sub-paragraph B, hereof, an agreement of sale, or deed for the development rights, and a title certificate indicating restrictions, easements, rights-of-way and covenants burdening the land contained in the deed and plan.
- B.     The deed, plan and title certificate shall be sufficient to provide the Zoning Officer and the Township Engineer with all information necessary to evaluate the adequacy of the description and content of the lands from which the development rights are conveyed and the restrictions imposed thereon.
- C.     The plan shall show the boundaries of the tract from which the transferable development rights are conveyed, any easements or rights-of-way and restrictions applicable thereto, any buildings or improvements, the areas within which activities are conducted upon the tract, and the nature thereof, and such other information as may be necessary to assure compliance with the provisions of this Article and other applicable provisions of this Zoning Ordinance. A notation shall be

placed on the plan, signed and acknowledged by the owner of the lands from which the transferable development rights are to be conveyed, certifying that the development rights have not been previously conveyed nor is there any other restriction, limitation or easement that would impair the grantor's conveyance of the transferable development rights.

The description and plan shall include only the area from which the transferable development rights are to be conveyed and need not include the entire tract owned by grantor. The Planning Commission, Township Engineer or Township Solicitor may require such additional information as may be necessary to assure compliance with the terms of this Article and other applicable provisions this Zoning Ordinance.

- D. Upon approval of the subdivision or land development plan and/or the issuance of such other approvals as may be necessary to permit the conveyance of the transferable development rights, the grantor shall execute and deliver, in recordable form, a deed and plan conveying said transferable development rights, which plan shall be retained by the Township, and the deed of development rights, with appropriate restrictions and conditions as may be required by the Township and its Solicitor, shall be recorded in the Chester County Office of the Recorder of Deeds and a receipt, indicating and evidencing such conveyance, shall be delivered to the Township within thirty (30) days thereafter. No plan shall be approved for recording until the deed of conveyance of the transferable development rights has been recorded and evidence thereof delivered to the Township. Upon the recording of said deed, the land from which the transferable development rights have been conveyed shall thereafter be perpetually restricted from use for any purpose inconsistent with the provisions of Section. Further, the Township shall designate, in its records, the tax parcel number and deed reference for the land to which the transferable development rights have been conveyed, and such land shall thereafter be deemed zoned for a density consistent with the base development rights and the transferable development rights conveyed.
- E. Where transferable development rights have been acquired for use on a specific tract in the Agricultural Residential District, such transferable development rights may be re-conveyed to another tract within the Agricultural Residential District only upon removal from the record any approved subdivision, land development or conditional use utilizing those transferable development rights and reassigning them, after approval by the Township Engineer and the Township Solicitor, by a deed of



conveyance re-conveying said transferable development rights to another tract.

No transferable development rights shall be held by any person other than the owner of the original land from which the transferable development rights ensued and in conjunction therewith, or the owner of land within the Agricultural Residential District to which said transferable development rights have specifically attached. The conveyance of said transferable development rights to a person not an owner of land to which the transferable development rights shall be attributable for development shall render such transferable development rights null and void for all purposes, but shall not restore the development rights to the grantor thereof whose lands were previously restricted, unless the said development rights are re-conveyed to him.

#### Section 1405            TAXATION

Transferable development rights both before and after transfer to a specific parcel of land within the AR, Agricultural Residential District shall be considered real property. Upon distribution and transfer, the instrument conveying the transferable development rights and accompanying deed of easement shall be recorded in the Chester County Office of the Recorder of Deeds and notification given by the Township to the Chester County Department of Assessment for reassessment of the transferor's and transferee's land.

#### Section 1406            DESIGN STANDARDS FOR THE USE OF TRANSFERABLE DEVELOPMENT RIGHTS

Within the Agricultural Residential District, all housing types (exclusive of manufactured or mobile homes) are permitted, and the following design standards shall apply to all subdivisions or land developments utilizing transferable development rights in the Agricultural Residential District:

1.     The minimum tract area shall be ten (10) acres.
2.     The maximum density shall be five (5) dwelling units per net acre.
3.     The maximum impervious coverage shall be sixty percent (60%) of the net tract area.

4. The minimum lot depth or length shall be no less than three hundred sixty (360) feet for one of the dimensions.
5. The minimum building setback shall be fifty-five (55) feet from all tract boundaries and external road rights-of-way and twenty (20) feet from interior road rights-of-way.
6. The maximum building height shall be thirty-five (35) feet.
7. The maximum building length shall be one hundred sixty (160) feet and the facade shall have no less than one (1) offset, of at least three (3) feet, for each length of façade equal to two (2) times the building height.
8. The minimum building separation shall be no less than one and one half (1.5) times the building height.
9. The minimum off-street parking requirement shall be two (2) spaces per dwelling unit plus an additional one half (0.5) space per dwelling unit within reasonable walking distance of the structure.
10. Lighting, sidewalks and curbs
  - a. Curbs shall be required for all interior roads and common parking areas.
  - b. When the average density for any part of the subdivision or land development exceeds three (3) dwelling units per acre, sidewalks and suitable outdoor lighting shall be required for at least that part of the subdivision or land development.

## ARTICLE XV

### NATURAL RESOURCE PROTECTION

#### Section 1500 PURPOSE AND INTENT

The following natural resource protection standards are established to protect the public health, safety and general welfare by minimizing the adverse environmental impacts that can result from land disturbance and development activities within East Nantmeal Township. These standards are intended to serve the following purposes.

- A. Protect and preserve environmentally sensitive areas, including, but not limited to woodlands, hedgerows, steep slopes, water bodies, wetlands, floodplains, and other riparian areas, hydric soils, seasonally high water table soils, and prime agricultural soils.
- B. Establish resource protection standards to assist the Township in reducing the impact that land disturbance and development activities will have on the environment.
- C. Conserve and protect valuable natural resources within the Township in accordance with the goals and objectives of the East Nantmeal Township Comprehensive Plan and the East Nantmeal Township Open Space, Recreation and Environmental Resources Plan.
- D. Conserve and protect the visual amenities of the Township that result from the combination of natural and cultural resources.

#### Section 1501 APPLICABILITY AND GENERAL PROVISIONS

- A. Unless in accordance with the provisions of this Article, it shall be a violation of this Ordinance to grade, till, pipe, divert, channel, build upon, or otherwise alter or disturb a natural resource protected by this Article prior to the submission, review and approval of:
  - 1. Applications for zoning or building permits
  - 2. Conditional uses or special exceptions
  - 3. Zoning variances

4. Submission of plans for subdivision or land development
- B. Where disturbance of a natural resource is permitted, it shall not take place until it has been determined that such disturbance is consistent with the provisions of this Article and other applicable ordinance provisions.

Restrictions to the disturbance of resources shall apply before, during, and after construction on a site.
- C. In the event that the provisions of this Article and the provisions of other applicable Township ordinance standards are in conflict, the more restrictive provisions shall apply.
- D. In the event that two or more natural resource areas identified in this Article overlap, the resources with the most restrictive standards (the least amount of permitted alteration, grading, clearing or building) shall apply to the area of overlap.
- E. Plan information required by this Section shall be verified as correct by the Township Engineer or other qualified professionals as determined by the Township Engineer.

## Section 1502 PROTECTION STANDARDS

### A. Floodplains

#### 1. Resource protection standards

Areas that are identified as being within the boundaries of the floodplain shall not be graded, filled, built upon, channeled, or otherwise altered or disturbed except in conformance with Article X, Flood Hazard (FM) and Flood and Water Hazard Soils (FG) Districts, of this Ordinance.

#### 2. Delineation

The applicant shall delineate the limit of floodplains that are on the site, in accordance with Section 1001 of this Ordinance.

B. Steep Slopes

1. Resource protection standards

Areas that are identified as being within the boundaries of the Steep Slope Conservation District shall not be graded, filled, built upon, channeled, or otherwise altered or disturbed except in conformance with Article IX, Steep Slope Conservation District, of this Ordinance.

2. Delineation

The applicant shall delineate the two categories of Steep Slope Districts (precautionary slopes and prohibitive slopes) that are on the site in accordance with Section 902 of this Ordinance.

C. Wetlands

1. Resource protection standards

- a. Any applicant proposing a use, activity, or improvement which would entail the grading or placement of fill in wetlands shall provide the Township with proof that the Pennsylvania Department of Environmental Protection (Bureau of Dams and Waterway Safety and Bureau of Water Quality Management) and the U.S. Army Corps of Engineers have been contacted to determine the applicability of state and federal wetlands regulations. The applicant shall concurrently provide to the Township a copy of the application and any other wetlands information submitted to the Pennsylvania Department of Environmental Protection and the U S. Army Corps of Engineers.
- b. Wetlands shall not be graded, filled, piped, diverted, channeled, built upon, or otherwise altered or disturbed except where state or federal permits have been obtained.
- c. Existing wetlands shall not be used for stormwater management except where the wetlands are highly degraded and a mitigation program is provided.

## 2. Delineation

The applicant shall provide such information and delineate the limits of wetlands on the site in accordance with this Section.

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

## D. Wetland Buffers

### 1. Resource protection standards

- a. Except as noted below, no more than twenty percent (20%) of a wetland buffer shall be graded, filled, built upon, harvested for timber, per Section 1502.D.1.c, below, or otherwise altered or disturbed, including woodland disturbance, as defined herein.
- b. The following uses or activities may be permitted in the wetland buffer, and shall, except as noted in paragraph 1, below, not be counted towards the twenty percent (20%) disturbance allowance:
  - (1) Regulated activities permitted by the Commonwealth of Pennsylvania (i.e. permitted stream or wetland

crossing, maximum five percent (5%) disturbance permitted, which shall count towards the twenty percent (20%) disturbance allowance).

- (2) Provision for unpaved trail access.
  - (3) Selective removal of hazardous or invasive vegetative species.
  - (4) Vegetation management in accordance with an approved landscape plan or open space management plan.
  - (5) A soil or stream conservation project approved by the Chester County Conservation District.
- c. Timber harvesting shall only be permitted within the twenty percent (20%) disturbance allowance and shall be restricted to selective cutting. Clear-cutting or grubbing of trees is prohibited within the wetland buffer. Permitted timber harvesting shall be undertaken in accordance with a timber harvesting plan consistent with the requirements of Section 1327 of this Ordinance.

## 2. Delineation

The applicant shall delineate the limits of the wetland buffer on the site in accordance with the definition of wetland buffer in Article II of this Ordinance.

## E. Watercourses/Riparian Buffers

1. Watercourses and their associated riparian buffers, zone one and zone two buffers, as defined in Article II herein, shall be protected in accordance with the standards of this Section 1502.E.
2. Resource protection standards
  - a. Zone one riparian buffer
    - (1) Except as noted below, no woodland disturbance, timber harvesting, or other land disturbance shall be permitted within the zone one riparian buffer.

- (2) The following uses and activities shall be permitted with the zone one riparian buffer.
  - (a) Regulated activities permitted by the Commonwealth of Pennsylvania (i.e. permitted stream or wetland crossing, maximum five percent (5%) disturbance).
  - (b) Provision for unpaved trail access.
  - (c) Selective removal of hazardous or invasive vegetative species.
  - (d) Vegetation management in accordance with an approved landscape plan or open space management plan.
  - (e) A soil or stream conservation project, including reforestation and stream bank stabilization, approved by the Chester County Conservation District.

b. Zone two riparian buffer

- (1) Except as noted below, no more than twenty percent (20%) of a zone two riparian buffer shall be graded, filled, built upon, harvested for timber, or otherwise altered or disturbed, including woodland disturbance, as defined herein.
- (2) The activities permitted in the zone one riparian buffer shall be permitted in the zone two riparian buffer and shall, except as noted in paragraph a, below, not be counted towards the twenty percent (20%) disturbance allowance.
  - (a) A maximum disturbance of five percent (5%) is permitted for regulated activities permitted by the Commonwealth of Pennsylvania (i.e. permitted stream or wetland crossing) and shall count towards the twenty percent (20%) disturbance allowance.



- (b) In no case shall the total riparian buffer width be reduced to less than seventy-five (75) feet in width, measured from the top of each stream or other water body bank.
  - (c) The total buffer may be reduced to less than the one hundred (100) foot in width, provided the following measures are undertaken:
    - i. Conservation design techniques that minimize the amount of stormwater generated and maximize the use of pervious areas for infiltration of rainfall and stormwater.
    - ii. Comprehensive stormwater management practices to ensure that post-development conditions are consistent with the natural characteristics of the receiving stream, including stormwater quality BMP (Best Management Practices).
    - iii. Other BMP, such as level spreaders, meadow grass filter strips, or similar techniques to disperse overland flow prior to entering the protected buffer area where the width of the buffer is less than one hundred (100) feet.
- c. Where a subdivision or land development is proposed where there is no established vegetated or wooded buffer (such as in areas previously cultivated for agriculture) a one hundred (100) foot riparian buffer shall be established and maintained in accordance with the following guidelines:
  - (1) Forested and un-forested vegetation shall be established through natural succession. Selective planting shall be incorporated on sites devoid of vegetation to stimulate the growth of native species and discourage invasive species.

- (2) Plant selection and planting shall be consistent with the Chester County Conservation District standards or USDA riparian forested buffer guidance. The applicant is encouraged to involve local volunteer groups in the buffer planting.
- d. An erosion and sedimentation control plan, consistent with the requirements of the Subdivision and Land Development Ordinance shall be required for any land disturbance proposed within five hundred (500) feet of any watercourse.
- e. Timber harvesting shall only be permitted within the twenty percent (20%) disturbance allowance of the zone two riparian buffer and shall be restricted to selective cutting. Clear cutting or grubbing of trees is prohibited within all riparian buffers. Permitted timber harvesting shall be undertaken in accordance with a timber harvesting plan consistent with the requirements of Section 1327 of this Ordinance.
- f. A riparian buffer adjacent to high quality waters and exceptional value waters, designated under the Pennsylvania Department of Environmental Protection Chapter 93 Rules and Regulations shall be subject to the provisions of the Pennsylvania Department of Environmental Protection *Special Protection Waters Implementation Handbook*, its amendments, or successor documents.

### 3. Delineation

The applicant shall delineate watercourses and zone one and zone two riparian buffers located on the site in accordance with Section 1502.E.

## F. Woodlands, Hedgerows, and Specimen Vegetation

- 1. Resource protection standards
  - a. Specimen vegetation shall not be removed from any lot or tract except where the applicant demonstrates to the satisfaction of the Board of Supervisors that such removal is essential to eliminate a hazardous condition(s). Where

permitted, removal of specimen vegetation shall be minimized. These restrictions shall also apply to sites that contain species of special concern.

b. Disturbance allowance of woodlands and hedgerows

- (1) Unless undertaken as an approved timber harvesting operation conducted in compliance with the required timber harvesting plan, no more than thirty percent (30%) of woodlands and hedgerows shall be graded, cleared, built upon, or otherwise altered or disturbed for residential uses and no more than forty percent (40%) of woodlands and hedgerows shall be graded, cleared, built upon or otherwise altered or disturbed for non-residential uses.

- (2) Guidelines for determining permitted woodland disturbance

In determining where permitted woodland disturbance will occur, the following factors shall be considered:

- (a) The applicant shall consider the location(s) and benefits of conservation of healthy mature woodland stands.
- (b) Each building or structure shall be constructed in such a manner as to provide only such disturbance as is necessary. Clear cutting shall be minimized and trees shall be selectively removed.
- (c) Where possible, the remaining undisturbed woodlands and other vegetation shall interconnect with woodlands or wooded areas of adjacent properties to preserve continuous woodland corridors and allow for the normal movement, dispersion and migration of wildlife. The Applicant shall consider the impacts, in terms of functions and values to wildlife, of separating, dividing, or

encroaching on wildlife travel corridors or extensive habitat areas, especially woodlands exceeding ten (10) acres in area.

(3) Protection of woodlands to remain on site

In order to prevent injury to those trees or other vegetation which have been designated for protection, a tree protection zone shall be established where such vegetation is to be retained. Woodlands, hedgerows, individual trees, and other vegetation that are to remain on the site shall be identified within the tree protection zone and protected in accordance with the following provisions:

- (a) Prior to construction, protective fencing shall be installed around the boundaries of the tree protection zone. Such fencing along the zone shall be maintained until construction and other work has been completed.
- (b) Grade changes and excavations shall not encroach upon the tree protection zone.
- (c) Trees being removed from the site shall not be felled, pushed or pulled into a tree protection zone.
- (d) No toxic materials shall be stored within one hundred (100) feet of a tree protection zone including petroleum based and derived products.
- (e) The area within the tree protection zone shall not be built upon, nor shall any materials be stored there either temporarily or permanently. Vehicles and equipment shall not be parked in the tree protection zone.
- (f) Sediment, retention, and detention basins shall not be located within the tree protection zone, nor shall they discharge into the tree protection zone.

- (g) Preserved woodlands, hedgerows and specimen vegetation may be used to provide the vegetative screens and buffers required by Section 1305 of this Ordinance. Where necessary to meet the intent and minimum standards of Section 1305, additional planting may be required to supplement existing vegetation.

## 2. Delineation

The applicant shall delineate or identify the limits of woodlands, hedgerows, specimen vegetation, or species of special concern on the site.

Where vegetation on the site is to be preserved, they shall be clearly delineated on the plan as areas to be protected.

## G. Prime Agricultural Soils

### 1. Resource protection standards

The following standards shall apply when Class I, II or III soils are located within the AP, Agricultural Preservation District and where a cluster development option is proposed:

#### a. Class I agricultural soils

No more than ten percent (10%) of these soils shall be developed or built upon, nor shall they be disturbed except for agricultural purposes.

#### b. Class II agricultural soils

No more than fifteen percent (15%) of these soils shall be developed or built upon, nor shall they be disturbed except for agricultural purposes.

#### c. Class III agricultural soils

No more than twenty percent (20%) of these soils shall be developed or built upon, nor shall they be disturbed except for agricultural purposes.

3. Delineation

The applicant shall delineate or identify the limits of prime agricultural soils on the site.

Section 1503      APPLICATION OF NATURAL RESOURCE PROTECTION STANDARDS

A.      Plan Information and Delineation of Protected Resources

1.      To ensure compliance with the natural resource protection standards of this Article, the following information shall be submitted by the applicant when applying for a zoning or building permit, conditional use or special exception approval, zoning variance, or subdivision and land development approval where land disturbance is contemplated.
  - a.      A site plan which identifies the limits of each of the natural resources on the site, including areas of woodlands or other vegetation to be preserved, and the proposed use of the site including any existing or proposed structures.
  - b.      The limits of all encroachments and disturbances necessary to establish the proposed use or activity on the site, including a grading plan showing existing and proposed contours.
  - c.      The minimum buildable area(s) and areas reserved for on-lot sewage systems.
  - d.      Calculations indicating the area of the site with natural resources and the area of natural resources that would be disturbed or encroached upon. The calculations shall be shown on the plan and indicate the amount of land proposed to be disturbed and the maximum amount of permitted disturbance for each protected resource.
3.      In those cases where only a limited amount of the natural resources on the site or tract will be subject to disturbance (i.e., 1,000 square feet or less), the Zoning Officer may determine the area of the site required to be delineated on the plan, and information provided, that will adequately demonstrate compliance

with the natural resource protection standards of this Article.  
Where less than the entire site is to be shown on the plan, the application shall be accompanied by a written explanation from the applicant as to why it is not necessary to include the entire site with the plan information.

## Section 1504 VISUAL RESOURCE PROTECTION STANDARDS

Site planning for all development in the Township, including the layout of lots and streets, and the location of common open space, where applicable, shall be made in order to protect visual resources as identified on the visual resources map in the Township Open Space, Recreation, and Environmental Resources Plan.

- A. Lots shall be laid out, adhering to the guidelines contained herein to the greatest extent possible, to achieve the following objectives (listed in order of priority, recognizing that some may conflict with others on any given site):
  - 1. On the most suitable soils for sub-surface wastewater disposal systems where individual on-lot systems are to be used.
  - 2. On the least fertile soils for agricultural uses (soils other than Class I and II), and in a manner that maximizes the usable area remaining for such agricultural use.
  - 3. Within any woodland contained on the parcel (insofar as the maximum amount of clearing is limited to the house site and any paved areas), or along the far edges of the open fields adjacent to any woodland.
  - 4. Existing structures shall be subject to an architectural and structural review to determine the feasibility of converting or reusing the structures within the design of the proposed development.
- B. Through the use of narrative text and visual aids, including but not limited to photographs and architectural renderings, the applicant shall demonstrate the ability to comply with the following visual characteristics when viewed from adjacent existing streets as identified on the visual resources map in the Township Open Space, Recreation, and Environmental Resources Plan:

1. Density of the development shall appear to be low
2. Structures shall be grouped so that they appear as singular objects within the context of the overall landscape.
3. Structures located near existing streets shall face the street where practical, unless another orientation is more desirable due to topographic features, solar access or natural resource conditions.
4. Building placement shall provide varying setbacks and spacing.
5. Prominent aspects of the landscape, such as ridgelines, walls, large trees, tree masses, historic structures and other significant visual resources shall be maintained as part of the overall site design.

The highest elevation of the roofline of buildings and other structures shall not exceed the elevation of ridgelines, as defined by USGS topographic maps, the Township visual resources map, or field survey. This required setback may be reduced by the Board of Supervisors, upon recommendation of the Planning Commission, if existing topography or existing landscape features provide a more effective screen or more desirable design.

6. Newly introduced landscape elements, including streets, structures, fences, and landscaping shall be placed so as not to conflict with the topography or other natural site features and their prominence shall be minimized.
7. Placement of newly introduced elements identified above shall avoid prominent ridgelines and vista points located on the site.
8. Proposed structures shall be designed with the following architectural considerations based on the historical context of surrounding structures to comply with the above requirements for visual resource protection:
  - a. Building material and architectural detailing.
  - b. Roof shape and pitch.
  - c. Building proportion and scale.



- d. Building massing.
  - e. Building placement and orientation.
9. Newly introduced landscape elements within visually significant landscapes screened in accordance with Section 1305 of this Ordinance.

## ARTICLE XVI

### HISTORIC RESOURCE PROTECTION STANDARDS

#### Section 1600 STATEMENT OF INTENT

It is the intent of this Article to provide a comprehensive framework for the preservation of historic sites, objects, buildings, structures, and districts in the Township. The protections and incentives of this Article are intended to protect the Township's historic resources and include delay of demolition, area and bulk waivers, and cluster bonuses.

#### Section 1601 GENERAL PROVISIONS

##### A. Compliance

The Historic Resources Map identifies the Historic Resources of East Nantmeal Township.

##### B. Historic Resources Overlay

The Historic Resources Map shall be the initial indicator of a historic resource worthy of further review.

1. For any property shown on the Historic Resources Map, the requirements and opportunities contained in this Article shall supersede, with the consent of the landowner, the otherwise applicable requirements of the underlying zoning district.
2. The Historic Resources Map may be revised from time to time as additional information becomes available.

##### C. Preservation of Other Restrictions

It is not intended by this Article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail.

- A. The Historic Resources Map delineates historic resources in the Township, which include such elements as:
1. Federal or State certified historic structures and Federal or State certified historic districts;
  2. Contributing resources, i.e., buildings, sites, structures, and objects filed as such with the National Register of Historic Places or Bureau for Historic Preservation of the Pennsylvania Historical and Museum Commission.
  3. Buildings, sites, structures, objects, and districts which have received a Determination of Eligibility (DOE) for listing on the National Register of Historic Places or Pennsylvania Historical and Museum Commission listing.
  4. Resources that meet the National Register Criteria, as determined by the Bureau for Historic Preservation of the Pennsylvania Historical and Museum Commission.
  5. Resources of importance to East Nantmeal Township's history or culture with the potential to receive a Determination of Eligibility (DOE).
  6. Resources receiving a courtesy Chester County Historic Certification.
  7. Resources that are contributing components in a Pennsylvania State Certified Historic District.
  8. Historic resources found in Chester County's 1979-84 inventory with historic resource numbers, including subsequent subdivision historic resource numbers.
  9. Buildings, sites, structures, objects and districts included in the Historic Resources Survey of the East Nantmeal Historical Commission.
- B. The Historic Resources Map may be revised from time to time by action of the Board of Supervisors. In considering any revision, including additions, deletions, or changes of classification to the historic resources map, the Board of Supervisors shall receive a written recommendation from the Historical Commission.

- C. The Historical Commission shall maintain an updated Historic Resources Survey and Historic Resources Map.

Section 1603            EAST NANTMEAL TOWNSHIP HISTORICAL  
COMMISSION

A. Creation and Purpose

1. There is hereby created and established in the Township a commission to be known as the East Nantmeal Township Historical Commission.
2. The purpose of the Historical Commission is to serve, under and in accordance with the provisions of this Article, as an advisory body and resource to the Board of Supervisors, the Planning Commission, other agencies and officials of the Township, the citizens of the Township, and such other persons as the Board of Supervisors may direct, for advice and information on historic preservation and restoration.

B. Membership

1. The Historical Commission shall be composed of not less than five (5) or more than ten (10) members.
2. All members of the Historical Commission shall be at the time of appointment and at all times while serving as members of the Historical Commission, residents of the Township.
3. At least one member of the Planning Commission shall be appointed to the Historical Commission. This member shall be a full voting member of the Historical Commission as well as serving as a member of the Planning Commission.
4. All members of the Historical Commission shall serve without compensation but when authorized by the Board of Supervisors, may be reimbursed reasonable expenses necessary to perform the duties and exercise the powers of the Commission.

C. Appointment, Term and Vacancy

1. All members of the Historical Commission shall be appointed and

serve at the pleasure of the Board of Supervisors.

2. Except for the initial term of the members of the Historical Commission first appointed under this Article the term of each member of the Commission shall be for three (3) years or until his or her successor is appointed and qualified. The terms of the members of the Historical Commission first appointed under this Article shall be: two (2) members for one (1) year each; two (2) members for two (2) years each; and the remaining members for three (3) years each.
3. Members of the Historical Commission may succeed themselves. There shall be no limitation on the number of successive terms a resident may be appointed as a member of the Commission.
4. The Chairperson of the Historical Commission shall promptly notify the Board of Supervisors concerning any vacancies in the Commission. Any such vacancy shall be filled by the Board of Supervisors for the unexpired term.
5. At the request of the Board of Supervisors, the Historical Commission shall make recommendations to the Board of Supervisors for appointments to fill vacancies in the Commission.

D. Organization, Meetings and Conduct of Business.

1. The Historical Commission first appointed shall meet and organize at a public meeting of the Commission held within thirty (30) days after its appointment. Thereafter, the Commission shall meet and organize at a public meeting of the Commission held during the month of January of each year. At each such organization meeting, the Commission shall elect, from among its members, a Chairperson, a Vice Chairperson, a Secretary, and such other officer or officers as it may deem necessary. Each officer shall serve for a period of one (1) year or until his or her successor is elected. Officers may succeed themselves.
2. The Historical Commission shall hold such regular and special meetings, including work sessions and executive sessions, as necessary to perform its duties, exercise its powers and otherwise conduct such business as may properly come before it. The Commission shall keep and maintain minutes and other records of all its meetings and other activities. All meetings of the Commission,

including the giving of meeting notices, conduct of meetings, actions taken at meetings, recording of votes, and keeping of meeting minutes, shall be in accordance with applicable provisions of the Sunshine Act and other law.

3. All official meetings of the Historical Commission shall be held in the Township Building. The number of Commission meetings shall be as the Commission deems appropriate.
4. A majority of the members of the Historical Commission shall constitute a quorum. Any action to be taken at any meeting of the Commission shall require the affirmative vote of the majority of the members of the Commission present at the meeting.
5. The Historical Commission may make and alter rules and regulations to govern its procedures, including rules and regulations necessary for the conduct of its meetings and the maintenance of order. All such rules and regulations shall be consistent with the ordinances of the Township and other law.
6. The Historical Commission, from time to time as it deems necessary, may establish one or more committees for purposes of assisting the Commission with research, providing the Commission expertise, and performing such other duties and functions as may be assigned by the Commission. The Historical Commission may appoint members to such committees however at least one member of any such committee shall be, at the time of appointment and at all times while serving as a member of the committee, also a member of the Historical Commission. The chairperson of any such committee shall be also a member of the Commission at all times while serving as chairperson.
7. The Historical Commission shall maintain and keep on file full records of its actions. All records and files of the Commission shall be (i) kept and maintained in the Township Building or such other place as may be approved by the Board of Supervisors, (ii) available for public inspection and copying at reasonable times, (iii) in the possession of the Board of Supervisors, and (iv) the property of the Township.
8. The Historical Commission shall annually prepare and submit to the Board of Supervisors, by March 1 of each year, a written report of its activities for the prior calendar year.

E. The Historical Commission shall, at the request of the Board of Supervisors, have the power and duty to do the following which shall be in addition to such other powers and duties set forth in this Article or otherwise provided by law:

1. Identify in the Township significant architectural and historical resources, related natural sites, and landscape features that preserve the integrity of such resources and sites; and develop and maintain a detailed inventory and map or maps of such resources, sites and features, including information thereof or related thereto appropriately classified. Such information shall include, but shall not be limited to, documentary evidence, illustrations, photographs, and other appropriate materials.
2. Create an awareness of the history of the Township from the time of the Native Americans to the present day, including the cultural, agricultural, business, educational, and religious endeavors of all persons who lived and/or worked in the Township throughout its history.
3. Research and record the history of the Township and serve as an advisory resource for owners of historic resources in the Township involved with the preservation and/or restoration of such resources.
4. Prepare and submit reports to or for the Board of Supervisors as may be necessary or appropriate or as may be requested from time to time by the Board of Supervisors. Such reports shall be in addition to the annual written report to be prepared and submitted by the Historical Commission to the Board of Supervisors under Section 1603.D.8 of this Article.
5. Advise the Board of Supervisors, the Planning Commission, and all other Township agencies and officials, Township citizens, and such other persons as the Board of Supervisors may direct, in regard to the preservation and restoration of significant historical structures, sites and natural features, including the review of zoning, subdivision and/or land development proposals, and building and demolition permit applications, which proposals and applications have potential to impact on historic resources.
6. Consider, promote, and, with the approval of the Board of Supervisors, apply for technical and financial assistance, from all appropriate local, county, state, federal, and other agencies, for

the preservation and/or restoration within the Township of significant architectural and historical sites, related natural sites, and landscape features that preserve the integrity of such sites; and report to the Board of Supervisors all actions related to any of the foregoing.

7. Prepare and submit a yearly budget to the Board of Supervisors during the regular Township budget process for sums deemed necessary by the Historical Commission to perform its duties and exercise its powers.
  8. Cooperate with the Board of Supervisors, the Planning Commission, and all other Township agencies and officials, regarding the possible acquisition and use of significant historic structures and sites, including conducting research and proposing the nomination of properties in the Township to the National Register of Historic Places in accordance with the provisions of the National Historic Preservation Act.
  9. Hold meetings and recommend public hearings to the Board of Supervisors.
  10. Maintain an updated list, which clearly identifies buildings, sites, structures, objects, and districts, and their respective classifications, on the Historic Resource Map.
  11. Advise, when requested, the Board of Supervisors or Zoning Hearing Board, on all requests for conditional use or special exceptions or variances affecting Historic Resources.
  12. Perform such other duties and take such other actions as may be directed by the Board of Supervisors.
- F. In order to perform its duties and exercise its powers, the Historical Commission may, with the consent of the Board of Supervisors, accept and utilize any funds, personnel, or other assistance made available by Chester County, the Commonwealth or the Federal government or any of their agencies, or from private sources. The Board of Supervisors, in accordance with applicable procedures of the Township and/or other law, may enter into agreements or contracts regarding the acceptance or utilization of such funds, personnel or other assistance by or for the Commission.



No historic resource may be demolished until the applicant obtains a permit under the Building Code and complies with the following additional procedures.

- A. One (1) copy of the application for demolition shall be forwarded to the Historical Commission, together with recent interior and exterior photographs of the resource proposed for demolition, a site plan showing all buildings on the property, and explanation of the reasons for demolition and future uses of the site.
- B. Within thirty (30) days of receipt of a complete application, at its regular or a special meeting, the Historical Commission shall meet to review the application for demolition. The applicant will be notified of the meeting and encouraged to present evidence or testimony pertaining to the demolition. In reviewing the application the Historical Commission shall take into account:
  - 1. The effect of demolition on the historical significance and architectural integrity of neighboring contributing historic resources.
  - 2. Economic feasibility of adaptively reusing the resource proposed for demolition.
  - 3. Alternatives to demolition of the resource.
- C. Within thirty (30) days following conclusion at the meeting, the Historical Commission shall set forth its recommendation in a written report to the Board of Supervisors.
- D. Within thirty (30) days of the review of the demolition application by the Historical Commission, the Board of Supervisors shall consider the application for demolition at a public meeting. The applicant will be notified of the meeting and encouraged to present evidence or testimony pertaining to the demolition. The Board of Supervisors may vote to authorize the permit, deny the permit, or delay authorization for a period not to exceed one hundred eighty (180) days from the date of initial application for a demolition permit, during which period the Township and applicant will explore alternatives to demolition.

E. Enforcement.

1. Fines and Penalties. Any person who violates the requirements of this Section 1604 shall be subject to the fines and penalties imposed under this Ordinance in accordance with Article XXI, as well as applicable fines and penalties imposed under all applicable Township Ordinances.
2. The Board of Supervisors may withhold issuing any building permits for a minimum of six (6) months for a property which, as of the date of enactment of this Article, was occupied by a historic resource that was demolished in violation of this Section 1604.

Section 1605            MODIFICATION TO USE, AREA AND BULK  
REGULATIONS

A. Board of Supervisors

The Board of Supervisors, through the granting of a conditional use, may approve requested modifications to the otherwise applicable lot size, lot dimension, or yard requirements for plans affecting historic resources, in accordance with the criteria set under Section 1900 of this Ordinance and provided the following additional criteria are met:

1. The granting of the conditional use is deemed by the Board of Supervisors to be necessary for the preservation of a historic resource.
2. The granting of the conditional use is deemed by the Board of Supervisors to have minimal detrimental effect on neighboring properties.
3. Any plans for the rehabilitation, alteration, or enlargement of a historic resource shown on the application for conditional use must be in substantial compliance with the standards contained in Section 1607.

B. Conditional Use

The following uses, in addition to those otherwise permitted by right, special exception or conditional use, shall be permitted for historic resources in the Township subject to the area and bulk standards of the zoning district in which such historic resources are located and the applicable design

standards of Article XIII, when approved as a conditional use by the Board of Supervisors, in accordance with the criteria of Section 1900 and the additional criteria set forth in Section 1605.C.

1. Business and professional office, excluding surgical offices and clinics.
2. Custom shop for making articles or products sold at retail on the premises, such as custom clothing, art, needlework, baked goods or confectionery.
3. Museum, gallery or cultural studio.
4. Specialty retail store, such as gift shop, antique shop or tack shop.
5. Home and business furnishing and decorating retail store.
6. Florist shop.
7. Cottage industry, such as a cabinet maker or similar trade.
8. Accessory use on the same lot.
9. Restaurant and/or bed and breakfast.

C. Design Guidelines

The following design guidelines shall apply, except where specifically noted to the contrary in the subsections below, to any of the additional use opportunities considered for historic resources. Compliance with all other sections of this Ordinance shall be required as applicable.

1. Historic resources may not be enlarged beyond what is minimally necessary to accommodate the additional use and should not be enlarged by more than fifty percent (50%) of the floor area.
2. Unless otherwise specified under each additional use opportunity, the additional use must be in substantial compliance with the standards of this Article.
3. Plans for the stabilization, rehabilitation, restoration or adaptive reuse deemed necessary by the applicant to utilize any of the additional use opportunities shall be submitted to the East Nantmeal Township Historical Commission and the Code Enforcement Officer for review.

4. Within the time period of final Township decision-making, the Historical Commission shall submit a written review, including any necessary changes to bring plans into substantial compliance.
5. Where an additional use opportunity is permitted, landscaping shall be provided in accordance with Section 1607.
6. Off-street parking requirements may be modified by the Board of Supervisors to accommodate special conditions related to the use of historic resources upon the condition that adequate parking will be provided for the proposed use.

D. Subdivision

The subdivision of a lot which contains a historic resource shall be so subdivided in such a manner that the resulting lot that will contain the resource is of sufficient area to preserve the integrity of the setting of the historic resource. The area and configuration of the subdivided lot shall depend upon the type of resource and the characteristics of the landscaping of the subdivided lot and the adjacent lots. Review and recommendation regarding the resource and its subdivided lot(s) shall be made by the Historical Commission to the Planning Commission and copied to the Board of Supervisors. The Board of Supervisors may require that the lot area be increased above the minimum lot area for the zoning district in which the resource is located. In no case shall the lot be less than the area required for the zoning district.

E. Landscaping

1. Applicability - In addition to the applicable buffering requirements of this Ordinance, a landscape plan for the area surrounding a historic resource shall be required by the Board of Supervisors or the Zoning Hearing Board when a tract of land proposed for subdivision or land development contains a historic resource or is within five hundred (500) feet of a lot containing a historic resource.
2. Compliance with the applicable standards of Section 1305, herein, shall be required.
3. The applicant shall provide a landscape plan, prepared by a landscape architect, registered in the Commonwealth of Pennsylvania, to the Historic commission, the Planning Commission and the Board of

Supervisors.

F. Zoning Hearing Board

The Zoning Hearing Board, through the granting of a special exception or variance, may approve requested modifications to the otherwise applicable lot size, lot dimension, or yard requirements for plans affecting historic resources, in accordance with the criteria set under Sections 1808 and 1809 of this Ordinance and provided the following additional criteria are met:

1. The granting of the special exception or variance is deemed by the Zoning Hearing Board to be necessary to the preservation of a historic resource.
2. The granting of the special exception or variance is deemed by the Zoning Hearing Board to have a minimal detrimental effect on neighboring properties.
3. Any plans for the rehabilitation, alteration or enlargement of a historic resource shown on the application for special exception or variance must be in substantial compliance with the standards contained in Section 1607.

G. East Nantmeal Township Historical Commission

The Historical Commission shall review the request for conditional use or special exception or variance and evaluate whether the proposed modifications are necessary to the preservation of the historic resources. The Historical Commission also shall review any construction plans for their compliance with the standards in Section 1607. Recommendations shall be transmitted in the form of a written report to the Board of Supervisors or Zoning Hearing Board and shall indicate what specific changes in the plans would bring them into substantial compliance with Section 1607.

Section 1606            REVIEW OF PROPOSED REHABILITATIONS,  
ENLARGEMENTS, OR ALTERATIONS.

A. Permits

No permit for the rehabilitation, enlargement or alteration of a historic resource shall be issued by the Zoning Officer prior to review and

comment on the application by the Historical Commission, in accordance with the terms of this Section 1606.

B. Zoning Officer

The Zoning Officer shall provide the Historical Commission with a copy of the application, together with any plans or diagrams required by this Article, one (1) week prior to the Historical Commission meeting.

C. East Nantmeal Historical Commission

The Historical Commission shall, within thirty-five (35) days of receipt of a complete application from the Zoning Officer, review the plans for compliance with the standards contained in Section 1607, below, and prepare a written report to the Zoning Officer, with a copy to be sent to the applicant, indicating whether the plans are in substantial compliance. The report shall make suggestions as to what specific changes in the plans would bring them into substantial compliance.

D. Issuance of Permit

Upon receiving a report of substantial compliance from the Historical Commission, and providing the plans satisfy all requirements of the Township, the Zoning Officer shall issue the permit.

E. If the Historical Commission's report indicates that the plans are not in substantial compliance, the Zoning Officer shall not issue the permit until:

1. The plans have been revised by the applicant in accordance with the Historical Commission's recommendations, or
2. Forty-five (45) days have elapsed from the date of application, and all other requirements of the Township have been satisfied. The Historical Commission and the Board of Supervisors shall be notified of the "intent to issue a permit" five (5) days prior to issuance.

Section 1607            STANDARDS FOR REHABILITATION

A. Standards for Rehabilitation

Any proposed rehabilitation, alteration or enlargement of a historic resource

under Sections 1605 or 1606 shall be in substantial compliance with the standards and criteria set forth in Sections 1607.A.1 through 1607. A. 10, below.

1. Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.

9. Design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
10. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

B. Compliance

Determination of compliance with these standards shall be made by written report of the Historical Commission.

Section 1608            BONUS PROVISIONS

In developments proposing to preserve historic resources, deemed important to the Board of Supervisors, one (1) additional lot may be created in excess of the maximum number of lots otherwise permissible under the terms of this Ordinance where such lot will contain a historic resource to be preserved as part of the development plan.

Section 1609            HISTORIC RESOURCE IMPACT STUDY

- A. Applicability - A Historic Resource Impact Study, or any applicable part thereof, shall be required when any of the following are proposed, unless waived by the Board of Supervisors:
1. Subdivision or land development plans for tracts which include any historic resource.
  2. Subdivision or land development plans for tracts within five hundred (500) feet of any historic resource.
  3. General bridge or road construction or substantial repair thereof within one hundred (100) feet of the property line of a historic resource.



B. Historic Resource Impact Study

1. A Historic Resource Impact Study shall be prepared by an Architect, registered in the Commonwealth of Pennsylvania, with special expertise regarding historic resources.
2. A Historic Resource Impact Study shall be submitted for review to the Historic Commission, the Planning Commission, the Board of Supervisors, and others as may be directed by the Township.

C. Contents of the Historic Resource Impact Study

The Study shall contain the following information:

1. Background Information
  - a. A general site description, including topography, watercourses, vegetation, landscaping, existing drives, and other natural and man-made features.
  - b. A general description and classification of all historic resources located on the subject tract, on tracts immediately adjacent to the subject tract or road, and located within five hundred (500) feet of the subject tract or road.
  - c. A physical description of all historic resources identified in paragraph (b), above.
  - d. A statement of the significance to the Township, County, State and/or region for each historic resource.
  - e. A sufficient number of eight (8) x ten (10) inch, black and white, photographs to show every historic resource identified in paragraph (b), above, in its setting.
  - f. A narrative description of the historical development of the subject tract or road.
2. Proposed Change
  - a. A general description of the project, including timetable or phases.

- b. A description of the impact on each identified historic resource with regard to architectural integrity, historic setting, orientation integrity, and future use.
- c. A general description of the effect of noise and traffic, and any other impacts likely to be generated by the proposed change of each historic resource.

3. Mitigation Measures

The applicant shall make recommendations for mitigating the project's impact on the historic resources, including design alternatives, buffering, landscaping, and any other appropriate measures permitted under the terms of this and other applicable Township Ordinances.

- D. A Historic Resource Impact Study shall be reviewed by the applicant and the Historical Commission, followed by discussion with the Planning Commission. The Planning Commission shall submit a recommendation to the Board of Supervisors.

## ARTICLE XVII

### NONCONFORMING USES, STRUCTURES, SIGNS AND LOTS

#### Section 1700      APPLICABILITY

All uses, structures, lots and signs that do not conform to the requirements of the district in which they are located, but were in lawful existence prior to September 6, 1994 shall be known and regarded as nonconforming and the following requirements shall apply to them.

#### Section 1701      CONTINUATION

The lawful use of a building, land or sign existing prior to September 6, 1994 or authorized by a building permit issued prior to September 6, 1994 may be continued in the form evident prior to September 6, 1994 although such use does not conform to the provisions of this Ordinance.

#### Section 1702      ENLARGEMENTS AND CHANGES OF LAWFUL NONCONFORMING USES

A nonconforming use housed within an existing building may be expanded within that building to the extent necessary to accommodate the natural growth of said use, provided that no enlargement or structural alteration of the building is required. However, if other conforming uses are displaced by the expansion of the nonconforming use and the structure is to be expanded to house the displaced conforming use, this expansion shall be deemed to house the nonconforming use and shall be subject to the provisions of Section 1702.A, below.

- A. An existing building housing a nonconforming use may be expanded to accommodate the natural growth of the use if and only if such expansion is necessary in order to permit the nonconforming use to be expanded in floor area coverage by not more than twenty-five percent (25%) of the floor area coverage that was dedicated to the nonconforming use on the date such use first became nonconforming.
- B. A nonconforming use, to the extent and only to the extent that it is completely housed within an existing building or structure, may be

changed to another nonconforming use of the same or of a more restricted nature and classification.

- C. A nonconforming use to the extent conducted on unenclosed premises shall not be expanded by more than twenty-five percent (25%) of the area dedicated to said nonconforming use at the time such use first became nonconforming. Any such expansion shall conform to all locations, dimensions, limitations, common requirements and performance standards applicable to the use in any district and to the district in which the nonconforming use is located.

All enlargements or changes in nonconforming uses specified in Subsections A, B, and C, above, shall require the grant of a special exception by the Zoning Hearing Board, that shall be granted only upon determination by the Zoning Hearing Board, after public hearing, that:

1. The proposed expansion or change in use will be no more detrimental to its neighborhood and surroundings than the existing use it is to replace.
2. The proposed expansion or change in use will comply with all of the design standards, general and common requirements applicable to the district in which the proposed expansion or change in use is to be located.
3. The proposed expansion or change in use complies with all of the criteria set forth in this Section 1702.

In determining relative detriment, the Zoning Hearing Board shall take into consideration among other things: traffic generated, nuisance characteristics such as emission of noise, dust, smoke, fire hazard and hours and manner of operation. The applicant shall also demonstrate compliance with all common requirements and performance standards that would be applicable to such proposed expansion or change in use if the same were located in an area where such use were permitted by right, by special exception or conditional use. Further, upon a change of nonconforming use within an existing building or structure, all provisions of this Ordinance governing location, dimension and standards shall apply. In granting any special exception, the Zoning Hearing Board shall attach such conditions and safeguards as it may deem necessary to minimize the adverse effects that the expansion or change in use may have upon the neighborhood.

In the case where the expansion or change in nonconforming use is determined to pose hazards to the health, safety and welfare of the public or is recognized as a use that emits smoke or noxious fumes or is a nuisance, the proposed expansion or change in use will not be permitted unless, in the opinion of the Zoning Hearing Board, the conditions attached to the special exception(s) permitting such expansion or change in use will result in a benefit to general public when compared to the existing nonconforming use.

Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use, unless specifically permitted by the granting of a special exception by the Zoning Hearing Board.

## Section 1703      NONCONFORMING STRUCTURES

- A. A structure, nonconforming by reason of encroachment into the applicable setback standards for the district in which the structure is located, shall be permitted to be expanded into those areas of the lot that are not within the setback areas without requiring the granting of a special exception by the Zoning Hearing Board, provided, however, that all other applicable provisions in this Ordinance as to area, bulk, and dimensional standards still apply.
- B. Structures that are nonconforming by reason of building coverage in excess of that permitted by the district in which the structure is located shall not be permitted to be expanded without the granting of a variance by the Zoning Hearing Board.
- C. In the case of residential structures, nonconforming by reason of encroachment into the setback area, additions, alterations and extensions (including accessory uses) permitted under this Ordinance for residential structures shall be required to conform to the yard requirements specified in this Ordinance for the district in which the residence is located, unless, in the opinion of the Zoning Hearing Board:
  - 1. Adherence to the yard requirements of this Ordinance would constitute a hardship to the applicant.
  - 2. No hazard, nuisance or other adverse effect should be created as a result of such action. In such event all other requirements of this Ordinance shall apply.

- D. A structure, nonconforming by reason of design to house a nonconforming use, shall not be extended or enlarged, except insofar as required by law to assure the structural safety of the building, except by special exception granted by the Zoning Hearing Board. The Zoning Hearing Board may grant such special exception provided that and only that:
1. It is clear that such extension is not materially detrimental to the character of the surrounding neighborhood.
  2. The expansion of the nonconforming building shall not exceed twenty-five percent (25%) of the floor area of the building at the time it first became nonconforming.
  3. Any extension of the building shall conform to all standards of this Ordinance or amendment thereto with reference to area, height, location, dimension setback, coverage and building code standards.
  4. Any expansion of a structure housing nonconforming uses shall conform to the standards set forth in Section 1702.
- E. Where a nonconforming use is conducted entirely on an unenclosed premises, no structure to house or enclose such use, whether or not such structure would otherwise conform to the provisions of this Ordinance or any amendment thereto, shall be permitted to be erected on the premises, if such building or structure would thereby become a nonconforming building or structure in that the same could not be used for a permitted purpose if the nonconforming use were discontinued.

#### Section 1704            DAMAGE OR DESTRUCTION

A nonconforming building or structure which has been destroyed or damaged by fire or other casualty may be reconstructed in its former location and to its former dimensions and used for the purpose for which it was used immediately before its damage or destruction, provided that such reconstruction shall be commenced within one (1) year from the date of damage or destruction and shall be completed within one (1) year thereafter, subject to the following limitations:

- A. A nonconforming building or structure which has been destroyed or damaged by fire or other casualty, to an extent whereby the cost of

repair would exceed fifty (50%) percent of its value immediately prior to said casualty, shall not be reconstructed or replaced except by a conforming building or structure unless a special exception is granted by the Zoning Hearing Board. In granting a special exception, the Board shall find that:

1. The rebuilding shall attempt to conform to the applicable area, setback, coverage and height requirements of the district where possible.
2. That the proposed rebuilding will be no more detrimental to its neighborhood and surroundings than a conforming building of a similar area.
3. That the proposed rebuilding will comply with all of the general and common requirements applicable to the district in which the proposed rebuilding is to be located.
4. That the proposed rebuilding complies with all of the criteria set forth in Section 1702.

In determining relative detriment, the Zoning Hearing Board shall take into consideration, among other things, traffic generated, nuisance characteristics such as emission of noise, dust, smoke, fire hazard and hours and manner of operation. The applicant shall also demonstrate compliance with all common requirements and performance standards that would be applicable to such proposed rebuilding if the same were located in an area where such structure were permitted by right or by special exception or conditional use. Further, upon a change of nonconforming use within a nonconforming building or structure, all provisions of this Ordinance governing location, dimension and standards shall apply.

If an existing nonconforming structure is intentionally razed, or caused to be razed, by the owner of record, such structure shall only be replaced by a conforming structure.

## Section 1705            NONCONFORMING SIGNS

- A. No nonconforming sign shall be moved to another location on the building or lot on which it is located after the effective date of this

Ordinance unless permitted by the granting of a special exception by the Zoning Hearing Board.

- B. The total area of all nonconforming signs relating to a single use, as of the date of this Ordinance, shall not be increased unless permitted by special exception.
- C. Nonconforming signs shall not be physically altered or replaced unless authorized as a special exception. Once removed nonconforming signs shall only be replaced by conforming signs unless permitted by special exception.
- D. Whenever any nonconforming use ceases as prescribed in Section 1707, all signs accessory to such use shall be deemed to be nonconforming and shall be removed.

#### Section 1706            NONCONFORMING LOTS

An existing lot made nonconforming by the enactment of this Ordinance may be used and a building may be constructed upon such nonconforming lot, even though it is deficient in area or dimension, provided that any building, structure or use thereon shall comply with all applicable requirements as to use, location, setback, coverage, dimension and condition, as well as to all performance standards and common requirements. The Zoning Hearing Board, on application made, may find that conformity to such location or dimension or common regulation would deprive the applicant of all reasonable use of the lot. It may then waive or modify those requirements only to the extent that would allow the applicant reasonable use of the land. It shall be incumbent upon the applicant to conform to those findings and determinations of the Zoning Hearing Board regarding area, dimensions, requirements and standards to allow reasonable use of the lot, notwithstanding the status as a nonconforming lot of record.

#### Section 1707            ABANDONMENT OR TERMINATION OF A LAWFUL NONCONFORMITY

- A. Whenever a nonconforming use of land or a conforming building or structure has been terminated or dismantled in the absence of fire or calamity, the same shall be conclusively presumed to have been abandoned with the intent so to do and thereafter any use upon such



land or within such conforming building or structure shall be in conformity with the use provisions of this Ordinance.

- B. Whenever a nonconforming use ceases operation for a period in excess of one (1) year but is not dismantled, the same shall be presumed to have been abandoned with the intent so to do and the burden shall be upon the applicant to demonstrate to the satisfaction of the Zoning Hearing Board that the applicant did not abandon or intend to abandon such use, and the nonconforming use shall not thereafter be resumed, except upon such finding made and by order of the Zoning Hearing Board.
- C. Whenever a nonconforming sign or a portion of a building constituting nonconformity as to location or dimension is removed, the same shall not thereafter be replaced or restored in the area of encroachment or to the extent such replacement would constitute a dimensional nonconformity.

## Section 1708        REGISTRATION

In order to facilitate the administration of this Ordinance, owners of all lawful nonconformities shall have a period of one (1) year after September 6, 1994 to submit to the Zoning Officer a listing and description of such nonconformities for which no special exception has been granted. Such listing shall be a matter of public record and shall constitute notice to anyone acquiring any right to use or own such property. Omission or failure in respect to such notice shall in no way modify the status of the nonconformity nor shall the Township, its officials or its employees, be liable for damages as a result of such omission or failure.

## ARTICLE XVIII

### ZONING HEARING BOARD

#### Section 1800 ESTABLISHMENT AND MEMBERSHIP

- A. There shall be a Zoning Hearing Board consisting of three (3) residents of the Township, appointed by the resolution of Board of Supervisors in accordance with Article IX of the Pennsylvania Municipalities Planning Code (53 P.S. 10901 et. seq.), as amended, hereinafter called the "MPC". Their terms of office shall be three years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Board of Supervisors of any vacancy that occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Township.
- B. The Board of Supervisors may, by resolution, appoint a resident of the Township to serve as an alternate member of the Board. The term of the alternate member shall be three years. The alternate member shall hold no other office in the Township. An alternate may participate in any proceeding or discussion of the Board, but shall not be entitled to vote as a member of the Board, or be compensated as a member as provided herein, unless seated as a member in accordance with the provisions as set forth herein.
- C. Any member of the Board may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors, taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

#### Section 1801 ORGANIZATION OF THE BOARD

- A. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall not be less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the

Board, as provided in herein.

- B. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate the alternate member to sit on the Board. The alternate member shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed, until the Board has made a final determination of the matter or case.
- C. The Board shall keep full public records of its business and shall submit a report of its activities to the Board of Supervisors once a year.

## Section 1802 JURISDICTION

The Board shall function in strict; accordance with and pursuant to Section 909.1 of the MPC, and shall have all powers set forth therein, including but not limited to the following:

- A. To hear and decide appeals where it is alleged that the Township Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of a valid rule or regulation governing the action of the Zoning Officer.
- B. To hear and decide requests for special exceptions authorized by this Zoning Ordinance in accordance with the standards for criteria set forth below. The Zoning Hearing Board may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purpose of this Zoning Ordinance.
- C. To hear request for variances where it is alleged that the provisions of this Zoning Ordinance inflict unnecessary hardship upon the applicant. A variance may be granted only after the Zoning Hearing Board has made the findings as required in the Zoning Ordinance. In granting a variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards, as it may deem necessary as prescribed in Section 1809 of this Article to implement the purposes of this Zoning Ordinance.
- D. To conduct hearings and make such decisions and findings in connection with challenges to the validity of any provisions of the Zoning Ordinance as authorized by Section 909 of the MPC.
- E. To exercise jurisdiction over all other proceedings over which the Zoning

Hearing Board is given jurisdiction pursuant to the MPC.

#### Section 1803            RULES OF PROCEDURE, EXPENDITURES AND FEES

- A.     The Board may adopt rules of procedure in accordance with the several provisions of this Ordinance as to the manner of filing appeals, applications for special exceptions or variances, and as to the conduct of the business of the Board. In all cases the rules of procedure shall be consistent with Article IX of the MPC.
- B.     Within the limits of funds appropriated by the Board of Supervisors, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the Board, including the alternate member when designated in accordance with this article, may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors. In no case, however, shall the amount of compensation exceed the rate authorized for the members of the Board of Supervisors.
- C.     Any applicant before the Board shall deposit with the Treasurer of the Township the appropriate filing fee established by resolution of the Board of Supervisors in accordance with the terms of Section 1803.D, below.
- D.     The Board of Supervisors may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the zoning hearing board, expenses for engineering, architectural or other technical consultants or experts witness costs.

#### Section 1804            MEETINGS

Meetings of the Board shall be held at the call of the Chairman, and at such other times as the Board may determine. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if a member is absent or fails to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the Township Secretary and shall be a public record.

Section 1805            APPEALS AND REQUESTS TO THE ZONING HEARING BOARD

Appeals to the Board may be filed by a landowner affected, any officer, or agency of the Township, or any person aggrieved. Such appeal shall be taken within the time required by the MPC or as provided by the rules of the Board, by filing with the Township Secretary a notice of appeal specifying the grounds thereof. The Township Secretary shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. Requests for a special exception or variance may be filed by any landowner, or any tenant with permission of the landowner. The appropriate fee, established by the Township, shall be paid in advance for each appeal or application for a special exception or variance.

Section 1806            NOTICE OF HEARING

Notice shall be given of any public hearing stating the location of the building or lot and the general nature of the question involved and shall be given as follows:

- A. By publishing a notice thereof at least ten (10) days prior to the date of the hearing in a paper of general circulation within the Township consistent with the public notice requirements of the MPC, and including, but not necessarily limited to, the following information: name of the applicant and type of application being heard; brief description of the request; date, location and time of the hearing; location and times when the application can be reviewed by the public or copies of such application to be obtained at a reasonable cost; and Township contact person.
- B. By mailing a notice thereof to the applicant, the Zoning Officer, Township Secretary and any person who has made timely request for same or who shall have registered their names and addresses for this purpose with the Board.
- C. By mailing notice thereof to the owner, if his address is known, or to the occupant of any lot on the same street within five hundred (500) feet of the lot in question and of every lot not on the same street within one hundred fifty (150) feet of said lot; provided that failure to mail the notice required by this section shall not invalidate any action taken by the Board.

- D. By posting notice thereof conspicuously on the affected tract of land at least one week prior to the hearing. Such notice shall be posted on every road on which the tract has frontage.
- E. The failure of any person or entity to receive notice given pursuant to this section shall not constitute grounds for any court to invalidate the actions of the Township for which the notice was given.

## Section 1807            HEARING PROCEDURES

The Board shall conduct hearings and make decisions in accordance with the following requirements:

- A. The hearings shall be conducted by the Board, or the Board may appoint any member as a hearing officer. The decision or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Township may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.
- B. The first hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Board or hearing officer shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record.
- C. The applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Board or hearing officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing.
- D. The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- E. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the

first hearing held after the completion of the applicant's case-in-chief.

- F. An applicant may, upon request, be granted additional hearings to complete his case-in-chief, provided that the persons opposed to the application are granted an equal number of additional hearings.
- G. Persons opposed to the application may, upon written consent or consent on the record by the applicant and Township, be granted additional hearings to complete their opposition to the application, provided the applicant is granted an equal number of hearings for rebuttal.
- H. The chairman or acting chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- I. 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.
- J. Formal rules of evidence shall not apply, but irrelevant material, or unduly repetitious evidence may be excluded.
- K. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copies or copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- L. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless

all parties are given an opportunity to be present.

## Section 1808            STANDARDS FOR REVIEW OF A SPECIAL EXCEPTION

The Zoning Hearing Board shall hear and decide all requests for a special exception, and the Board must determine that the following standards and criteria are met before granting the request:

- A.     The size, scope, extent and character of the special exception request is consistent with the Comprehensive Plan of the Township and promotes the harmonious and orderly development of the zoning district involved.
- B.     The proposed special exception is an appropriate use consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter or detract from the use of surrounding property or of the character of the neighborhood in light of the zoning classification of the area affected; the effect on other properties in the area; the number, extent and scope of nonconforming uses in the area; and the presence or the absence in the neighborhood of conditions or uses which are the same or similar in character to the condition or use for which applicant seeks approval.
- C.     The proposed special exception is suitable with respect to traffic and highways in the area and provides for adequate access and off-street parking arrangements in order to protect major streets and highways from undue congestion and hazard.
- D.     Major street and highway frontage will be developed so as to limit the total number of access points and encourage the frontage of building on parallel marginal roads or on roads perpendicular to the major street or highway.
- E.     The proposed special exception is reasonable in terms of the logical, efficient and economical extension of public services and facilities, such as public water, sewers, police, fire protection, and public schools, and ensures adequate arrangements for the extension of such services and facilities in specific instances.
- F.     All commercial or industrial parking, loading, access or service areas will be adequately illuminated at night while in use and arranged so as to comply with the requirements of Article XII and Sections 1305, 1306 and 1307 of this Zoning Ordinance, and the requirements of the Subdivision



and Land Development Ordinance relating to access and highway frontage.

- G. Conditions are being imposed on the grant of the request necessary to ensure that the general purpose and intent of the property adjacent to the area included in the proposed special exception is adequately safeguarded with respect to harmonious design of buildings, aesthetics, planting and its maintenance as a sight or sound screen, landscaping, hours of operation, lighting, numbers of persons involved, allied activities, ventilation, noise, sanitation, safety, smoke and fume control and the minimizing of noxious, offensive or hazardous elements.
- H. The proposed special exception protects and promotes the safety, health and general welfare of the Township.
- I. The proposed special exception shall comply with the East Nantmeal Township Subdivision and Land Development Ordinance and all other applicable governmental regulations.
- J. The proposed special exception shall comply with any additional criteria of Section 1809, herein, to the extent deemed applicable by the Zoning Hearing Board.

## Section 1809            STANDARDS FOR REVIEW OF A VARIANCE

The Board may grant a variance provided that the specifically enumerated criteria set forth in Section 910.2 of the MPC, as follows, are met:

- A. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.
- B. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

- C. That such unnecessary hardship has not been created by the applicant.
- D. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- E. 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.

In granting any variance the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Zoning Ordinance.

#### Section 1810 BURDEN OF PROOF; CONDITIONS

To the maximum extent permitted by law, all burdens of proof and persuasion shall be upon the landowner in connection with any special exception, variance, or other application or appeal before the Zoning Hearing Board. In allowing a special exception or variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Zoning Ordinance, as it may deem necessary to implement the purposes of the MPC and this Zoning Ordinance.

#### Section 1811 DECISION ON APPEALS AND REQUESTS

- A. The Board or hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within forty-five (45) days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the

Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer. Except for challenges filed under Section 916.1 of the MPC, where the Board fails to render the decision within the period required by this Section, or fails to commence, conduct or complete the required hearing as provided in this Section, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in this Section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- B. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

## Section 1812            RECORDING OF TERMS OF APPROVAL

Where the Board grants approval of a special exception or variance, it shall provide a memorandum to the applicant, stipulating the terms and conditions of such approval. Such memorandum shall contain a sufficient legal description of the property in question. The applicant shall execute and provide to the Township a recordable notarized copy of the memorandum, and shall consent to its recording by the Township in the Chester County Office of the Recorder of Deeds within thirty (30) days following expiration of the thirty (30) day appeal period.

## Section 1813            APPEALS TO COURT

As provided in the MPC appeals of Board decisions may be taken by any party thereby aggrieved. Such appeals shall be taken within thirty (30) days of the decision by the Board.

Section 1814

EXPIRATION OF SPECIAL EXCEPTIONS AND  
VARIANCES

- A. Any approval of a special exception or variance request shall be deemed null and void six (6) months from the date of such approval if, within that period, no application is made for a building permit, use and occupancy permit, sedimentation and erosion control permit, subdivision or land development approval, or any other approval or permit required by the Township to proceed with construction, occupancy, or use pursuant to the special exception or variance, unless so extended by the Zoning Hearing Board pursuant to Section 1814.B, below.
- B. The six (6) month expiration period may be extended by the Zoning Hearing Board, provided, that such request for an extension shall be properly filed with the Zoning Officer at least seven (7) calendar days in advance of the expiration date. The request shall include the reason why the extension is required, a reasonable estimate of the time needed to obtain the necessary approvals, and a qualified statement that there has been no change in either the circumstances giving rise to the grant of relief or the neighborhood in which the property is located. Failure to diligently pursue necessary approvals shall not be grounds for an extension. The Board may grant up to one additional six (6) month extension provided a reasonable argument is presented. No more than one such extension shall be granted per special exception or variance approval.

## ARTICLE XIX

### CONDITIONAL USE PROCESS

#### Section 1900 PROCEDURES AND CRITERIA

- A. Other Ordinances Still Apply - Nothing in this section shall be construed to relieve the owner or his agent, the developer, or the applicant for a conditional use approval from obtaining approval in accordance with the East Nantmeal Township Subdivision and Land Development Ordinance, or other applicable ordinances.
- B. All Applicable Conditions in This Ordinance Apply - The requirements of this section and the standards for specific types of conditional uses found elsewhere in this Ordinance shall be deemed an element of the definition under which a conditional use approval may be granted. The failure of the applicant to demonstrate compliance with these requirements, at the discretion of the Board of Supervisors, can be deemed either a basis for establishing conditions or limitations on an approval or the basis for a denial of a conditional use application.
- C. General Requirements
  - 1. Ownership

The tract of land under application for a conditional use approval shall be in one (1) ownership or shall be the subject of an application filed jointly by the owners of the entire tract, and shall be under unified control. If the ownership of the entire tract is held by more than one (1) person or entity, the application shall identify and be filed on behalf of all of the owners. Approval of the plan shall be conditioned upon agreement by the applicant or applicants that the tract shall be developed under single direction in accordance with the approved plan. No site preparation or construction shall be permitted other than in accordance with the approved plan. If ownership of all or any portion of the tract changes subsequent to approval of the plan, no site preparation or construction by such new owner or owners shall be permitted unless and until such owner or owners shall review the terms and obligations of the approved plan and agree in writing to be bound thereby with respect to development of the tract.

2. Sewer and water facilities

The applicant shall demonstrate evidence of adequate water supply and sewage disposal capability. The tract of land shall be served by a water supply system and a sewage system deemed acceptable by the Board of Supervisors upon recommendation of the Township Engineer. Such facilities shall be designed and constructed in compliance with the applicable provisions of the East Nantmeal Township Subdivision and Land Development Ordinance and the East Nantmeal Township Sewage Facilities (Act 537) Plan.

3. Development stages and permits

The development of a tract carried out in either a single phase or in stages shall be executed in accordance with a development agreement. The owner, developer, and Township shall enter into an agreement embodying all details regarding compliance with this Ordinance to assure the binding nature thereof on the overall tract and its development. The agreement shall be recorded with the final development plan.

4. Stormwater management

The control of erosion and sediment during construction, and the ongoing management of storm water on the tract, shall be accomplished in accordance with the applicable provisions of the East Nantmeal Township Subdivision and Land Development Ordinance.

5. Covenants and restrictions

The language, terms and conditions of any proposed covenants or restrictions shall be subject to review and recommendation by the Township Solicitor.

D. Application

1. The application for a conditional use shall be filed with the Township Secretary on such forms as may be prescribed for said purpose. The application shall be accompanied by a fee as established by resolution of the Board of Supervisors. The application shall state the following:

- a. The name and address of the applicant.
- b. The name and address of the owner of the property to be affected by the proposed conditional use application.
- c. Evidence of authorization to act on behalf of the property owner(s) where applicant is other than a legal or equitable owner of the property.
- d. A description and location of the property on which the conditional use is proposed.
- e. A statement of the present zoning classifications of the property, the improvements thereon, and the present use thereof.
- f. A narrative description of the proposed use and a statement of the section(s) of this Ordinance that authorize(s) the conditional use.
- g. A narrative description of the property's suitability for the proposed development.
- h. A narrative description of the proposed development's consistency with the purposes and objectives of the East Nantmeal Township Comprehensive Plan.
- i. A narrative description of the proposed development's consistency with the character of the surrounding uses and the Township in general.
- j. A staging plan and narrative, if the development is to be carried out in progressive stages that demonstrates that all of the requirements and the intent of this Article are met with the completion of each stage.

## 2. Development plan

The application for conditional use approval shall be accompanied by a unified, overall site plan covering the entire property, regardless of any intended phasing of development. The plan shall be prepared with sufficient detail to adequately illustrate the proposed development and non-development uses of the tract,

including (where appropriate), reserve areas for possible future expansion; coordinated internal and external vehicular and pedestrian circulation; well integrated, convenient and efficient parking and loading areas; surroundings that provide comfort, safety, and convenience for prospective residents, customers, and/or workers; and high quality design in terms of building relationship, facade treatment, signage, lighting, overall landscaping and landscaping of buffers and screens, as well as other natural and constructed amenities in furtherance of the planning objectives of East Nantmeal Township.

3. Natural and cultural resources analysis

The applicant shall provide an inventory of the property's natural features and systems, cultural resources, and visual amenities that may be impacted by the proposed conditional use. The inventory of the site, and in such proximity as to be affected by the proposed conditional use, shall be prepared in graphic and narrative form and shall include the following:

- a. Surface waters.
- b. Natural drainage patterns, including swales, intermittent streams, etc.
- c. Floodplains as defined by Article X of this Ordinance.
- d. Wetlands under the jurisdiction of the Pennsylvania Department of Environmental Protection or the U.S. Army Corps of Engineers.
- e. Water hazard soils as defined by Article X of this Ordinance.
- f. Topography at two (2) foot contour line intervals, and slopes between fifteen and twenty five percent (15% to 25%) and slopes greater than twenty five percent (25%).
- g. Ridgelines and watershed boundaries.
- h. Soils with shallow depth to bedrock.
- i. Geologic formations, particularly in relation to areas of



groundwater recharge.

- j. Biotic resources as mapped and described in the East Nantmeal Township Open Space, Recreation, and Environmental Resources Plan, and patterns of vegetation, including tree masses, rare or extraordinary individual species, any tree of twelve (12) inches or greater DBH and areas serving as habitat for wildlife (species of wildlife dependent upon the site for habitat shall be identified).
- k. Measurable attributes of the air quality at the proposed site and within the air-shed of which it is a part, including noise levels and the present degree to which auto emissions are contributing to degradation.
- l. Scenic resources as mapped and described in the East Nantmeal Township Open Space, Recreation, and Environmental Resources Plan, and any other visual amenities of the site (e.g., topography, vegetation, water) considered unique, scenic, and/or that should be incorporated into the design of any future use.
- m. Sites and structures of historical or cultural significance, including but not limited to those sites recorded in the East Nantmeal Open Space, Recreation and Environmental Resources Plan, the East Nantmeal Township Comprehensive Plan and the Chester County Historic Sites Survey of 1982.
- n. Existing streets and rights-of-way, trails, utility easements and rights-of-way, and all existing structures not included in paragraph m, above.

The applicant shall indicate how any or all of the inventoried resources will be affected by the proposed development, and shall describe mitigating measures to be employed in addressing these impacts. The development impacts and the proposed mitigating measures shall be described in narrative form, and their locations on the site and beyond shall be mapped at a scale of one (1) inch = one hundred (100) feet.

4. Traffic impact study

The Board of Supervisors, at its sole discretion, may require the applicant to provide traffic studies, prepared by a traffic engineer, registered in the Commonwealth of Pennsylvania, that demonstrate compliance with the objectives of this Ordinance and the East Nantmeal Township Comprehensive Plan. Such studies shall be prepared in accordance with Section 1324.A of this Ordinance and shall estimate traffic volumes, turning movements, and levels of service at intersections, and potentially unsafe conditions existing prior to development as well as may be reasonably expected to occur after proposed development and shall suggest action(s) to mitigate any anticipated reduction in highway level of service or other negative traffic and highway impacts resulting from the proposed development. In granting conditional use approval, the Board may attach conditions requiring specific improvements to local roads to be incorporated into the plans for development to the extent necessary to maintain pre-existing levels of service, correct unsafe conditions that may be worsened by the traffic impacts of the proposed development, and otherwise provide for safe and convenient access for residents, visitors, employees, and emergency service personnel and vehicles.

5. Fiscal impact assessment

The Board of Supervisors, at its sole discretion, may require the applicant to provide an assessment of the economic and fiscal impacts that will result from the proposed development. The assessment shall be prepared in accordance with Section 1325 of this Ordinance and shall include a profile of the Township, County and School District revenues to be generated by the proposed development and the costs that it will impose on the Township, County and School District. The information shall be related to the initial, if staged, and completed subdivision or land development.

6. Community facilities and services assessment

The Board of Supervisors, at its sole discretion, may require the applicant to provide an assessment of the facility and service needs required for the proposed development. Where applicable, the assessment shall consider, in terms of existing capabilities and the need for additional or expanded capabilities, the following:

- a. Schools
- b. Park and recreation areas and services
- c. Libraries
- d. Hospitals and other health care facilities
- e. Fire protection
- f. Police protection
- g. Emergency medical service

E. Procedures

1. Upon receipt of a complete application for conditional use approval per Section 1700.D, above, the Township Secretary shall submit the application to the Planning Commission for recommendation. Upon receipt of the application, the Planning Commission shall review the conditional use request with the applicant at its next regularly scheduled meeting or at a special meeting at the discretion of the Planning Commission. In either case, such review shall take place within sixty (60) days of submittal to the Commission, including the forwarding of any recommendations to the Board of Supervisors. The Planning Commission may extend its period of deliberation beyond sixty days upon written authorization by the applicant. If the Planning Commission does not transmit its recommendations to the Board of Supervisors by the date set by the Board of Supervisors for public hearing on the conditional use application, the Board of Supervisors shall proceed to consider such application without the recommendation of the Commission. Should the applicant submit new or revised plans for development under the application for conditional use approval during the period of review by the Planning Commission, the sixty (60) day review period shall start anew and prior plans shall be deemed withdrawn.
2. After review by the Planning Commission the Board of Supervisors shall hold the first public hearing on the conditional use application in accordance with the following procedures:
  - a. Notice of the hearing shall be published in a newspaper of

general circulation in the Township in accordance with the requirements for public notice established in the Municipalities Planning Code. Abutting property owners shall be notified in writing no less than twenty (20) days prior to the scheduled hearing. Additionally, like notice thereof shall be given to the applicant, the Zoning Officer, and to any person who has made a timely written request. Notice of the hearing shall be conspicuously posted on the affected property at least one (1) week prior to the date of the hearing. The failure of any person or entity to receive notice given pursuant to this Section shall not constitute grounds for invalidation of the actions of the Township for which the notice was given. The Board of Supervisors shall conduct its first hearing on the application within sixty (60) days from the date the application is filed with the Township Secretary, unless extended by written authorization from the applicant. Each subsequent hearing before the Board of Supervisors shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record.

- b. The applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing.
- c. The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board of Supervisors and any other person, including civic or community organizations, permitted to appear by the Board of Supervisors. The Board of Supervisors shall have the power to require that all persons who wish to be considered parties submit written requests on such forms as the Board of Supervisors may provide for that purpose.
- d. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief.

- e. An applicant may, upon request, be granted additional hearings to complete his case-in-chief, provided that the persons opposed to the application are granted an equal number of additional hearings.
- f. Persons opposed to the application may, upon written consent or consent on the record by the applicant and Township, be granted additional hearings to complete their opposition to the application, provided the applicant is granted an equal number of hearings for rebuttal.
- g. The Chairman or Acting Chairman of the Board of Supervisors shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- h. Formal rules of evidence shall not apply but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- i. The Board of Supervisors shall keep a record of the hearing proceedings. Copies of the written or graphic material received in evidence shall be made available to any party at cost.
- j. The Board of Supervisors shall render a written decision within forty-five (45) days after the last hearing before the Board of Supervisors. Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons for the final decision.
- k. A copy of the final decision shall be delivered to the applicant, and the parties before the Board of Supervisors, personally or mailed to them not later than the day following the date of the decision. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

- I. The Board of Supervisors shall render a written decision or when no decision is called for make written findings on the application within forty-five (45) days after the last hearing before the Board. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. Except for challenges filed under Section 916.1 of the MPC, where the Board fails to render the decision within the period required by this Section, or fails to commence, conduct or complete the required hearing as provided in this Section, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in this Section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
  - m. Appeals from a determination of the Board of Supervisors pursuant to any application for a conditional use shall be only as prescribed and within such times permitted by the applicable provisions of Act 247, the Municipalities Planning Code, as amended.
- 3. In granting conditional use approval, where such use is authorized under this Ordinance, the Board of Supervisors may also attach such conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes this Ordinance. Conditional uses shall be subject to compliance with particular standards contained in this Ordinance and criteria defined in the application review process. The standards described shall be deemed additional and shall in no way impair any other applicable standard from this or any other

Township ordinance. The applicant shall be responsible for demonstrating compliance with all standards and criteria required for conditional use approval. The conditions of approval may include, but need not be limited to:

- a. Specific modifications to area and bulk requirements as might otherwise be applicable.
  - b. Provisions for additional utility or traffic safety facilities.
  - c. Securing of additional easements or property to assure proper site design.
  - d. Modification to the applicable design standards.
4. The applicant shall have the burden to prove by a preponderance of the evidence that the proposed use will comply in all respects with this and other Township ordinances, and County, State or Federal regulations. The Board of Supervisors may retain such consultants, as necessary, to review and certify the accuracy of submitted plans and documents, the reasonable and necessary charges for which shall be borne by the applicant. When the applicant does not provide information as required, then it shall be presumed that the proposed use is not in accordance with the requirements applicable for the granting of conditional use approval.
  5. Any grant of conditional use approval shall be deemed null and void six (6) months from the date of such approval if, within that period, no application is made for a building permit, a use and occupancy permit, or subdivision or land development approval, as appropriate, unless so extended by the Board of Supervisors.

Any request to extend the six (6) month expiration period shall be properly filed with the Township Secretary thirty (30) days in advance of the expiration date. The request shall include the reason why the extension is required, a reasonable estimate of the time needed to obtain the necessary approvals, and a qualified statement that there has been no change in the conditional use application or the neighborhood in which the property is located. Failure to diligently pursue necessary approvals shall not be grounds for an extension. The Board may grant up to one additional twelve (12) month extension provided a

justification therefor is presented. No more than one such extension shall be granted per conditional use application.

F. Criteria for Review of Conditional Use Applications

The following criteria shall be used as a guide, by the Board of Supervisors, in evaluating a proposed conditional use. It shall be the burden of the applicant to demonstrate compliance with all applicable criteria:

1. Any applicant for conditional use approval shall have the burden of demonstrating to the satisfaction of the Board of Supervisors that provision is made to adequately reduce or minimize any noxious, offensive, dangerous or hazardous feature or features of such use. The Board of Supervisors may deny conditional use approval where the applicant has failed to do so or where any use otherwise is deemed to be dangerous or potentially dangerous to the public health, safety or welfare or that constitutes, or may constitute, a public hazard whether by fire, explosion or otherwise.
2. The use(s) proposed shall be limited to those authorized as conditional uses within the district in which the property is situated. The property subject to conditional use application shall be suitable for the use desired.
3. The size, scope, extent and character of the conditional use desired shall be consistent with the spirit, purposes and intent of the East Nantmeal Township Comprehensive Plan, the Township Open Space, Recreation and Environmental Resources Plan, and the Township Zoning and Subdivision and Land Development Ordinances.
4. The proposed use at the location set forth in the application shall be in the public interest and serve the public health, safety and general welfare.
5. Consideration of the character and type of development in the surrounding area, and a determination that the proposed use is appropriate in the area and will not injure, or detract from, the use or value of the surrounding properties or injure or detract from the character of the neighborhood.
6. The development, if more than one building, will consist of a



harmonious grouping of buildings or other structures.

7. The proposed conditional use will have no adverse impact upon the logical, efficient and economical extension or expansion of public facilities and services, such as public water, sewers, police and fire protection, recreational opportunities, open space and public schools and, where necessary, adequate arrangements for expansion or improvement of such services and facilities are ensured.
8. Each stage of development, where carried out in progressive stages, shall be so planned that compliance with the conditions and intent of this Ordinance shall be maintained with each stage.
9. The location and layout of the proposed conditional use is suitable with respect to probable impacts upon highway traffic, and assures adequate access arrangements in order to protect major streets and highways from undue congestion and hazard. The proposed conditional use will not lower the level of service on adjacent road segments and intersections as defined by the most recent edition of the Transportation Research Board's *Highway Capacity Manual*. As a policy, proposed projects should incorporate designs that will assure safe and efficient access and maintain a level of service "C", as a minimum, on all adjacent road segments and intersections.
10. The interior traffic circulation shall provide safe and convenient circulation for all users, including pedestrian and vehicular modes. The applicant shall demonstrate that sufficient safeguards, such as parking, traffic control, screening, and setbacks, can be implemented to remove any potential adverse influences the use may have on adjoining uses. In addition, all emergency access design considerations shall be addressed and incorporated into the proposed plan.
11. The adequacy of sanitation and public safety provisions, where applicable, and the necessity to provide a certificate of adequacy of sewage and water facilities from a governmental health agency in any case where required or deemed necessary.
12. Sufficient land area shall be available to be able to effectively screen the proposed conditional use from adjoining uses if required by the Board of Supervisors.

13. Consideration of any other development impacts and/or proposed mitigation identified by the required site analyses.
14. Consideration of likelihood of market success of proposed use(s), as indicated by market analyses, where required.
15. The Board of Supervisors shall consider additional standards and criteria set forth in Section 1607, to the degree the Board of Supervisors deems such standards to be applicable to review of the conditional use application.
16. Proposed conditional uses shall meet the provisions and requirements of the East Nantmeal Township Subdivision and Land Development Ordinance and all other applicable ordinances and regulations of East Nantmeal Township.
17. The Board of Supervisors may impose such conditions, in addition to those required, as are necessary to assure compliance with the intent of the Zoning Ordinance, which conditions may include, but are not limited to, harmonious design of buildings, landscaped screening and buffering to protect views of the site and to minimize noise, glare, and noxious, offensive or hazardous elements of the proposed conditional use, and adequate parking and sanitation design.
18. If the Board of Supervisors approves the application and accompanying development plan, such approved plan shall accompany:
  - a. Any application for subdivision and land development as prescribed by the East Nantmeal Township Subdivision and Land Development Ordinance.
  - b. Any application for a building permit.

## ARTICLE XX

### ADMINISTRATION

#### Section 2000 ZONING OFFICER

For the administration of the Zoning Ordinance, a Zoning Officer, who shall not hold any elective office in the Township, shall be appointed by the Board of Supervisors. The Zoning Officer, who may also hold the title of Building Inspector or Building Official and Code Enforcement Officer, or Code Official shall meet qualifications established by the Township and shall be able to demonstrate to the satisfaction of the Township a working knowledge of municipal zoning. The Zoning Officer shall administer the Zoning Ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use that does not conform to the Zoning Ordinance. Zoning Officers may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of their employment pursuant to Section 2000.A.

A. Duties of the Zoning Officer shall be:

1. To provide the initial interpretation of the Zoning Ordinance provisions contained herein, including the enforcement thereof.
2. To examine all applications for zoning and use and occupancy permits to determine compliance with this Ordinance.
3. To record and file all applications for permits and accompanying plans and documents and keep them for public record.
4. To permit uses and/or buildings by special exception and/or variance only after approval for such uses and/or buildings has been so ordered by the Zoning Hearing Board in accordance with the provisions of this Ordinance, or by a court of appeals, subject to any stipulations contained in such order.
5. To permit uses and/or buildings by conditional use only after approval for such uses and/or buildings has been so ordered by the Board of Supervisors in accordance with the provisions of this Ordinance, or by a court of appeals, subject to any stipulations contained in such order.

6. To inspect nonconforming uses, buildings and lots and to keep a record of such nonconforming uses and buildings as a public record and to examine them periodically.
7. Upon the request of the Board of Supervisors or the Zoning Hearing Board, present to such bodies facts, records, and any similar information on specific requests to assist such bodies in reaching its decision.
8. To be responsible for the keeping up-to-date of this Ordinance and the Zoning Map, filed with the Township Secretary and to include any amendments thereto.
9. To be responsible for the administration of the National Flood Insurance Program in the Township and specifically in those areas where records must be maintained relative to the types of land use permitted and occurring within the floodplain district, variances issued, base flood elevations, elevation of the lowest floor, including basement, of structures within the floodplain district, the elevation to which the structure is flood-proofed and other administrative functions necessary for participation in the National Flood Insurance Program.

## Section 2001            PROCEDURES INVOLVING THE ZONING OFFICER

### A.     Sign Permits

A sign permit shall be required prior to the erection of alteration of, or enlargement of any sign, sign structure or any portion thereof. It shall be unlawful for any person to commence work for the erection of, or alteration of, or enlargement of any sign, sign structure or portion thereof, until a permit therefor has been duly issued; except, however, the signs listed in Section 1108 may be erected without a sign permit, provided that all requirements of Sections 1102, 1103 and 1104 are met.

#### 1.     Application for sign permits

An application for a sign permit shall be made to the Zoning Officer and shall be accompanied by a plot plan drawn to scale showing size and location of all buildings and structures on the premises in question and the dimensions and location of the proposed sign.

2. Issuance of sign permits

It shall be the duty of the Zoning Officer to either issue or deny issuance of a sign permit within thirty (30) days of the filing of a completed application and payment of prescribed fees. The Zoning Officer shall issue a permit only upon his determination that the application is in compliance with the terms of this Ordinance. Sign permits need not be displayed, but should be maintained on the premises.

B. Zoning Enforcement. See Article XXI of this Zoning Ordinance.

Distribution of Concurrent Submissions - For documents submitted to the Township in accordance with this Zoning Ordinance, the Zoning Officer shall transmit copies of those documents to the Planning Commission at their next available meeting. The Zoning Officer shall ensure that sufficient numbers of copies of such documents are provided by the applicant to supply each Commission member with a copy, plus three (3) extra.

Section 2002 BUILDING INSPECTOR

A. The duties of the Building Inspector shall be:

1. To examine all applications for permits to build, alter, or demolish and any applications required by the Pa UCC.
2. To issue permits only for construction and uses that are in accordance with the Township Zoning Ordinance and the Pa UCC as adopted.
3. To issue use and occupancy permits after satisfactory inspection of the building or premises subject to changes or approval by the Board of Supervisors.
4. To record and file all applications for permits and accompanying plans and documents and keep them for public record.
5. To enforce the Township building codes as adopted by the Township.
6. To administer those prescribed provisions relating to demolition of Historic and Architectural Resources.

- A. Building Permits - A building permit shall be required prior to the erection, alteration, enlargement, or demolition of any building or other structure or portion thereof. It shall be unlawful for any person to commence work for the erection, alteration, enlargement or demolition of any building or structure or portion thereof until a permit has been duly issued therefor. See Section 1604 for demolition permits for historic resources.

1. Application for building permits

All applications for building permits shall be made to the Building Inspector in writing on such forms furnished by the Township. An application for building permit shall be accompanied by all required plans and fees and any additional information as may be required to enable the Building Inspector to ascertain compliance with the applicable Township codes.

2. Issuance of building permits.

It shall be the duty of the Building Inspector to either issue or deny issuance of building permits within ninety (90) days of filing a completed application and payment of prescribed fees. The Building Inspector shall issue a permit only upon his determination that the application is in compliance with the Township Building Codes. A building permit, when issued, shall be accompanied by a placard to be displayed conspicuously upon the premises during the period of construction.

B. Use and Occupancy Permits

It shall be unlawful for any person to initially occupy any building or structure until an occupancy permit has been duly issued therefor by the Building Inspector.

1. When required

A use and occupancy permit shall be required prior to any of the following:

- a. Use and occupancy of any building or other structure

- hereafter erected or altered.
  - b. Change in use of any building or structure.
  - c. Use of land or change in the use thereof, except that the placing of vacant land under cultivation shall not require a use and occupancy permit.
  - d. Change in use or extension of a non-conforming use.
- 2. Issuance of use and occupancy permits
  - a. A use and occupancy permit for which application has been made shall not be issued until completion of the construction work authorized by the building permit. Upon notification by the applicant that the construction work has been completed, the Building Inspector shall conduct a final inspection and shall either issue or deny the use and occupancy permit within thirty (30) days, as aforesaid.
  - b. It shall be the duty of the applicant for a building permit to secure the issuance of the required use and occupancy permit by giving notice of completion as aforesaid, notwithstanding the fact that he may be constructing the building, structure, addition, or alteration for the use of another, and further to notify such proposed occupants of the requirements of this Section prior to the transfer of ownership or commencement of leasehold of the property.

## Section 2004 FEES AND EXPENSES

### A. Permit Applications

Fees for application for building permits, zoning permits, grading permits, demolition permits, use and occupancy permits, sign permits, or similar permits shall be paid in accordance with a fee schedule adopted by resolution of the Board of Supervisors. Such schedule may be revised, as necessary, by resolution of the Board of Supervisors.

### B. Applications or appeals before the Board of Supervisors or Zoning Hearing Board.

- 1. Upon submission of an application or appeal before the Board of

Supervisors or the Zoning Hearing Board, the applicant shall deposit an amount of money in accordance with a schedule of applicant expenses, adopted by resolution of the Board of Supervisors. The Zoning Officer shall determine in which category an application falls and, therefore, what amount is due.

2. If, at any time, the charges then made against the applicant's deposit shall render the balance insufficient to ensure payment of all expenses that may accrue in the disposition of the pending appeal or application, the Township Secretary shall obtain from the applicant additional deposits to assure adequate funds to pay such expenses as they may accrue. Prior to final disposition of the matter, the amount of the deposit shall not be less than 15% of the initial deposit amount. The failure of the Township Secretary to require and obtain additional deposits from time to time shall not relieve the applicant from liability for expenses in excess of deposits.

## Section 2005            MUNICIPAL LIABILITY

The granting of any permit under this Ordinance shall create no liability upon or a cause of action against, any Township official or employee for damages or injury that may occur from the use, construction, or enlargement of structures or the use of land.



## ARTICLE XXI

### ENFORCEMENT

#### Section 2100 VIOLATIONS

It shall be a violation of this Ordinance, or other existing statutes, to undertake any action that is contrary to the terms of this Ordinance, or to violate the terms and conditions attached to Zoning permit or approval issued by Township Officials, the Board of Supervisors, or the Zoning Hearing Board under the provisions of this Ordinance.

#### Section 2101 ENFORCEMENT NOTICE

- A. If it appears to the Township that a violation of this Ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by issuing an enforcement notice as provided in this section. By means of the enforcement notice, the Zoning Officer, as ordered by the Board of Supervisors, may order discontinuance of illegal use of land or structures; removal of illegal structures or additions, alterations, or structural changes thereto; or discontinuance of any illegal work being done. The Board of Supervisors also may authorize the Township Manager, Solicitor, and any other persons specifically authorized by the Board of Supervisors to assist in the enforcement of this Ordinance.
- B. In the event that the enforcement notice is mailed, rather than hand delivered, the enforcement notice shall be sent via certified mail to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record. In the event that hand delivery of the enforcement notice is pursued, such notice shall be followed by an additional copy of notice sent by certified mail.
- C. An enforcement notice shall, at a minimum, state the following:
  - 1. The name of the owner of record and any other persons against whom the Township intends to take action.
  - 2. The location of the property in violation.
  - 3. The specific violation, with a description of the requirements that have not been met, citing in each instance the applicable

provisions of this Ordinance.

4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board, in accordance with the procedures set forth in this Ordinance.
6. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation with the possibility of sanctions, as provided in this Ordinance.

## Section 2102 CAUSES OF ACTION

- A. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the Township. Such complaint shall be signed, shall state fully the causes and basis thereof, and shall be filed with the Zoning Officer. The Zoning Officer shall record properly such complaint, investigate, and take action thereon.
- B. In case any building, structure, hedge, tree, wetland, shrub or other growth, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this Ordinance, the Board of Supervisors or the Zoning Officer or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct, or abate such building, structure, hedge, tree, shrub or other growth, or use of land, or to prevent, in or about such premises, any act, conduct, business, or use constituting a violation.
- C. Where any action, authorized in Subsection 2102.B, above, is instituted by a landowner or tenant, notice of that action shall be served upon the Township at least 30 days prior to the time the action is begun, by serving a copy of the complaint upon the Board of Supervisors. No such action may be maintained until such notice has been given.

## Section 2103

## ENFORCEMENT REMEDIES

- A. Any person, partnership, or corporation who has received a notice of violation from the Zoning Officer may either correct the violation within the allotted time period, or if believed wrongfully served, promptly file an appeal with the Board of Zoning Appeals pursuant to this Zoning Ordinance.
- B. Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied, or be payable until the date of the determination of a violation by the 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 determining that there has been a violation further determines that there was a good faith basis for the person, partnership, or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice. Thereafter, each day that a violation continues shall constitute a separate violation. All judgments, costs, and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to East Nantmeal Township.
- C. In addition to the above remedies, the Board of Supervisors may take other appropriate legal action, which may include equitable and injunctive relief, to enforce the provisions of this Ordinance.

## Section 2104

## EXEMPTIONS

The Zoning Ordinance and the provisions thereof shall not apply to any existing structure or extension thereof, used or to be used, by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utilities Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utilities Commission to insure that both the corporation and the Township have notice of the hearing and are granted an opportunity to appear and present witnesses,

cross-examine witnesses presented by other parties, and otherwise exercise the rights of a party to the proceeding.

## Section 2105            ZONING / BUILDING PERMITS

### A.     General Requirements of Zoning / Building Permits / Pa UCC

1.     A building permit / Pennsylvania Uniform Construction Code (Pa UCC) permits shall be required prior to the start of construction of any structure or portion thereof upon any lands within East Nantmeal Township. A zoning permit shall be required prior to: changing the use of land or buildings; changing the use or extending or enlarging a nonconforming use. The placing of vacant land under cultivation shall not require a zoning permit.
2.     It shall be unlawful to commence any site work or other work requiring a zoning / building permit / Pa UCC permit until such zoning / building permit / Pa UCC permit has been properly issued therefor. The zoning / building permit / Pa UCC permit certifies that such specifically enumerated activities or uses are in conformance with all applicable ordinances, approvals and all conditions or stipulations specified in said approvals. It shall be unlawful for any person to commence work on any of the above enumerated activities prior to obtaining a zoning / building permit / Pa UCC permit or continuing such activities after the expiration, termination or revocation thereof.
3.     It shall be unlawful to locate a travel trailer within the mapped floodway in the Flood Hazard District or in the floodway of any stream or to locate a mobile or manufactured home, other than one permanently anchored to a permanent foundation anywhere within the Township, except within a travel trailer or mobile home park lawfully operated and permitted for such purposes, until a zoning / building permit / Pa UCC permit has been duly issued therefor.
4.     Applications for a zoning / building permit / Pa UCC permit shall be made in writing to the Township on its prescribed forms in order to ascertain whether the proposed erection, construction, alteration or use complies with the provisions of this Ordinance.
5.     Such permits shall be granted or refused within thirty (30) days upon satisfaction of the Township that all required information has

been supplied. In the case of refusal, the applicant shall be informed of his right to appeal.

6. No permits shall be issued except in conformity with the requirements of this Ordinance and other applicable ordinances except after written order from the Zoning Hearing Board or the Board of Administrative Appeals or a court of competent jurisdiction.
7. In all instances wherein the Zoning Officer expresses a reasonable doubt as to the ability of the proposed use to meet all of the requirements of this Ordinance, it shall be incumbent upon the applicant to furnish adequate evidence in support of his application.
8. No application for a permit shall be filed except by the landowner or a tenant duly authorized in the applicable lease instrument to file the same. Proof of standing shall be submitted to the Zoning Officer at the time of filing an application. The parcel or parcels of land and/or buildings or parts of buildings for which an application is being filed shall be furnished at the time of application.
9. Applications for permits under this Section, together with accompanying plans and data, may be submitted by the Zoning Officer to any governmental agency, authority or representative for review and comment relative to the compliance with existing statutes, and the Zoning Officer shall consider such comments in acting on the application.
10. A special exception, variance or conditional use shall expire at the end of six (6) months unless the applicant has within that time made a proper application for a permit and diligently pursued the same. A permit once issued shall expire at the end of six (6) months unless within that time the applicant has made proper application for a building permit under the Building Code. Once any permit granted expires, all underlying permits and approvals granted by the Township, with the exception of subdivision and land development plan approvals, shall, in like manner, be deemed to expire. Provided, however, the Board of Supervisors may, on a timely application and for cause shown, grant one or more extensions of any such permit, but no extension shall be granted for a period in excess of six (6) months, nor shall any extension be granted on applications filed after the expiration of such prior approval. Any extension granted shall be granted on such terms as the Board of Supervisors may deem reasonable

under the circumstances, including the requirement that the applicant, as a condition of such extension, pay the costs incurred by the Township in the review and processing of such application, which costs shall include, but not be limited to, engineering and solicitor's fees.

B. Application for Zoning Permits in all Residential Districts

1. All applications shall be made in writing and shall be accompanied by two (2) sets of plans showing at least the following if applicable:
  - a. Two (2) copies of the approved land development plan and/or zoning plan, if applicable, together with any other data and information required by the Zoning Officer to evaluate compliance with this Ordinance and other existing statutes.
  - b. Two (2) copies of detailed architectural plans for any proposed building or structure under the application showing the exact size and location on the lot of the buildings, structures or signs existing and/or proposed extensions thereto.
  - c. The number of dwelling units, if applicable.
  - d. The number of parking spaces provided and/or loading facilities.
  - e. A statement indicating the existing and proposed use.
  - f. The height of the structure(s), building(s) or sign(s).
  - g. When required, the disturbance or movement of earth shall necessitate a soil and erosion control plan with an accompanying narrative prepared by a qualified person for review and approval by the Chester County Conservation District or, when applicable, a copy of the permit issued by the Pennsylvania Department of Environmental Protection, approving earth disturbance operations, or the appropriate approving agency.
  - h. Permits or certification from an appropriate agency for the provision of a healthful water supply, disposal of sewage and other wastes, and control of objectionable effects as

well as any other appropriate, lawful permits as may be required by statute.

- i. All other information necessary for the Zoning Officer to determine conformance with and provide for enforcement of this Ordinance.
    - j. No application is complete until all the necessary documents have been filed and all fees paid.
  - 2. One (1) copy of the plan shall be returned to the applicant by the Zoning Officer after he shall have marked such copies either as approved or disapproved and attested to the same by his signature on such copy.
  - 3. One (1) copy of all such plans shall be retained by the Township for the permanent records.
  - 4. In applications for minor additions or alterations to residential dwellings, the Board of Supervisors may, but shall not be obligated to, on request of the applicant, waive any procedural requirements with respect to the content of plans or applications provided that the plans or application demonstrate compliance with all of the terms of this Ordinance and other applicable ordinances.
- C. Applications for Zoning Permits in all Commercial, Industrial Agricultural, Educational / Institutional and Flood Hazard Districts.
- 1. All applications shall be made in writing and shall be accompanied by two (2) sets of plans showing at least the following if applicable:
    - a. Two (2) copies of the approved land development plan and/or plot plan, if applicable, together with any other data and information required by the Zoning Officer to evaluate compliance with this Ordinance and other existing statutes. The plot plan shall show the location of all existing and proposed buildings, drives, parking lots showing driveways, circulation patterns, curb cuts, accesses, parking stalls and bumpers, screening, fences and walls, waste disposal fields or other methods of sewage disposal and other construction features on the lot and the location of all environmental features.

- b. Two (2) copies of detailed architectural plans for any proposed building or structure under the application.
- c. A description of the operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, vibration, fire hazards, safety hazards, smoke or emission of any potentially harmful or obnoxious matter or radiation.
- d. Engineering and architectural plans for the treatment and disposal of sewage and industrial waste, tailings or unusable by-products.
- e. Engineering and architectural plans for the handling of any excess traffic congestion, noise, glare, air pollution, water pollution, vibration, fire hazards, safety hazards, smoke or emission of any potentially harmful or obnoxious matter or radiation.
- f. Designation of the manner by which sanitary sewage shall be disposed of and water supply obtained.
- g. The proposed number of shifts to be worked and the maximum number of employees on each shift.
- h. Where use by more than one (1) firm is anticipated, a list of the firms which are likely to be located in the site, their floor area and estimated number of employees.
- i. When required, the disturbance or movement of earth shall necessitate a soil and erosion control plan with an accompanying narrative prepared by a qualified person for review and approval by the Chester County Conservation District or, when applicable, a copy of the permit issued by the Pennsylvania Department of Environmental Protection, approving earth disturbance operations, or the appropriate approving agency.
- j. Permits or certification from an appropriate agency for the provision of a healthful water supply, disposal of sewage and other wastes, and control of objectionable effects as well as any other appropriate, lawful permits as may be required by statute.



- k. All other information necessary for the Zoning Officer to determine conformance with and provide for enforcement of this Ordinance.
- l. No application is complete until all the necessary documents have been filed and all fees paid.

2. Review by the Township Engineer

- a. When requested, applications for permits under this section, along with accompanying plans and data, shall be submitted by the Zoning Officer to the Township Engineer for his technical review and comment.

The Engineer shall review the material to determine that the proposed development is conforms to the provisions of this Article and the East Nantmeal Township Comprehensive Plan.

- b. The Township Engineer shall make his comments on the application within ten (10) days of its receipt. The Zoning Officer shall take into consideration the comments of the Township Engineer in his approval or denial of the application.

- 3. One copy of the plan shall be returned to the applicant by the Zoning Officer after he shall have marked such copies either as approved or disapproved and attested to the same by his signature on such copy.
- 4. One copy of all such plans shall be retained by the Township for the permanent records.

D. Application for Sign Permits

A sign permit shall be required prior to the erection or modification of any sign, sign structure or change in location of an existing sign. Application for a sign permit shall be made in writing on an appropriate form to the Zoning Officer and shall contain all information necessary for such officer to determine whether the proposed sign, or the proposed alterations, conform to all the requirements of this Ordinance. No sign permit shall be issued except in conformity with the requirements of this Ordinance or except after written order from the Zoning Hearing Board, or the court of jurisdiction.

1. All applications for sign permits shall be accompanied by plans of diagrams in duplicate and approximately to scale, showing the following:
  - a. Dimensions of the lot (including any right-of-way lines) and/or building upon which the sign is proposed to be erected.
  - b. Size, dimensions and location of the said sign on lot or building together with its type, construction, materials to be used, and the manner of installation.
  - c. Any other lawful information that may be required of applicant by the Zoning Officer.
2. One (1) copy of said plan or diagram shall be returned to the applicant, after the Zoning Officer shall have marked such copy either approved or disapproved, and attested to same.

E. Application for All Other Permits

Applications shall be accompanied by plans in duplicate, drawn to scale and showing the following:

1. Actual dimensions and shape of the lot to be built upon.
2. Exact size and locations on the lot of all existing buildings and other structures, if any, and the location and dimensions of proposed buildings and other structures or alteration.
3. Existing and proposed uses, showing the number of families the building is designed to accommodate.
4. Any other lawful information that may be required by the Zoning Officer or by other sections of this article.
5. Water and sewer systems conforming to the most recent applicable regulations adopted by the Board of Supervisors.

F. Temporary Use Permit

A temporary permit may be authorized by the Zoning Hearing Board, subject to the requirements of this chapter, for a nonconforming structure or use which it deems beneficial to the public health or general welfare or

which it deems necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit without cost to the Township. Such a permit shall be issued for a specified period of time not exceeding one (1) year and may be renewed annually for an aggregate period of not more than three (3) years.

## Section 2106            ZONING USE AND OCCUPANCY

### A.     General

1.     It shall be unlawful for the applicant and/or person or other entity to sell, use or occupy any newly constructed building or other structure or newly created parcel of land until a certificate of zoning use and occupancy, if required, has been duly issued therefor. A certificate of zoning use and occupancy shall be required prior to any of the following:
  - a.     Use and/or occupancy of any parcel of land, building or other structure hereinafter erected, altered or enlarged for which a zoning permit or sign permit is required.
  - b.     Any change in use including accessory uses of any parcel of land, building or structure.
  - c.     Changes in extension or enlargement of a nonconforming use.
  - d.     For all commercial and industrial uses, a change of use of any parcel of land, building, or other structure for which a zoning permit has been or should have been issued under this or previous zoning ordinances.
  - e.     For new construction in all zoning districts prior to sale.
  - f.     A use and occupancy permit is issued at the time of final inspection.

### 2.     Application procedures

Applications shall be made in writing to the Zoning Officer on a form specified for such purposes by the Zoning Officer.

### 3. Issuance

- a. Certificates of zoning use and occupancy shall be granted or refused within ten (10) days from the date of application. No application shall be granted or refused until the Building Inspector has inspected the premises. Issuance of this certificate by a Township Official, such as the Building Inspector, or the Zoning Officer shall be based in conformity of the work to the requirements of this Ordinance and any other pertinent ordinances.
- b. Pending completion of a building or of alterations thereto, temporary certificate of zoning use and occupancy may be issued by the Zoning Officer for a temporary occupancy of part or all of the building provided that such temporary occupancy will not damage in any way the health, safety, and welfare of the public property and providing further that a time limit for temporary certificate not exceeding six (6) months shall be established.
- c. In commercial and industrial districts in which performance standards are imposed by this Ordinance or when required by the Zoning Officer, no zoning certificate of use and occupancy shall become permanent until sixty (60) days after the facility is fully operating, when upon a re-inspection by the Zoning Officer it is determined that the facility is in compliance with all performance standards.

## ARTICLE XXII

### AMENDMENTS

#### Section 2200            POWER OF AMENDMENT

The Board of Supervisors may from time to time amend, supplement, change, modify or repeal this Ordinance including the Zoning Map and its overlays, by proceeding in the manner prescribed in this Article and in accordance with the applicable provisions of the MPC.

#### Section 2201            INITIATION OF AMENDMENT PROPOSALS

- A.     Proposals for amendment of this Ordinance may be initiated by the Board of Supervisors on its own motion, by the Township Planning Commission or by one (1) or more owners of property to be affected by the proposed amendment.
- B.     A landowner may submit a proposed curative amendment, challenging the validity of this Ordinance in accordance with the provisions of the MPC. The Board of Supervisors shall proceed and act upon any such proposal in the manner stipulated in the MPC.

#### Section 2202            PROCEDURES FOR CONSIDERATION OF PROPOSED AMENDMENTS

- A.     Proposals Initiated by the Board of Supervisors

The Board of Supervisors shall refer every proposed amendment originated by the Board, or submitted, for its formal consideration, to the Board and deemed appropriate by the Board to the Township Planning Commission and the County Planning Commission.

- B.     Proposals Initiated by the Township Planning Commission

The Township Planning Commission may at any time transmit to the Board of Supervisors any proposal for the amendment of this Ordinance.

C. Proposals Initiated by Petition of Property Owners

Each petition by one (1) or more property owners of property to be affected by a proposal for amendment shall be submitted in writing to the Secretary of the Board of Supervisors together with a fee in accordance with a fee schedule adopted by resolution of the Board. No part of such fee shall be refundable to the petitioner. Upon receipt of a petition for amendment, the Board of Supervisors shall transmit a copy of the petition to the Township Planning Commission and the County Planning Commission.

D. Referral to Township and County Planning Commissions

1. At least thirty (30) days prior to any amendment hearing the Board of Supervisors shall refer proposed amendments, other than one originated by the Township Planning Commission, to the Planning Commission. The Planning Commission shall consider whether or not the proposed amendment would be consistent with and in furtherance of implementation of the Township's Comprehensive Plan. The Planning Commission shall transmit its conclusion thereon, together with its reasons to the Board of Supervisors, The Board, in reaching its decision, shall take into consideration such conclusions and reasoning but is not bound thereby.
2. All proposed amendments shall be submitted by the Township to the Chester County Planning Commission for review and comment at least thirty (30) days prior to the amendment hearing in accordance with the provisions of Article VI of the MPC. The Board of Supervisors shall not take action on the amendment until the report from the County Planning Commission is received or the time period for such response has elapsed. However, the Board shall not be bound by recommendation of the County.
3. Within 30 days after enactment, a copy of the amendment shall be forwarded to the Chester County Planning Commission.

Section 2203 PUBLIC HEARING AND NOTICE

The Board of Supervisors shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given as follows:

- A. The Board of Supervisors shall publish notice thereof consistent with the

public notice requirements of the MPC. The notice shall be published, not more thirty (30) days and not less than seven (7) days in advance of the date of the hearing, in a newspaper of general circulation in the Township. Such notice shall be published once each week for two (2) consecutive weeks. The notice shall state the particular nature of the matter to be addressed through the proposed amendment, a reference to a place in the Township where copies of the proposed amendment may be examined without charge or purchased at a charge not exceeding the cost thereof, and the time and place set for the public hearing.

- B. If the proposed amendment involves a zoning map change notice of the public hearing shall be conspicuously posted by the Township along the perimeter of the tract or area where such map change is proposed. Such posting shall be in accordance with the provisions of the MPC to notify interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.
- C. In addition to any public notice requirements for public hearing on amendments, notice of proposed enactment shall include the time and place of the meeting at which passage will be considered, a reference to the place within the Township where copies of the proposed amendment may be examined without charge or obtained for a charge not to exceed the cost thereof. The Board of Supervisors shall publish the proposed amendment once in one (1) newspaper of general circulation in the Township not more than sixty (60) or less than seven (7) days prior to taking action.

Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the Township solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

- 1. A copy thereof shall be supplied to a newspaper of general circulation in the Township at the time the public notice is published.
- 2. An attested copy of the proposed ordinance shall be filed in the County Law Library or other County office designated by the County Commissioners.
- 3. At the public hearing, full opportunity to be heard shall be given to any resident and all parties in interest.

4. If after public hearing held upon the amendment, the proposed amendment is changed substantially, or is revised to include land previously not affected by it, the Board of Supervisors shall hold another public hearing, pursuant to public notice as provided in this Section, prior to proceeding to vote on the amendment.
5. The Board of Supervisors also shall re-advertise any proposed amendment where the scheduled date of enactment is more than sixty (60) days following the date of the last advertisement of the proposed amendment.



## APPENDIX A

### Cluster Option Formula and Example:

#### 1. Formula

A.  $(GTA - EUE - ROW - CEL - NRA - (CLR \times DCL)) \div 10 = BDD$

B.  $BDD + (DBR \times BDD) - AFU = \text{Maximum Dwelling Units per Tract}$

Where:

GTA	=	Gross Tract Area
EUE	=	Existing Utility Easements
ROW	=	Existing and Proposes Street Rights-of-Way
CEL	=	Conservation Easement Lands
NRA	=	Non-Residential and Non-Agricultural Uses
CLR	=	Constrained Land Ratio
DCL	=	Designated Constrained Lands
BDD	=	Base District Density
DBR	=	Density Bonus Ratio
AFU	=	Any Fractional Units

#### 2. Example

A one hundred and fifty (150) acre gross tract area (GTA) of land, has one and three-quarters (1.75) acres of existing gas utility easements (EUE), and the existing and proposed street rights-of-way (ROW) total thirteen and one-half (13.5) acres. There is one (1) acre conserved in perpetuity by deed restriction (CEL). There are no non-residential or non-agricultural uses (NRA) on the tract. Six (6) acres are constrained (DCL), four (4) of which are within the Flood Hazard and Flood and Water Hazard Soils District. The maximum number of permitted dwelling units is calculated as follows:

A.  $(150 - 1.75 - 13.5 - 1.0 - 0.0 - (.75 \times 6)) \div 10 = 12.925$

B.  $12.925 + (3 \times 12.925) = 51.7$

C. Less fractional units = 51 Maximum Permitted Dwelling Units

In addition to the fifty one (51) dwelling units, the landowner/developer would have fourteen (14) transferable development rights to sell, such development rights calculated as follows:

A.  $GTA - EUE - ROW - CEL - NRA - (0.5 \times FHS) = NTA$

B.  $\text{NTA} \times 0.5 = \text{Number of Transferable Development Rights}$

Where:

GTA = Gross Tract Area  
EUE = Existing Utility Easements  
ROW = Existing and Proposes Street Rights-of-Way  
CEL = Conservation Easement Lands  
NRA = Non-Residential and Non-Agricultural Uses  
FHS = Flood Hazard and Flood and Water Hazard Soils  
NTA = Net TDR Acreage

A.  $150 - 1.75 - 13.5 - 1.0 - 0.0 - (0.5 \times 4) = 131.75$

B.  $131.75 \times 0.5 = 65.875$

C. Less fractional units = 65 Transferable Development Rights

D.  $65 \text{ Transferable Development Rights} - 51 \text{ Dwelling Units} = 14 \text{ TDR s}$

## APPENDIX B

### Transferable Development Rights Formula and Example:

#### 1. Formula

A.  $GTA - CEL - ROW - EUE - NRA - NCU - (0.5 \times FWH) = NTA$

B.  $NTA \times 0.5 = \text{Number of Transferable Development Rights}$

Where:

GTA	=	Gross Tract Area
CEL	=	Conservation Easement Lands
ROW	=	Existing and Proposed Street and RR Rights-of-Way
EUE	=	Existing Utility Easements
NRA	=	Non-Residential and Non-Agricultural Uses
NCU	=	Non-Conforming Use
FHS	=	Flood Hazard and Flood and Water Hazard Soils District
NTA	=	Net Transferable Development Rights Acreage

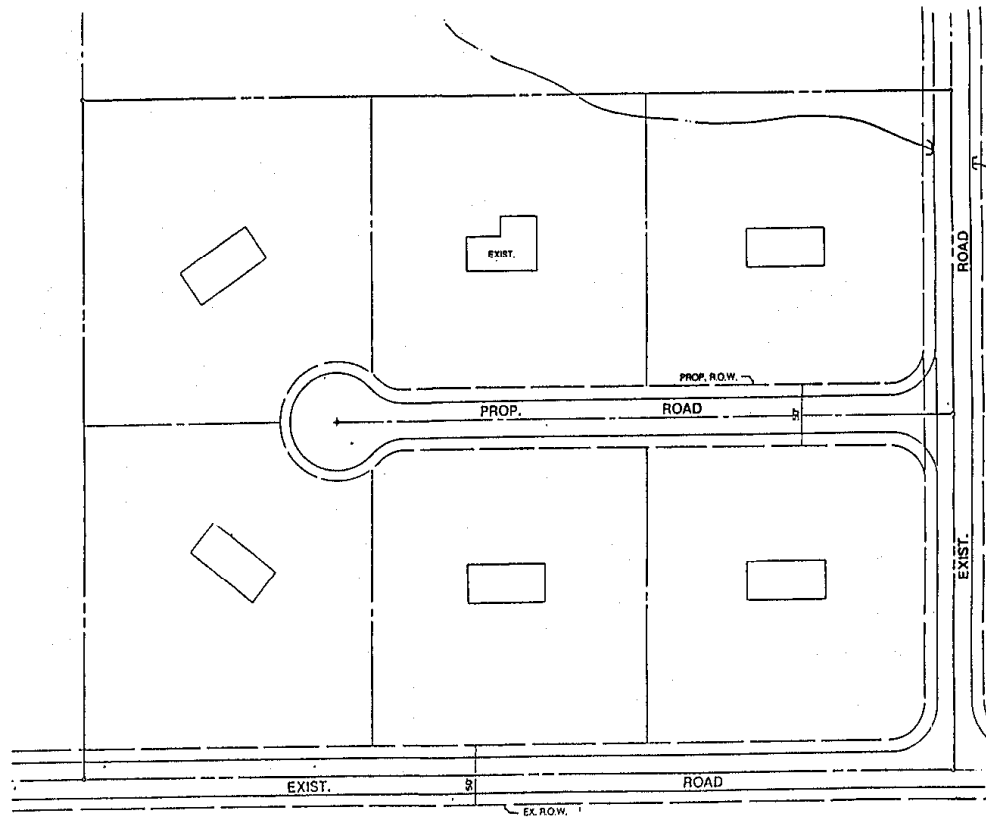
#### 2. Example

A one hundred and fifty (150) acre gross tract area (GTA) of land, has one and three-quarters (1.75) acres of existing gas utility easements (EUE), and the existing and proposed street rights-of-way (ROW) total thirteen and one-half (13.5) acres. There is one (1) acre conserved in perpetuity by deed restriction (CEL). There are six (6) acres occupied by non-residential or non-agricultural uses (NRA) on the tract. Four (4) acres of land are within the Flood Hazard and Flood and Water Hazard Soils District. There are no non-conforming uses on the tract. The maximum number of transferable development rights is calculated as follows:

A.  $150 - 1.0 - 13.5 - 1.75 - 6.0 - 0.0 - (0.5 \times 4) = 125.75$

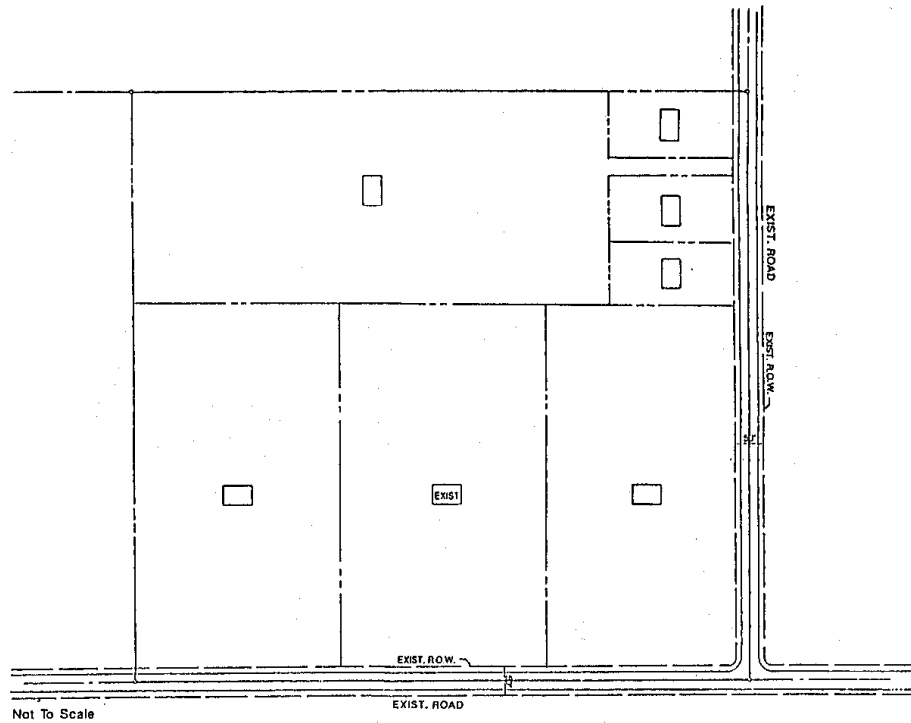
B.  $125.75 \times 0.5 = 62.875$

C. Less Fractional Units = 62 Transferable Development Rights

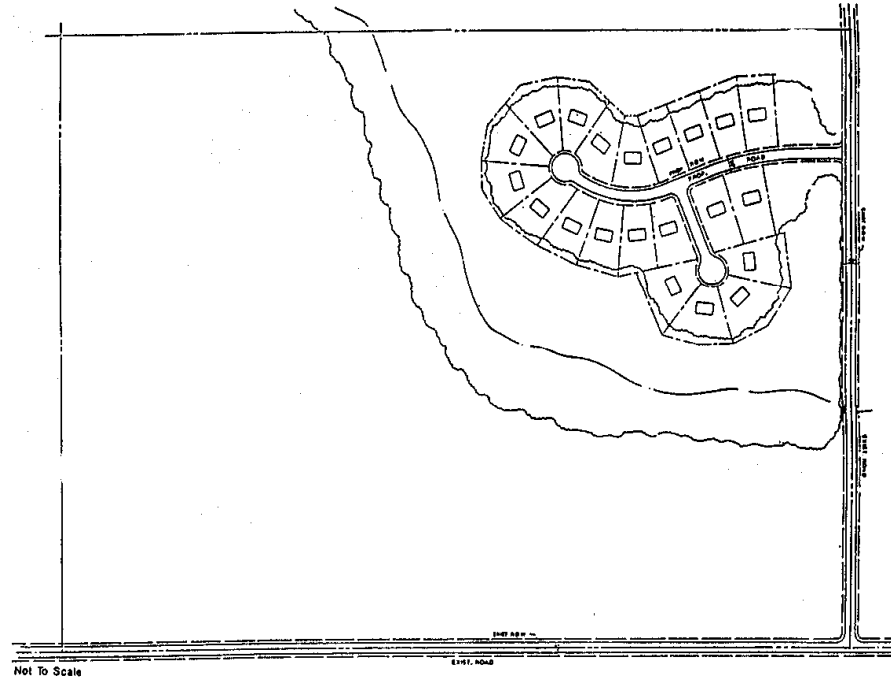


**Appendix C - Exhibit A**  
**Class I AP Lands (10 Acres) -**

**First 10 Acres = 6 Lots**



**Exhibit B**  
**Class I AP Lands - 20 Acres - For Each Additional 10 Acres = 1 Lot - (20 Acres = 7 Lots)**



CLUSTER OPTION 1 (51% Class 1, 2, 3 & Soils)

Gross Area (Minus) —

- Utility
- Exist. or Prop. Street
- Exist. Conservation Easements
- 75% Floodplains, Wetlands or Slopes 25%+

= Net Acreage

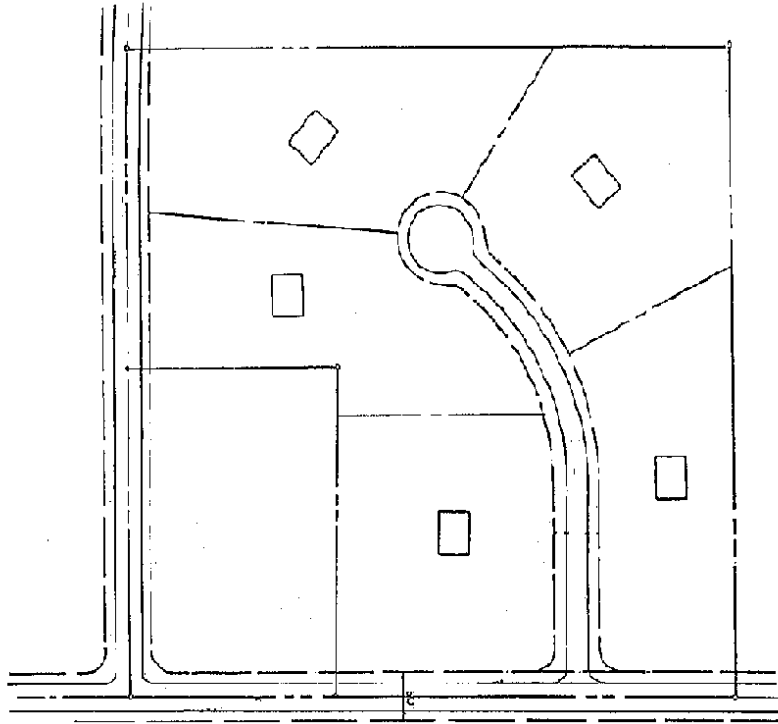
Example: Assume 100 Ac.  
Minus  
Exceptions - 28 Ac.

72 Acres + 10 = 7.2 x 3 = 21.6  
or 22 D.U. Tot.

Net Acreage + 10 =  $\frac{\text{Base District Density}}{\text{Density}} \times 3 = \frac{\text{Minus Fractions}}{\text{Fractions}} = \text{Maximum Density}$

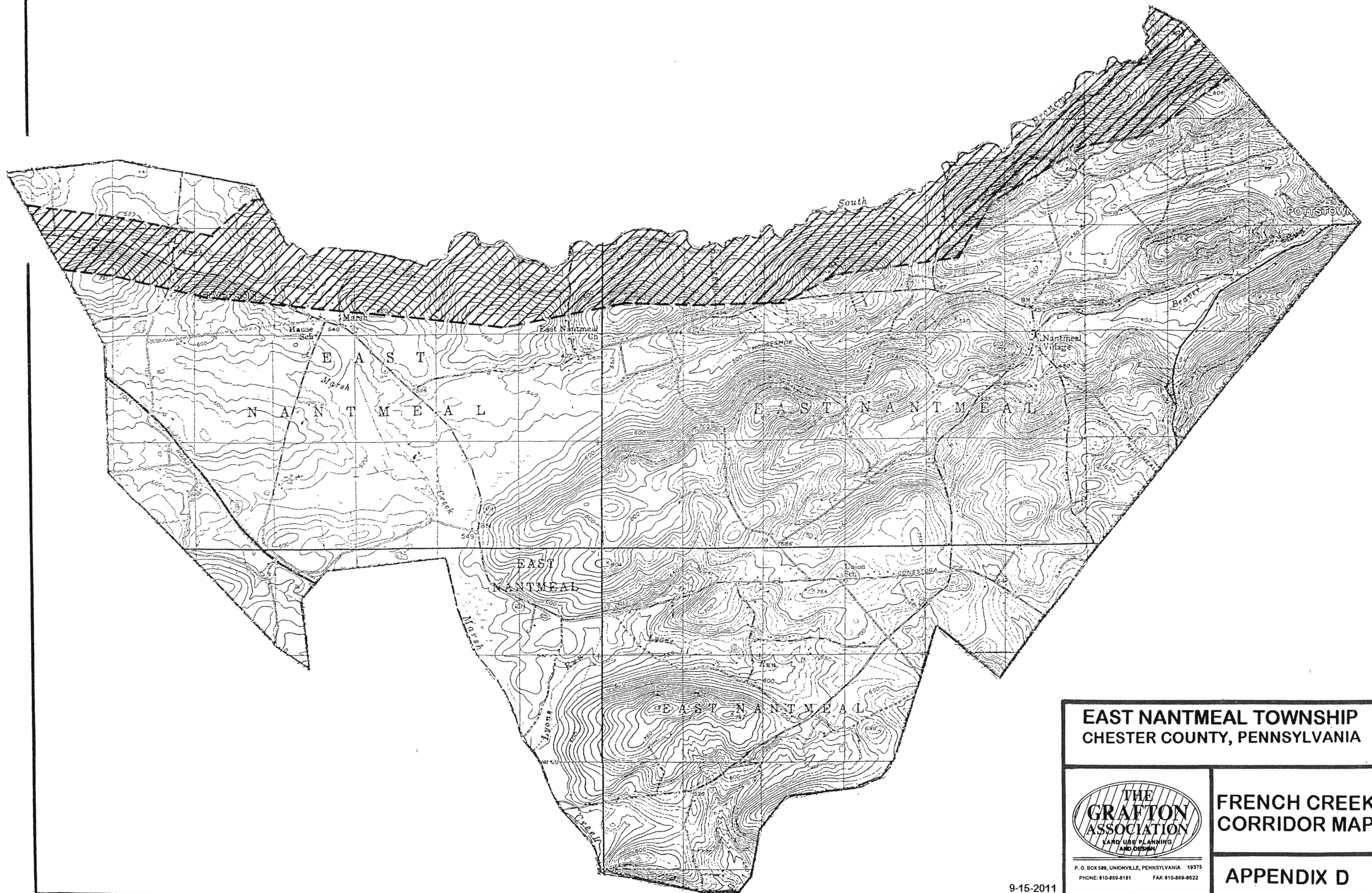
## Exhibit C

**Class I AP Land - Cluster Option - 100 Acres - 21 Lots + 1 Existing Lot = 22 Lots**



**Exhibit D**  
**Class II AP Lands Base Density - 9 Acres 5 Lots (1.5 Acre Minimum)**





**EAST NANTMEAL TOWNSHIP  
CHESTER COUNTY, PENNSYLVANIA**



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**FRENCH CREEK  
CORRIDOR MAP**

**APPENDIX D**



