

**Administrative Legislation**

**Chapter 1**

**GENERAL PROVISIONS**

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

GENERAL PROVISIONS

ARTICLE I  
**Adoption of Code**

**[An ordinance adopting the Code of the Township of Porter and making certain substantive changes to existing ordinances of the Township is presently proposed before the Board of Supervisors. Upon final adoption, it will be included here as Article I of this chapter.]**

GENERAL PROVISIONS

**Chapter 18**

**FIRE COMPANY**

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

## ARTICLE I

**Firemen's Relief Association****[Adopted 5-1-1989 by Ord. No. 20 (Ch. 1, Part 2, of the 1989 Code of Ordinances)]****§ 18-1. Recognition of firefighter relief association.**

- A. The following association is hereby recognized as actively engaged in providing fire protection and/or emergency services in the Township of Porter:
- (1) Nittany Valley Volunteer Firemen's Relief Association.
- B. The above-named association has been formed for the benefit of its members and their families in case of death, sickness, temporary or permanent disability or accident suffered in the line of duty.
- C. The above-named association of the Township is designated the proper association to receive such funds as are due and payable to the Township Treasurer by the Treasurer of the State of Pennsylvania from the tax on premiums from foreign fire insurance companies.

**§ 18-2. Certification to Auditor General.**

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

**§ 18-3. Annual appropriation.**

There is annually appropriated from the Township Treasury all such sums of money that may hereafter be paid into the Township Treasury by the Treasurer of the State of Pennsylvania on account of taxes paid on premiums of foreign fire insurance companies in pursuance of 1984 Act of December 18, No. 205, §§ 701 et seq., as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.<sup>1</sup> Such monies received by the Township Treasurer from the State Treasurer shall be distributed to the duly recognized association(s) within 60 days of receipt. The funds shall be distributed on the basis of the percentage of service established in the certification to the Auditor General and with other provisions of the Act.

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1. Editor's Note: See 53 P.S. § 895.701 et seq.

## ARTICLE II

**Nittany Valley Volunteer Fire Company  
[Adopted 5-3-1999 by Ord. No. 35-1999]****§ 18-4. Recognition.**

The Township of Porter hereby recognizes the Nittany Valley Volunteer Fire Company, Inc., which has been organized by residents of the Township of Porter. No other organization(s) dedicated to the fighting of fires are authorized to operate within the Township of Porter, Clinton County, Pennsylvania, except for those acting on a mutual aid or other agreement approved by the Board of Supervisors of the Township of Porter, Clinton County, Pennsylvania.

**§ 18-5. Authority.**

- A. Rules and regulations. The Nittany Valley Volunteer Fire Company, Inc., is hereby authorized to provide such services to the Township of Porter as may be necessary for the protection of property and persons situate therein, which include, by way of example and not of limitation, the extinguishment of fires and prevention of loss of life and property from fire, automobile accidents, medical emergencies, hazardous material incidences and other dangerous situations.
- B. Public service functions. The Fire Company may also provide nonemergency and public service functions, such as, again by way of example and not of limitation, removing water from property after storms and assisting in the removal, abatement and prevention of damage or injury to persons or property, whether through natural causes or man-made situations.
- C. Training and drills. The Fire Company may also conduct and participate in such training activities and drills, either within or outside of the Township of Porter, as may be deemed necessary by the officers of the Fire Company to maintain proficiency in providing service.
- D. Mutual aid. The Fire Company may also respond to calls and provide services to municipalities outside of the Township of Porter, Clinton County, Pennsylvania, pursuant to mutual aid agreements.
- E. Relationship to Township of Porter. Neither the grant of the aforesaid power nor the recognition set forth in this article shall be construed as constituting the Nittany Valley Volunteer Fire Company, Inc., as an agent, department or employee of the Township of Porter, Clinton County, Pennsylvania, except insofar as such effect is provided under the provisions of the Act of June 2, 1915, P.L. 736, No. 338, known as the "Pennsylvania Workman's Compensation Act," 77 P.S. § 1 et seq., or 42 Pa.C.S.A. § 8541 et seq. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- F. Debt limitations. The Nittany Valley Volunteer Fire Company, Inc., and/or its individual members and/or officers are hereby prohibited from incurring debt in excess of \$20,000 without the prior written consent of the Porter Township Board of Supervisors. **[Amended 2-13-2023 by Ord. No. 02-13-2023A]**
- G. Expenditure limitations. The Nittany Valley Volunteer Fire Company, Inc., and/or its individual members and/or officers are hereby prohibited from making expenditures in excess of \$20,000 without the prior written consent of the Porter Township Board of

Supervisors. This limitation shall not apply to expenditures of grant monies for the purpose of said grants. **[Amended 2-13-2023 by Ord. No. 02-13-2023A]**

- H. Evasion of debt and expenditure limitations. Neither the Nittany Valley Volunteer Fire Company, Inc., and/or its individual members and/or its officers shall evade the debt and expenditure limitations set forth herein by purchasing or contracting for services and personal properties piecemeal to obtain monetary amounts less than the debt and expenditure limitations set forth herein. It shall be deemed to be unlawful for the Nittany Valley Volunteer Fire Company, Inc., and/or its representatives to make a series of purchases or contracts each for less than the debt and expenditure limitations, or by making several simultaneous purchases or contracts each below the debt and expenditure limitations when the transactions involved should have been made as one transaction for one set amount. Anyone who votes in violation of this provision and who knows that the transaction upon which they vote is or ought to be part of a larger transaction and that it is being divided in order to evade the debt and expenditure limitations are jointly and severally subject to surcharge for 10% of the full amount of the contract or purchase.
- I. Penalties. Any person who violates or permits a violation of this article shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$600, plus all court costs, including reasonable attorneys' fees, incurred by the Township in the enforcement of this article. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**

#### **§ 18-6. Officers.**

The members of the Nittany Valley Volunteer Fire Company, Inc., may elect from their numbers such officers as may be provided by the bylaws of said Fire Company.

#### **§ 18-7. Repealer.**

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

#### **§ 18-8. Severability.**

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

#### **§ 18-9. When effective.**

This article shall become effective on the earliest date permitted by law.

## ARTICLE III

**Reporting Requirements for Fire Companies  
[Adopted 2-13-2023 by Ord. No. 02-13-2023A]****§ 18-10. Member list required.**

No later than January 31 of a given year, all fire companies recognized by the Township of Porter shall provide the Board of Supervisors with a list of their members as of January 1 of that year. All fire companies shall further update the Board of Supervisors with a list of all new members and/or removals within 30 days of any change to same.

**§ 18-11. Meeting schedule required.**

No later than January 31 of a given year, all fire companies recognized by the Township of Porter shall provide the Board of Supervisors with a list of the dates, times, and places of their anticipated meetings during the course of that calendar year. Within 10 days of any decision to schedule an additional meeting, cancel a meeting, or reschedule a meeting, all fire companies recognized by the Township of Porter shall provide the Board of Supervisors with said information.

**§ 18-12. Meeting minutes required.**

No later than 15 days after the approval of meeting minutes by any fire company recognized by the Township of Porter, the said fire company shall provide a copy of said meeting minutes to the Board of Supervisors.

**§ 18-13. Submission of notices.**

Any and all notices, advertisements, publications, solicitations, or the like shall be submitted to the Board of Supervisors within 10 days of the date publicized.

**§ 18-14. Copy of bills paid.**

The Board of Supervisors shall email a copy of all bills paid each month on behalf of a fire company to the fire company at an email address to be provided by the fire company within 10 days of the end of the month.

**§ 18-15. Insurance policy.**

If the Township is unable to obtain a copy of the insurance policy of a fire company, the fire company must cooperate to secure same for the Township.

**Chapter 40**

**OFFICERS AND EMPLOYEES**

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

## ARTICLE I

**Ordinance Enforcement Officer**  
**[Adopted 2-2-2009 by Ord. No. 60-2-2009]****§ 40-1. Ordinance enforcement officer.**

There is hereby created the position of Township Ordinance Enforcement Officer who shall be the duly appointed Code Enforcement Officer for the Township of Porter. Said Ordinance Enforcement Officer shall make all initial determinations of Township ordinance violations and, if it is determined that a violation of a Township ordinance has occurred, shall initiate enforcement proceedings by sending an enforcement notice as provided in the applicable ordinance. Ordinance enforcement proceedings, exclusive of zoning ordinances, shall be processed in accordance with the Pennsylvania Second Class Township Code, 53 P.S. § 66601 et seq.

**§ 40-2. Compensation of Ordinance Enforcement Officer.**

The Township Ordinance Enforcement Officer shall be compensated pursuant to resolution of the Township Board of Supervisors.<sup>2</sup>

**§ 40-3. Repealer.**

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

**§ 40-4. Severability.**

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

**§ 40-5. When effective.**

This article shall become effective as provided by law.

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2. Editor's Note: Original Sec. 603, Ratification and Confirmation, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**Chapter 52****PLANNING COMMISSION**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 5-1-1989 by Ord. No. 20 (Ch. 1, Part 3, of the 1989 Code of Ordinances). Amendments noted where applicable.]**

**§ 52-1. Creation of Commission.**

A Township Planning Commission, to be composed of five members, appointed as provided by law (P.S. 53 § 10202), is hereby created in and for the Township of Porter. The Planning Commission shall perform all duties and may exercise all powers conferred by law upon Township planning agencies, provided the Planning Commission previously created in and for the said Township shall constitute the tenure of any of the members thereof, but any and all vacancies in the said Commission, hereafter occurring, shall be filled in the manner and for the term provided in the law governing township planning commissions in effect at the time of the happening of the said vacancy.

**Chapter 67****RECREATION BOARD**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 3-7-2016 by Ord. No. 3-7-2016. Amendments noted where applicable.]**

**§ 67-1. Creation of Board; membership.**

There is hereby created a Recreation Board in and for the Township of Porter, Clinton County, Pennsylvania, which shall hereafter be called the "Porter Township Recreation Board." The Board shall consist of five members. All members of the Recreation Board shall serve without compensation, but may be reimbursed for necessary and reasonable expenses. However, elected or appointed officers or employees of the Township of Porter shall not, by reason of the membership thereon, forfeit the right to exercise the powers, perform the duties, or receive the compensations of the municipal offices held by them during such membership.

**§ 67-2. Appointment, term and vacancy.**

- A. All members of the recreation board shall be appointed by the Supervisors of the Township of Porter.
- B. The term of each of the members of the Recreation Board shall be for five years, or until his or her successor is appointed and qualified, except that any member of the Recreation Board may be removed from service upon the action of the Board of Supervisors at a public meeting following a finding that the said member has committed negligence or dereliction of duty. **[Amended 2-13-2023 by Ord. No. 02-13-2023B]**
- C. The Chairman of the Recreation Board shall promptly notify the Board of Supervisors concerning vacancies on the Recreation Board and such vacancies shall be filled for the unexpired term.
- D. Should the Board of Supervisors determine to reduce the number of members of the

Recreation Board, such reduction shall be effectuated by allowing the terms to expire and by making no new appointments to fill the vacancy. Any reduction or increase may be made by resolution.

**§ 67-3. Officers of Recreation Board.**

The Porter Township Recreation Board shall elect its own Chairman annually at its first meeting of the calendar year to serve until the first meeting of the succeeding calendar year.

**§ 67-4. Annual budget.**

The Recreation Board shall annually submit, for approval, to the Board of Supervisors a proposed budget for the ensuing year on or before October 1 of the preceding year, setting forth all proposed expenditures, salaries and programs. The Recreation Board shall not in any manner obligate the Township of Porter for the payment of any municipal funds until the same is appropriated and approved by the Township of Porter.

**§ 67-5. Conduct of business.**

The Recreation Board may adopt, make and alter rules and regulations and/or bylaws to govern its procedures consistent with the ordinances of the Township of Porter and the laws of the Commonwealth of Pennsylvania. The Recreation Board shall keep a full record of its business and shall promptly furnish to the Board of Supervisors a copy of its minutes from each Recreation Board meeting within 30 days of the holding of said meeting.

**§ 67-6. Restrictions on authority of board.**

- A. Advisory function. The Recreation Board shall serve exclusively in an advisory function to the Board of Supervisors. The Recreation Board shall prepare and present to the Board of Supervisors such recommendations pertaining to recreation within the Township of Porter that are consistent with the promotion of the health, safety, and welfare of the Township of Porter and which are in harmony with the spirit, intent or purpose of the Porter Township Code.
- B. In keeping with the advisory function of the Recreation Board, any and all notices, advertisements, publications, solicitations, or the like shall be submitted to the Board of Supervisors for review and approval at a regularly scheduled meeting before dissemination to the public. **[Amended 2-13-2023 by Ord. No. 02-13-2023B]**

**§ 67-7. Meeting schedule. [Amended 2-13-2023 by Ord. No. 02-13-2023B]**

No later than January 31 of a given year, the Recreation Board shall provide the Board of Supervisors with a list of the dates, times, and places of their anticipated meetings during the course of that calendar year. Within 10 days of any decision to schedule an additional meeting, cancel a meeting, or reschedule a meeting, the Recreation Board shall provide the Board of Supervisors with said information.

**§ 67-8. Effect on prior provisions.**

The provisions of the Porter Township Code, so far as they are the same as those ordinances and regulations enforced immediately prior to the adoption of this chapter, are intended as the

continuation of such ordinances and regulations and not as a new enactment. The provisions of this chapter shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances or regulations except as otherwise provided by law.

**§ 67-9. Severability.**

It is hereby declared to be the intention of the Board of the Supervisors of Porter Township that the parts, sections, paragraphs, sentences, clauses and phrases of this chapter are severable. If any section, paragraph, sentence, clause or phrase of this is declared unconstitutional, illegal or otherwise invalid, by the judgment or decree of a court of competent jurisdiction, that invalidity shall not affect any of the remaining parts, sections, paragraphs, sentences, clauses and/or phrases of this chapter.

**§ 67-10. When effective.**

This chapter shall become effective in accordance with law.

**Chapter 79**

**SALARIES AND COMPENSATION**

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

ARTICLE I

**Compensation of Township Supervisors**

**[Adopted 12-9-1985 by Ord. No. 18 (Ch. 1, Part 1, of the 1989 Code of Ordinances);  
amended in its entirety 12-5-2011 by Ord. No. 65-12/11. Subsequent amendments noted  
where applicable]**

**§ 79-1. Amount.**

Each Supervisor of Porter Township that takes office on or after January 1, 2012, shall receive compensation for attending duly advertised general or special public meetings of the Board of Supervisors at the rate of \$100 for each meeting attended by such supervisor, but in no event shall any Supervisor receive annual compensation under this article in excess of the statutory limits set forth in 53 P.S. § 65606 for supervisors of townships within the appropriate population category.

**§ 79-2. Payment.**

Such compensation shall be paid either monthly or quarterly as determined by the Supervisors from time to time.

**§ 79-3. Effective date.**

This article shall be effective January 1, 2012.

**General Legislation****Chapter 110****AMUSEMENT DEVICES**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 5-1-1989 by Ord. No. 20 (Ch. 13, Part 3, of the 1989 Code of Ordinances). Amendments noted where applicable.]**

**§ 110-1. License required for certain electronic and/or mechanical devices. [Amended 12-7-2015 by Ord. No. 12-2015-7; 8-6-2018 by Ord. No. 8-2018-6]**

- A. Mechanical or electronic amusement machine or apparatus. From and after the passage and enactment of this Chapter 110, no person or persons, firm or corporation, shall at any time have in his, her, its, or their possession within the Township of Porter, any mechanical or electronic gaming device, machine, or apparatus whatsoever for the playing of games, amusement or entertainment which are played through the insertion thereof of a coin, metal disc, slug, token, monetary bills, or credit card, without having first procured a license therefor as hereinafter provided in this Chapter 110. "Electronic gaming device" shall be defined as a type of game existing as and controlled by software sometimes run by a video game console, computer or played on a video terminal or television screen via touch, pedal, joy stick, joy pad, mouse or keyboard. Electronic gaming devices shall not include any devices or machines the primary purpose of which is to dispense purchased merchandise, such as candy, cigarettes or other tangible personal property and shall not include any video gaming terminals, internet gaming, airport gaming, sports wagering, casino simulcasting and/or any other gaming regulated by Act 42 of 2017, codified at 4 Pa.C.S.A. § 301 et seq., which are licensed and regulated through the Pennsylvania Gaming Control Board.

**§ 110-2. License application.**

- A. Any person or persons, firm or corporation desiring to procure a license, as provided in § 110-1, shall apply therefor in writing to the Chief of Police. Said application shall set forth the name or names, the residence or residences of the person or persons, firm or corporation so applying, together with the present and previous occupation of the applicant or applicants and the length of residence at the present address of the applicant and at the previous place of residence; the name of the owner of the premises upon which the aforesaid machines are to be used and installed, and if the owner of the premises is not the applicant, then the applicant shall set forth the length of time for which the premises has been leased. The applicant shall also set forth the manufacturer and nature of the machines to be installed and used.
- B. The information hereby required shall be furnished over the signature of the applicant or applicants and shall be made under oath or affirmation.

**§ 110-3. Investigation of application; transfer prohibited.**

No license shall be granted until a period of seven days shall have elapsed from the date of application, during which time the officials or employees of the Township of Porter may, at their discretion, investigate the facts set forth in the application. No license shall be transferable.

**§ 110-4. Gambling devices not licensed.**

Nothing in this Chapter 110 shall in any way be construed to authorize, license or permit any gambling device whatsoever or any mechanism that has been judicially determined to be a gambling device or in any way contrary to law, or that may be contrary to any present or future laws of the Commonwealth of Pennsylvania.

**§ 110-5. License fee. [Amended 12-7-2015 by Ord. No. 12-2015-7]**

- A. No license shall be issued until an annual fee shall have been paid to the Township Zoning Officer and/or Township Secretary. The amount of the fee shall be \$75 per machine, as of the date of this chapter, which fee may be amended pursuant to resolution of the Porter Township Board of Supervisors. Each License shall expire on December 31 of each year.
- B. License fees shall not be prorated but shall remain the same for the entire or portion of any one year.
- C. The Township Zoning Officer and/or Township Secretary may in his/her discretion put a lead (or any other type) seal upon any device for which no license fee has been paid, and when the proper license fee has been paid for such sealed device, said seal shall be removed by the Township Zoning Officer and/or Township Secretary.
- D. While said unlicensed devices are under seal as aforesaid, the owner, proprietor, manager, or person in charge of the place where said device is located, shall be responsible for the device, and for any unlawful use thereof while such mechanical device is unlicensed.

**§ 110-6. Issuance of license.**

Upon payment of the license fee, the Secretary shall issue a metal disc or plate setting forth the number of the license for each machine. Such disc or plate shall be attached and fastened to the respective machine or device so that the same shall be clearly observable and readable.

**§ 110-7. Notice of violation. [Added 12-7-2015 by Ord. No. 12-2015-7]**

Prior to imposing penalties as provided in § 110-8 of Chapter 110 of the Code of the Township of Porter, a ninety-day notice of violation shall be forwarded by certified mail to any person, firm or corporation who shall violate any provision of this Chapter 110.

**§ 110-8. Violations and penalties. [Amended 12-7-2015 by Ord. No. 12-2015-7; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm, or corporation who shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

**Chapter 117**

**ANIMALS**

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

## ARTICLE I

**Keeping of Animals****[Adopted 5-1-1989 by Ord. No. 20 (Ch. 2, Part 1, of the 1989 Code of Ordinances)]****§ 117-1. Definitions; word usage.**

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

ANIMAL — Any domestic animal or fowl, any wild animal or any household pet.

DOMESTIC ANIMAL — Any animal normally or ordinarily domesticated or raised in this area and climate as livestock or for work or breeding purposes or normally or ordinarily kept as a household pet.

HOUSEHOLD PET — Any dog, cat, or other domestic animal normally and ordinarily kept in or permitted to be at large in the dwelling of it's owner.

LARGE ANIMAL — Any wild or domestic animal of the bovine, equine, sheep, or swine family.

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

SMALL ANIMAL — Any wild or domestic animal such as a rabbit, hare, guinea pig, rat, mouse, or chinchilla, and any wild or domestic fowl such as a chicken, turkey, goose, duck or pigeon (excepting homing pigeons).

WILD ANIMAL — Any animal, including bird, fowl, or reptile not normally or ordinarily domesticated, not normally or ordinarily raised in this area and climate as livestock or for work or breeding purposes, or not capable of being kept as a household pet.

- B. In this article, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine.

**§ 117-2. Keeping of animals regulated.**

It shall be unlawful for any person to keep any domestic animals, except household pets, except as provided in this section:

- A. Large animals shall be confined in quarters no part of which shall be closer than 50 feet from the exterior limits of any neighboring dwelling inhabited by humans, shall not be permitted in the front yard area, nor nearer than 10 feet from any exterior side yard line, nor nearer than five feet from any exterior rear yard line.
- B. Small animals shall be confined in quarters no part of which shall be closer than 50 feet from the exterior limits of any neighboring dwelling inhabited by humans, shall not be permitted in the front yard area, nor nearer than 10 feet from any exterior side yard line, nor nearer than five feet from any exterior rear yard line.
- C. The keeper of every such animal shall confine the same in an enclosure sufficient to prevent such animal from running at large, and such enclosure shall be of a size conducive to good sanitary practices, provide adequate protection from the elements of nature and adequate and sanitary drainage facilities shall be provided.
- D. Every keeper of any animal shall cause all feed provided therefor to be stored and kept in a

ratproof and flytight building, box, container, or receptacle.

**§ 117-3. Household pets.**

It shall be unlawful for any person to keep any household pet, except as provided in this section:

- A. If any such pet shall be kept in a dwelling owned or occupied by its owner, such owner shall be required to follow such procedures and practices, as to the number of such pets to be kept there, and as to sanitation, to insure that no public nuisance shall be created or maintained and no threat to the health of persons living elsewhere than in such dwelling shall be created.
- B. If any such pet shall be kept in an enclosure outside such dwelling, the provisions of § 117-2 of this article, insofar as the same apply to small animals, shall be applicable to the keeping of such household pet.

**§ 117-4. Exclusions.**

Agricultural District and properties used predominantly for agricultural purposes regardless of zoned district within which they lie. Nothing contained in this article shall prohibit a farmer from carrying out the normal activities of his farming operations, including the maintenance or keeping of animals, composting and spreading of manure or other farm-produced agricultural wastes.

**§ 117-5. Violation of state law.**

Any violation of this article that would also violate any state law shall be prosecuted under that state law and not under this article.

**§ 117-6. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who shall violate any provision of this article shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not less than \$100 nor more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

**§ 117-7. Nonconforming use.**

Any animals being kept at the time of the adoption of this article shall be permitted to continue as a nonconforming use, however, within 30 days of adoption of this article, the keeper of such animals shall come into compliance with § 117-2C.

## ARTICLE II

**Noise Disturbances by Animals and Birds  
[Adopted 4-2-2012 by Ord. No. 69-4/12]****§ 117-8. Noise disturbance.**

- A. Noise disturbance. The barking, howling, screeching, yelping, crying, baying, squawking, or making of any other noise by any animal or bird continuously and/or incessantly for a period of at least 15 minutes or the making of such noise intermittently for a period of 30 minutes or more to the annoyance or disturbance of a reasonable person of normal sensitivities regardless of whether the animal or bird is physically situated on private property is hereby declared to be a noise disturbance.
- B. It shall be deemed a violation of this article for any owner, person, agency, association, corporation or any other entity or combination thereof to own, possess, harbor or control such an animal or bird that commits a noise disturbance.
- C. This article shall not apply to any animal and/or bird which is housed and/or maintained within an enclosed structure at the time such animal and/or bird is creating such noise disturbance. The structure shall be deemed to be enclosed for purposes of this article if it shall have solid vertical walls with a solid roof affixed thereon which shall muffle, reduce or diminish such disturbance. A structure comprised of open vertical walls or roofs constructed of materials including chain-link, chicken wire, gapped wood pickets or similar type vertical walls shall not be deemed enclosed for the purposes of this article and any noise disturbances emanating therefrom by any animal and/or bird shall be deemed a violation of this article if all other requisite elements are present.
- D. This article shall not be deemed to prohibit or otherwise declare unlawful any agricultural operations protected from nuisance suits by the act of June 10, 1982, P.L. 454, No. 133, 3 P.S. § 951 et seq.

**§ 117-9. Warning.**

- A. Prior to any prosecution under this article, the owner, person, agency, association, corporation or any other entity or combination thereof violating this article shall be given a warning, either written or verbal, of the conduct constituting such violation.
- B. Should such conduct continue after said warning, charges shall be brought against the owner, person, agency, association, corporation or any other entity or combination thereof, owning, possessing, harboring or controlling such an animal or bird.

**§ 117-10. Enforcement; violations and penalties.**

- A. Any police officer, animal control officer or Code Enforcement Officer of the Township of Porter is hereby authorized to enforce the provisions of this article.
- B. Any person, firm or corporation who shall violate any provisions of this article shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding

90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 117-11. Severability.**

It is hereby declared to be the intention of the Board of Supervisors that the parts, sections, paragraphs, sentences, clauses and phrases of this article are severable. If any sections, paragraphs, sentences, clauses and phrases of this article are declared unconstitutional, illegal or otherwise invalid by a judgment or decree of a court of competent jurisdiction, that invalidity shall not affect any of the remaining parts, sections, paragraphs, sentences, clauses and phrases of this article.

**§ 117-12. Repealer.**

All ordinances or parts of ordinances which are inconsistent herewith are repealed.

**§ 117-13. Effective date.**

This article shall be effective five days after the adoption of this article.

## ARTICLE III

**Dogs Running at Large; Pet Nuisances  
[Adopted 4-2-2012 by Ord. No. 70-4/12]****§ 117-14. Definitions.**

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

**OWNER** — When applied to the proprietorship of the household pet, shall include every person having a right of property in any household pet and every person who keeps or harbors any household pet or has it in his or her care, and every person who permits any household pet to remain on or about any premises occupied by him or her.

**§ 117-15. Dogs running at large.**

- A. Seizing of dogs. Any police officer, Animal Control Officer, or Code Enforcement Officer may seize any dog found at large in the Township of Porter. Such dogs are to be impounded in a licensed kennel. Owners of seized dogs are to be notified by registered or certified mail, with return receipt that their dog has been impounded and will be disposed of in 15 days if not claimed. Fifteen days after the return receipt has been received and the dog has not been claimed, the dog may be sold or destroyed in accordance with the 1982 Dog Law.<sup>3</sup>
- B. Threatening dogs. Dogs that, in the opinion of any police officer, Animal Control Officer or Code Enforcement Officer, constitute a threat to public health and welfare may be killed by the police office, Animal Control Officer or Code Enforcement Officer.

**§ 117-16. Pet nuisances restricted.**

- A. No person having possession, custody or control of any dog or cat shall knowingly or negligently permit said dog or cat to commit any nuisance, which is defined as defecating, urinating, scratching, or digging, upon any gutter, street, driveway, alley, curb, sidewalk, lawn, tree, shrub, plant or upon the floors or the stairways of any building or place frequented by the public or used in common by the tenants or upon the outside walks, walkways, driveways, alleys, curbs or stairways of any building abutting upon a public street or park or upon the grounds of any public park or public area or upon any private property other than the property of the owner or person in charge or in control of said dog or cat.
- B. Disposal of feces. Any person having possession, custody or control of any dog or cat which permits a nuisance by defecating in any area other than the property of the owner of such dog or cat as prohibited by § 117-16A above shall be required to immediately remove any feces from such surface and either carry the same away for disposal in a toilet or place same in a nonleaking container for deposit in a trash or litter receptacle.
- C. Dogs accompanying blind or handicapped persons exempted. The provisions of § 117-16A and B hereof shall not apply to service dogs, guide dogs accompanying any blind persons or to dogs used to assist any other physically handicapped persons. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

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3. Editor's Note: See 3 P.S. § 459-101 et seq.

**§ 117-17. Accumulation of household pet feces prohibited.**

- A. It is unlawful for the owner, custodian or keeper of any household pet to allow feces to accumulate on private property, owned or controlled by the owner or the keeper, to a level which is detrimental to the health, safety or welfare of persons or property, as determined by a police officer, Animal Control Officer or Code Enforcement Officer conducting an investigation of the property.
- B. Mandatory removal. The owner of any property where household pet feces has been allowed to accumulate to a level which is detrimental to the health, safety or welfare of persons or property, as determined by the police officer, Animal Control Officer or Code Enforcement Officer conducting the investigation of the property, shall be ordered to remove and dispose of such accumulation of such feces in a sanitary manner within a period of five days. Notice of the violation shall be provided in writing to the household pet owner or keeper by:
- (1) Personal service;
  - (2) By registered or certified mail, with return receipt, sent to the household pet owner or keeper;
  - (3) If the household pet owner or keeper is not available, notice may be given by posting the property in a conspicuous place.

**§ 117-18. Enforcement; violations and penalties.**

- A. Any police officer, Animal Control Officer or Code Enforcement Officer of the Township of Porter is hereby authorized to enforce the provisions of this article.
- B. Any person, firm or corporation who shall violate any provisions of this article shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 117-19. Severability.**

It is hereby declared to be the intention of the Board of Supervisors that the parts, sections, paragraphs, sentences, clauses and phrases of this article are severable. If any sections, paragraphs, sentences, clauses and phrases of this article are declared unconstitutional, illegal or otherwise invalid by a judgment or decree of a court of competent jurisdiction, that invalidity shall not affect any of the remaining parts, sections, paragraphs, sentences, clauses and phrases of this article.

**§ 117-20. Repealer.**

All ordinances or parts of ordinances which are inconsistent herewith are repealed.

**§ 117-21. When effective.**

This article shall be effective five days after the adoption of this article.

**Chapter 148****CABLE TELEVISION**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 5-1-1989 by Ord. No. 20; amended in its entirety 2-1-1999 by Ord. No. 34-99 (Chapter 13, Part 2 of the 1989 Code of Ordinances). Subsequent amendments noted where applicable.]**

**§ 148-1. Definitions.**

When used in this chapter, unless the context otherwise requires, the following terms and their derivatives shall have the meaning herein given (and when not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular, and words in the singular number include the plural):

**BASIC SUBSCRIBER SERVICE** — Television service including, but not limited to, mandatory carriage of television signals and distant television signals that are not delivered via satellite, local, public, educational or governmental access channels, and such other television service as the Federal Communications Commission (FCC) may mandate or the franchisee may include, but excluding optional premium services, optional tiers and ancillary uses which are sold separately from or in addition to basic tier service.

**CABLE ACT** — Cable Communications Policy Act of 1984, P.L. No. 98-549, 47 U.S.C. § 521 et seq., amending the Communications Act of 1934, as further amended by the 1992 Cable Consumer Protection and Competition Act, P.L. No. 102-385 and the Telecommunications Act of 1996.

**CABLE COMMUNICATIONS SYSTEM or CABLE SYSTEM** —

- A. A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:
- (1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;
  - (2) A facility that serves only subscribers in one or more multiple-unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;
  - (3) A facility of a common carrier which is subject, in whole or in part, to the provision of Title II of the Cable Act, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers; or
  - (4) Any facilities of any electric utility used solely for operating its electric utility systems.
- B. In addition, a "cable communications system or cable system" means a fully addressable system providing telecommunications services, which include, but which are not limited to, retransmitting radio and broadcast television signals, distributing video programming, transporting voice, video or digital electronic signals through the Township of Porter to other locations, telephony services, internet access or use, process control, and other

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technologies, to or from subscribers or other cable system users, and/or producing, receiving, amplifying, storing, processing or distributing audio, video, digital or other forms of electronic, light or other similar types of signals to or from subscribers.

**CABLE SERVICE** — The one-way or two-way transmission to or from subscribers of video programming or other cable communications systems services (including music) and subscriber interaction, if any, which is required for the selection of such video programming or other programming service, and the installation and rental of equipment necessary for the receipt of transmission thereof.

**FRANCHISE** — The initial authorization, or renewal thereof, issued by the Township of Porter, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate or otherwise, which authorizes construction and operation of the cable communications system for the purpose of offering cable service or other services to subscribers.

**FRANCHISE AREA** — That area within the corporation limits of the Township of Porter, Clinton County, Pennsylvania, as now or hereafter constituted.

**FRANCHISEE** — The grantee of nonexclusive franchise rights under this chapter.

**FRANCHISING AUTHORITY** — The Township of Porter, Clinton County, Pennsylvania.

**GROSS REVENUE** — Any and all compensation actually received by franchisee (gross revenue being based upon receipts, not billing) from the transmission within the Township of Porter of television signals and FCC mandated nonbroadcast services. Gross revenue does not include deposits until such time as the franchisee legally is entitled to retain the same; installation, disconnection and reinstallation charges; and revenues from auxiliary services, ancillary uses, advertising, leased channels and programming supplied on a per program or per channel charge basis. Gross revenue shall be net of all refund or credits made to subscribers and any taxes imposed upon or with respect to the services furnished by the franchisee.

**PUBLIC WAY** — The surface of and the space above and below any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Township of Porter in the franchise area which shall entitle the Township of Porter and the franchisee to use thereof for the purpose of installing, operating, repairing and maintaining the cable communications system. Public way shall also mean any easement now or hereafter held by the Township of Porter within the franchise area for the purpose of public travel or for utility or public service use dedicated for compatible uses, and shall entitle the Township of Porter and the franchisee to the use thereof for the purposes of installing or transmitting franchisee's cable service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, compliances, attachments and other property as may be ordinarily necessary and pertinent to the cable communications system.

**SUBSCRIBER** — A person or entity who contracts with the franchisee for, and lawfully receives, the video signals and cable services distributed by the cable communications system.

#### **§ 148-2. Grant of franchise.**

- A. Grant of franchise. The Board of Supervisors of Porter Township is hereby empowered and authorized to grant nonexclusive franchises and to execute written agreements in accordance therewith which authorize and permit a franchisee to construct, operate and

maintain in Porter Township's public ways, a cable communications system within the corporate limits of the Township of Porter, Clinton County, Pennsylvania. The franchising authority (i.e., the Township of Porter) is further empowered and authorized to grant a prospective franchisee the right to construct, upgrade, install, operate and maintain a cable communications system, including such lines, cables, fiber optics, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appropriate to the operation of the cable communications system, in, under, over, along, across and upon the public ways of the Township of Porter under the jurisdiction of the Township of Porter within the municipal boundaries thereof and subsequent additions thereto, including property over which the Township of Porter has a sufficient easement or right-of-way for the purpose of reception, transmission, amplification, origination, distribution or redistribution of video, audio, text, data and other electronic signals and impulses.

B. Term; nonexclusivity. [**Amended 1-3-2012 by Ord. No. 66-1/12**]

- (1) The initial term of any franchise agreement shall be 10 years, commencing upon the effective date of the franchise. The franchise agreement can provide for the initial term to be automatically extended for one additional term of five years, unless the Township notifies the franchisee, in writing, of its desire to enter renewal negotiations under the Cable Act at least three years before the expiration date of the then current franchise agreement. In determining whether the Township wishes to enter into renewal negotiations, the Township shall consider the following factors:
  - (a) Whether the franchisee has substantially complied with the material terms of the franchise and with applicable law;
  - (b) Whether the quality of the franchisee's service has been reasonable in light of community needs;
  - (c) Whether the operator has the financial, legal and technical ability to provide the services, facilities and equipment proposed; and
  - (d) Whether the franchisee's proposal is reasonable to meet future cable related community needs and interest, taking into account the cost of meeting such needs and interests.
- (2) The Township of Porter and franchisee shall agree that any proceedings undertaken by the Township of Porter that relate to the renewal of the subject franchise shall be governed by and comply with provisions of Section 626 of the Cable Act.<sup>4</sup>
- (3) In addition to the procedures set forth in said Section 626(a)<sup>5</sup> the Township of Porter agrees to notify franchisee of its preliminary assessments regarding the identity of future cable-related community needs and interest, as well as, the past performance of franchisee under the then current franchise term. The Township of Porter further agrees that such a preliminary assessment shall be provided to the franchisee prior to the time that the four-month period referred to in Subsection (c) of such 626<sup>6</sup> is considered to begin. Franchisee and the Township of Porter may agree that at any

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4. Editor's Note: 47 U.S.C. § 546.

5. Editor's Note: 47 U.S.C. § 546(a).

6. Editor's Note: 47 U.S.C. § 546(c).

time during the term of the then current franchise, while affording the public appropriate notice and opportunity to comment, the Township and the franchisee may agree to undertake and finalize negotiations regarding renewal of the then current franchise and the Township may grant a renewal thereof.

- C. Pole and conduit attachment rights. Permission is hereby granted to franchisee to attach or otherwise affix cables, wire or optical fibers comprising the cable communications system to the existing poles and conduits on and under public streets and ways, provided franchisee secures the permission and consent of the public utility companies to affix the cables and/or wires to their pole and conduit facilities. By virtue of the grant of the franchise, the Township of Porter grants franchisee equal standing with power and telephone utilities in the matter of placement of facilities on public ways.
- D. Police and regulatory powers. Franchisee's rights pursuant to this chapter and any written franchise agreement in connection therewith are subject to the police powers of the Township of Porter to adopt and enforce general laws necessary for the safety and welfare of the public.
- E. Waiver of rights. No course of dealing between franchisee and the Township of Porter, nor any delay on the part of the Township of Porter in exercising any rights hereunder shall operate a waiver of any such rights of the Township of Porter or acquiescence in the actions of the franchisee in contravention of such right, except to the extent expressly waived by the Township of Porter or expressly provided for in a franchise agreement, provided, however, that the Township of Porter shall provide franchisee with notice and an opportunity to cure any such violation within a reasonable period of time after actual knowledge of said violation.

**§ 148-3. Service standards.**

- A. Technical and operation standards. The franchisee shall:
  - (1) Provide continuous, reliable and good quality television reception and service;
  - (2) Make repairs promptly. Service interruptions shall be for the shortest time possible and shall, to the extent practicable, be preceded by notice to subscribers and occur during periods of minimal viewership; and
  - (3) Maintain replacement equipment and supplies and personnel trained to perform repairs. In the event of major damage to the cable communications system, the franchisee shall make reasonable efforts to supply alternative means of providing service to as many subscribers as possible while making repairs.
- B. Subscriber service standards:
  - (1) The franchisee shall maintain and notify subscribers of a tollfree telephone number to receive complaints. The franchisee may provide separate telephone numbers for complaints made after normal business hours but must be capable of handling complaints 24 hours a day;
  - (2) The franchisee shall respond to interrupted service no later than 24 hours after being notified by a subscriber that service has been interrupted;
  - (3) The franchisee shall maintain records concerning complaints and disrupted services,

including the date and nature of the complaint or disruption, the action taken to resolve the same, date of resolution and any reasons for any delay in investigating and resolving the same. The franchisee shall make these records available to the Township of Porter upon request;

- (4) If there is an interruption caused directly by failure of the franchisee's equipment or any premium channel or not less than four channels of basic subscriber service for 48 consecutive hours or more, an affected subscriber shall receive upon request a pro rata reduction of charges if the subscriber has notified the franchisee promptly of the interruption and make a claim for credit within 90 days of its occurrence; no credit will be given if the interruption is caused by the subscriber's equipment or any action taken with respect to the cable communications system by someone other than the franchisee's employees;
- (5) The franchisee is not responsible to the damage to or the operation, maintenance, service or repair of any television, VCR, receiver or other equipment owned by any subscriber.

C. Services to be provided. Franchisee shall:

- (1) Make basic subscriber service available to all subscribers;
- (2) Provide upon request and without charge one cable outlet for basic subscriber service to each governmental building, fire station, police station and public school building located in the area served by the cable communications system;
- (3) Make available without charge in case of any emergency or disaster and upon the request of the Township of Porter, a facility for transmitting information concerning an emergency or disaster by authorized Township personnel; and
- (4) Make service available to inhabitants of Porter Township who may desire such service, providing:
  - (a) Inhabitant is located in an area where it is economically feasible to provide such service.
  - (b) Township has granted permission, if required, for the erection of the necessary facilities.
  - (c) The distance from existing aerial distribution lines to the television set is not more than 150 feet.
  - (d) Inhabitant complies with regulations franchisee establishes governing the conduct of its business.
  - (e) Franchisee is able to obtain any private rights-of-way required, to extend its facilities, at a reasonable cost.

**§ 148-4. System operation and maintenance.**

A. System maintenance:

- (1) In installing, operating and maintaining equipment, cable and wires, franchisee shall avoid damage and injury to trees, structures and improvements in and along the routes

authorized by the Township of Porter except as may be approved by the Township of Porter if required for the proper installation, operation and maintenance of such equipment, cable and wires;

- (2) The construction, maintenance and operation of the cable communications system under this chapter shall be done in accordance with all applicable laws;
- (3) Operating and maintenance personnel should be thoroughly trained in the use of all safety equipment and the safe operation of vehicles and equipment. All areas of the cable communications system shall be routinely inspected and maintained so that conditions that could develop into safety hazards for the public and/or operating and maintenance personnel can be corrected before they become a hazard. Franchisee shall install and maintain its wire, cable, fixtures and other equipment in such a manner as shall not interfere with any installations of the Township of Porter or any public utility serving the Township of Porter;
- (4) All structures and all lines, equipment and connections in, over, under and upon streets, sidewalks, alleys and public and private ways and places of the Township of Porter, wherever situate or located shall at all times be kept and maintained in a safe and suitable condition and in good order and repair;
- (5) The signal of any broadcast television or radio station carried on the cable communications system shall be carried without material degradation in quality at all subscribing locations within the limits imposed by the technical specifications of the cable system and as required by the FCC. The cable communications system shall be operated and maintained so as to comply with the technical standards as set forth in the FCC's rules and regulations as they apply to cable television systems;
- (6) Upon written notice from the Township of Porter, franchisee shall remedy a general deficiency with respect to the technical standards described herein within three months of receipt of notice and a safety deficiency within 48 hours of receipt of notice and shall notify the Township of Porter when the deficiency has been corrected.

**B. Repairs and restoration:**

- (1) Advance notice. Before beginning any construction or installation of equipment or facilities which would materially disrupt the use of public ways, franchisee shall provide the Township of Porter with reasonable prior notice of the work to be performed, the location and the period of time involved in the undertaking. The Township of Porter shall have the right to inspect such work;
- (2) Restoration. Whenever franchisee takes up or disturbs any pavement, sidewalk or other improvement of any public or private way or place, the same shall be replaced and the surface restored in as good condition as before entry as soon as practicable. If franchisee fails to make such restoration within a reasonable time, the Township of Porter may fix a reasonable time for such restoration and repairs, and shall notify franchisee in writing of the restoration and repairs required and the time fixed for the performance thereof. Upon failure of franchisee to comply within the time specified, the Township of Porter may cause proper restoration and repairs to be made and the expense of such work shall be paid by franchisee upon demand by the Township of Porter.

- C. Tree trimming. Franchisee shall have authority to trim trees upon and overhanging public streets, alleys, sidewalks and ways and places of the Township of Porter so as to prevent the branches of such trees from coming into contact with the wires, cables and equipment of franchisee, in accordance with applicable state law and any bylaws and regulations of the Township of Porter.
- D. Building, etc., moves. In accordance with applicable laws, franchisee shall temporarily remove, reroute or move its equipment and facilities to accommodate public or private works, construction, movement of buildings, extra large truckloads, etc. Franchisee shall be given not less than 15 days' advance notice to arrange for such relocation and franchisee shall be entitled to the reasonable costs thereof from any party causing such relocation other than the Township of Porter. If the Township of Porter alters, changes or makes any improvement on or about any street, sidewalk, alley or other public way, the Township of Porter shall give franchisee reasonable advance notice and franchisee shall, at its expense, relocate its facilities and equipment or take such other action as may be reasonably necessary to accommodate the public improvements.
- E. Location of cable communications systems. Upon request by the Township of Porter, the franchisee shall provide a diagram showing the location of the cable communications system.
- F. Emergency removal of cable communications system:
  - (1) If, at any time, in case of fire or disaster in the Township of Porter, it shall be necessary in a reasonable judgment of the Township of Porter to cut or move any of the wires, cable or equipment of the cable communications system, the Township of Porter shall have the right to do so without cost or liability, provided however that, wherever possible, the Township of Porter gives franchisee notice and the ability to relocate wires, cable or other equipment;
  - (2) In either case, franchisee shall have the right to reimbursement under any applicable insurance or government program for reimbursement.

#### **§ 148-5. Indemnification and insurance.**

- A. Indemnification. Franchisee shall indemnify, protect and hold the Township of Porter harmless from all claims, suits, liability, loss, expense or damage of every kind and description (including court costs and reasonable attorneys' fees), which accrue, are suffered or claimed by reason of or relating to the franchisee's construction, installation, operation, maintenance or removal of the cable communications system. In order for the Township of Porter to be indemnified, defended and held harmless, it shall provide prompt notice to the franchisee of any claim or proceeding giving rise to such rights and shall fully cooperate with respect to the franchisee's participation in, defense, settlement, resolution or other disposition of such claim or proceeding.
- B. Insurance:
  - (1) Franchisee shall, at its expense, maintain public liability insurance in an amount not less than \$300,000 for injuries and/or wrongful death to any one person and \$1,000,000 on account of one accident (aggregate) and property damage insurance in an amount not less than \$100,000 for any one accident (aggregate). Such policy will contain a provision that the Township of Porter will receive 30 days' written notice

prior to any cancellation thereof;

- (2) Franchisee shall carry insurance against all claims arising out of the operation of motor vehicles and general tort or contract liability in the amount of \$1,000,000. The policy shall contain a provision that the Township of Porter will receive 30 days' written notice prior to any cancellation;
- (3) All insurance coverage, including workers' compensation, shall be maintained throughout the period of the franchise agreement. All expenses incurred for said insurance shall be at the sole expense of franchisee. The policy shall contain a provision that the Township of Porter will receive 30 days' written notice prior to any cancellation;
- (4) Franchisee shall provide the Township of Porter with certificate(s) of insurance for all insurance policies required herein on an annual basis.

#### **§ 148-6. Costs and expenses.**

Franchisee shall reimburse the Township of Porter for costs and expenses reasonably incurred for the following:

- A. Protection, removal or relocation of the cable communications system if franchisee has failed to perform its obligations hereunder.
- B. Restoring any damage or condition resulting from construction, maintenance or work performed by franchisee.
- C. Awarding or renewing the franchise provided that the Township of Porter will give franchisee advance notice of any anticipated extraordinary changes.
- D. Enforcing this chapter.

#### **§ 148-7. Franchise fee.**

Except as may otherwise be provided in the franchise agreement, franchisee shall pay to the Township of Porter a franchise fee in the amount of \$250 per year, payable within 90 days after the close of each calendar year. Except as may otherwise be provided in the franchise agreement, the Township of Porter reserves the right to impose as an annual franchise fee an amount of up to 5% of the franchisee's gross receipts for providing monthly cable service to subscribers in the Township of Porter, provided that the Township of Porter may impose such franchise fee effective only at the beginning of a calendar year, after notifying franchisee in writing at least 90 days prior to the end of the current calendar year. An annual summary report showing gross receipts received by franchisee from its basic service subscriptions within the Township of Porter during the preceding year shall be filed with the Secretary of the Township of Porter and a copy kept in the office of franchisee. Nothing contained herein shall prevent franchisee from collecting such contract fees as an addition to its regular charges, by listing them as a separate line on its invoice to the customer.

#### **§ 148-8. Revocation of franchise.**

The franchise issued pursuant this chapter may be revoked by the Township of Porter for any of the following reasons:

- A. For false or misleading statements in, or material omissions from, the application submitted.
- B. For repeated violations, as determined by the Township of Porter, of commitments of the franchise agreement.
- C. For repeated failure to maintain signal quality pursuant to the standards provided for by the Federal Communications Commission.
- D. For any transfer or assignment of the franchise or control thereof without the consent of the Township of Porter.
- E. For fraud, negligence or neglect in the payment of the franchise fee, where applicable.
- F. For repeated failure to comply with any of the material terms and conditions of the franchise agreement.

**§ 148-9. Determination of breach.**

- A. In the event that the Township of Porter has evidenced that franchisee has defaulted in the performance of any material provisions of the franchise agreement, except as excused by force majeure and prior to institution of any action for the revocation of franchise, the Township of Porter shall notify franchisee in writing, by certified mail, of the provision or provisions which the Township of Porter believes may have been in default and the details relating thereto. Franchisee shall have 30 days from the receipt of such notice to:
  - (1) Respond to the Township of Porter in writing, contesting said Township's assertion of default and providing such information or documentation as may be necessary to support franchisee's position; or
  - (2) Cure any such default (and provide written notice to the Township of Porter of the same) or, in the event that by nature of the default, such default cannot be cured within said thirty-day period, promptly to take steps to cure said default and diligently continue such efforts until said default is cured.
- B. In the event that franchisee fails to respond to such notice of default or to cure the default or to take reasonable steps to cure the default within the required thirty-day period or to diligently continue such efforts until the default is cured, the Township of Porter may schedule public hearing no sooner than 30 days after written notice, by certified mail, to franchisee. Franchisee shall be provided reasonable opportunity to be heard at such public meeting, including the right to present evidence in its own behalf (both testimonial and documentary), to pose questions to those conducting the hearing, and to review documents presented in support of a claimed material breach. Within 30 days after said public hearing, the Township of Porter shall make a written determination, based upon evidence introduced at the hearing, whether or not franchisee is in default of any material provision of the franchise agreement.
- C. If the Township of Porter determines that franchisee is in default, the Township of Porter may determine to pursue any one of the following remedies:
  - (1) Seek specific performance of any provision of the franchise agreement which reasonably lends itself to such remedy as an alternative to damages;

- (2) Exercise or foreclose on all or any appropriate part of the security provided herein;
- (3) Commence an action at law for monetary damages;
- (4) Declare the franchise agreement to be revoked subject to the provisions herein and applicable law; and
- (5) Any other remedy available to the Township of Porter.

**§ 148-10. Transfer or assignment.**

The franchise agreement shall not be transferred or assigned without the prior written consent of the Township of Porter. The consent of the Township of Porter shall be given only after a hearing upon written application therefore on forms prescribed by the FCC. The application for consent to an assignment or transfer shall be signed by franchisee and by the proposed assignee or transferee or by their representatives, evidence of whose authority shall be submitted with the application.

**§ 148-11. Removal of system.**

Upon termination of the franchise agreement or any renewal thereof by passage of time or otherwise, the franchisee shall remove its supporting structures, poles, transmissions and distribution systems and other appurtenances from the streets, ways, lanes, alleys, parkways, bridges, highways, and other public and private places in, over, under or along which they are installed and shall restore the areas to their original condition. If such removal is not completed within six months of such termination, the Township of Porter or property owner may deem any property not removed as having been abandoned and the Township of Porter may remove it at the cost of franchisee.

**§ 148-12. Miscellaneous.**

- A. Other permits required. The franchise agreement does not relieve franchisee from compliance with any ordinance or regulation which may require the franchisee to obtain other permits or licenses such as building permits and utility pole agreements.
- B. Force majeure. If for any reason force majeure a franchisee is unable in whole or in part to carry out its obligation hereunder, said franchisee shall not be deemed in violation or default during the continuance of such inability. Unless further limited elsewhere in the franchise agreement, the term "force majeure" as used herein shall have the following meaning: acts of God, acts of public enemies, orders of any kind of the government of the United States of America or the Commonwealth of Pennsylvania or any of their departments, agencies, political subdivisions, or officials, or any civil or military authority, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, hurricanes, volcanic activity, storms, floods, washouts, droughts, arrents, explosions and partial or entire failure of utilities.
- C. Notices:
  - (1) Every notice or payment to be served upon or made to the Township of Porter shall be delivered or sent by certified mail (postage prepaid) to the following address or such other address as the Township of Porter may specify in writing to Franchisee: P.O. Box 57, Lamar, Pennsylvania 16846.

(2) Every notice served upon franchisee shall be delivered or sent by certified mail (postage prepaid) to franchisee, or such other address as franchisee may specify in writing to the Township of Porter. The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt.

D. Modification of franchise agreement. The franchise agreement may be amended or modified only by written amendment or written modification executed on behalf of the franchisee and on behalf of the Township of Porter.

**§ 148-13. Repealer.**

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

**§ 148-14. Severability.**

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

**§ 148-15. When effective.**

This chapter shall become effective the earliest date permitted by law.

**Chapter 165**

**CONSTRUCTION CODES**

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

## ARTICLE I

**Enforcement of Uniform Construction Code  
[Adopted 3-5-2012 by Ord. No. 67-3/12]****§ 165-1. Election to administer and enforce Code.**

Porter Township hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. § 7210.101 et seq., as amended from time to time, and its regulations.

**§ 165-2. Adoption of the Uniform Construction Code.**

The Uniform Construction Code, contained in 34 Pa. Code, Chapters 401 through 405, as amended from time to time, is hereby adopted and incorporated herein by reference as the municipal building code of Porter Township.

**§ 165-3. Administration and enforcement of Code.**

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

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

**§ 165-4. Board of Appeals.**

A Board of Appeals shall be established by resolution of the Board of Supervisors of Porter Township in conformity with the requirements of the relevant provisions of the Code, as amended from time to time, and for the purposes set forth therein. The resolution shall establish and allocate fees and costs associated with said Board of Appeals. If at any time enforcement and administration are undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities. The said Board of Appeals shall hear and determine applications for appeal based on the claim that the true intent of the Code has been incorrectly interpreted the provisions of the Code do not fully apply or an equivalent form of construction is to be used.

**§ 165-5. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any individual, partnership, association, corporation, department, bureau, agency or other legal entity (hereinafter "person") who violates any provision of the Code or fails to comply with any of the requirements thereof, or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the designated person for the administration and enforcement of the Code, or of a permit or certificate issued under the provisions of the code, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

**§ 165-6. Unlawful continuance. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person that shall continue any work after having been served with a stop work order, except such work as that person is directed to remove a violation or unsafe condition, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense.

**§ 165-7. Causes of action.**

In addition to other remedies, the Township of Porter may institute appropriate action or proceeding in equity or otherwise to prevent, restrain, correct or abate any act constituting a violation of the Code.

**§ 165-8. Provisions to be in continuation of existing regulations.**

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

**§ 165-9. Imposition of fees.**

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

**§ 165-10. Severability.**

If any section, subsection, sentence, or clause of this article is held, for any reason, to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this article. It is hereby declared as the intent of the Board of Supervisors of Porter Township that this article would have been adopted had such unconstitutional, invalid sentence, clause, section or part thereof had not been included herein.

**§ 165-11. Effective date.**

This article shall be effective on October 1, 2012.

**Chapter 173****CURFEW**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 10-8-1973 by Ord. No. 8; amended in its entirety 5-1-1989 by Ord. No. 20 (Ch. 6, Part 1, of the 1989 Code of Ordinances). Amendments noted where applicable.]**

**§ 173-1. Definitions; word usage.**

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

MINOR — Person under the age of 18 years.

PARENT — Any natural parent of a minor, as herein defined, or a guardian, or any adult person responsible for the care and custody of a minor. When used in this chapter, "parent" shall mean one or both parents.

PUBLIC PLACE — Any public street, alley, sidewalk, park, playground, public building or vacant lot in the Township of Porter.

REMAIN — To stay behind, to tarry and to stay unnecessarily upon the streets, including the congregating of groups (or of interacting minors) totaling four or more persons in which any minor involved would not be using the streets, for emergencies or ordinary purposes such as mere passage of going home.

- B. In this chapter, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

**§ 173-2. Purposes.**

This is a Curfew Chapter prescribing, in accordance with prevailing community standards, regulations for the conduct of minors on streets at night, for the protection of younger children in the Township of Porter from each other and from other persons on the streets during nighttime hours, for the enforcement of parental control and responsibility for their children, for the protection of the public from nocturnal mischief by minors and for the reduction of the incident of juvenile criminal activity, all for the good of minors, for the furtherance of family responsibility, and for the public good, safety and welfare.

**§ 173-3. Curfew; exceptions.**

It shall be unlawful for any minor to be or remain in or upon any public highway, park or other public place within the Township, or in any enclosure or vehicle which is on or in close proximity to any such public place within the Township, between the hours of 11:00 p.m. and 6:00 a.m. on the following day every day of the week. Exceptions to the above are the following:

- A. Minor accompanied by parent, guardian, or other person having legal care or custody of such minor.
- B. Minor possessing a written statement dated that day and signed by parent, guardian, or other person having the legal care or custody of such minor, which statement specifies the time, place, purpose and necessity of the minor being in a public place contrary to this chapter.

- C. Minor lawfully employed making it necessary to be on or in highways, streets, parks, etc., as stated above and possessing a current letter certifying the same and signed by employer, parent or guardian.
- D. Minor on an emergency errand.
- E. Minor traveling to and from church, school or municipal activity with parental permission statement as in Subsection B above.
- F. Minor traveling to and from an organized volunteer activity. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 173-4. Parents not to permit violation.**

It is hereby made unlawful for any parent, guardian, or the person having the legal care or custody of a minor to allow or permit such minor to violate any of the provisions of this chapter without legal justification therefor.

**§ 173-5. Procedure upon violation.**

Any minor found upon the streets, alleys, parks or public places within the Township in violation of § 173-2 shall be taken into custody by the Township police or legally deputized individual, be delivered to his parent(s), guardian, or person having the legal custody of said minor, and be given a copy of this chapter. A report shall be filed and kept in a book for that specific purpose. If said parent, guardian or person having the legal custody of said minor shall again allow him to be on the streets, alleys, parks or public places in violation of § 173-2, said parent, guardian, or person having the legal custody of said minor so offending shall, upon the second offense, be called along with offender and be so advised once again as to the penalty provisions contained in this chapter. Upon the third violation, said parent, guardian or person will be remanded to the Magisterial District Judge for disposition.

**§ 173-6. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who violates or permits a violation of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$600, plus all court costs, including reasonable attorneys' fees, incurred by the Township in the enforcement of this chapter. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

**§ 173-7. Procedure in case of repeated violations or other factors interfering with enforcement.**

Any minor who shall violate this chapter more than three times may, at the discretion of the proper Township officials, be reported to a society or organization the purpose of which is to take charge of incorrigibles and delinquents, and proceedings shall then be taken in the proper court for the permanent welfare of such minor and a like procedure may be taken in cases where the arrest of the parent is not effective, or where for any other reason the provisions of § 173-2

of this chapter cannot be made effective by the imposition of fines and penalties.

**§ 173-8. Police discretion in age determination.**

The police officers of the Township in taking minors into custody shall use their discretion in determining age and in doubtful cases may require positive proof of age. Until such proof is furnished, the officer's judgment shall prevail.

## Chapter 182

### DANGEROUS STRUCTURES

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 5-1-1989 by Ord. No. 20; amended in its entirety 8-7-1995 by Ord. No. 29-8-95 (Ch. 10, Part 2, of the 1989 Code of Ordinances). Subsequent amendments noted where applicable.]**

**§ 182-1. Definitions; word usage.**

A. As used in this Chapter 182, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

**BUILDING** — An independent structure having a roof supported by columns or walls resting on its own foundation and includes dwelling, garage, barn, stable, shed, greenhouse, mobile home, plant, factory, warehouse, school or similar structure.

**DANGEROUS BUILDING OR STRUCTURE** — All buildings or structures which have any or all of the following defects shall be deemed dangerous buildings: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- (1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base;
- (2) Those which, exclusive of the foundation, show damage or deterioration to 33% of the supporting member or members, or damage or deterioration to 50% of the nonsupporting enclosing or outside walls or covering;
- (3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;
- (4) Those which have been damaged by fire, wind or other causes so as to be dangerous to life, safety, or the general health and welfare of the occupants or the public;
- (5) Those which are so damaged, dilapidated, decayed, unsafe, unsanitary, vermin-infested or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease so as to work injury to the health, safety or general welfare of those living therein;
- (6) Those which have parts thereof which are so attached that they may fall and injure property or members of the public;
- (7) Those which lack illumination, ventilation or sanitation facilities or because of another condition are unsafe, unsanitary, or dangerous to the health, safety, or general

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welfare of the occupants or the public;

- (8) Those which because of their location are unsanitary or otherwise dangerous to the health or safety of the occupants or the public;
- (9) Those existing in violation of any provisions of the Building Code, Fire Prevention Code, or other ordinances of Porter Township.
- (10) Those which have inadequate means of egress, inadequate light and ventilation, fire hazards, other dangers to human life or the public welfare, illegal or improper occupancy or inadequate maintenance, or that are not secured against entry.

**DWELLING** — Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

**DWELLING UNIT** — Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living or sleeping by human occupants.

**EXTERMINATION** — Control and elimination of insects, rodents or other pests by eliminating their harborage places, removing or making inaccessible, materials that may serve as their food, poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods.

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

**INFESTATION** — Presence, within or around a dwelling, of any insects, rodents or other pests.

**OWNER** — Person who, alone or jointly or severally with others:

- (1) Shall have legal title to any dwelling, or dwelling unit, with or without accompanying actual possession thereof; or
- (2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this Chapter 182 and with rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

**PERSON** — Any individual, firm, corporation, association or partnership, or other legal entity.

**PROPERTY** — A piece, parcel, lot or tract of land.

**RUBBISH** — Combustible and noncombustible waste materials, except garbage, including residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

**STRUCTURE** — Any thing constructed or erected with a fixed or ascertainable location on the ground or in water, whether or not affixed to the ground or anchored in the water, including buildings, walls, fences, platforms, docks, wharves, billboards, signs and walks.

- B. Whenever the words "dwelling," "dwelling unit," or "premises," are used in this Chapter 182, they shall be construed as though they were followed by the words "or any part

thereof."

**§ 182-2. Dangerous buildings prohibited. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

All dangerous buildings and structures within the terms of § 182-1 of this Chapter 182 are hereby prohibited and shall be repaired, vacated, or demolished as herein provided.

**§ 182-3. Standards for repair, vacation, or demolition.**

The following standards shall be followed in substance by the Zoning Officer of Porter Township in ordering repair, vacation, or demolition:

- A. If the dangerous building or structure can reasonably be repaired so that it will no longer exist in violation of the terms of this Chapter 182, it shall be ordered to be repaired. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. If the dangerous building or structure is in such condition as to make it dangerous to the health, safety, or general welfare of its occupants, or the public, and is so placarded, it shall be ordered to be vacated within such length of time, not exceeding 30 days, as is reasonable. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. No dwelling or dwelling unit which has been placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Zoning Officer. The Zoning Officer shall remove such placard whenever the defect or defects upon which the placarding action were based have been eliminated.
- D. If a dangerous building or structure is 50% or more damaged or decayed, or deteriorated from its original condition; if a dangerous building or structure cannot be repaired so that it will no longer exist in violation of the terms of this Chapter 182; or if a dangerous building or structure is a fire hazard existing or erected in violation of the terms of this Chapter 182 or any ordinance of Porter Township or statute of the Commonwealth of Pennsylvania, it shall be ordered to be demolished, provided the cost of repairs to rectify or remove the conditions constituting the nuisance exceed 50% of the market value of the building at the time demolition is proposed. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 182-4. Duties of enforcement officer. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- A. Whenever it shall be reported to the Porter Township Supervisors that any building or structure is in a dangerous condition, the Porter Township Supervisors shall immediately cause an investigation or examination to be made of such building or structure to determine whether any conditions exist which render such building or structure a dangerous building or structure within the terms of § 182-1 above.
- B. Whenever an inspection discloses that a building or structure is a dangerous building or structure, the Zoning Officer shall issue a written notice. The notice shall contain the order to vacate the building or structure and state the unsafe conditions, required repairs or improvements. The order shall be served by certified mail or personal service to the owner or to the owner's agent's last-known address or on the owner, agent or person in control of

the building, structure or equipment. The Zoning Officer shall post the written notice at the entrance of the structure if service cannot be accomplished by certified mail or personal service. When a building or structure is ordered vacated, the Zoning Officer shall post a notice at each entrance stating that the building or structure is unsafe and that its occupancy is prohibited.

- C. Appear at all hearings conducted by the Zoning Officer and testify as to the condition of dangerous buildings or structures.

#### **§ 182-5. Hearings.**

- A. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Chapter 182 may request and shall be granted a hearing on the matter before the Zoning Officer, provided that such person shall file with the Zoning Officer a written petition requesting such hearing and setting forth a brief statement of the grounds therefore within 10 days after the day the notice was served. Upon receipt of such petition, the Zoning Officer shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than 20 days after the day on which the petition was filed.
- B. After such hearing the Zoning Officer shall sustain, modify or withdraw the notice. If the Zoning Officer sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this Chapter 182 shall automatically become an order if a written petition for a hearing is not filed with the Zoning Officer within 10 days after such notice is served.
- C. Any aggrieved party may appeal the final order to the Board of Supervisors in accordance with the provisions of the Local Agency Law.<sup>7</sup>

#### **§ 182-6. Removal of notice prohibited.**

No person shall remove or deface the notice of dangerous building, except as provided in § 182-3C.

#### **§ 182-7. Emergency cases.**

Whenever the Zoning Officer finds that an emergency exists which requires immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding the other provisions of this Chapter 182, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Zoning Officer shall be afforded a hearing as soon as possible. After such hearing, depending upon the findings as to whether the provisions of this Chapter 182 have been complied with, the Zoning Officer shall continue such order in effect, or modify, or revoke it. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided herein for other cases.

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7. Editor's Note: 2 Pa.C.S.A. §§ 551 et seq., and 751 et seq.

**§ 182-8. Abatement by Porter Township. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

If the owner, occupant, mortgagee, or lessee fails to comply with the order of the Zoning Officer within the time specified in the notice issued by the Zoning Officer, the Zoning Officer shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards hereinbefore provided. Porter Township may collect the cost of such repair, vacation or demolition together with a penalty of 10% of such cost, together with attorneys' fees, in the manner provided by law.

**§ 182-9. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who shall violate any provisions of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

**§ 182-10. Repealer.**

All ordinances or parts of ordinances inconsistent with the provisions of this chapter are hereby repealed to the extent of such inconsistency.

**§ 182-11. Severability.**

If any section or clause of this chapter shall be adjudged invalid, such adjudication shall not affect the validity of the remaining provisions which shall be deemed severable therefrom.

## **Chapter 191**

### **DONATION BOXES**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 9-12-2016 by Ord. No. 9-2016-12. Amendments noted where applicable.]**

**§ 191-1. Purpose and intent.**

The procedures and requirements to regulate the placement of unattended donation boxes within the Township are enacted to:

- A. Promote the community's health, safety, and welfare by regulating unattended donation boxes for clothing and/or shoes within the Township;
- B. Insure that unattended donation boxes do not pose a hazard to pedestrian and vehicular traffic;
- C. Insure that material is not permitted to accumulate outside the unattended donation boxes where it can be scattered by adverse weather conditions, animal contacts, or human

activities; and

D. Establish criteria that avoid attracting vermin, unsightliness, and public health hazards.

### **§ 191-2. Definitions.**

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

**OPERATOR** — A person, entity, association, or organization who places, maintains or operates unattended donation box(es) to solicit donations of clothing and/or shoes.

**PERMITTEE** — The property owner who was issued a permit authorizing placement of an unattended donation box(es).

**PROPERTY OWNER** — The person, entity, association or organization who owns the real property on which the unattended donation box(es) are or are proposed to be located.

**RESIDENTIAL DISTRICTS** — Includes all Residential Zoning Districts as established pursuant to Chapter 490, Zoning, of the Code of the Township of Porter.

**UNATTENDED DONATION BOX** — Any unattended container, receptacle, or similar device which is located on any property within the Township of Porter used for soliciting and collecting donations of clothing and/or shoes. This term does not include recycle bins for the collection of recyclable materials.

**ZONING OFFICER** — The duly appointed Zoning Officer or Deputy Zoning Officer of the Township of Porter.

### **§ 191-3. Permits.**

- A. Unless otherwise exempt, it shall be unlawful and a public nuisance for any property owner or operator to place, operate, maintain or allow unattended donation boxes on real property unless the property owner first obtains a permit pursuant to this chapter and the unattended donation box is placed, operated, and maintained in accordance with all provisions in this chapter. Unattended donation boxes existing in the Township of Porter prior to enactment of this chapter shall apply for all required permits within 60 days of this chapter's enactment.
- B. The permit application shall be made on a form provided by the Zoning Officer and shall include the following information:
- (1) The name, address, email, and telephone number of the applicant;
  - (2) Written proof sufficient to establish that the operator who will utilize the unattended donation box is qualified to solicit donations of clothing and/or shoes pursuant to Pennsylvania Law;
  - (3) The physical address of the property owner's real property and a drawing sufficient to indicate the proposed location of the unattended donation box on the property owner's real property, as well as the size of the proposed unattended donation box.
- C. Each application shall be accompanied by a nonrefundable fee in the amount of \$100, which may be changed from time to time, established by resolution of the Township Supervisors.

- D. Applications shall be filed with the Porter Township Zoning Officer.
- E. Within 30 days of receiving a completed application, the Porter Township Zoning Officer shall either issue a permit or deny the issuance of a permit.
- F. The Porter Township Zoning Officer shall not issue a permit unless:
  - (1) The property owner has submitted a complete and accurate application accompanied by the applicable fee;
  - (2) The operator who will maintain or operate the unattended donation box is qualified to solicit donations of clothing and/or shoes pursuant to Pennsylvania Law;
  - (3) The proposed location and placement of the unattended donation box on the property owner's real property is in compliance with all applicable laws and will not impede pedestrian or bicycle sight distances onto adjacent streets or vehicular traffic; and
  - (4) There exists a designated, hazard-free parking space for unloading at each donation box.
- G. If the Zoning Office denies an application, the Zoning Officer shall provide the property owner, in writing, the specific reason(s) for denial.
- H. A permit issued hereunder shall be valid for one unattended donation box. Each unattended donation box shall have its own, individual permit.
- I. The term of the permit shall expire one year from the date of issuance.
- J. No permittee or operator to whom a permit has been issued shall transfer, assign, or convey such permit to another person, entity, association or organization.
- K. Prior to expiration of the permit, the permittee may voluntarily cancel the permit by notifying the Zoning Officer, in writing, of the intent to cancel the permit. The permit shall become void upon the Zoning Officer's receipt of a written notice of intent to cancel the permit.

#### **§ 191-4. Renewal of permit.**

- A. A permittee may apply for permit renewal by submitting to the Zoning Officer, before the expiration of the permit, a renewal application and a nonrefundable renewal fee in the amount of \$25.
- B. The Zoning Officer shall either approve or deny the renewal of a permit within 30 days of receipt of the completed renewal application and payment of the renewal fee.
- C. The Zoning Officer shall approve the renewal of the permit if he finds that no circumstances existed during the term of the permit, existed at the time of submission of an application for renewal, or existed at any time during the review of the application for renewal that are inconsistent with any finding required for approval of a new permit as specified in § 191-3 hereof or would justify the revocation of the permit as specified in § 191-6 hereof.

#### **§ 191-5. Requirements and maintenance.**

- A. The permittee and operator shall be individually and severally responsible for operating and maintaining, or causing to be operated and maintained, all unattended donation boxes located in the Township as follows:
- (1) The unattended donation box shall be of the type that are enclosed by use of a receiving door and locked so that the contents of the unattended donation box may not be accessed by anyone other than those responsible for retrieval of the contents. Each unattended donation box shall be surrounded by a privacy fence sufficient to shield the unattended donation box from public view;
  - (2) Each unattended donation box shall not cover a ground surface area in excess of five feet by five feet nor be more than six feet and six inches in height;
  - (3) Unattended donation boxes shall be maintained in good condition and appearance with no structural damage, holes or visible rust, and shall be free of graffiti;
  - (4) Unattended donation boxes shall be locked or otherwise secured;
  - (5) Unattended donation boxes shall contain the following contact information in two inch type visible from the front of each unattended donation box: the name, address, email and telephone number of both the permittee and operator;
  - (6) Unattended donation boxes shall include an informational posting on the box in a conspicuous place stating whether the organization accepting the donations is a "for-profit" or "not-for-profit";
  - (7) The permittee and operator shall place a copy of the permit in a prominent and visible location in the front of the box, in plain view, for inspection by the public and Township Officials;
  - (8) Unattended donation boxes shall be serviced and emptied as needed, but at least once per month, or within five business days of a request by the Township Zoning Officer.
  - (9) The unattended donation boxes shall be conspicuously posted indicating that the box is for "clothing and shoes only"
- B. The permittee and operator shall be individually and severally responsible for maintaining, or causing to be maintained, the area surrounding the unattended donation boxes free of any materials, items, junk, garbage, trash or debris.
- C. The permittee and operator shall be individually and severally responsible for abating and removing all materials, items, junk, garbage, trash, and debris in the area surrounding the unattended donation boxes within 24 hours of written or verbal notice from the Township Zoning Officer.
- D. The permittee and operator shall be individually and severally responsible for all costs for abating and removing any material, items, junk, garbage, trash, and/or debris from the area surrounding the unattended donation boxes.
- E. It shall be unlawful for any property owner or operator to place an unattended donation box in any Residential District unless the primary purpose of the property used is for educational, governmental, religious or not-for-profit.
- F. No unattended donation box shall be placed within 400 feet from another unattended

donation box.

- G. Not more than one unattended donation box shall be placed on each parcel of real property.
- H. No unattended donation box shall be placed on required parking spaces or in such a manner as would obstruct traffic or interfere with clear site triangles, on-sight circulation, required setbacks, landscaping, parking, and shall be placed on a concrete or stable paved surface. No unattended donation box placed on commercial property shall face a residential area.

**§ 191-6. Revocation of permit, removal of unattended donation boxes and liability.**

The Township Zoning Officer shall have the right to revoke any permit issued hereunder if any of the grounds to refuse issuance of the initial permit exists. In addition, the failure of the permittee to comply with the provisions of this chapter, or other provisions of the Porter Township Code or other law, shall also constitute grounds for revocation of the permit. The Township Zoning Officer shall provide a written notification to the permittee stating the specific grounds for revocation. Upon revocation, the unattended donation box shall be removed from the permittee's property within 30 calendar days and, if not removed within this time period, the Township may remove, store and dispose of the unattended donation box at the permittee's sole cost and expense. Upon revocation, a permittee shall be prohibited from applying for a permit for a period of one year. Any violation of the provisions of this chapter is considered to be a public nuisance subject to abatement pursuant to the Porter Township Code or as otherwise permitted by law.

**§ 191-7. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who shall violate any provisions of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

**§ 191-8. Appeal to Township Board of Supervisors.**

Any person aggrieved by the decision rendered by the Township Zoning Officer in granting or denying an application for a permit under this section, or in revoking or refusing to renew a permit issued hereunder, may appeal the decision to the Porter Township Board of Supervisors. The Appeal shall be made by filing a written notice thereof with the Township Secretary not later than 10 calendar days after receiving notice of the decision of the Zoning Officer. The Board of Township Supervisors shall hold a hearing on the appeal within 30 calendar days.

**§ 191-9. Exemption.**

Unattended donation boxes located entirely within the interior of a building are exempt from the requirements of this section.<sup>8</sup>

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8. Editor's Note: Original Sec. 310, Ratification and Confirmation, which immediately followed this section, was repealed

**§ 191-10. When effective.**

This chapter shall become effective in accordance with law.

**§ 191-11. Effect on prior regulations.**

The provisions of the Porter Township Code, so far as they are the same as those ordinances and regulations enforced immediately prior to the adoption of this chapter, are intended as the continuation of such ordinances and regulations and not as a new enactment. The provisions of this chapter shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances or regulations except as otherwise provided by law.

**§ 191-12. Severability.**

It is hereby declared to be the intention of the Board of the Supervisors of Porter Township that the parts, sections, paragraphs, sentences, clauses and phrases of this chapter are severable. If any section, paragraph, sentence, clause or phrase of this is declared unconstitutional, illegal or otherwise invalid, by the judgment or decree of a court of competent jurisdiction, that invalidity shall not affect any of the remaining parts, sections, paragraphs, sentences, clauses and/or phrases of this chapter.

**Chapter 204****EMERGENCY RESPONSE COST RECOVERY**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 6-3-2013 by Ord. No. 6-2013-1. Amendments noted where applicable.]**

**§ 204-1. Right of Fire Company to recover costs.**

The Township Board of Supervisors of Porter Township recognizes the right and authority of the Nittany Valley Volunteer Fire Company to recover all of its reasonable and necessary costs incurred by the Fire Company in responding to accidents, fires, hazardous materials incidents, environmental incidents and other incidents involving, inter alia, fire and/or rescue operations. The costs and expenses identified herein shall be recovered through the office of the Volunteer Fire Department.

**§ 204-2. Costs and expenses.**

These costs and expenses may include, but are not limited to, any costs associated with the use of fire extinguishing tools, materials or equipment (and all fuels, oil and other fluids necessary to operate such tools and equipment) or abatement agents, chemical neutralizers or similar equipment or materials that are employed to monitor, extinguish, combine, neutralize, contain, clean or remove any hazardous material that is or may be involved in a fire, or released into the air, ground or water (or the threat of any potential release into the air, ground or water or the threat of fire), any and all activities associated with the implementation of any protective actions (including a detour of traffic, an evacuation of structures and/or persons and related actions) to protect the health, safety and welfare, residential and commercial equipment, and safety/rescue equipment and operations. These expenses may also include reasonable administrative fees and

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at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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collection fees (including interest) for collecting these expenses along with reasonable attorneys' fees, court costs and witness expenses if litigation is filed to recover reimbursement of any such costs or expenses.

**§ 204-3. Itemization of reasonable costs and expenses.**

Reasonable costs and expenses incurred by the Volunteer Fire Department shall be itemized to the Board of Supervisors of Porter Township for which recovery is sought on a quarterly basis along with the action taken.

**§ 204-4. Fire Chief to determine whether to pursue collection.**

In the event any claim is denied payment by the invoiced individual or insurance carrier, the Fire Chief of the Volunteer Fire Company will make the final determination as to whether further action shall be taken to collect the monies owed or whether the claim should be withdrawn.

**§ 204-5. Recovery of costs.**

While the Township wishes to adopt this chapter in order to acknowledge the authority for reimbursement of all necessary and reasonable costs and expenses as may be incurred by the Fire Department it is not the intent of this chapter to preempt recovery of any and all reasonable costs and expenses that may be recoverable pursuant to the Hazardous Materials Emergency Planning and Response Act (35 P.S. § 6022.101 et seq.), and this chapter shall be deemed to supplement and/or to be in addition to such act and not the exclusive means of recovery.

**§ 204-6. Liability.**

The Township Board of Supervisors and/or its servants, agents, officers, officials, boards, committees, employees or representatives, shall not, under any circumstances, be liable or responsible for damages, (whether property, injury or death) caused to or suffered by any person or entity by reason of the provisions of this chapter or by reason of the nature, manner or type of any accident, emergency or hazardous response, or any reimbursement of any expenses, cost or service thereof with the terms, conditions and provisions hereof. Moreover, compliance with this chapter shall not constitute a representation, guarantee or consent of any kind by the Township (and/or any of its servants, agents, officers, officials, boards, committees, employees or representatives) of the practicality, safety or fitness of the nature, manner or type of any accident, emergency, or hazardous response (or reimbursement of any expense, service or cost thereof).

**§ 204-7. Severability.**

The terms, conditions and provisions of this chapter are severable. If any such term, condition or provision of this chapter is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any other remaining terms, conditions or provisions of this chapter and it is hereby declared to be the intent of the Township that this chapter would have been adopted and enacted had such unconstitutional, illegal or invalid term, condition or provision not been included herein.

**§ 204-8. Repealer.**

The terms, conditions and provisions of any Porter Township ordinance(s) which are

inconsistent herewith shall be deemed vacated and/or repealed. However, any other terms, conditions and provisions of such ordinance(s) which are not inconsistent herewith shall remain in full force and effective.

**§ 204-9. When effective.**

This chapter shall be effective immediately.

**Chapter 230**

**FLOODPLAIN MANAGEMENT**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 6-16-2016 by Ord. No. 6-2016-14. Amendments noted where applicable.]**

ARTICLE I  
**Statutory Authorization**

**§ 230-1. Statutory authorization.**

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978,<sup>9</sup> delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Board of Supervisors does hereby order as follows:

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

ARTICLE II  
**General Provisions**

**§ 230-2. Intent.**

The intent of this chapter is to:

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

**§ 230-3. Applicability.**

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

**§ 230-4. Abrogation and greater restrictions.**

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

**§ 230-5. Severability.**

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

**§ 230-6. Warning and disclaimer of liability.**

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

ARTICLE III  
**Administration**

**§ 230-7. Designation of Floodplain Administrator.**

- A. A Floodplain Administrator, appointed by resolution of the Township, shall be charged with the responsibility to administer and enforce the provisions of this chapter within the Township. The Floodplain Administrator may:
- (1) Fulfill the duties and responsibilities set forth in these regulations.
  - (2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
  - (3) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations.
- B. Administration of any part of these regulations by another entity shall not relieve the Township of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program (NFIP) as set forth in the Code of Federal Regulations at 44 CFR 59.22.
- C. In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Chairperson of the Porter Township Board of Supervisors.

**§ 230-8. Permits required.**

A floodplain development compliance certificate shall be required before any construction or development is undertaken within any area of Township that is subject to flooding.

**§ 230-9. Duties and responsibilities of Floodplain Administrator.**

- A. The Floodplain Administrator shall issue a floodplain development compliance certificate only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this chapter and all other applicable codes and ordinances.
- B. Should any construction or development involve a land development, as that term is defined in this chapter, a land development plan shall be submitted to the Township Engineer for review under both this chapter and Chapter 415, Subdivision and Land Development, of the Code of the Township of Porter.
- C. All other applicants shall provide the floodplain development compliance certificate to the individual or individuals having certification under the Pennsylvania UCC who shall be responsible for inspection of the proposed construction or development to assure its compliance with the Pennsylvania UCC.<sup>10</sup>
- D. Prior to the issuance of any floodplain development compliance certificate, the Floodplain Administrator shall review the floodplain development permit application 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,

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10. Editor's Note: See 34 Pa. Code Chapters 401 to 405.

as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended);<sup>11</sup> and the U.S. Clean Water Act, Section 404, 33 U.S.C. § 1344. No floodplain development compliance certificate shall be issued until this determination has been made.

- E. In the case of existing structures, prior to the issuance of a floodplain development compliance certificate, the Floodplain Administrator shall review the history of repairs to the existing structure, so that any cumulative substantial damage concerns can be addressed before the floodplain development compliance certificate is issued.
- F. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this chapter.
- G. The Floodplain Administrator shall maintain in perpetuity all records associated with the requirements of this chapter including, but not limited to, finished construction elevation data, permitting, inspection, and enforcement.
- H. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning the Township's participation in the National Flood Insurance Program (NFIP).
- I. The responsibility, authority, and means to implement the commitments of the Floodplain Administrator can be delegated from the individual identified. However, the ultimate responsibility lies with the individual appointed by the Township as the Floodplain Administrator.
- J. The Floodplain Administrator shall consider the requirements of the 34 Pa. Code Chapters 401 to 405, and the 2009 IBC and the 2009 IRC or the latest edition thereof adopted by the Commonwealth of Pennsylvania.

**§ 230-10. Application procedures and requirements.**

- A. Application for a floodplain development compliance certificate shall be made, in writing, to the Floodplain Administrator on forms supplied by the Township. Such application shall contain the following:
  - (1) Name and address of applicant.
  - (2) Name and address of owner of land on which proposed construction is to occur.
  - (3) Name and address of contractor.
  - (4) Name and address of engineer (if applicable).
  - (5) Name and address of property appraiser (if applicable).
  - (6) Site location including address.
  - (7) Listing of other permits required.

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11. Editor's Note: See 35 P.S. § 750.1 et seq., 32 P.S. § 693.1 et seq., and 35 P.S. § 691.1 et seq., respectively

- (8) Brief description of proposed work and estimated cost, including a breakout of flood related cost and the market value of the building before the flood damage occurred where appropriate.
  - (9) 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 shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
- (1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this chapter and all other applicable codes and ordinances; and
  - (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; and
  - (4) Structures will be securely anchored to prevent flotation, collapse or lateral movement; and
  - (5) Building materials are flood resistant; and
  - (6) Appropriate practices that minimize flood damage have been used; and
  - (7) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities have been designed and located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
- (1) A completed floodplain development permit application form.
  - (2) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:
    - (a) North arrow, scale, and date.
    - (b) Topographic contour lines, if available.
    - (c) 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/or land development.
    - (e) The location of all existing streets, drives, and other accessways.
    - (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 North American Vertical Datum of 1988 (NAVD88).
  - (b) The elevation of the base flood.
  - (c) Supplemental information as may be necessary under 34 Pa. Code Chapters 401 to 405, the 2009 IBC or the 2009 IRC or latest edition thereof adopted by the Commonwealth of Pennsylvania.
- (4) The following data and documentation:
  - (a) An elevation certificate signed and sealed by a registered professional land surveyor or registered professional engineer.
  - (b) Detailed information concerning any proposed floodproofing measures and corresponding elevations.
  - (c) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
  - (d) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within the floodway area (see Article IV, § 230-20A of this chapter) when combined with all other existing and anticipated development, will not increase the base flood elevation at any point.
  - (e) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway (see Article IV, § 230-20B of this chapter) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one foot at any point within the Township.
  - (f) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact, and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.
  - (g) Detailed information needed to determine compliance with Article V, §§ 230-26F and 230-27 of this chapter, including:
    - [1] The amount, location and purpose of any materials or substances referred to in Article V, §§ 230-26F and 230-27 of this chapter which are intended to be used, produced, stored, or otherwise maintained on site.
    - [2] A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Article V, § 230-27 of this chapter during a base flood.

- (h) The appropriate component of the Department of Environmental Protection's Planning Module for Land Development.
- (i) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sediment pollution control.

#### **§ 230-11. Review of application by others.**

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

#### **§ 230-12. Changes.**

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

#### **§ 230-13. Placards.**

In addition to the floodplain development compliance certificate, the Floodplain Administrator shall issue a placard, or similar document, which shall be displayed at the construction and/or development project site during the time construction is in progress. This placard shall include a brief description of the project, the location of the project, the date of its issuance, the floodplain development compliance certificate number, and the signature of the Floodplain Administrator.

#### **§ 230-14. Start of construction.**

- A. Work on the proposed construction and/or development shall begin within 180 days after the date of issuance of the floodplain development compliance certificate.
- B. Work shall also be completed within 12 months after the date of issuance of the floodplain development compliance certificate or the floodplain development compliance certificate shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. A floodplain development compliance certificate holder shall notify the Floodplain Administrator of the date for commencement of construction and/or development at least seven days prior thereto. The issuance of the floodplain development compliance certificate does not refer to any zoning approval.
- C. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or

foundations or the erection of temporary forms; nor does it include the installation on the property of accessory structures such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- D. Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original floodplain development compliance certificate is compliant with this chapter and FIRM/FIS in effect at the time the extension is granted.

**§ 230-15. Inspection and revocation.**

- A. During the construction period, the Floodplain Administrator shall inspect the premises to determine that the work is progressing in compliance with the information provided on the floodplain development permit application. The Floodplain Administrator shall make as many inspections during and upon completion of the work as are necessary.
- B. In the event that the Floodplain Administrator discovers that the work does not comply with the floodplain development permit application, or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the floodplain development compliance certificate and report such fact to Township for whatever action it considers necessary.
- C. A record of all such inspections and violations of this chapter shall be maintained.
- D. The requirements of 34 Pa. Code Chapters 401-405, as amended; the IBC (Sections 109.3.3, 1612.5.1, 104.7, and 103.8, or latest revisions thereof); and the 2003 IRC (R106.1.3, R109.1.3 and R104.7, or latest revisions thereof) pertaining to elevation certificates and record retention shall be considered.

**§ 230-16. Fees.**

Fees payable to the Township by an applicant and/or developer shall be established from time to time by resolution of the Township for the following:

- A. Review of the floodplain development permit application, and any related documents.
- B. Review by the municipal engineer of the floodplain development permit application.
- C. Review by the Township Engineer of any and all information concerning the construction and/or development.
- D. Any and all fees associated with an applicant's or developer's request for a letter of map revision (LOMR) or conditional letter of map revision (CLOMR).

**§ 230-17. Enforcement; violations and penalties.**

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

- (1) Be in writing; and
  - (2) Include a statement of the reasons for its issuance; and
  - (3) Allow a reasonable time not to exceed a period of 30 days for the performance of any act it requires; and
  - (4) Be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this Commonwealth; and
  - (5) Contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this chapter; and
  - (6) The penalties/court proceedings which may be imposed should the violation not be remedied.
- B. Penalties. Any person who fails to comply with any or all of the requirements or provisions of this chapter or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the Township shall be guilty of a summary offense and, upon conviction, shall pay a fine to Township of not less than \$100 nor more than \$1,000, plus costs of prosecution, including, but not limited to, attorneys' fees, expert witness fees, filing fees, costs of service, and the like. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed 90 days. Each day during which any violation of this chapter continues shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of or noncompliance with this chapter shall not excuse the violation or noncompliance or permit it to continue. All such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this chapter may be declared by the Board of Supervisors to be a public nuisance and abatable as such. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

### § 230-18. Appeals.

- A. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this chapter, may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within 30 days after the decision, determination, or action of the Floodplain Administrator.
- B. Upon receipt of such appeal, the Porter Township Zoning Hearing Board shall set a time and place, within not less than 10 nor more than 45 days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.
- C. Any person aggrieved by any decision of the Porter Township Zoning Hearing Board may seek relief therefrom by appeals to courts of the Commonwealth, as provided by applicable law(s), including the Pennsylvania Flood Plain Management Act.<sup>12</sup>

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

**Publication, Jul 2023**

ARTICLE IV  
**Identification of Floodplain Areas**

**§ 230-19. Identification.**

- A. The identified floodplain area shall be any areas of Township, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated September 26, 2008, and June 16, 2016, and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study (FIS).
- B. The above-referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Township and declared to be a part of this chapter.

**§ 230-20. Description and special requirements of identified floodplain areas.**

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

- A. The "floodway area" shall be those areas identified in the FIS and the FIRM as floodways and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.
- (1) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the Township during the occurrence of the base flood discharge.
  - (2) Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- B. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
- (1) The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
  - (2) AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.
    - (a) No floodplain development compliance certificate shall be granted for any construction, development, use, or activity within any AE Area/District without floodway unless it is demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the base flood elevation more than one foot at any point.

- (b) No new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- C. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other federal, state, or other acceptable sources shall be used when available. Where other acceptable information is not available, the following procedures shall be used to determine the base flood elevation:
  - (1) For all nonaccessory structures (including residential, commercial, industrial, and institutional structures), the applicant shall be required to submit a letter of map amendment (LOMA) to FEMA to either remove the nonaccessory structure from the A Zone, or obtain a base flood elevation for a nonaccessory structure that cannot be removed from the A Zone.
  - (2) For all accessory structures:
    - (a) The base flood elevation may be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site; or
    - (b) The Township may require the applicant to determine the elevation using hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical standards. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow for a thorough technical review by the Township.
  - (3) For all accessory structures and all nonaccessory structures, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- D. The AO and AH Area/District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1% annual chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

#### **§ 230-21. Changes in identification of area.**

The identified floodplain area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or individual documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six months after the date such information becomes available, the Township shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See Article V, § 230-24B of this chapter for situations where FEMA notification is required.

**§ 230-22. Boundary disputes.**

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Floodplain Administrator in consultation with the Township Engineer, and any party aggrieved by this decision or determination may appeal to the Porter Township Zoning Hearing Board. The Porter Township Zoning Hearing Board shall set a time and place, within not less than 10 nor more than 45 days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties. The burden of proof shall be on the appellant.

**§ 230-23. Jurisdictional boundary changes.**

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

ARTICLE V  
**Technical Provisions**

**§ 230-24. General.**

- A. Alteration or relocation of watercourse.
- (1) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Township, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.
  - (2) No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood-carrying capacity of the watercourse in any way.
  - (3) In addition, FEMA and the Pennsylvania Emergency Management Agency shall be notified prior to any alteration or relocation of any watercourse.
- B. When the Township proposes to permit the following encroachments: any development that causes a rise in the base flood elevations within the floodway; or any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or alteration or relocation of a stream (including but not limited to installing culverts and bridges) the Township shall (as per 44 CFR 65.12):
- (1) Apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur; and
  - (2) Upon receipt of the Floodplain Administrator's conditional approval of map change and prior to approving the proposed encroachments, provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and/or revised floodway reflecting the post-project condition; and
  - (3) Upon completion of the proposed encroachments, provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.
- C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this chapter and any other applicable codes, ordinances, and regulations.

**§ 230-25. Elevation and floodproofing requirements.**

- A. Residential structures.
- (1) In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation.
  - (2) In A Zones, where there are no base flood elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including

basement) elevated up to, or above, the regulatory flood elevation determined in accordance with Article IV, § 230-20C of this chapter.

- (3) In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
- (4) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the latest edition thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 Pa. Code Chapters 401 to 405, as amended, shall be utilized, where they are more restrictive.

B. Nonresidential structures.

- (1) In AE, A1-30, and AH Zones, any new construction or substantial improvement of a nonresidential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:
  - (a) Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water; and
  - (b) Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (2) In A Zones, where no base flood elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation determined in accordance with Article IV, § 230-20C of this chapter.
- (3) In AO Zones, any new construction or substantial improvement shall have the lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
- (4) Any nonresidential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.
- (5) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the latest edition thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 Pa. Code Chapters 401 to 405, as amended, shall be utilized, where they are more restrictive.

C. Space below the lowest floor.

- (1) Basements are prohibited within the identified floodplain area.

- (2) Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
  - (3) Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
    - (a) A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space; and
    - (b) The bottom of all openings shall be no higher than one foot above grade; and
    - (c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- D. Historic structures. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this chapter, must comply with all chapter requirements that do not preclude the historic structure's continued designation as a historic structure. Documentation that a specific chapter requirement will cause removal of the historic structure from the National Register of Historic Places or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from chapter requirements will be the minimum necessary to preserve the historic character and design of the historic structure.
- E. In the identified floodplain area, accessory structures need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:
- (1) Accessory structures 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 of the property.
  - (2) The floor area of the accessory structure shall not exceed 200 square feet. Otherwise, a variance shall be required as set forth in Article VIII of this chapter, and if a variance is granted, a signed declaration of land restriction (nonconversion agreement) shall be recorded on the property deed prior to issuance of the certificate of occupancy.
  - (3) Accessory structures shall have a low damage potential.
  - (4) Accessory structures shall be located and oriented on the property so as to cause the least obstruction to the flow of floodwaters.
  - (5) Separate electrical circuits shall serve accessory structures and shall be dropped from above.
  - (6) Power lines, wiring, and outlets shall be elevated to the regulatory flood elevation.
  - (7) Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc., are prohibited.
  - (8) Sanitary facilities are prohibited.
  - (9) Accessory structures shall be securely anchored in accordance with accepted

engineering practices to prevent flotation, collapse, and lateral movement.

- (10) Accessory structures 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. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
- (a) A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space; and
  - (b) The bottom of all openings shall be no higher than one foot above grade; and
  - (c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (11) No hazardous materials and substances (as listed in Article V, § 230-27 of this chapter, shall be stored in any accessory structure.

#### **§ 230-26. Design and construction standards.**

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

- A. Fill. If fill is used, it shall:
- (1) Extend laterally at least 15 feet beyond the building line from all points; and
  - (2) Consist of soil or small rock materials only; sanitary landfills shall not be permitted; and
  - (3) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling; and
  - (4) Be no steeper than one vertical foot to two horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
  - (5) Be used to the extent to which it does not adversely affect adjacent properties.
- B. Drainage facilities. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- C. Water and sanitary sewer facilities and systems.
- (1) All new or replacement water supply, and sanitary sewer facilities and systems shall be located, designed, and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
  - (2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
  - (3) No part of any on-site waste disposal system shall be located within any identified

floodplain area except in strict compliance with all state and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

- (4) The design and construction provisions of the UCC and FEMA No. 348, "Protecting Building Utilities From Flood Damages" and "The International Private Sewage Disposal Code" shall be utilized.
- D. Other utilities. All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible), and constructed to minimize the chance of impairment during a flood.
- E. Streets. The finished elevation of all new streets shall be no more than one foot below the base flood elevation.
- F. Storage. All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Article V, § 230-27 of this chapter, shall be stored at or above the base flood elevation or floodproofed to the maximum extent possible.
- G. Placement of buildings, structures, fences and structural barriers.
- (1) 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.
  - (2) No fences, except two-wire fences, or other structural barriers which may impede, retard or change the direction of the flow of floodwaters, or which will catch or collect debris carried by such waters shall be placed within a designated floodway, nor shall any fence or structural barrier be placed where the natural flow of floodwater could carry such fence or structural barrier downstream to the damage or detriment of any downstream property.
- H. Anchoring.
- (1) All buildings and structures shall be securely anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
  - (2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the base flood elevation shall be securely anchored or affixed to prevent flotation.
- I. Floors, walls, and ceilings.
- (1) Wood flooring used at or below the base flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
  - (2) Plywood used at or below the base flood elevation shall be of a marine or water-resistant variety.
  - (3) Walls and ceilings at or below the base flood elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.

- (4) Windows, doors, and other components at or below the base flood elevation shall be made of metal or other "water-resistant" material.
- J. Paints and adhesives.
- (1) Paints and other finishes used at or below the base flood elevation shall be of marine or water-resistant quality.
  - (2) Adhesives used at or below the base flood elevation shall be of a marine or water-resistant variety.
  - (3) All wooden components (doors, trim, cabinets, etc.) used at or below the base flood elevation shall be finished with a marine or water-resistant paint or other finishing material.
- K. Electrical components.
- (1) Electrical distribution panels shall be at least three feet above the base flood elevation.
  - (2) Separate electrical circuits shall serve lower levels and shall be dropped from above.
- L. Equipment. Water heaters, furnaces, air-conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.
- M. Fuel supply systems. All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.
- N. Uniform construction code coordination. The standards and specifications contained in 34 Pa. Code Chapters 401 to 405, as amended and not limited to the following provisions shall apply to the above and other articles, sections, and subsections of this chapter, to the extent that they are more restrictive and supplement the requirements of this chapter:
- (1) International Building Code (IBC) 2009 or the latest edition thereof adopted by the Commonwealth of Pennsylvania: Sections 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.
  - (2) International Residential Building Code (IRC) 2009 or the latest edition thereof adopted by the Commonwealth of Pennsylvania: R104, R105, R109, R322, Appendix E, and Appendix J.

**§ 230-27. Development which may endanger human life.**

- A. In accordance with the Pennsylvania Flood Plain Management Act,<sup>13</sup> and the regulations adopted by the Pennsylvania Emergency Management Agency as required by the Act, any new or substantially improved structure which: will be used for the production or storage of any materials or substances that are considered dangerous to human life; or will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any materials on the premises that are considered dangerous to

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

human life; or will involve the production, storage, or use of any amount of radioactive substances shall be subject to the provisions of Article V, § 230-27 of this chapter, in addition to all other applicable provisions. The following materials and substances are considered dangerous to human life:

- (1) Acetone.
  - (2) Ammonia.
  - (3) Benzene.
  - (4) Calcium carbide.
  - (5) Carbon disulfide.
  - (6) Celluloid.
  - (7) Chlorine.
  - (8) Hydrochloric acid.
  - (9) Hydrocyanic acid.
  - (10) Magnesium.
  - (11) Nitric acid and oxides of nitrogen.
  - (12) Petroleum products (gasoline, fuel oil, etc.).
  - (13) Phosphorus.
  - (14) Potassium.
  - (15) Sodium.
  - (16) Sulphur and sulphur products.
  - (17) Pesticides (including insecticides, fungicides, and rodenticides).
  - (18) Radioactive substances, insofar as such substances are not otherwise regulated.
- B. Within any identified floodplain area, any new or substantially improved structure of the kind described in Article V, § 230-27A of this chapter, shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.
- C. Within any floodway area, any structure of the kind described in Article V, § 230-27A of this chapter, shall be prohibited. Where permitted within any identified floodplain area, any new or substantially improved residential structure of the kind described in Article V, § 230-27A of this chapter, shall be elevated to remain completely dry up to at least 1 1/2 feet above base flood elevation and built in accordance with Article V, §§ 230-24, 230-25, and 230-26 of this chapter.
- D. Where permitted within any identified floodplain area, any new or substantially improved nonresidential structure of the kind described in Article V, § 230-27A of this chapter, shall be built in accordance with Article V, §§ 230-24, 230-25, and 230-26 of this chapter including:

- (1) Elevated, or designed and constructed to remain completely dry up to at least 1 1/2 feet above base flood elevation; and
  - (2) Designed to prevent pollution from the structure or activity during the course of a base flood.
- E. Any such structure, or part thereof, that will be built below the base flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972, as amended March 1992), or with some other equivalent watertight standard.

**§ 230-28. Special requirements for subdivisions and development.**

All subdivision proposals and development proposals containing at least 50 lots or at least five acres, whichever is the lesser, in identified floodplain areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a registered professional engineer in a format required by FEMA for a conditional letter of map revision (CLOMR) and letter of map revision (LOMR). Submittal requirements and processing fees associated with any CLOMR/LOMR shall be the responsibility of the applicant and/or developer.

**§ 230-29. Special requirements for manufactured homes.**

- A. Within any floodway area/district, manufactured homes shall be prohibited.
- B. Within any identified floodplain area, manufactured homes shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.
- C. Where permitted within any identified floodplain area, all manufactured homes, and any improvements thereto, shall:
  - (1) Be placed on a permanent foundation; and
  - (2) Be elevated so that the lowest floor of the manufactured home is at least 1 1/2 feet above base flood elevation; and
  - (3) Be securely anchored to resist flotation, collapse, or lateral movement; and
  - (4) Not have any ductwork or utilities, including HVAC/heat pump, located below the base flood elevation.
- D. Within any identified floodplain area, an evacuation plan indicating alternate vehicle access and escape routes shall be filed with the Floodplain Administrator for manufactured home parks and manufactured home subdivisions.
- E. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 "International Residential Building Code" or the "U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto and 34 Pa. Code Chapter 401 to 405, shall apply.

- F. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the latest edition thereto adopted by the Commonwealth of Pennsylvania, and 34 Pa. Code Chapter 401 to 405, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

**§ 230-30. Special requirements for recreational vehicles.**

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

- A. Be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use; or
- B. Meet the permit requirements for manufactured homes in Article V, § 230-29 of this chapter.

ARTICLE VI  
**Prohibited Activities**

**§ 230-31. General.**

In accordance with the administrative regulations promulgated by the Pennsylvania Emergency Management Agency to implement the Pennsylvania Flood Plain Management Act,<sup>14</sup> the following activities shall be prohibited within any identified floodplain area:

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

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

## ARTICLE VII

**Existing Structures in Identified Floodplain Areas****§ 230-32. Existing structures.**

The provisions of this chapter do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Article VII, § 230-33 of this chapter shall apply.

**§ 230-33. Improvements.**

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

- A. No expansion or enlargement of an existing structure shall be allowed within any floodway area/district that would cause any increase in the base flood elevation.
- B. No expansion or enlargement of an existing structure shall be allowed within AE Area/District without floodway that would, together with all other existing and anticipated development, increase the base flood elevation more than one foot at any point.
- C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of 50% or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this chapter.
- D. Any modification, alteration, reconstruction or improvement of any kind to an existing structure, to an extent or amount of less than 50% of its market value and that is not a cumulative substantial damage shall be undertaken to comply with the provisions of this chapter to the greatest extent possible and/or practical.
- E. Any modification, alteration, reconstruction or improvement of any kind that meets the definition of cumulative substantial damage shall be undertaken only in full compliance with the provisions of this chapter.
- F. The above activity shall also address the requirements of the 34 Pa. Code Chapters 401 to 405, as amended, and the 2009 IBC and the 2009 IRC or most recent revision thereof adopted by the Commonwealth of Pennsylvania.

ARTICLE VIII  
Variances

**§ 230-34. General.**

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

**§ 230-35. Variance procedures and conditions.**

- A. Requests for variances shall be considered by the Porter Township Zoning Hearing Board, in accordance with the Municipalities Planning Code,<sup>15</sup> and the following:
- (1) No variance shall be granted for any construction, development, use, or activity within any floodway area/district that would cause any increase in the base flood elevation.
  - (2) No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the base flood elevation more than one foot at any point.
  - (3) Except for a possible modification of the requirement to elevate to the regulatory flood elevation, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Article V, § 230-27 of this chapter.
  - (4) No variance shall be granted for prohibited activities listed in Article VI of this chapter.
  - (5) If granted, a variance shall involve only the least modification necessary to provide relief.
  - (6) In granting any variance, the Porter Township Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this chapter.
  - (7) Whenever a variance is granted, the Porter Township Zoning Hearing Board shall notify the applicant in writing that:
    - (a) The granting of the variance may result in increased premium rates for flood insurance.
    - (b) Such variances may increase the risks to life and property.
  - (8) In reviewing any request for a variance, the Porter Township Zoning Hearing Board shall consider, at a minimum, the following:
    - (a) That there is good and sufficient cause.

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

- (b) That failure to grant the variance would result in exceptional hardship to the applicant.
  - (c) That the granting of the variance will not:
    - [1] Result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense; and
    - [2] Create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
  - (9) A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to FEMA.
- B. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the base flood.

ARTICLE IX  
**Terminology**

**§ 230-36. Word usage.**

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

**§ 230-37. Definitions.**

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

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

**APPLICANT** — A landowner or developer who undertakes construction or development within areas of Township that are subject to flooding.

**BASE FLOOD** — A flood which has a 1% chance of being equaled or exceeded in any given year (also called the "one-hundred-year flood" or "1% annual chance flood").

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

**BASE FLOOD ELEVATION (BFE)** — The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1% or greater chance of being equaled or exceeded in any given year.

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

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

**COMPLETELY DRY** — Refers to a space within a structure that will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

**CUMULATIVE SUBSTANTIAL DAMAGE** — Flood-related damages sustained by a structure on two separate occasions during a period of 10 years for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25% of the market value of the structure before the damages occurred.

**DEVELOPER** — An individual, public or private association or corporation, partnership, association, municipality or political subdivision of the Commonwealth of Pennsylvania, public utility, institution, authority, firm, trust, estate, receiver, guardian, personal representative, successor, joint venture, joint-stock company, fiduciary, department, agency or instrumentality of state, federal or local government, or an agent or employee thereof, or any other legal entity who undertakes construction or development within areas of the Township that are subject to flooding.

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

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

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

**FEMA** — Federal Emergency Management Agency.

**FLOOD INSURANCE RATE MAP (FIRM)** — The Official Map on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas (SFHAs) and the risk premium zones applicable to the Township.

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

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

**FLOODPLAIN ADMINISTRATOR** — The administrative officer lawfully charged with the duty of administering and enforcing the provisions of this chapter.

**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.

**FLOODPLAIN DEVELOPMENT COMPLIANCE CERTIFICATE** — A standard municipal form issued to the applicant by the Township prior to the commencement of development and/or construction work in the identified floodplain area.

**FLOODPLAIN DEVELOPMENT PERMIT APPLICATION** — A standard municipal form completed by an applicant prior to undertaking development and/or construction work in the identified floodplain area.

**FLOODPROOF** — Any work or activity that involves structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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

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

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

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

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as

meeting the requirements for individual listing on the National Register; or

- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
- C. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior; or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

**IDENTIFIED FLOODPLAIN AREA** — This term is an umbrella term that includes all of the areas within which the Township has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area (SFHA) on the Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study (FIS), but may include additional areas identified by the Township (please refer to Article IV, §§ 230-19 and 230-20 of this chapter, for areas that the Township has included in the identified floodplain area).

**LAND DEVELOPMENT** — Any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
  - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
  - (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- B. A subdivision of land.
- C. Development in accordance with Section 503(1.1) of the Municipalities Planning Code.<sup>16</sup>

**LETTER OF MAP AMENDMENT (LOMA)** — An amendment to the currently effective FEMA map which establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is issued only by FEMA.

**LETTER OF MAP REVISION (LOMR)** — An official amendment to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

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

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**16. Editor's Note: See 53 P.S. § 10503(1.1).**

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

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

**NATIONAL FLOOD INSURANCE PROGRAM (NFIP)** — The program of flood insurance coverage and floodplain management administered under the National Flood Insurance Act of 1968 (and any amendments thereof)<sup>17</sup> and applicable federal regulations promulgated in Title 44 of the Code of Federal Regulations, Subchapter B.<sup>18</sup>

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after the effective date of this chapter and includes any subsequent improvements to such structures. Any construction started after April 1, 1977, and before the effective start date of this chapter is subject to the ordinance in effect at the time the floodplain development compliance certificate was issued, provided the start of construction was within 180 days of issuance of the floodplain development compliance certificate.

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

**NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88)** — The North American Vertical Datum of 1988 is the vertical control datum of orthometric height established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988.

**PERSON** — An individual, public or private association or corporation, partnership, association, municipality or political subdivision of the Commonwealth of Pennsylvania, public utility, institution, authority, firm, trust, estate, receiver, guardian, personal representative, successor, joint venture, joint-stock company, fiduciary, department, agency or instrumentality of state, federal or local government, or an agent or employee thereof, or any other legal entity who undertakes construction or development within areas of the Township that are subject to flooding.

**POST-FIRM STRUCTURE** — A structure for which construction or substantial improvement occurred after the Township's initial Flood Insurance Rate Map (FIRM) dated April 1, 1977, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program (NFIP).

**PRE-FIRM STRUCTURE** — Is a structure for which construction or substantial improvement occurred on or before the Township's initial Flood Insurance Rate Map (FIRM) dated April 1, 1977, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program (NFIP).

**RECREATIONAL VEHICLE** — A vehicle which is:

- A. Built on a single chassis; and

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17. Editor's Note: See 42 U.S.C. § 4001 et seq.

18. Editor's Note: See 44 CFR 59.1 et seq.

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

**REGISTERED PROFESSIONAL ENGINEER** — An individual currently licensed and registered under the laws of the Commonwealth of Pennsylvania to engage in the practice of engineering.

**REGISTERED PROFESSIONAL LAND SURVEYOR** — An individual currently licensed and registered under the laws of the Commonwealth of Pennsylvania to engage in the practice of land surveying.

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

**SPECIAL FLOOD HAZARD AREA (SFHA)** — An area in the floodplain subject to a 1% or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or AH.

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

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

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

**SUBSTANTIAL ADDITIONS TO MANUFACTURED HOME PARKS** — Any repair, reconstruction, or improvement of an existing manufactured home park or manufactured home subdivision, where such repair, reconstruction, or improvement of the streets, utilities, and pads will equal or exceed 50% of the value of the streets, utilities, and pads before the repair,

reconstruction, or improvement is started.

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

**SUBSTANTIAL IMPROVEMENT** — Any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage or cumulative substantial damage regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

**TOWNSHIP ENGINEER** — A registered professional engineer appointed by the Township to provide municipal engineering services.

**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 Township, a third party or the Department of Labor and Industry.<sup>19</sup> Applicable to residential and commercial buildings, the Code adopted the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the state floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

**VARIANCE** — A grant of relief by the Township from the terms of a floodplain management regulation.

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

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**19. Editor's Note: See 34 Pa. Code Chapters 401 to 405.**

**Chapter 238****FURNACES, OUTDOOR SOLID-FUEL-BURNING**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 12-1-2014 by Ord. No. 12-2014-1. Amendments noted where applicable.]**

**§ 238-1. Definitions.**

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

**CHIMNEY** — Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid-fuel-fired outdoor heating furnace.

**LOT LINES** — The lines bounding a lot or a designated parcel, tract or area of land established by a plat or otherwise.

**OUTDOOR SOLID-FUEL-BURNING FURNACE** — Any equipment, device or apparatus which is installed, affixed or situated outdoors, which is used for the primary purpose of combustion of solid fuel to produce heat or energy comprising a component of a heating system used to provide heat or hot water to the principal structure, a structure used for human or animal habitation, or to any accessory uses or structures, including, but not limited to, greenhouses and conservatories.

**§ 238-2. Permit required.**

- A. No person shall install, use, or maintain an outdoor solid-fuel-burning furnace within the Township of Porter without first having obtained a permit from the Zoning Enforcement Officer. Application for such permit shall be made to the Zoning Officer and any fees collected therewith shall be set by resolution of the Township Supervisors.
- B. Before a permit may be issued hereunder, an inspection of the proposed installation shall be required. In addition, a site plan is required showing the location of the proposed outdoor solid-fuel-burning furnace on the property, location and height of all existing structures on the property, and distances from the said furnace to existing structures on the property. The manufacturers' specification and instructions shall also be furnished to the Township Zoning Officer before a permit may be issued.
- C. A permit will be issued only upon strict compliance with all requirements set forth in this chapter. Any violation of the requirements set forth in this chapter shall be deemed a violation which shall void the issued permit.

**§ 238-3. Regulations for existing outdoor solid-fuel-burning furnaces.**

- A. Any outdoor solid-fuel-burning furnace in existence on the effective date of this chapter shall be permitted to remain.
- B. Any and all existing outdoor solid-fuel-burning furnaces shall be brought into full compliance with § 238-2A and B of this chapter within 90 days from the effective date of this chapter.
- C. Any and all existing outdoor solid-fuel-burning furnaces which do not comply with the provisions of this chapter shall be registered as a nonconforming use.

**§ 238-4. Specific regulations for outdoor solid-fuel-burning furnaces.**

Except as may otherwise be provided with respect to existing outdoor solid-fuel-burning furnaces, all outdoor solid-fuel-burning furnaces within the Township of Porter shall comply with the following rules and regulations:

- A. Installation. All outdoor solid-fuel-burning furnaces shall be installed, operated and maintained in strict compliance with the manufacturers' instructions and guidelines for the said furnace. In the event that a conflict arising between the manufacturers' instructions and regulations and the regulations set forth in this chapter, those instructions or regulations which are stricter shall apply.
- B. Permitted fuel. Only firewood, corn, coal and untreated lumber are permitted to be burned in any outdoor solid-fuel-burning furnace. Burning of any and all other materials is strictly prohibited. No outdoor solid-fuel-burning furnace shall be utilized as a waste incinerator. Specifically prohibited from being burned are the following:
  - (1) Rubbish or garbage including, but not limited to, food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, demolition debris or other household or business waste;
  - (2) Waste oil or other oily wastes;
  - (3) Asphalt and products containing asphalt;
  - (4) Treated or painted wood, including, but not limited to, plywood, composite wood products, or other wood products that are painted, varnished or treated with preservatives;
  - (5) Any plastic material including, but not limited to, nylon, PVC, ABS, polystyrene, or urethane foam, synthetic fabrics, films and containers;
  - (6) Rubber, including tires and synthetic rubberlike products; and
  - (7) Any material that is not recommended for burning by the manufacturer of the furnace.
- C. Setbacks. All outdoor solid-fuel-burning furnaces located within any zoning district shall be located with due consideration to the prevailing wind direction and shall be subject to the following:
  - (1) All outdoor solid-fuel-burning furnaces shall be located not less than 100 feet from any residence not served by the furnace;
  - (2) All outdoor solid-fuel-burning furnaces located within 100 feet to 300 feet of any residence not served by the furnace shall have a chimney height of at least two feet greater than the peak of that residence; and
  - (3) All furnace exhausts shall have a spark arrestor.
- D. Compliance with EPA emissions standards. All outdoor solid-fuel-burning furnaces shall comply with the emissions standards as required and promulgated by the Environmental Protection Agency (EPA). For purposes of this chapter, all emissions standards currently required by the EPA are hereby adopted by reference as well as any amendments or modification made to this hereafter.

- E. Removal of ash and waste. Small accumulations of ashes or waste may be disbursed on the property where the outdoor solid-fuel-burning furnace is located. Any large accumulation of ash or waste from the use of the outdoor solid-fuel-burning furnace shall be disposed of in a manner approved by the Township of Porter and/or the Pennsylvania Department of Environmental Protection.
- F. Restricted use. All outdoor solid-fuel-burning furnaces shall be used for the sole purpose of furnishing heat and/or hot water to a dwelling or other structure pursuant to the permit issued hereunder, including residential swimming pools.
- G. Damages outdoor solid-fuel-burning furnaces. In the event that an outdoor solid-fuel-burning furnace is damaged more than 50% of its fair market value or is otherwise physically deteriorated or decayed, the said outdoor solid-fuel-burning furnace shall be removed and/or replaced with a new unit within 60 days of the date of service of notice from the Township of Porter. In such event, compliance must be had with all provisions of this chapter, including, but not limited to, permitting procedures.

#### **§ 238-5. Liability.**

Any person utilizing or maintaining an outdoor solid-fuel-burning furnace shall be responsible for all fire suppression cost and any other liability resulting from damage caused by a fire from said furnace.

#### **§ 238-6. Right of entry and inspection.**

Any authorized officer, agent, employee or representative of the Porter Township Zoning and Code Offices who presents credentials is hereby authorized to inspect any property for the purpose of ascertaining compliance with the provisions of this chapter. If access is denied, access shall be obtaining pursuant to the applicable laws of the Commonwealth of Pennsylvania.

#### **§ 238-7. Enforcement, violations and penalties.**

- A. The Zoning Officer and/or Code Officer of the Township of Porter is hereby authorized to enforce any provision of this chapter.
- B. Any person, firm or corporation who shall violate any provisions of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.<sup>20</sup> [**Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)**]

#### **§ 238-8. When effective.**

This chapter shall become effective five days after its enactment.

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20. Editor's Note: Original Sec. 308, Ratification and Confirmation, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 238-9. Effect on prior provisions.**

The provisions of this chapter of the Porter Township Code, so far as they are the same as those ordinances and regulations enforced immediately prior to the adoption of this chapter, are intended as the continuation of such ordinance and regulations and not as a new enactment. The provisions of this chapter shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances or regulations except as otherwise provided by law.

**§ 238-10. Severability.**

It is hereby declared to be the intention of the Board of Supervisors that the parts, sections, paragraphs, sentences, clauses and phrases of this chapter are severable. If any section, paragraph, sentence, clause or phrase of this chapter is declared unconstitutional, illegal or otherwise invalid by the judgment or decree of a court of competent jurisdiction, that invalidity shall not affect any of the remaining parts, sections, paragraphs, sentences, clauses and/or phrases of this chapter.

**Chapter 247****GRASS, WEEDS AND VEGETATION**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 8-8-2022 by Ord. No. 08-08-2022. Amendments noted where applicable.]**

**§ 247-1. Height regulations; declaration of nuisance.**

No person, firm or corporation owning or occupying any property within the Residential and/or Village Residential Districts of the Township shall permit any grass or weeds or any vegetation whatsoever to grow or remain upon such premises so as to exceed a height of 12 inches, except that which is edible or intended to attract and aid wildlife or to offset and control any soil loss problems occurring or predicted or planted for some useful or ornamental purpose and which is planted, cultivated and/or maintained in an orderly manner. Any grass or weeds growing upon any premises in the Residential and/or Village Residential Districts in the Township in violation of the provisions of this section is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Township.

**§ 247-2. Removal and trimming.**

The owner of any premises, as to vacant premises or premises occupied by the owner, and the occupant thereof, in the case of premises occupied by other than owner thereof, shall remove, trim, or cut all grass or weeds or other vegetation growing upon such premises in violation of the provisions of § 247-1 of this chapter.

**§ 247-3. Notice.**

The Board of Supervisors, or any officer or employee of the Township designated thereby for the purpose, is hereby authorized to give notice, by personal service or by United States Mail to the owner or occupant, as the case may be, of any premises whereon grass or weeds are growing in violation of § 247-1 of this chapter, directing and requiring such occupant to trim or cut such grass or weeds or other vegetation so as to conform to the requirements of this article within five days after issuance of such notice. In case any person, firm or corporation shall neglect,

fail or refuse to comply with such notice within the period of time stated therein, the Township authorities may trim or cut such grass or weeds or other vegetation, and the cost thereof, together with any additional penalty authorized by the law, may be collected by the Township from such person, firm or corporation, in the manner provided by law including but not limited to municipal lien. This remedy shall be in addition to the penalties provided in § 247-4 hereunder.

**§ 247-4. Enforcement; violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Board of Supervisors, or the person designated by them, is hereby empowered to issue notices, abate violations, and file and prosecute citations for violation of this chapter. Any person, firm or corporation who shall violate any provisions of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

## Chapter 295

### NUMBERING OF BUILDINGS; NAMING OF PRIVATE ROADS

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 8-2-1999 by Ord. No. 37-99. Amendments noted where applicable.]**

**§ 295-1. Authorization.**

The proper officers of the Township of Porter are hereby authorized and directed to do all acts necessary and proper to establish, implement and enforce a standardized system of property address numbering and private road naming to accommodate the needs of the Clinton County 911 System.

**§ 295-2. Responsibility for numbering of existing buildings.**

It shall be the obligation and duty of each and every owner of each and every house, building or other structure in the Township of Porter to cause the same to be numbered in accordance with this chapter within 30 days of the owner's receipt of a written notice of the requirement of numbering his/her building. The written notice shall be forwarded to the owner or owners of record last appearing on the Clinton County Tax Records and the date of mailing shall be deemed to constitute the date of receipt by the owner or owners.

**§ 295-3. Responsibility for numbering new buildings and mobile homes.**

All persons, firms, corporation and other legal entities constructing or proposing to construct new structures or locating or relocating mobile homes in Porter Township shall obtain an official address number(s) from the Clinton County Address Coordinator prior to taking occupancy of said structure(s) or mobile home or relocated mobile home.

**§ 295-4. Location and placement of numbers.**

The owners of all buildings in the Township of Porter shall have the address number assigned to said building by the Clinton County Address Coordinator to be prominently displayed at all times in accordance with the standards below. Owners who receive new assignments or changes from the Clinton County Address Coordinator shall have the number prominently displayed within 30 days of receipt of written notification and at all times thereafter in accordance with the following standards:

- A. The address numbers shall be displayed within clear view of the main entrance on each building to which an address number has been assigned. Multiunit buildings with separate entrances and addresses for different units are required to have each number posted near that entrance.
- B. In addition, for buildings which are further than 20 feet from the roadway or which do not have the building number easily visible from the main roadway, address numbers shall be posted within clear view from the public roadway and within clear view of the driveway to the structure so as to be easily visible by emergency personnel. Bidirectional reflective driveway number posting is encouraged even though not required.
- C. All building address numbers shall be constructed of durable material with a color and brightness which contrasts with the surface on which it is posted with numbers at least four inches high so as to be easily readable by emergency personnel from the named public or private roadway. Reflective and lighted signs are encouraged. Signs shall be readable from all roadway approach directions.
- D. Posted address numbers, as viewed from the public or private roadway, shall not be obstructed from view by landscaping, shrubs, vegetation, screen door, canopies, ornaments or any other plant or structure.
- E. Any and all old numbers shall be removed from any house, building, sign or other structure when a new number has been assigned and when so directed by the proper officers of the Township of Porter or the Clinton County Address Coordinator.

**§ 295-5. Renumbering of buildings.**

The proper officers of the Township of Porter are hereby authorized to require the numbering and renumbering of any house, building or other structure in accordance with this chapter.

**§ 295-6. Definition of terms.**

For the purposes of this chapter, the following words, terms, and phrases have the meaning herein indicated:

**PRIVATE ROADS** — Roadways that are not owned or maintained by the Commonwealth of Pennsylvania or any political subdivision thereof.

**PUBLIC ROADS** — Roadways, including the right-of-way, owned and/or maintained by the Commonwealth of Pennsylvania, the County of Clinton, Pennsylvania, or the Township of Porter, Clinton County, Pennsylvania.

**§ 295-7. Naming of private roads.**

- A. A private road with two or more inhabitable structures located on it shall be named, except in the case of a mobile home park wherein all private roads with one or more residences shall be named.
- B. The owner or owners of a private road may apply to the Porter Township Supervisors for approval of a requested road name for said private road. A written application shall be made within 30 days of the owner's receipt of a written notice of the requirement of naming the private road and the right to apply for road name approval. The written notice shall be forwarded to the owner or owners of record last appearing on the Clinton County Tax Records and the date of mailing shall be deemed to constitute the date of receipt by the owner or owners.
- C. The Township Supervisors shall, within 45 working days of the date of receipt of the road name application, respond in writing to the request with advisory comment as to whether the proposed name meets current requirements of the Clinton County Addressing Ordinance No. 98-2, as it may be amended from time to time.

**§ 295-8. Road naming for mobile home parks.**

- A. The owner or owners of a mobile home park which contains its own private roadway system may apply for approval of requested names to be assigned to said private roads within the mobile home park. A written application accompanied by a map of the private road system with the roads named and labeled as requested shall be made within 30 days of the owner's receipt of the written notice of the requirement of naming the private road system and the right to apply for approval of the road names. The written notice shall be forwarded to the owner or owners of record last appearing on the Clinton County Tax Records and the date of mailing shall be deemed to constitute the date of receipt by the owner or owners.
- B. The Township Supervisors shall, within 45 working days of the date of the receipt of the application for the naming of the roads within the mobile home park system respond in writing to the request with advisory comment as to whether the proposed names meet current requirements of the Clinton County Addressing Ordinance No. 98-2, as it may be amended from time to time.

**§ 295-9. Road naming by Township.**

- A. Rejection of proposed name. In the event that the Township Supervisors reject the requested road name as submitted on an owner's application, the owner or owners of a private road may reapply to the Porter Township Supervisors for approval of an alternate road name for said private road or roads, which written application shall be made within 15 days of owner's receipt of a written notice rejecting said proposed road name. The written notice rejecting said requested road name shall be forwarded to the owner or owners of record last appearing in the Clinton County Tax Records and the date of mailing shall be deemed to constitute the date of receipt by the owner or owners. The Township Supervisors shall, within 45 working days of the date of receipt of a reapplication for a road name which is disapproved may proceed to assign a road name to said private road or roads which name or names meet current requirements of the Clinton County Addressing Ordinance No. 98-2, as it may be amended from time to time.
- B. Failure to request road name. In the event that the owner or owners of a private road fail to

make written application within 30 days of the owner's receipt of a written notice of the requirement of naming the private road and the right to apply for road name approval, the Township Supervisors may proceed to assign a road name that meets current requirements of the Clinton County Addressing Ordinance No. 98-2, as it may be amended from time to time. The date of mailing the written notice of the requirement of naming the private road shall be deemed to constitute the date of receipt by the owner or owners.

**§ 295-10. Private road name signage.**

- A. Requirement to erect sign. The owner or owners of all private roads accepted for addressing as provided herein shall install and/or erect a sign which identifies the private road named as approved by the Porter Township Supervisors within 45 days of written notice of approval. The date of mailing of the written notice of approval shall be deemed to constitute the date of receipt by the owner or owners.
- B. General location of signs. A sign shall be placed at the entrance where the private road intersects with the public roadway in such a manner as to be readily observable to persons traveling upon the public highways, but not creating an obstruction to visibility of motorists.
- C. Signs to be erected at intersections. Road signs shall also be placed at the intersection of a private road with any and all other public roads and with any and all other private roads as named herein.
- D. Compliance with PennDOT regulations. The signage for private roads shall comply with the PennDot requirements for sign design, construction, height and letter size.

**§ 295-11. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who shall violate any provisions of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not less than \$100 nor more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

**§ 295-12. Remedies not mutually exclusive.**

The remedies provided herein for the enforcement of this chapter or any remedy provided by law and/or equity shall not be deemed mutually exclusive, rather they may be employed simultaneously or consecutively, at the option and discretion of the Board of Supervisors of the Township of Porter.

**§ 295-13. When effective.**

This chapter shall become effective in accordance with law.

**§ 295-14. Effect on prior regulations.**

The provisions of the Porter Township Code, so far as they are the same as those ordinances and regulations enforced immediately prior to the adoption of this chapter are intended as a continuation of such ordinances and regulations and not as a new enactment. The provisions of this chapter shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances or regulations except as otherwise provided by law.

**§ 295-15. Severability.**

It is hereby declared to be the intention of the Board of Supervisors that the parts, sections, paragraphs, sentences, clauses, and phrases of this chapter are severable. If any section, paragraph, sentence, clause or phrase of this chapter is declared unconstitutional, illegal or otherwise invalid by the judgment of decree of a court of competent jurisdiction, that invalidity shall not affect any of the remaining parts, sections, paragraphs, sentences, clauses or phrases of this chapter.

**Chapter 306****PARKS AND RECREATION AREAS**

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

## ARTICLE I

**Parks and Recreational Facilities****[Adopted 1-4-2016 by Ord. No. 1-2016-1]****§ 306-1. Definitions.**

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

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

**PERSON** — Any natural person, corporation, organization of persons, company, association or partnership or any combination thereof.

**RULES AND REGULATIONS** — Any rules and regulations hereby or hereafter promulgated by the Porter Township Board of Supervisors under the authority herein conferred.

**§ 306-2. Park hours.**

All parks shall be open daily to the public at such hours as the Porter Township Board of Supervisors may from time to time designate, but in no event shall any person be permitted to be in any park between dusk and sunrise, unless special permission be granted by the Board of Supervisors.

**§ 306-3. Prohibited conduct.**

No Person in attendance at a park shall:

- A. Injure, deface, remove, cut or damage any of the trees, plants, shrubs, turf, buildings, structures, signs, or fixtures, or any other property of the Township of Porter located within the park.
- B. Litter any area of the park with garbage, paper, bottles, cans, or other waste material, nor dispose of the same in any way except in receptacles designated for such purpose.
- C. Kindle or maintain any fire in the park except in fireplaces or areas specially designated for that purpose and located by authority of the Porter Township Board of Supervisors.
- D. Remove any bench, seat, table or other appliance without permission of the Porter Township Board of Supervisors.
- E. Injure, deface, destroy or remove any notice, rule or regulation posted any place within the park by authority of the Porter Township Board of Supervisors, nor shall any notice or placard be posted within the park other than by authority of said Board.
- F. Operate, stop or park any motor vehicle in the park except those operated by Township maintenance vehicles and, from dawn to dusk, those operated by handicapped individuals.
- G. Bring onto the premises, possess or consume any alcoholic beverage or illegal drugs of any kind; no person shall enter the park in an intoxicated state or otherwise be under the influence of alcohol or illegal drugs, disturb the peace by any conduct so as to annoy any

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other person using the park for recreational purposes; use threatening, abusive, insulting, profane, or obscene language or words.

- H. Disobey a proper order of a police officer or Porter Township Supervisors, or disobey or disregard, or fail to comply with, any rule or regulation, warning, prohibition, instruction or direction, given by an authorized person and posted or displayed by sign, notice, bulletin, card, poster or when notified or informed as to its existence by the Board of Supervisors or an authorized person.
- I. Hunt for, capture or kill, or attempt to capture or kill, or aid or assist in the capturing or killing of, in any manner, any wild bird or wild animal of any description, either game or otherwise.
- J. Allow pets at any time on any Township park or recreational facility.
- K. Fail to return any bench, seat or table to its original location.
- L. Deposit in any Township park or recreational facility garbage receptacle or dumpster any garbage, paper, bottles, cans or other waste materials produced or generated from a location other than the Township park or recreational facility.

#### **§ 306-4. Authorization to promulgate additional rules.**

The Board of Supervisors is hereby authorized to establish additional rules and regulations as deemed necessary and appropriate with regard to parks and recreational areas of the Township of Porter.

#### **§ 306-5. Authority to close areas.**

Recreational facilities which become hazardous for public use due to weather, water, fire, or unforeseeable conditions, may be closed only at the discretion of the Porter Township Board of Supervisors.

#### **§ 306-6. Enforcement.**

The Zoning Office of Porter Township and the Pennsylvania State Police are charged with enforcement of the provisions of this article.

#### **§ 306-7. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who shall violate any provisions of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

ARTICLE II  
**Walking Trail**  
[Adopted by Ord. No. 5-2-2016]

**§ 306-8. Definitions.**

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

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

**WALKING TRAIL** — That certain walking trail owned or acquired by the Township of Porter for recreational purposes.

**§ 306-9. Prohibited usage.**

No person shall engage in roller-skating, skateboarding, in-line skating, roller skiing, bicycling, motorcycling and/or operation of all-terrain vehicles on or across the walking trail.

**§ 306-10. Permitted use of walking trail.**

A person may operate on or over the walking trail a manual or powered wheelchair or a child's stroller.

**§ 306-11. Enforcement.**

The Zoning Officer of Porter Township and the Pennsylvania State Police are charged with the enforcement provisions of this article.

**§ 306-12. Violations and penalties. [Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who shall violate any provisions of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

**Chapter 314**

**PEDDLING AND SOLICITING**

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

## ARTICLE I

**Peddlers****[Adopted 3/1/1971 by Ord. No. 16 (Ch. 13, Part 1, of the 1989 Code of Ordinances)]****§ 314-1. Definitions; word usage.**

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

PEDDLER — Any person who shall engage in peddling, as herein defined.

PEDDLING — Engaging in peddling, canvassing, soliciting or taking of orders, either by sample or otherwise, for any goods, wares or merchandise, upon any of the streets or sidewalks or from house to house within Porter Township, provided, the word "peddling" shall not apply:

- (1) To farmers selling their own produce;
- (2) To the sale of goods, wares and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose; or
- (3) To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk or milk products.

PERSON — Any natural person, association, partnership, firm or corporation.

B. In this article, the singular shall include the plural and the masculine shall include the feminine and the neuter.

**§ 314-2. License required.**

No person shall engage in peddling in Porter Township without first having taken out a license as herein provided.

**§ 314-3. Application for license. [Amended 5-1-1989 by Ord. No. 20; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Every person desiring to engage in peddling in Porter Township shall first make application to the Township Zoning Officer for a license. If such person shall also be required to obtain a license from any county officer he shall, when making such application, exhibit a valid county license. Upon such application, such person shall give his name; address; his previous criminal record, if any; the name of the person for whom he works, if any; the type of goods, wares and merchandise he wishes to peddle; the length of time for which he wishes to be licensed; the type of vehicle he uses, if any; and the number of helpers he has; provided, where a person makes application for himself and one or more helpers, all applicable personal information specified above shall be given for each helper and an individual license shall be required for each helper. No license issued under this article shall be transferable from one person to another.

**§ 314-4. Fees. [Amended 5-1-1989 by Ord. No. 20]**

No license shall be issued under this article until the proper fee, as follows, shall be paid to the Township Supervisors, which shall be for the use of the Township.

A. Peddler: \$5 per day; \$25 per month; \$50 per year.

- B. Each and every additional peddler employer by or with a peddler: \$5 per day; \$25 per month; and \$50 per year.

**§ 314-5. Issuance of license.**

Upon making application therefor and paying the proper fee, as herein specified, a license shall be issued to every peddler. Such license shall contain the information required to be given upon the application therefor. Every peddler shall at all times when engaged in peddling in the Township carry such license upon his person and shall exhibit such license, upon request, to all police officers, Township officials and citizens. No peddler shall engage in selling any product not mentioned upon such license, nor shall any person having a foot peddler's license operate from or with any horsedrawn or motor vehicle.

**§ 314-6. Hours of operation. [Amended 5-1-1989 by Ord. No. 20]**

No person licensed as a peddler under this article shall engage in peddling at any time on Sunday or upon any other day of the week before 9:00 a.m. or after 7:00 p.m.

**§ 314-7. Prohibited activities.**

No person, licensed as a peddler under this article, shall hawk or cry his wares upon any of the streets or sidewalks of the Township, nor shall he use any loud speaker or horn or any other device for announcing his presence by which the public is annoyed, nor shall he occupy any fixed location on Township streets for the purpose of peddling.

**§ 314-8. Records and supervision of licensees. [Amended 5-1-1989 by Ord. No. 20; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Zoning Officer shall keep a record of all licenses issued under this article and shall supervise the activities of all holders of such licenses.

**§ 314-9. Suspension of license. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Zoning Officer of Porter Township is hereby authorized to suspend any license issued under this article when they deem such suspension to be beneficial to the public health, safety or morals, or for violation of any of the provisions of this article, or for giving false information upon any application for a license hereunder.

**§ 314-10. Violations and penalties. [Amended 5-1-1989 by Ord. No. 20; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who shall violate any provisions of this article shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

**Chapter 333****RADIOACTIVE WASTE**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 1-6-1992 by Ord. No. 24. Amendments noted where applicable.]**

**§ 333-1. Title.**

This chapter shall be known and may be cited as the "Radioactive Waste Ordinance of Porter Township of 1992."

**§ 333-2. Purposes.**

A. The purposes of this chapter are:

- (1) To protect the health, safety, and general welfare of all municipal citizens and other persons by preventing exposure to airborne radioactive substances;
- (2) To preserve the natural environmental qualities of all land and its flora fauna within the municipality;
- (3) To promote the sustainable economic well-being of the municipality by preservation of camping, hunting, fishing, and other recreational opportunities for tourists;
- (4) To protect against the infliction of psychological or emotional stress on municipal citizens from the reasonable fear of exposure to radiation;
- (5) To preserve the values of a healthy environment for future generations.

B. Any interpretation of this chapter shall give priority to the purposes stated in this section over such considerations as economics, efficiency, and scheduling factors.

**§ 333-3. Definitions.**

The following terms shall have the meanings defined in this section wherever they are used in this chapter.

**ABOVEGROUND FACILITY** — A facility above grade level, constructed with triple dedicated engineered barriers isolating the contents from the environment.

**ACTIVE INSTITUTIONAL CONTROL PERIOD** — The period of time during which active surveillance, monitoring, and care is maintained, which shall extend to 30 years after the estimated hazardous life of the waste.

**BUFFER ZONE** — The portion of the waste site that is controlled by the licensee and that lies under the waste units, and between the waste units and the site boundary.

**CONTAINER** — The first sealed leakproof solid enclosure which encompasses the radioactive waste, and which may include a means for controlled bleeding of gaseous decay products into another container.

**CONTAINMENT** — The isolation of radioactive substances and radiation from the biosphere by means of engineered barriers and waste site design.

**FILL** — Fill, grout, or other material which is placed in void spaces between radioactive

waste containers or waste modules within the waste unit to provide structural strength against subsidence and collapse.

**HAZARDOUS LIFE** — The amount of time that it takes for the LLRW to decay to levels so that unrestricted use of the site could not result in exposure to total radioactive levels higher than the radioactive levels measured at the site prior to the site being used for storage.

**LEAKPROOF** — The engineered design features which eliminate the inflow or outflow of solid, liquid, or gas by any means, including selective absorption and adsorption, or ion exchange, except into a container through a control valve.

**LOW-LEVEL RADIOACTIVE WASTE (LLRW)** — Radioactive waste as defined in Section 11(e)(2) of the Atomic Energy Act of 1954 codified as amended at 42 U.S.C. § 2014(e)(2), or in the Pennsylvania Low-Level Radioactive Waste Disposal Act,<sup>21</sup> whichever is more exclusive.

**MIXED WASTE** — Low-level radioactive waste that either:

- A. Contains hazardous waste listed in the Code of Federal Regulations, 40 CFR 261, Subpart D; or
- B. Exhibits any of the hazardous characteristics identified in 40 CFR Part 261, Subpart C.

**OPERATOR** — Is any person or entity that stores radioactive waste or maintains a radioactive waste facility or any part thereof in the municipality.

**ORDINANCE** — The Radioactive Waste Ordinance of 1992. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**

**SIGNIFICANT THREAT** — A threat of causing injury by the following conduct: violating any federal or pennsylvania environmental quality standard; contaminating groundwater; surface water, flora, fauna, or air so as to pose an immediate hazard to human health by exposure to substances that cause human life-shortening injuries, e.g., a long-latency cancer, or disabilities, or that cause kills of fish or wildlife; threatening the viability of an endangered species; contributing to an accumulation of hazardous toxic substances in fish or wildlife, so that such fish or wildlife are rendered unfit for human consumption; or disrupting a food chain in an ecosystem.

**TRIPLE DEDICATED ENGINEERED BARRIER** — The three leakproof structures, referred to in this chapter as a "container," waste module and waste unit, each of which independently ensures the containment of radioactive waste from the environment for the hazardous life of the waste.

**WASTE FACILITY** — The containers, waste units, administrative and support facilities, other buildings, equipment, and engineered features on a site where radioactive waste is stored, including all improvements thereon.

**WASTE MODULE** — A second leakproof engineered structure harboring the containers within a waste unit.

**WASTE SITE** — The land on which the waste facility is located, including the buffer zone.

**WASTE UNIT** — A third leakproof engineered structure which contains waste modules.

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21. Editor's Note: See 35 P.S. § 7130.101 et seq.

**§ 333-4. Authority.**

This chapter is adopted and enacted pursuant to the authority granted to the municipality by all relevant state and federal law, including, but not limited to the following.

- A. Pennsylvania Constitution, Article I, Section 27.
- B. The provisions of the Second Class Township Code, Article VII, as codified in 53 P.S. § 66501 et seq., authorizing the municipality to enact ordinances dealing with, inter alia, the protection of the health of Township residents, regulation of refuse materials and nuisances, and promotion of public safety; **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. Pennsylvania Air Pollution Control Act, 35 P.S. § 4001 et seq.;
- D. Pennsylvania Local Tax Enabling Act, 53 P.S. § 6924.101 et seq.; **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- E. Appalachian States Low-Level Radioactive Waste Compact Act 1985, 35 P.S. § 7125.1 et seq.;
- F. Pennsylvania Low-Level Radioactive Waste Disposal Act, Act 1988-12, 35 P.S. § 7130.101 et seq.; **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- G. Clean Air Amendments of 1977, 42 U.S.C. §§ 7416, 7422.

**§ 333-5. Siting, performance design, and operation of waste facility.**

- A. Siting.
  - (1) A waste site shall have geological characteristics such that all applicable state and federal emission requirements may be met without the use of dedicated engineered barriers, other than the entrance described in § 333-5C(2) of this chapter.
  - (2) There shall be no active or inactive water wells, gas or oil wells, brine wells, or other underground storage areas on the waste site.
  - (3) Surface features of the waste site shall be designed to direct water drainage away from waste units at velocities and gradients which will not result in erosion. No water shall drain from the waste site to any off-site location or into any aquifer without permission from the controlling officer.
  - (4) No site shall be located in recharge zones for sources of local drinking water, wetlands, floodplains or habitats of endangered species.
- B. Performance.
  - (1) No radioactive emissions into the outdoors atmosphere from a waste site within the municipality shall exceed, or cause exposures which exceed, applicable federal law, the standards adopted pursuant to this chapter, or any other law adopted under the authority of the Commonwealth of Pennsylvania.
  - (2) The operator of a waste facility shall perform active and passive monitoring which

shall detect any releases of radioactive substances into the buffer zone, as well as releases from waste modules, waste units, and from the waste site, for the active institutional control period, and provide continuous verification of performance satisfactory to the controlling officer.

- (3) The waste facility must be designed and operated to achieve containment for the hazardous life of the waste. Prior to construction, the waste facility design shall be modeled and analyzed to demonstrate that its performance and its interactions with the environment at the waste site are consistent with this chapter. The facility design shall demonstrate that radioactive waste containment can be maintained for any maximum disruptive external event, including a worst case accident scenario.

C. Design.

- (1) A waste facility shall be designed for zero release of radioactive waste into effluents, and shall not permit liquid or gaseous infiltration through any engineered cover, bottom, side or entrance.
- (2) The waste facility shall be an aboveground facility, mounded with earth and a cap for tornado protection, with a sealed entrance permitting access so that leaking containers can be easily and safely located and removed.
- (3) Neither the containers nor the waste modules are to be covered by any type of fill that would cause loss of integrity of the containers or the waste modules if recovery of the waste is undertaken.

D. Operation.

- (1) The waste facility shall only accept waste with those physical and chemical properties for which it is designed and which it is capable of containing for the hazardous life of the waste. All facility records shall be retained for the active institutional control period.
- (2) All classes of waste shall be segregated from each other unless they were mixed as they were generated. Classes of waste A, B, C, and mixed waste, as defined in 10 CFR § 61.55 (1989), shall be contained for their hazardous lives. No waste greater than Class C shall be accepted even though it may have been diluted to a lower level or radioactivity.
- (3) No radioactive materials generated outside the Appalachian Compact states and not designated as waste when shipped into Pennsylvania but thereafter declared to be waste shall be disposed of or stored in the municipality, except as provided by LLRWDA Section 309, 35 P.S. § 7130.309. No waste generated outside the United States shall be disposed of or stored in the municipality. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- (4) In the event radioactive substances from the waste facility contaminate any area outside the waste site of the operator shall clean up all contamination and shall restore all such contaminated areas to their preexisting and noncontaminated state.

**§ 333-6. Air pollution control standards.**

- A. No person shall own, operate, or modify any radioactive waste facility so as to allow the

direct or indirect release of radioactive substances into the area, whether in gaseous, particulate, mist, vapor, or other form, or through any pathway, except in compliance with air pollution control standards included in a permit to be obtained from the controlling officer prior to operation, pursuant to § 333-9 of this chapter.

- B. Any person seeking to obtain a permit pursuant to this chapter shall state in its permit application to the controlling officer the chemical and physical forms, specific isotopes, half life, and number of curies of each substance expected in the radioactive air emissions, along with the appropriate formulas for calculating the weight equivalent to one curie, and the number of millirems associated with potential exposures to one curie for each such substance.
- C. The Clean Air Committee established under § 333-8F of this chapter shall determine, after notice and hearing, whether the expected radioactive air emissions stated in the application will present a significant threat of hazard to life, health or property. If the Clean Air Committee determines that the expected emissions stated in the application will not present such a threat, then it shall report to the controlling officer that the expected emissions included in the application form shall be included in the permit as the applicable air pollution control standards. Otherwise, the Committee shall establish such radioactive air pollution control standards necessary to avoid a significant threat, which standards shall be included in the permit.
- D. The controlling officer shall enforce such air pollution control standards as the Committee may establish, and may approve a permit application when satisfied that all requirements of this chapter are fulfilled.
- E. A material breach of this section shall be grounds for revocation of the Clean Air Permit and enjoying further receipt of materials into the facility until the controlling officer is satisfied that no further such breach will occur.

#### **§ 333-7. Transportation.**

- A. Transporters of radioactive substances to a waste site in the municipality must obtain a certificate for hazardous transport from the controlling officer for each year of operation. An applicant for such a certificate shall submit a description of, and the safety record for, the transportation firm and each vehicle and individual driver. Grounds for denying a certificate for transporting radioactive substances into the municipality shall include, but not be limited to, a poor safety record, failure to disclose significant safety information or inadequate compliance with the requirements of this article.
- B. An application for a certificate for hazardous transport must include the following documentation:
  - (1) Characterization and percentage content of the radioactive substances by name, curie content, toxic nature and potential;
  - (2) Names of all sources and brokers of the radioactive substances, under all corporate names (showing corporate relationships), addresses and telephone numbers;
  - (3) An emergency and evacuation plan in the event of a road accident within the municipality including a twenty-four-hour emergency telephone number.

- C. Upon receipt of a certificate for hazardous transport, the transporter shall pay a fee to the municipality to be determined by the Board of Supervisors on recommendation of the controlling officer. The fee shall reflect the administrative costs of granting the certificate, the relative hazard and potential risk to public health and safety due to the transported cargoes, and the costs to the municipality of monitoring and protecting against those risks. The fees shall be deposited in the hazardous materials transport emergency fund, which shall be used for purposes related to transport of radioactive substances.
- D. The controlling officer or other authorized official may stop and inspect any vehicle transporting radioactive substances into the municipality to determine compliance with this chapter and may turn back any such vehicle that presents a significant threat.
- E. Any driver or operator of a vehicle transporting hazardous waste through Porter Township is hereby prohibited from stopping, except as required by traffic signals or regulations within the municipality, and except in cases of life-threatening health problems of the driver or operator of said vehicle. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

#### **§ 333-8. Administrative functions.**

- A. The Supervisors of Porter Township municipality shall appoint, by resolution, an administrative official, the controlling officer, to perform all administrative duties and exercise all administrative powers of the municipality conferred by this chapter or by LLRWDA.
- B. The controlling officer may appoint, upon consent of the Supervisors, one or more local inspectors, and delegate to them all or any powers conferred by this chapter or by LLRWDA Section 502, 35 P.S. § 7130.502. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. The initial salaries of municipal administrative officials allocable to duties involving the evaluation of an application to operate a radioactive waste facility shall be paid from a fund established pursuant to LLRWDA, Section 318.
- D. All information concerning the waste site which would be available under the federal or state "right to know" laws shall be routinely provided to the controlling officer by the operator.
- E. The controlling officer shall exercise all powers under LLRWDA, Section 502. The controlling officer shall be empowered to enforce the provisions of this chapter by appropriate remedy, including injunctions for the abatement of a nuisance.
- F. The municipality shall appoint a Local Clean Air Committee ("Local Committee"), which shall, in accordance with this chapter and upon notice and hearing, establish standards for radioactive air emissions, whether in gaseous, particulate, mist, vapors, or other form, or through any pathway, sufficient to protect the health, safety, and welfare of the public, with an ample margin of safety. The operations of the Local Committee shall be funded from application and permit fees, which shall cover payment of the costs of experts in monitoring and assessing health effects of radiation, and the cost of conducting hearings, collecting information and preparing a final report by the Local Committee.

#### **§ 333-9. Clean air permit.**

- A. No radioactive substance generated by any government agency, or pursuant to a government contract or license shall be received for treatment, recycling, storage and disposal in this municipality except at a waste facility holding a clean air permit under this chapter, whether or not such substance may be exempted from any future definition of "low-level radioactive waste" adopted to define wastes that are below the regulatory concern of the Nuclear Regulatory Commission, or of any other federal agency.
- B. Applications for a clean air permit under this chapter shall be filed with the Municipal Secretary, who shall issue a permit upon approval of the application by the controlling officer.
- C. In addition to the information required by § 333-6B hereof, an application for a clean air permit must be accompanied by the following documentation:
- (1) A site plan identifying the location and function of all structures on the waste site;
  - (2) Proof of ownership of the site, or a contract conveying rights to the site by the owner;
  - (3) A property survey of the site by a registered licensed surveyor showing contours of five-foot intervals, description of the perimeter land use and zoning within a two mile radius of the site, and proximity to any structure or other feature, such as stream or well, within 1,000 feet of the waste site;
  - (4) All necessary licenses and permits from state and federal agencies, along with the associated application materials submitted to those agencies;
  - (5) Approval of an emergency control and evacuation procedure plan by the municipality after public hearing;
  - (6) An environmental impact study as defined in NEPA Section 102(2)(c), 42 U.S.C. § 4332, which shall also include but not be limited to consideration of the following: site-specific soil analysis on a fifty-foot grid, core sample to bedrock, leachate and analysis; titles, easements and dedications; oil, gas and mineral rights; hydrology of the site, groundwater, aquifers; fauna habitat and migratory survey; storage of fuel; security police, fire and medical qualifications; a radiation background study based on monthly sampling data for three years prior to the date of application; meteorology, topology and predicted deposition patterns of airborne pollution; an assessment of risk of experiencing one fatality per 1,000,000 population, which must include calculations of maximum concentrations of contamination under emergency conditions, such as worse case accident, scenario, or other failure of an air pollution control unit;
  - (7) An evaluation of the class, quantity, and nature of all wastes to be stored at the waste facility, including the chemical and physical forms, specific isotopes, number of curies, and half-lives.
- D. An applicant for a clean air permit shall pay, no later than upon receipt thereof, a fee of \$100,000 or such other amount as shall be determined by the municipality on recommendation of the controlling officer to fully cover all the administrative costs to the municipality related to the application and permit, including all costs associated with the determination of a radiation emission standard under § 333-8F of this chapter, and the acquisition by the municipality of supplemental monitoring capacity.

**§ 333-10. Annual fees and costs.**

- A. Each operator of a waste facility licensed hereunder shall pay to the municipality an annual fee of 2% of the annual gross receipts associated with the operation of the facility, but no less than \$100,000 per annum or such other minimum payment as may be determined, after notice and opportunity for hearing before the controlling officer. The fee shall be deposited into a special fund to reimburse the municipality for all municipal costs associated with the operation of the facility, such as fire and safety preparedness, road maintenance, inspection and regulation, monitoring, natural resource maintenance, self insurance for the risk of loss to the municipality, quality of life expenditures to offset stress of living near the waste facility, the administration of this chapter, and other purpose stated in LLRWDA, Section 318(F).
- B. Analysis of municipal costs associated with the operation of the facility will be made by the controlling officer, who will make recommendations to the municipality for any such adjustment as may be necessary to assure that the percentage fee is directly related to such costs, including a reasonable reserve for possible future costs to the municipality during any phase of the active institutional control period when gross receipts might decline below costs.
- C. Adjustments made to the annual fee after analysis of municipal costs may be applied so as to increase or decrease the annual fee for subsequent years.
- D. The operator shall pay for any legal and accounting costs which result from the challenge of any action taken pursuant to this chapter by the municipality or by any of its officials.

**§ 333-11. Violations and penalties; liabilities.**

- A. Any person, firm or corporation violating any provision of this chapter, or who fails to act in compliance with this chapter, shall be subject to the penalties of 35 P.S. § 7130.504. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. Each day that a violation which involves a significant threat of harm to human life continues shall constitute a separate offense. In the event a violation of this chapter involves the emission of radioactive substances in the environment, each millirem of radiation, or part thereof, in excess of the clean air permit air pollution control standards resulting from such emission shall constitute a separate offense.
- C. Prior to issuance of a permit, the operator shall furnish a bond for payment to the municipality of penalties, fees, and any other liabilities that may arise from the activities regulated by this chapter, in an amount to be determined by the controlling officer after notice and hearing.
- D. Generators of any waste stored in the municipality, transporters of such waste, the operator of a waste facility, or any other person who causes damage to person or property in the municipality as a result of dealing with radioactive waste shall be strictly liable for all such damages, and shall also be liable for any negligence and gross negligence, without limitation. Liability insurance satisfactory to the controlling officer shall be provided by the operator and shall apply to sudden and nonsudden bodily injury or property damage on, above, or below the surface. The insurance shall be sufficient to restore any contaminated property to its preexisting and noncontaminated state.

**§ 333-12. Severability.**

Should any section or provision of this chapter be held invalid, such ruling shall not affect the validity of the chapter as a whole, or any other part hereof, and the section or provision declared invalid or unconstitutional shall be deleted as if it had never been a part hereof.

**Chapter 355**

**SEWERS AND SEWAGE DISPOSAL**

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

**Part 1**  
**On-Lot Sewage Disposal Systems**  
**[Adopted 10-3-1994 By Ord. No. 29-10-94]**

ARTICLE I  
**On-Lot Sewage Disposal Systems**

**§ 355-1. Definitions.**

As used in this Part 1, the following terms shall have the meanings indicated:

ACT 537 — The Act of January 24, 1966, P.L. 1535, as amended, 35 P.S. § 750.1 et seq. known as the "Pennsylvania Sewage Facilities Act."

AUTHORIZED AGENT — A certified Sewage Enforcement Officer, Code Enforcement Officer, Zoning Officer, professional engineer, plumbing inspector, Municipal Secretary or any other qualified or licensed person who is delegated by the municipality to function within specified limits as the agent of the municipality to carry out the provisions of this Part 1.

BOARD — The Board of Supervisors, Porter Township, Clinton County, Pennsylvania.

CODE ENFORCEMENT OFFICER (CEO) — An individual employed by the municipality to administer and enforce other ordinances in the municipality.

COMMUNITY SEWAGE SYSTEMS — Any system, whether publicly or privately owned, for the collection of sewage from two or more lots, and the treatment and/or disposal of the sewage on one or more lots or at any other site.

DEPARTMENT — The Department of Environmental Protection of the Commonwealth of Pennsylvania (DEP).

INDIVIDUAL SEWAGE SYSTEM — A system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into any waters of this commonwealth.

MALFUNCTION — The condition which occurs when an on-lot sewage disposal system discharges sewage onto the surface of the ground, into groundwaters of this commonwealth, into surface waters of this commonwealth, backs up into the building connected to the system or otherwise causes a nuisance hazard to the public health or pollution of groundwater or surface water or contamination of public or private drinking water wells. Systems shall be considered to be malfunctioning if any of the conditions noted above occur for any length of time during any period of the year.

MUNICIPALITY — Porter Township, Clinton County, Pennsylvania.

OFFICIAL SEWAGE FACILITIES PLAN — A comprehensive plan for the provision of adequate sewage disposal systems, adopted by the municipality and approved by the Pennsylvania Department of Environmental Protection, as described in and required by the Pennsylvania Sewage Facilities Act.

ON-LOT SEWAGE DISPOSAL SYSTEM — Any system for disposal of sewage involving pretreatment and subsequent disposal of the clarified sewage into the soil for final treatment and disposal; including both individual sewage systems and community sewage systems.

PERSON — Any individual, association, public or private corporation, for profit or not for profit, partnership, firm, trust, estate, department, board, bureau or agency of the commonwealth,

political subdivision, municipality, district, authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. Whenever used in any clause prescribing and imposing a fine or imprisonment, the term "person" shall include the members of an association, partnership or firm and the officers of any local agency or municipal, public or private corporation, for profit or not for profit.

**REHABILITATION** — Work done to modify, alter, repair enlarge or replace an existing on-lot sewage disposal system.

**REPLACEMENT AREA** — A portion of a lot or a developed property, sized to allow the installation of a subsurface sewage disposal area, which is reserved to allow that installation in the event of the malfunction of the originally installed on-lot sewage disposal system.

**SEWAGE** — Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation of which constitutes pollution under the Act of June 22, 1937 (P.L. 1987, No. 394), known as the "Clean Streams Law," as amended.

**SEWAGE ENFORCEMENT OFFICER (SEO)** — The official of the local agency who issues and reviews permit applications and conducts such investigations and inspections as are necessary to implement Act 537, and the rules and regulations promulgated thereunder.

**SEWAGE MANAGEMENT DISTRICT** — Any area or areas of a municipality for which a sewage management program is recommended by the municipality's adopted Act 537 Official Sewage Facilities Plan. A sewage management district may encompass the entire municipality.

**SEWAGE MANAGEMENT PROGRAM** — A comprehensive set of legal and administrative requirements encompassing the requirements of this Part 1 and other administrative requirements adopted by the municipality to effectively enforce and administer this Part 1.

**SUBDIVISION** — The division or redivision of a lot, tract or other parcel of land into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines. The enumerating of lots shall include as a lot that portion of the original tract or tracts remaining after other lots have been subdivided therefrom.

**ZONING OFFICER** — An individual employed by the municipality to administer and enforce Chapter 490, Zoning.

### **§ 355-2. Applicability.**

From the effective date of this Part 1, its provisions shall apply throughout Porter Township. The provisions of this Part 1 shall apply to all persons owning any property serviced by an on-lot sewage disposal system and to all persons installing or rehabilitating on-lot sewage disposal systems.

### **§ 355-3. Permit requirements.**

- A. No person shall install, construct, repair or request bid proposals for construction, repair or alteration of an individual sewage system or community sewage system or construct, repair or request bid proposals for construction or repair or installation or occupancy of any building or structure for which an individual sewage system or community sewage system is to be installed without first obtaining a permit indicating that the site and the plans and specifications of such system are in compliance with the provisions of the Pennsylvania

Sewage Facilities Act and the standards adopted pursuant to that Act. This permitting requirement shall include those persons proposing to install such a system on a lot 10 acres or larger and who are otherwise qualified for a permit exemption in accordance with the provisions of Section 7(a)(1) of the Pennsylvania Sewage Act, as amended.<sup>22</sup> **[Amended 11-6-1995 by Ord. No. 30-11-95]**

- B. No system or structure designed to provide individual or community sewage disposal shall be covered from view until approval to cover the same has been given by the municipal Sewage Enforcement Officer.
- C. Applicants for sewage permits shall notify the municipality's certified Sewage Enforcement Officer of the schedule for construction of the permitted on-lot sewage disposal system so the inspection(s) in addition to the final inspection required by Act 537 may be scheduled and performed by the municipality's certified Sewage Enforcement Officer.
- D. No building or occupancy permit shall be issued by the municipality or its Zoning Officer for a new building which will contain sewage-generating facilities until a valid sewage permit has been issued by the municipality's certified Sewage Enforcement Officer and the fee for issuing such permit has been paid in full.
- E. No building or occupancy permit shall be issued and no work shall begin on any alteration or conversion of any existing structure, if said alteration or conversion will result in the increase or potential increase of sewage flows from the structure, until the municipality's Zoning Officer and the structure's owner received from the municipality's Sewage Enforcement Officer either a permit for alteration or replacement of the existing sewage disposal system or written notification that such a permit will not be required. The certified Sewage Enforcement Officer shall determine whether the proposed alteration or conversion of the structure will result in increased sewage flows.
- F. Sewage permits may be issued only by a certified Sewage Enforcement Officer employed by the municipality for that express purpose. The Department of Environmental Protection shall be notified by the municipality as to the identity of their currently employed certified Sewage Enforcement Officer.

#### **§ 355-4. Inspections.**

- A. Any on-lot sewage disposal system may be inspected by the municipality's authorized agent at any reasonable time as of the effective date of this Part 1.
- B. The inspection may include a physical tour of the property, the taking of samples from surface water, wells, other groundwater sources, the sampling of the contents of the sewage disposal system itself and/or the introduction of a traceable substance into the interior plumbing of the structure served to ascertain the path and ultimate destination of wastewater generated in the structure.
- C. The municipality's authorized agent shall have the right to enter upon land for the purposes of inspection described above.
- D. A schedule of routine inspections may be established by the municipality if necessary to assure the proper function of the systems in the sewage management district.

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22. Editor's Note: See 35 P.S. § 750.7(a)(1).

- E. The municipality and its authorized agent shall inspect systems known to be, or alleged to be, malfunctioning. Should said inspections reveal that the system is indeed malfunctioning, the municipality and its authorized agent shall take action to require the correction of the malfunction. If total correction is not technically or financially feasible in the opinion of the authorized agent and a representative of the Pennsylvania Department of Environmental Protection, then action by the property owner to mitigate the malfunction shall be required.
- F. There may arise geographic areas within the municipality where numerous on-lot sewage disposal systems are malfunctioning. A resolution of these area-wide problems may necessitate detailed planning and a municipally sponsored revision to that area's Act 537 Official Sewage Facilities Plan. When a DEP-authorized Official Sewage Facilities Plan revision has been undertaken by the municipality, mandatory repair or replacement of individual malfunctioning sewage disposal systems within the study area may be delayed, at the discretion of the municipality, pending the outcome of the plan revision process. However, the municipality may compel immediate corrective action whenever a malfunction, as determined by municipal officers and the Pennsylvania DEP, represents a serious public health or environmental threat.

#### **§ 355-5. Discharge.**

Only normal domestic wastes shall be discharged into any on-lot sewage disposal system. The following shall not be discharged into the system.

- A. Industrial waste.
- B. Automobile oil and other nondomestic oil.
- C. Toxic or hazardous substances or chemicals, including but not limited to, pesticides, disinfectants, acids, paints, paint thinners, herbicides, gasoline and other solvents.
- D. Clean surface water or groundwater, including water from roof or cellar drains, springs, basement sump pumps and french drains.

#### **§ 355-6. Maintenance.**

- A. Any person owning a building served by an on-lot sewage disposal system which contains a septic tank shall have the septic tank pumped by a qualified pumper/hauler within three years of the effective date of this Part 1. Thereafter, that person shall have the tank pumped at least once every three years. Receipts from the pumper/hauler shall be submitted to the municipality within the prescribed three-year required pumping periods.
- B. The required pumping frequency may be increased at the discretion of the authorized agent if the septic tank is undersized, if solids build-up in the tank is above average, if the hydraulic load on the system increases significantly above average, if a garbage grinder is used in the building, if the system malfunctions or for other good cause shown. If any person can prove that their system tank had been pumped within three years of the effective date of this Part 1, then the municipality may delay that person's initial required pumping to conform to the general three-year-frequency requirement.
- C. Any person owning a building served by an on-lot sewage disposal system which contains an aerobic treatment tank shall follow the operation and maintenance recommendations of

the equipment manufacturer. In no case may the pumping intervals for aerobic treatment tanks exceed those required for septic tanks.

- D. Any person owning a building served by a cesspool or dry well shall have that system pumped according to the schedule prescribed for septic tanks. As an alternative to this scheduled pumping of the cesspool or dry well, the owner may secure a sewage permit from the certified Sewage Enforcement Officer for a septic tank to be installed preceding the cesspool or dry well. For a system consisting of a cesspool or dry well preceded by an approved septic tank, only the septic tank must be pumped at the prescribed interval.
- E. The municipality may require additional maintenance activity as needed, including, but not necessarily limited to, cleaning and unclogging of piping, servicing and the repair of mechanical equipment, leveling of distribution boxes, tanks and lines, removal of obstructing roots or trees, the diversion of surface water away from the disposal area, etc.

#### **§ 355-7. System rehabilitation.**

- A. No person shall operate and maintain an on-lot sewage disposal system in such a manner that it malfunctions. All liquid wastes, including kitchen and laundry wastes and water softener backwash, shall be discharged to a treatment tank. No sewage system shall discharge untreated or partially treated sewage to the surface waters or the groundwaters or into the waters of the commonwealth unless a permit to discharge has been obtained from the Pennsylvania Department of Environmental Protection.
- B. The municipality shall serve a written notice of violation by certified mail upon any person who is the owner of a property in the municipality which is found to be served by a malfunctioning on-lot sewage disposal system or which is discharging raw or partially treated sewage without a permit.
- C. Within seven days of notification by the municipality that a malfunction has been identified, the property owner shall make application to the municipality's certified Sewage Enforcement Officer for a permit to repair or replace the malfunctioning system. Within 30 days of initial notification by the municipality, the construction shall be completed unless seasonal or unique conditions mandate a longer period, in which case the municipality shall set an extended completion date.
- D. The municipality's certified Sewage Enforcement Officer shall have the authority to require the repair of any malfunction by the following methods: cleaning, repair or replacement of components of the existing system, adding capacity or otherwise altering or replacing the system's treatment tank, expanding the existing disposal area, replacing the existing disposal area, replacing a gravity distribution system with a pressurized system, replacing the system with a holding tank, other alternatives as appropriate for the specific site.
- E. In lieu of, or in combination with, the remedies described in Subsection D above, the municipal Sewage Enforcement Officer may require the installation of water conservation equipment. Water using devices and appliances in the structure may be required to be retrofitted with water saving appurtenances or they may be required to be replaced by water conserving devices and appliances.
- F. In the event that the rehabilitation measures in Subsections A through E are not feasible or do not prove effective, the municipality may require the owner or apply to the Pennsylvania Department of Environmental Protection for a permit to install an individual spray

irrigation treatment system or a single-residence treatment and discharge system. Upon receipt of said permit, the owner shall complete construction of the system within 30 days, unless seasonal or unique conditions mandate a longer period. The municipality shall determine the construction period in this case.

- G. Should none of the remedies described above prove totally effective in eliminating the malfunction of an existing on-lot sewage disposal system, the property owner is not absolved of responsibility for that malfunction. The municipality may require whatever action is necessary to lessen or mitigate the malfunction to the extent that it feels necessary.

#### **§ 355-8. Enforcement.**

- A. Imminent health hazard. The municipality, upon written notice from the municipal Sewage Enforcement Officer that an imminent health hazard exists due to failure of a property owner to maintain, repair or replace an on-lot sewage disposal system as provided under the terms of this Part 1, shall have the authority to perform or contract to have performed the work required by the certified Sewage Enforcement Officer. The owner shall be charged for the work performed, together with any legal fees incurred by the municipality, and, if necessary, a lien shall be entered therefor in accordance with the law.
- B. Health hazards generally. In the event an owner fails to comply and respond to written notification of a malfunction as provided herein, the municipality 1) shall have the authority to perform or contract to have performed the work required by the Sewage Enforcement Officer. The owner shall be charged by the work performed, together with any legal, expert and/or laboratory fees and costs incurred by the municipality. The municipality may collect said construction costs, legal, expert and/or laboratory fees and costs from the owner by summary proceedings or in the manner provided for the collection of municipal claims or by an action of assumpsit without the filing of a claim. Said remedies shall be cumulative and shall be in addition to any penalty imposed for a violation of this Part 1; or 2) the municipality may exercise its rights under the common law or decisional law or in equity to suppress nuisances or public health hazards or to abate any pollution resulting from the malfunction. The owner shall be charged with any legal, expert and/or laboratory fees and costs incurred by the municipality. The municipality may collect said construction costs, legal, expert and/or laboratory fees and costs from the owner by summary proceedings or in the manner provided for the collection of municipal claims or by an action of assumpsit without the filing of a claim. Said remedies shall be cumulative and shall be in addition to any penalty imposed for a violation of this Part 1.
- C. Statutory remedy. Any person violating any of the provisions of this Part 1 shall be subject to the civil and criminal penalties authorized pursuant to Sections 13 and 13.1 of the Act, as amended.<sup>23</sup> [Added 11-6-1995 by Ord. No. 30-11-95]

#### **§ 355-9. Disposal of septage.**

- A. All septage originating within the municipal Sewage Management District shall be disposed of at sites or facilities approved by the Pennsylvania Department of Environmental Protection. Approved sites or facilities shall include the following: septage treatment facilities, wastewater treatment plants, composting sites, and approved farm lands.

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23. Editor's Note: See 35 P.S. §§ 750.13 and 750.13A.

- B. Septage of pumper/haulers operating within the municipal Sewage Management District shall operate in a manner consistent with the provisions of the Pennsylvania Solid Waste Management Act (Act 97 of 1980, 35 P.S. §§ 6018.101 through 6018.1003).

**§ 355-10. Administration.**

- A. The municipality shall fully utilize those powers it possesses through enabling statutes and ordinances to effect the purposes of this Part 1.
- B. The municipality shall employ qualified individuals to carry out the provisions of this Part 1. Those employees shall include a certified Sewage Enforcement Officer and may include a Codes Enforcement Officer, secretary, administrator or other persons as required. The municipality may also contract with private qualified persons or firms as necessary to carry out the provisions of this Part 1.
- C. All permits, records, reports, files and other written material relating to the installation, operation and maintenance and malfunction of on-lot sewage disposal systems in the Township shall become the property of the municipality. Existing and future records shall be available for public inspection. All records pertaining to sewage permits, building permits, occupancy permits and all other aspects of the municipality's sewage management program shall be made available, upon request, for inspection by representatives of the Pennsylvania Department of Environmental Protection.
- D. The Supervisors shall establish all administrative procedures necessary to properly carry out the provisions of this Part 1.
- E. The Supervisors may establish a fee schedule, and subsequently collect fees, to cover the cost to the municipality of administering this program.

**§ 355-11. Violations and penalties.**

Any person failing to comply with any provisions of this Part 1 shall be subject to a fine of not more than \$600 and costs, and shall pay all legal fees, expert witness fees and reports incurred by the municipality, or in default thereof shall be confined in the county jail for a period of not more than 30 days. Each day of noncompliance shall constitute a separate offense.

**§ 355-12. Repealer.**

All ordinances or parts of ordinances inconsistent with the provisions of this Part 1 are hereby repealed to the extent of such inconsistency.

**§ 355-13. Severability.**

If any section or clause of this Part 1 shall be adjudged invalid, such adjudication shall not affect the validity of the remaining provisions which shall be deemed severable therefrom.

**Part 2**  
**Mandatory Connections**  
**[Adopted 8-7-2000 By Ord. No. 39/8-2000]**

ARTICLE II  
**Definitions**

**§ 355-14. Definitions.**

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

**AUTHORITY** — East Nittany Valley Joint Municipal Authority, a Pennsylvania municipality authority, organized and existing under the Pennsylvania Municipality Authorities Act of 1945, approved May 2, 1945, P.L. 382, as amended and supplemented.<sup>24</sup>

**BUILDING SEWER** — The extension from the sewage drainage system of any structure to the lateral of a sewer.

**IMPROVED PROPERTY** — Any property located within this Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial wastes shall be or may be discharged.

**INDUSTRIAL ESTABLISHMENT** — Any improved property located in this township used wholly or in part for the manufacturing, processing, cleaning, laundering or assembly of any product, commodity or article, or any other improved property located in this Township from which wastes, in addition to or other than sanitary sewage, are discharged.

**INDUSTRIAL WASTES** — Any and all wastes discharged from an industrial establishment, other than sanitary sewage.

**LATERAL** — That part of the sewer system extending from a sewer to the curblineline or, if there shall be no curblineline, extending to the property line or easement line or, if no such lateral shall be provided, then "lateral" shall mean that portion of, or place in, a sewer which is provided for connection of any building sewer, including a grinder pump if installed by the Authority.

**OWNER** — Any person vested with ownership, legal or equitable, sole or partial, of any improved property.

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

**SANITARY SEWAGE** — Normal water-carried household and toilet wastes discharged from any improved property, as more particularly set forth in the rules and regulations of the Authority.

**SERVICE AREA** — That portion of this Township intended to be served by the sewer system, as set forth on maps designated, from time to time, by the Authority as the "Sewer System Service Area Maps."

**SEWER** — Any pipe or conduit constituting a part of the sewer system used or usable for sewage collection purposes, including a building sewer and a lateral.

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24. Editor's Note: See now 53 Pa.C.S.A. § 5601 et seq.

SEWER SYSTEM — All facilities, as of any particular time, for collecting, transporting, pumping, treating and/or disposing of sanitary sewage and/or industrial wastes, situate in this Township, to be constructed, acquired, owned, maintained and operated by the Authority, in, adjacent to and for certain portions of this Township.

TOWNSHIP — This Township, acting by and through its Board of Supervisors or, in appropriate cases, by and through its authorized representatives.

ARTICLE III  
**Use of Public Sewers Required**

**§ 355-15. Required connections; notice. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The owner of any improved property located in the service area and either adjoining, adjacent to, or whose principal building is within 150 feet from the sewer system shall connect such improved property to the sewer system, in such manner as this Township and the Authority may require, within 60 days after notice to such owner from this Township to make such connection, for the purpose of discharge of all sanitary sewage and industrial wastes from such improved property, subject to such limitations and restrictions as shall be established herein or otherwise shall be established by this Township or the Authority from time to time. For the purposes of this section, the term "adjoining" shall mean "touching or contiguous, as distinguished from lying near to or adjacent; to be in contact with; to abut upon" and the term "adjacent" shall mean "lying near or close to; sometimes contiguous; neighboring." The term "adjacent" implies that the two objects are not widely separated, though they may not actually touch, while "adjoining" imports that they are so joined or united to each other that no other object intervenes.

**§ 355-16. Sewage removal required.**

All sanitary sewage and industrial wastes from any improved property, after connection of such improved property with a sewer shall be required under § 355-15, shall be conducted into a sewer, subject to such limitations and restrictions as shall be established herein or otherwise shall be established by this Township or the Authority from time to time.

**§ 355-17. Prohibited discharges or deposits of sewage or wastes.**

- A. No person shall place or deposit or permit to be placed or deposited upon public or private property within this Township any sanitary sewage or industrial wastes in violation of § 355-15.
- B. No person shall discharge or permit to be discharged to any natural outlet within this Township any sanitary sewage or industrial wastes in violation of § 355-15, except where suitable treatment has been provided which is satisfactory to this Township.

**§ 355-18. Required abandonment of privy vaults, cesspools, etc.**

- A. No privy vault, cesspool, sinkhole, septic tank or similar receptacle shall be used and maintained at any time upon any improved property which has been connected to a sewer or which shall be required under § 355-15 to be connected to a sewer.
- B. Every such privy vault, cesspool, sinkhole, septic tank or similar receptacle in existence shall be abandoned and, at the discretion of this Township, shall be emptied, cleansed and filled at the expense of the owner of such improved property and under the direction and supervision of this Township; and any such privy vault, cesspool, sinkhole, septic tank or similar receptacle not so abandoned and, if required by this Township, emptied, cleansed and filled, shall constitute a nuisance, and such nuisance may be abated as provided by law at the expense of the owner of such improved property.

**§ 355-19. Prohibited sewer connections.**

No privy vault, cesspool, sinkhole, septic tank or similar receptacle at any time shall be connected with a sewer.

**§ 355-20. Notices.**

The notice by this Township to make a connection to a sewer, referred to in § 355-15, shall consist of a copy of this Part 2, including any amendments at the time in effect, or a brief summary of each section thereof, and a written or printed document requiring such connection in accordance with the provisions of this Part 2 and specifying that such connection shall be made within 60 days from the date such notice is given. Such notice may be given at any time after a sewer is in place which can receive and convey sanitary sewage and industrial wastes for treatment and disposal from the particular improved property. Such notice shall be served upon the owner either by personal service or by registered mail or by such other method as at the time may be provided by law.

ARTICLE IV  
**Building Sewers and Connections**

**§ 355-21. Permits required.**

No person shall uncover, connect with, make any opening into or use, alter or disturb, in any manner, any sewer or the sewer system without first making application for and securing a permit, in writing, from the Authority.

**§ 355-22. Separate connections required; exceptions.**

Except as otherwise provided in this § 355-22, each improved property shall be connected separately and independently with a sewer through a building sewer. Grouping of more than one improved property on one building sewer shall not be permitted, except under special circumstances and for good sanitary reasons or other good cause shown, and then only after special permission of this Township and the Authority, in writing, shall have been secured.

**§ 355-23. Owner responsible for costs; indemnification of Township.**

All costs and expenses of construction of a building sewer and all costs and expenses of connection of a building sewer to a lateral shall be borne by the owner of the improved property to be connected; and such owner shall indemnify and save harmless this Township and the Authority from all loss or damage that may be occasioned, directly or indirectly, as a result of construction of a building sewer or of connection of a building sewer to a sewer.

**§ 355-24. Connection specifications.**

- A. A building sewer shall be connected to a sewer at the place designated by the Authority and where the lateral is provided.
- B. The invert of a building sewer at the point of connection to a lateral shall be at the same or a higher elevation than the invert of the lateral. A smooth, neat joint shall be made and the connection of a building sewer to the lateral shall be made secure and watertight.

**§ 355-25. Township may connect sewers; collect costs and expenses from owner.**

If the owner of any improved property located in this Township and adjoining or adjacent to or whose principal building is within 150 feet from the sewer system, after 60 days' notice from this Township, in accordance with § 355-15, shall fail to connect such improved property, as required, this Township may make such connection and may collect from such owner the costs and expenses thereof. In such case, this Township shall forthwith, upon completion of the work, send an itemized bill of the cost of the construction of such connection to the owner of the improved property to which connection has been so made, which bill shall be payable immediately, or if the owner of such improved property fails to pay said bill, this Township shall file a municipal lien for the cost of said construction within six months of the date of the completion of said connection.

## ARTICLE V

**Rules and Regulations Governing Building Sewers and Connections to Sewers****§ 355-26. Connection of property's own sewage disposal system.**

Where an improved property, at the time connection to a sewer is required, shall be served by its own sewage disposal system or device, the existing house sewer line shall be broken on the structure side of such sewage disposal system or device and attachment shall be made, with proper fittings, to continue such house sewer line, as a building sewer.

**§ 355-27. Inspection and approval required.**

No building sewer shall be covered until it has been inspected and approved by this Township and the Authority. If any part of a building sewer is covered before so being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to a sewer.

**§ 355-28. Required operating conditions.**

Every building sewer of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.

**§ 355-29. Guarding of excavations.**

Every excavation for a building sewer shall be guarded adequately with barricades and lights to protect all persons from damage and injury. Streets, sidewalks and other public property disturbed in the course of installation of a building sewer shall be restored, at the cost and expense of the owner of the improved property being connected, in a manner satisfactory to this Township.

**§ 355-30. Failure to comply.**

If any person shall fail or refuse, upon receipt of a notice of this Township or the Authority, in writing, to remedy any unsatisfactory condition with respect to a building sewer, within 60 days of receipt of such notice, this Township or the Authority may refuse to permit such person to discharge sanitary sewage and industrial wastes into the sewer system until such unsatisfactory condition shall have been remedied to the satisfaction of this Township and the Authority.

**§ 355-31. Township retains right to adopt additional rules and regulations.**

This Township reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to connections with a sewer and the sewer system, which additional rules and regulations, to the extent appropriate, shall be and shall be construed as part of this Part 2.

ARTICLE VI  
**Enforcement**

**§ 355-32. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who shall violate any provisions of this Part 2 shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not less than \$25 nor more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this Part 2 that is violated shall also constitute a separate offense.

**§ 355-33. Fines and costs to be enforceable and recoverable.**

Fines and costs imposed under provisions of this Part 2 shall be enforceable and recoverable in the manner at the time provided by applicable law.

ARTICLE VII  
**Severability**

**§ 355-34. Severability.**

In the event any provision, section, sentence, clause or part of this Part 2 shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Part 2, it being the intent of this Township that such remainder shall be and shall remain in full force and effect.

ARTICLE VIII  
**Declaration of Purpose**

**§ 355-35. Purpose.**

It is declared that enactment of this Part 2 is necessary for the protection, benefit, and preservation of the health, safety and welfare of inhabitants of this Township.

ARTICLE IX

**Repealer**

**§ 355-36. Repealer.**

All ordinances or parts of ordinances inconsistent with this Part 2 shall be and the same expressly are repealed.

ARTICLE X  
**Effective Date**

**§ 355-37. Effective date.**

This Part 2 shall become effective as provided by law.

**Part 3**  
**Retaining Tanks**  
**[Adopted 9-2-2002 By Ord. No. 46-9-2002]**

ARTICLE XI  
**Retaining Tanks**

**§ 355-38. Definitions.**

The following words or terms, as used in this Part 3, shall be interpreted and defined as follows:

**ACT** — The Pennsylvania Sewage Facilities Act, 35 P.S. §§ 750.1 through 750.20, as from time to time amended.

**BOARD** — The Board of Supervisors of the Township of Porter.

**DEPARTMENT** — The Pennsylvania Department of Environmental Protection or its successor state agency.

**DISPOSAL SITE** — A suitable facility for the final disposition of human and animal sewage and wastes, which facility shall have been and remains approved for such purposes by the Department.

**LANDOWNER** — The person or persons, partnership, corporation or legally existing organization who owns legal and/or equitable title to the land for which a retaining tank permit is sought or issued.

**LOT** — A parcel of land under single ownership regardless of acreage. In the event the subject lands are a portion of a larger parcel of ground, the larger parcel of ground shall be considered as the "lot."

**OFFICER** — The duly appointed Sewage Enforcement Officer of the Township of Porter.

**REGULATIONS** — The regulations of the Pennsylvania Department of Environmental Protection, Pa. Code Title 25, Subpart C, Chapters 71 and 73, as adopted; and all future regulations of the Department pertaining to retaining tanks.

**RETAINING TANK** — An existing or proposed watertight receptacle, whether permanent or temporary, which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. The term shall include:

- A. **CHEMICAL TOILET** — A permanent or portable, nonflushing toilet using chemical treatment in the retaining tank for odor control.
- B. **HOLDING TANK** — A tank, whether permanent or temporary, to which sewage is conveyed by a water carrying system; and
- C. **PRIVY** — A tank designed to receive sewage where water under pressure is not available.
- D. **INCINERATING TOILET** — A device capable of reducing waste materials to ashes.
- E. **COMPOSTING TOILET** — A device for holding and processing human and organic kitchen waste employing the process of biological degradation through the action of micro-organisms to produce a stable, humus-like material.
- F. **RECYCLING TOILET** — A device in which the flushing medium is restored to a

condition suitable for reuse in flushing.

**RETAINING TANK CLEANER** — A municipality, county, municipal authority or person, including the retaining tank owner, authorized by the Township to collect, transport and dispose of the contents of a retaining tank for the purpose of disposing of the sewage at a disposal site.

**SEWAGE** — Any substance that contains any of the waste products, excrement or other discharge from the bodies of human beings or animals and noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation or which constitutes pollution under the Clean Streams Law.<sup>25</sup>

**TOWNSHIP** — Porter Township, Clinton County, Pennsylvania.

**§ 355-39. Application for permit.**

- A. Any landowner seeking to use a retaining tank for sewage disposal on any lot situated in the Township shall, after receipt of municipal and Department Official Sewage Facilities Plan approval, obtain a permit from the Sewage Enforcement Officer.
- B. Permit application shall be made upon a form to be supplied by the Township Zoning Officer to any landowner upon such landowner's request.
- C. The landowner shall file the completed and executed application for permit with the Township Zoning Officer; and shall pay to the Zoning Officer such application fees as the Board may from time to time prescribe by resolution.
- D. The landowner shall cooperate with the Township at all stages of the application process.
- E. A permit shall be issued to the landowner upon proper application after the Board has amended its Official Sewage Facilities Plan and after approval by the Department.
- F. Prior to grant of permit, the landowner shall obtain and file with the Township Zoning Officer a certified copy of each of the following documents:
  - (1) A completed application;
  - (2) A written contract between the landowner and a qualified, responsible and authorized retaining tank cleaner for the term of the retaining tank permit, which contract shall provide for the timely and regular removal of the contents of the retaining tank by the retaining tank cleaner and for the removal of the said contents to an approved disposal site for final disposition.
  - (3) A certified copy of a written contract between the retaining tank cleaner and the disposal site providing the retaining tank cleaner with the right to dispose of the retaining tank contents.
  - (4) Fees as established by resolution of the Board.
- G. The issuance of the permit shall be deemed an agreement by the landowner to reimburse and indemnify the Township for any liability, costs and expenses which shall or may be incurred by the Township in actions to enforce compliance by the landowner or to remove

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

the contents of the retaining tank or the retaining tank upon default or failure of the landowner to perform or for any fines incurred by the Township by reasons of the landowner's failure to comply with this Part 3 any properly enacted amendment hereto, or the laws and regulations of the Commonwealth of Pennsylvania.

**§ 355-40. General requirements and conditions for retaining tanks.**

- A. A landowner causing a retaining tank to be installed or be maintained pursuant to a permit issued under this Part 3 shall comply, in all respects, to the specifications set forth in Regulations of the Department, 25 Pa. Code Chapter 73, inclusive, the provisions of this Part 3, the provisions of any applicable law and any administrative agency of the Commonwealth of Pennsylvania.
- B. The landowner shall cause the retaining tank and all lines, pipes or conduits to the same to be maintained in a good watertight condition at all times.
- C. All retaining tanks shall be installed on a firm and stable soil or subsoil and in such manner as to prevent settlement or movement.
- D. No retaining tank or lines to the retaining tank shall be covered until the Township's Sewage Enforcement Officer shall have first inspected and approved the installation and authorized covering the same. The landowner shall be responsible for furnishing the Officer reasonable notice of the installation.
- E. The landowner shall cause a retaining tank to be cleaned as frequently as may be required to maintain the contents at a level less than 75% of the tank capacity.
- F. Retaining tanks shall be installed at least 50 feet downgrade from any source of water supply.
- G. In the event a retaining tank permit has been issued for new construction pending the installation of an off-site sewage disposal system, the landowner shall remove or cause the removal of the retaining tank within 20 days after the use of the off-site sewage disposal system is made available to the landowner and shall connect with the off-site disposal system within such 20 days.

**§ 355-41. Specific requirements and conditions for holding tanks.**

- A. Conditions of holding tank use.
  - (1) The applicable Township Official Plan or revisions thereto indicates the use of holding tanks for that lot and provides for replacement by adequate sewerage services in accordance with a schedule approved by the Department.
  - (2) The applicable Official Plan or revision includes municipal financial assurances of the replacement project's implementation such as public financing, bonding or other security of sufficient present value to assure completion or other assurances either singularly or in combination that the Department deems necessary.
  - (3) Holding tanks shall be inspected annually at the sole cost of the landowner with a completed written inspection report to be submitted and retained by the Township Zoning Officer.

**B. Exceptions.**

- (1) The restrictions in Subsections A(1) and (2) above do not apply to holding tanks when the Township or the Department determines that the use is necessary to abate a nuisance or public health hazard.
- (2) The restrictions in Subsections A(1) and (2) above do not apply to holding tanks when the use is for institutions, recreational vehicle dump stations or commercial establishments with a sewage flow of less than 800 gallons per day.

**§ 355-42. Special requirements and conditions for privies.****A. Conditions of privy use.**

- (1) The landowner must establish that site and soil suitability testing on the lot has been conducted by the Sewage Enforcement Officer and that the site meets the Pa. Code Title 25, Chapter 73 (Standards for Sewage Disposal Facilities) requirements for the ultimate sewage disposal by an approved on-lot system if water under pressure or piped wastewater becomes available to the lot;
- (2) At such time that water under pressure becomes available, the landowner shall remove the privy and replace the privy with an approved on-lot system;
- (3) Specific conditions for use of privies shall be incorporated in the permit application and permit for the proposed use of a privy; and
- (4) The Authority shall be provided the opportunity to inspect the privy for proper operation, maintenance and content disposal.

**B. Exceptions. The conditions of use described in Subsection A(1) above do not apply:**

- (1) To a privy to be used on an isolated lot which is not nor will not be served by water under pressure in the future; or
- (2) To the temporary use of portable retention tanks where their use is proposed at construction sites or at the site of public gatherings and entertainment.

**C. Duties of landowner. The landowner that utilizes a privy shall:**

- (1) Maintain the privy in conformance with this Part 3 or any other ordinance of this Township, the provisions of any applicable law, and the rules and regulations of the Porter Township Board of Supervisors and any administrative agency of the Commonwealth of Pennsylvania;
- (2) Abandon the privy consistent with applicable health and environmental standards and obtain a permit for and install an approved on-lot system meeting 25 Pa. Code Chapter 73 standards in the event that water under pressure or piped wastewater become available to the property.

**§ 355-43. Inspection and certification of pumping.**

- A. Inspection.** The failure of any landowner to permit inspection of retaining tanks or equipment for facilities used in connection with the retaining tanks or the failure of the landowner to have the retaining tanks properly maintained and pumped out, or the failure

of the landowner to furnish pumping receipts to the Township in a timely fashion shall be grounds for immediate revocation of permit.

- B. Certification of pumping. Any landowner receiving a retaining tank permit shall furnish to the Township Zoning Officer a true and correct copy of all pumping receipts for cleaning and/or removing the contents of the retaining tank. Such reports shall be made to the Township Zoning Officer within 10 days after the contents of the retaining tank are pumped out.

**§ 355-44. Collection and transportation of sewage.**

The collection and transportation of all sewage from any landowner utilizing a retaining tank shall be done solely by or under the direction and control of the Township of Porter and the disposal thereof shall be made only at such site or sites as may be approved by the Department of Environmental Protection or the Commonwealth of Pennsylvania.

**§ 355-45. Appeals.**

- A. Any landowner aggrieved by denial of permit application shall first appeal to the Board.
- B. The procedure for appeal shall in all respects conform to the procedure for appeal from denial of sewage permit by the Officer of the Township, as provided by law.

**§ 355-46. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation violating any provision of this Part 3, or who fails to act in compliance with this Part 3, shall be subject to the summary offense penalties of 35 P.S. § 750.13 and, in addition thereto, may be subject to the civil penalties of 35 P.S. § 750.13a.

**§ 355-47. Abatement of nuisance.**

In addition to any other remedies provided in this Part 3, any violation of this Part 3 by a landowner shall constitute a nuisance and shall be abated by the Township by either seeking mitigation of the nuisance or appropriate equitable or legal relief from a court of competent jurisdiction.

**§ 355-48. Rules and regulations.**

The Township is hereby authorized and empowered to adopt such rules and regulations concerning sewage which it may deem necessary from time to time to effect the purposes herein. All such rules and regulations adopted by the Township shall be in conformity with the provisions herein, all applicable laws and applicable rules and regulations of the administrative agencies of the Commonwealth of Pennsylvania.

**§ 355-49. Repealer.**

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

**§ 355-50. Severability.**

If any sentence, clause, section or part of this Part 3 is for any reason found to be

unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Part 3. It is hereby declared as the intent of the Porter Township Supervisors that this Part 3 would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**§ 355-51. Effective date.**

This Part 3 shall become effective at the earliest date permitted by law.

**Part 4**  
**Industrial Pretreatment**  
**[Adopted 7-7-2010 By Ord. No. 61-7-2010]**

ARTICLE XII  
**Industrial Pretreatment Program**

**§ 355-52. Policy.**

This Part 4 sets forth uniform requirements for users of the publicly owned treatment works for the City of Lock Haven and enables Township and the city to comply with all applicable state and federal laws, including the Clean Water Act [33 United States Code (U.S.C.) § 1251 et seq.] and the general pretreatment regulations [Title 40 of the Code of Federal Regulations (CFR) Part 403].

**§ 355-53. Objectives.**

The objectives of this Part 4 are:

- A. To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation or contaminate the resulting sludge, increase the difficulty or cost of operation of the system or reduce the efficiency or effectiveness of the sewer system.
- B. To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;
- C. To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public from exposure to toxic or other dangerous substances;
- D. To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;
- E. To provide for the equitable distribution of the cost of administration, operation, maintenance, enforcement and improvement of the publicly owned treatment works and the industrial pretreatment program;
- F. To enable the city to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject; and
- G. To protect the sewer system from any damage.

**§ 355-54. Administration.**

- A. This Part 4 shall apply to all users of the publicly owned treatment works. This Part 4 authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

- B. Except as otherwise provided herein, the Superintendent shall administer, implement, and enforce the provisions of this Part 4. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to a duly authorized city employee.
- C. Sewer usage and discharge regulations.

**§ 355-55. Abbreviations.**

The following abbreviations, when used in this Part 4, shall have the designated meanings:

- BOD - biochemical oxygen demand
- BMP - best management practice
- BMR - baseline monitoring report
- CFR - Code of Federal Regulations
- CIU - categorical industrial user
- COD - chemical oxygen demand
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- IU - industrial user
- mg/l - milligrams per liter
- NPDES - National Pollutant Discharge Elimination System
- NSCIU - nonsignificant categorical industrial user
- POTW - publicly owned treatment works
- RCRA - Resource Conservation and Recovery Act<sup>26</sup>
- SIU - significant industrial user
- SNC - significant noncompliance
- TSS - total suspended solids
- U.S.C. - United States Code

**§ 355-56. Definitions.**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Part 4, shall have the meanings hereinafter designated.

**ACT or THE ACT** — The Federal Water Pollution Control Act, also known as the "Clean Water Act," as amended, 33 U.S.C. § 1251 et seq.

**APPROVAL AUTHORITY** — The Administrator or the Regional Administrator of Region III of the EPA.

**AUTHORIZED OR DULY AUTHORIZED REPRESENTATIVE OF THE USER** — An authorized representative of an industrial user may be:

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<sup>26</sup> Editor's Note: See 42 U.S.C. § 6901 et seq.

- A. If the user is a corporation:
- (1) The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decisionmaking functions for the corporation; or
  - (2) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- B. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- C. If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- D. The individuals described in Subsections A through C, above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

**BEST MANAGEMENT PRACTICES or BMPs** — Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 355-57 [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

**BIOCHEMICAL OXYGEN DEMAND or BOD** — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° C., usually expressed as a concentration (e.g., mg/l).

**BUILDING SEWER** — A sewer conveying wastewater from the premises of a user to the sewer system.

**BYPASS** — The intentional diversion of wastewater from any portion of an industrial user's pretreatment facility through which the wastewater normally passes.

**CATEGORICAL INDUSTRIAL USER** — An industrial user subject to categorical pretreatment standard or categorical standard.

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

**CERTIFIED PROFESSIONAL** — A registered professional engineer under the laws of the State

of Pennsylvania.

**CHAIN OF CUSTODY** — A record of sample collection indicating the place and time of collection and the person collecting the sample. It shall also include a record of each person involved in possession of the sample, including the laboratory person who takes final possession of the sample for the purpose of analysis.

**CHEMICAL OXYGEN DEMAND or COD** — A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

**CITY** — The City of Lock Haven, Clinton County, Pennsylvania, and the City Council thereof, its agents and officials.

**CLEAN STREAMS LAW** — The Act of June 22, 1937, as amended and reenacted by the Act of October 10, 1980, P.L. 894, 35 P.S. §§ 691.1 through 691.702.

**COLOR** — Color of light transmitted through waste after removal of all suspended matter, including pseudo-colloidal particles, and measured in platinum-cobalt units.

**COMBINED WASTE FORMULA** — A procedure for calculating discharge concentrations of constituents of industrial waste, as defined in 40 CFR § 403.6(e).

**COMPLIANCE** — Adherence to conditions or requirements of this Part 4 or the industrial pretreatment program, any written directions issued by the city or any wastewater discharge permit or other permit issued under the provisions of this Part 4.

**COMPOSITE SAMPLE** — A sample composed of individual subsamples taken at regular intervals over a specified period of time. Subsamples may be proportioned by time interval or size according to flow (flow-proportioned composite sample) or be of equal size and taken at equal time intervals (equal-time composite samples).

**CONTROL AUTHORITY** — The city.

**COOLING WATER** — The water from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

**DAILY MAXIMUM** — The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

**DAILY MAXIMUM LIMIT** — The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

**DISCHARGE** — The conveyance of any water or wastewater into the sewer system, direct or indirect.

**DOMESTIC WASTE** — Normal household wastes from kitchens, water closets, lavatories and laundries, or any waste from a similar source and possessing the same characteristics.

**ENFORCEMENT RESPONSE PLAN** — A plan and guide developed pursuant to 40 CFR § 403.8(f) (5) providing for the enforcement of the industrial pretreatment program.

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

**EXISTING SOURCE** — Any source of discharge that is not a new source.

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

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

**GROUNDWATER** — Water which is contained in or passing through the ground.

**HOLDING TANK WASTE** — Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

**INDUSTRIAL PRETREATMENT PROGRAM** — The sum of the provisions of this Part 4, amendments thereto and any regulations or activities imposed by this Part 4 as regards the regulation and control of industrial users.

**INDUSTRIAL USER** — Any person who discharges industrial waste into the sewer system.

**INDUSTRIAL WASTE** — Any solid, liquid or gaseous substance or form of energy, which is produced as a result, whether directly or indirectly, of any industrial, manufacturing, trade or business process or activity, or in the course of developing, recovering or processing of natural resources, but not sanitary sewage.

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

**INTERFERENCE** — A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the city's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Act;<sup>27</sup> the Solid Waste Disposal Act,<sup>28</sup> including Title II commonly referred to as the "Resource Conservation and Recovery Act" (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act;<sup>29</sup> the Toxic Substances Control Act;<sup>30</sup> and the Marine Protection, Research, and Sanctuaries Act.

**LOCAL LIMIT** — Specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

**MANHOLE** — A structure allowing access from the surface of the ground to a sewer.

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

**MONTHLY AVERAGE** — The sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

**MONTHLY AVERAGE LIMIT** — The highest allowable average of daily discharges over a

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27. Editor's Note: See 33 U.S.C. § 1345.

28. Editor's Note: See 42 U.S.C. § 6901 et seq.

29. Editor's Note: See 42 U.S.C. § 7401 et seq.

30. Editor's Note: See 15 U.S.C. § 2601 et seq.

calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

**NEW SOURCE —**

- A. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act<sup>31</sup> that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
- (1) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - (2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Subsection A(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.
- C. Construction of a new source as defined under this subsection has commenced if the owner or operator has:
- (1) Begun or caused to begin, as part of a continuous on-site construction program:
    - (a) Any placement, assembly, or installation of facilities or equipment; or
    - (b) Significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

**NONCOMPLIANCE —** Not in compliance.

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

**OPERATOR —** Any person having charge, care, control or management of a pretreatment facility for industrial wastes or of a truck used in the removal, transport or disposal of sewage or

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**31. Editor's Note:** See 33 U.S.C. § 1317(e).

industrial wastes.

ORDINANCE (THIS PART 4) — When capitalized, the term "Ordinance" refers to this Part 4.

OWNER — Any person vested with ownership, legal or equitable, sole or partial, of an improved property.

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

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

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

POLLUTANT — Any substance including but not limited to, dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

POLLUTION — The contamination of any waters of the state such as will create or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, municipal, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life; or contamination of air, soil, or of the environment so as to produce or is likely to produce similar deleterious effects.

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

PRETREATMENT COORDINATOR — Agent of the city designated to administer the provisions of the industrial pretreatment program.

PRETREATMENT REQUIREMENTS — Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

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

PROCESS WASTEWATER — Any wastewater resulting from the direct contact of water with any raw material, intermediate product, finished product, by-product or waste during any manufacturing process, or water other than cooling water which results from a manufacturing process.

PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES — Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 355-57 of

this Part 4.

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

**QUALIFIED ANALYST** — Any person who has demonstrated competency in the analysis of wastewater by submission of their general recognized documentation of competency to the city, or who is normally employed in the capacity of an analyst by a professional analytical laboratory.

**REFRIGERATION** — Maintenance of temperature for storage, preservation of food or as a process of manufacturing.

**SANITARY SEWAGE** — The normal water-carried domestic wastes from any improved property, but excluding effluent from septic tanks or cesspools; rain, snow or stormwater; groundwater; or other collected water from roofs, drains or basements.

**SANITARY SEWER** — A sewer carrying only sanitary sewage or industrial wastes and to which stormwaters, surface waters or groundwaters are not intentionally admitted.

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

**SEWAGE COLLECTION SYSTEM** — All facilities of the city or any municipality party to a service agreement with the city, as of any particular time, used or usable for collecting, transporting, pumping and disposing of wastewater, which facilities are connected to and served by the sewage treatment plant.

**SEWAGE TREATMENT PLANT** — That portion of the sewer system owned by the Lock Haven City Authority and operated by the city, which is designed to provide treatment of wastewater and discharge of treated effluent to the environment.

**SEWER** — A pipe or conduit for conveying wastewater.

**SEWER SYSTEM** — The sewage collection system, sewage treatment plant and any sewers that convey wastewater to the sewage treatment plant. For the purposes of this Part 4, "sewer system" shall also include any sewers that convey wastewater to the sewage treatment plant from persons who are, by contract or agreement with the city, users of the sewer system.

**SIGNIFICANT INDUSTRIAL USER (SIU)** —

- A. An industrial user subject to categorical pretreatment standards; or
- B. An industrial user that:
  - (1) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blow down wastewater);
  - (2) Contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - (3) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

**SIGNIFICANT NONCOMPLIANCE** — A noncompliance which meets or exceeds standards of significant noncompliance determined by the city and contained in § 355-63 of this Part 4.

**SIGNIFICANT VIOLATOR** — Any industrial user in significant noncompliance.

**SLUG LOAD or SLUG DISCHARGE** — Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 355-57 of this Part 4. A slug discharge is any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the POTW's regulations, local limits or permit conditions.

**SPCC PLAN** — Spill prevention, control and countermeasure plan prepared by an industrial user to minimize the likelihood and intensity of a slug load or spill and to expedite control and cleanup activities should a slug load or spill occur.

**SPILL** — Any discharge or pollutants resulting from the spilling, overflowing, rupture or leakage of any storage, process or transfer container, or the control or cleanup activities associated with such an occurrence.

**STANDARD INDUSTRIAL CLASSIFICATION (SIC)** — A classification pursuant to the "Standard Industrial Classification Manual," issued by the Executive Office of the President, Office of Management and Budget, 1972.

**STANDARD METHODS** — The latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the Water Pollution Control Federation (Water Environment Federation), the American Public Health Association and the American Waterworks Association.

**STATE** — Commonwealth of Pennsylvania.

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

**SUPERINTENDENT** — The person designated by the city to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this Part 4. The term also means a duly authorized representative of the Superintendent.

**TOTAL ORGANIC MANAGEMENT PLAN** — A plan submitted in lieu of testing for total toxic organics in which an industrial user specifies methods of control to assure that total toxic organics do not routinely enter the sewer system.

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

**TOTAL TOXIC ORGANICS** — The sum of all quantifiable values of various organic pollutants as determined by the city or, for certain categorical industrial users, as defined in the applicable categorical standard.

**TOWNSHIP** — The Township of Porter, Clinton County, Pennsylvania, a municipal corporation existing under the laws of the Commonwealth of Pennsylvania, or its duly authorized agent. As referred to in this Part 4, "Township" also includes the City of Lock Haven unless expressly denied.

**TOXIC POLLUTANTS** — Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the

provision of Section 307(a) of the Act,<sup>32</sup> or other acts, or is present in sufficient quantity, either singly or in combination with other wastewater, so as to present risk of causing interference or pass-through, causing harm to humans, animals or plants or creating a hazard to persons or property, either in the sewage collection system, the sewage treatment plant or the environment into which it is released.

**UNAUTHORIZED DISCHARGE** — Discharge of an unauthorized waste, or a discharge which otherwise is not in compliance with the requirements of the industrial pretreatment program or other rules or regulations of the city.

**UNAUTHORIZED WASTE** — Any substance discharged into the sewage collection system which is not in compliance with provisions of the industrial pretreatment program or which is discharged by a person in violation of any of the provisions of this Part 4.

**USER** — Any person who contributes, causes or permits the discharge of wastewater into the sewer system.

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

**WASTEWATER DISCHARGE PERMIT** — As set forth in § 355-60 of this Part 4.

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

**WATERS OF THE STATE** — All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

**§ 355-57. Prohibited wastes, discharges, pollutant limitations and standards.**

- A. General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass-through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.
- B. Discharge of stormwaters. No person shall discharge or cause or permit to be discharged any stormwater, surface water, groundwater, roof water, subsurface drainage or building foundation drainage into any sanitary sewer.
- C. Specific prohibitions.
  - (1) No user shall discharge or cause to be discharged, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the sewer system. These prohibitions apply to all users, whether or not the users are subject to categorical standards or any other pretreatment requirement. No user may discharge any of the following substances to the sewer system:
    - (a) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause

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32. Editor's Note: See 33 U.S.C. § 1317(a).

fire or explosion or be injurious in any other way to the sewer system or to the operation of the sewer system. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than 5%, nor any single reading over 10 of the lower limit (LEL) of the meter. At no time shall the closed cup flash point of the wastewater be less than 140° F. (60° C.) using the methods specified in 40 CFR § 261.21. Prohibited materials include, but are not limited to, the following substances in concentrations which cause exceedance of the above standard: gasoline, kerosene, naphtha, benzene, ethers, alcohols, peroxides, chlorates, perchlorates, bromates and carbides.

- (b) Any wastewater having a pH less than 6.0 or more than 10, or wastewater having any other corrosive property capable of causing structural damage to the POTW, its equipment or personnel.
- (c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the sewer system, such as, but not limited to, grease, garbage with particles greater than 1 1/2 inches in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oils, mud or glass grinding or polishing wastes.
- (d) Any pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the sewage treatment plant or interfere with the operation of the sewer system. In no case shall a slug load be discharged.
- (e) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F. (40° C.).
- (f) Any petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through, but in no case exceeding 20 mg/l.
- (g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (h) Any trucked or hauled wastewater or pollutants, except at discharge points designated by the city in accordance with § 355-57N of this Part 4.
- (i) Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or are sufficient to prevent entry into the sewers for maintenance or repair.
- (j) Wastewater which imparts color which cannot be removed by the treatment

process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit.

- (k) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the city or applicable state or federal regulations.
  - (l) Any substance which may cause the sewage treatment plant's effluent or any other product of the sewage plant, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse, or to interfere with the reclamation process. In no case shall a substance discharge to the sewer system cause the sewage treatment plant to be in non compliance with sludge use or disposal criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act or state criteria applicable to the sludge management method being used.
  - (m) Any medical wastes, except as specifically authorized by the city in an individual wastewater discharge permit.
  - (n) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other constituents of the wastewater, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the sewage treatment plant or to exceed the limitation set forth in an applicable categorical standard.
  - (o) Detergents, surface-active agents, or other substances which that might cause excessive foaming in the POTW.
  - (p) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l.
  - (q) Any wastewater containing any compounds or salts of aldrin, dieldrin, endrin, lindane, methoxychlor, toxaphene, dichlorophenoxyacetic acid, trichlorophenoxypropionic acid or other persistent herbicides, pesticides or rodenticides.
  - (r) Any wastewater which is incompatible with treatment processes in use at the sewage treatment plant so as to cause interference or pass-through.
  - (s) Any substance which will cause city to violate its NPDES and/or state water quality management permit or applicable receiving water quality standards.
- (2) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.
- D. Unauthorized discharges. Discharge of any prohibited substance listed under Subsection C of this section shall be considered an unauthorized discharge and the city may take whatever steps are necessary to halt such a discharge, as set forth in § 355-60 of this Part 4.
- E. National categorical pretreatment standards. If the categorical standards for a particular

industrial user are more stringent than local limits or other requirements imposed under this Part 4, then the users must comply with the categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405 through 471. The city shall notify, in writing, all affected industrial users of the applicable reporting requirements under 40 CFR § 403.12. The national categorical pretreatment standards are hereby incorporated into the industrial pretreatment program as program requirements for those industrial users subject to such categorical standards.

- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the city may impose equivalent concentration or mass limits in accordance with Subsection E(4) and (5) of this section [see 40 CFR § 403.6(c)].
  - (2) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the city may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users [see 40 CFR § 403.6(c)(2)].
  - (3) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the city shall impose an alternate limit in accordance with 40 CFR § 403.6(e).
  - (4) The city may convert the mass limits of the categorical pretreatment standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users. The conversion is at the discretion of the city.
  - (5) Once included in its permit, the industrial user must comply with the equivalent limitations developed in this section in lieu of the promulgated categorical standards from which the equivalent limitations were derived [see 40 CFR § 403.6(c)(7)].
  - (6) Many categorical pretreatment standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or four-day average, limitations. Where such standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation [see 40 CFR § 403.6(c)(8)].
  - (7) Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the Superintendent within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the Superintendent of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate [see 40 CFR § 403.6(c)(9)].
- F. Removal credits. Where the sewage treatment plant achieves consistent removal of pollutants limited by categorical standards, the city may apply to the approval authority for modifications of specific limits in the categorical standards if the requirements contained in 40 CFR § 403.7 are fulfilled and prior approval from the approval authority is obtained. Any such action shall be at the sole discretion of the city.

- G. State pretreatment standards. State requirements and limitations on discharge shall apply in any case where they are more stringent than national requirements and limitations or those established under this Part 4.
- H. Local limits.
- (1) The City Council shall establish, and review and amend from time to time, local limits which control or limit the discharge or specific pollutants by industrial users.
    - (a) The city is authorized to establish local limits pursuant to 40 CFR § 403.5(c).
    - (b) Local limits may be established for any substance which is discharged, or likely to be discharged, to the sewer system to protect against pass-through and interference; the discharge of toxic materials in toxic amounts; threats to worker health and safety; and physical, chemical or biological damage to the sewer system.
    - (c) Local limits may limit concentration, mass or a combination of the two.
    - (d) Local limits shall be applied to all significant industrial users and shall be included in all wastewater discharge permits. Local limits may be applied to other industrial users if deemed appropriate by the city.
    - (e) Discharging any pollutant in excess of a local limit established for that pollutant shall constitute an unauthorized discharge. Such discharge is subject to the actions and penalties set forth herein.
  - (2) The city has developed technology-based local limits which are specifically set forth in each wastewater discharge permit. These local limits are incorporated herein by reference, as if set forth at length.
- I. The city's right of revision. The city reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this Part 4.
- J. Dilution. No user shall ever increase the use of process wastewater, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The city may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.
- K. Slug loads and spills. Each industrial user shall provide protection from spills resulting in prohibited discharges and slug load discharges. Facilities to prevent spills and slug loads shall be provided and maintained at the owner or industrial user's own cost and expense. The city shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The city may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the Superintendent may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:
- (1) SPCC plans. Detailed plans showing facilities and operating procedures to provide

this protection shall be submitted to the city for review and shall be approved by the city before construction of the facility. All existing industrial users shall complete a spill prevention control and countermeasures (SPCC) plan or provide evidence that such a plan is not necessary for their facility. No industrial user who commences discharge to the sewer system after the effective date of this Part 4 shall be permitted to introduce pollutants into the sewer system until this requirement has been fulfilled. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify its facility as necessary to meet the requirements of the industrial pretreatment program. In the case of a spill, it is the responsibility of the industrial user to immediately telephone and notify the city of the incident. The notification shall include location of discharge, type of waste, concentration and volume, corrective actions being taken or planned and expected duration.

- (2) Written notice. Within five days following a spill, slug load or other accidental discharge, the industrial user shall submit to the city a detailed written report describing the cause of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage or other liability which may be incurred as a result of damage to the sewer system, fish kill, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties or other liability which may be imposed by this Part 4 or applicable law.
  - (3) Notice to employees. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a spill or other accidental discharge. Employers shall insure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.
  - (4) Description of stored chemicals.
  - (5) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.
  - (6) SIU immediate notification to the city. Significant industrial users are required to notify the city/Superintendent immediately of any changes at its facility affecting the potential for a slug discharge.
- L. Notification requirements; hazardous wastes and hazardous substances.
- (1) All industrial users shall notify the city, the EPA Regional Waste Management Division Director and the Pennsylvania Department of Environmental Protection, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261. Such notification shall include the name of the hazardous waste, as set forth in 40 CFR Part 261, the EPA hazardous waste number and the type of discharge (continuous, batch or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month, the notification shall also include the following information, to the extent that it is known

and readily available to the industrial user:

- (a) An identification of the hazardous constituents contained in the waste.
  - (b) An estimate of the mass and concentration in the wastewater of all such constituents discharged in the most recent month.
  - (c) An estimate of the mass and concentration of such constituents expected to be discharged during the following 12 months.
- (2) Industrial users that commence discharge after the effective date of this Part 4 shall submit the report within 180 days of first discharge of the hazardous waste, except as provided in Subsection L(4).
  - (3) The required report need be submitted only once for each hazardous waste discharge. Industrial users regulated under categorical standards which have already submitted such information in baseline monitoring reports or periodic compliance reports do not have to report this information again.
  - (4) Industrial users that discharge less than 15 kilograms of hazardous wastes in a calendar month do not have to comply with these reporting requirements. This exemption does not apply to acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e).
  - (5) An industrial user shall notify the city within five days of becoming aware of any discharges of reportable quantities of listed or unlisted hazardous substances, as defined at 40 CFR § 302.4 (CERCLA hazardous substances). This notification shall include the time of release; the name of the substance; the identifying CAS number, if known; and the approximate quantity discharge. If the discharge constitutes a spill, change in wastewater constituents or slug load, other reporting requirements of the industrial pretreatment program may also apply.
  - (6) Each notification required by this section shall include a statement certifying that the industrial user has a program in place to reduce the volume and/or toxicity of the discharge wastes to the extent that it is economically practical. This statement shall be designed by the authorized representative of the industrial user.
- M. Drainage of water filtration systems. Discharge of filter backwash to the sewer system shall be regulated as follows:
- (1) Granular media filter backwash water may be discharged to the sewer system, subject to all of the applicable provisions of this Part 4.
  - (2) Diatomaceous earth filter backwash, if discharged to the sewer system, shall be connected to the sewer system through tanks with no less than three months storage capacity of spent diatomaceous earth, which tanks shall be accessible for removing solid waste for disposal.
- N. Trucked and hauled wastes.
- (1) Trucked or hauled waste may be introduced into the POTW only at locations designated by the city, and at such times as are established by the Superintendent. Such waste shall not violate § 355-57A through L of this Part 4 or any other

requirements established by the city.

- (2) The city may require haulers of industrial waste to obtain individual wastewater discharge permits. The city may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The city also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Part 4.
  - (3) Industrial waste haulers may discharge loads only at locations designated by the city or Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with applicable standards. The city may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
  - (4) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
- O. Regulation of waste received from other jurisdictions.
- (1) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the city shall enter into an intermunicipal agreement with the contributing municipality.
  - (2) Prior to entering into an agreement required by Subsection O(1), above, the city shall request the following information from the contributing municipality:
    - (a) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
    - (b) An inventory of all users located within the contributing municipality that are discharging to the POTW; and
    - (c) Such other information as the city may deem necessary.
  - (3) An intermunicipal agreement, as required by Subsection O(1), above, shall contain the following conditions:
    - (a) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this Part 4 and local limits, including required baseline monitoring reports (BMRs), which are at least as stringent as those set out in § 355-61 of this Part 4. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance or local limits.
    - (b) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis.
    - (c) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and

enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the city; and which of these activities will be conducted jointly by the contributing municipality and the city.

- (d) A requirement for the contributing municipality to provide the city with access to all information that the contributing municipality obtains as part of its pretreatment activities.
- (e) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW.
- (f) Requirements for monitoring the contributing municipality's discharge.
- (g) A provision ensuring the city access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the city.
- (h) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

**§ 355-58. Pretreatment of wastewater.**

- A. Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this Part 4 and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 355-57 of this Part 4 within the time limitations specified by EPA, the state, or the city, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the Superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this Part 4.
- B. Additional pretreatment measures.
  - (1) Whenever deemed necessary, the city may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Part 4.
  - (2) The city may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.
- C. Grease and sand traps. Grease, oil, and sand interceptors shall be provided when, in the opinion of the city, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the city, and shall be so located to be easily accessible for cleaning and inspection. Such

interceptors shall be inspected, cleaned, and repaired, if deemed necessary by the city, by the user at their expense.

- D. Garbage grinders. The use of mechanical garbage grinders producing a finely divided mass, properly flushed with an ample amount of water, shall be permitted, upon the condition that no such mechanical grinder used for commercial business purposes shall be installed until permission for such use has been obtained from the city.
- E. Flammable substances. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

#### **§ 355-59. Fees.**

- A. Purpose. It is the purpose of this section to provide for the recovery of costs from industrial users of the sewer system for the implementation of the industrial pretreatment program established herein. The applicable charges or fees shall be set forth in the city's schedule of charges and fees.
- B. Fees that may be charged. The city may adopt charges and fees which may include:
  - (1) Fees for reimbursement of costs of setting up and operating the industrial pretreatment program.
  - (2) Fees for monitoring, inspections and surveillance procedures.
  - (3) Fees for reviewing accidental discharges procedures and construction.
  - (4) Fees for wastewater discharge permit applications.
  - (5) Fees for filing appeals.
  - (6) Fees for consistent removal (by the sewage treatment plant) of pollutants otherwise subject to categorical standards.
  - (7) Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Part 4 and are separate from all other fees chargeable by the city.

#### **§ 355-60. Permits and reports for industrial waste discharges.**

- A. Wastewater analysis. When requested by the Superintendent, a user must submit information on the nature and characteristics of its wastewater within five days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information.
- B. Individual wastewater discharge permit requirement. Discharge of any industrial waste to the sewer system without a wastewater discharge permit, except as authorized by the city in accordance with the provisions of this Part 4, is an unauthorized discharge and subject to the penalties provided herein. Each industrial user has an obligation to make reasonable efforts to determine if it is a significant industrial user and therefore subject to the permitting requirements of Subsection C of this section.
- C. Significant industrial user. All significant industrial users proposing to discharge wastewater into the POTW shall first obtaining an individual wastewater discharge permit

from the city, except that a significant industrial user that has filed a timely application pursuant to Subsection F of this section may continue to discharge for the time period specified therein.

- D. Other industrial users. Industrial users which are not significant industrial users do not require a wastewater discharge permit, but are required to comply with all other provisions of this Part 4. If an industrial user makes changes to processes, flow, wastewater concentration, wastewater characteristics or other changes which result in the industrial user meeting the definition of significant industrial user, the industrial user shall, immediately upon becoming aware that such a change has occurred or 90 days prior to such change if it is planned, notify the city and apply for a wastewater discharge permit. The city may require other users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this Part 4.
- E. Permit violations. Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this Part 4 and subjects the wastewater discharge permittee to the sanctions set out in § 355-62 of this Part 4. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.
- F. Individual wastewater discharge permitting: existing connections. Any user required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this Part 4 and who wishes to continue such discharges in the future, shall, within 90 days after said date, apply to the city or an individual wastewater discharge permit in accordance with Subsection H of this section, and shall not cause or allow discharges to the POTW to continue after 180 days of the effective date of this Part 4 except in accordance with an individual wastewater discharge permit issued by the city.
- G. Individual wastewater discharge permitting: new connections. Any user required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with Subsection H of this section, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.
- H. Individual wastewater discharge permit application contents.
  - (1) All users required to obtain an individual wastewater discharge permit must submit a permit application in the form prescribed by the city and accompanied by the fee prescribed in the city's schedule of fees. The city may require users to submit all or some of the following information as part of a permit application:
    - (a) The name and address of the facility (or location if different than the address), including the name of the operator and owner.
    - (b) Contact information, including the telephone and fax numbers of the personnel responsible for the operation of the facility.
    - (c) SIC number or numbers according to the "Standard Industrial Classification Manual," Bureau of the Budget, 1972, as amended.

- (d) Environmental permits. A list of any environmental control permits held by or for the facility.
- (e) Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged.
- (f) Time and duration of wastewater discharges.
- (g) Wastewater constituents and characteristics as required by the city, as determined by a qualified analyst.
  - [1] Sampling and analyses shall be performed in accordance with procedure established by the EPA pursuant to Section 304(g) of the Act<sup>33</sup> and contained in 40 CFR Part 136, as amended.
  - [2] Sample results shall be accompanied by a signed statement of the authorized representative that the samples analyzed are representative of the normal discharge during the routine operation of the discharging facility.
- (h) A brief description of the nature, average rate of production, including each product produced by type, amount, processes, and rate of production, and standard industrial classifications of the operation(s) carried out by such user.
- (i) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.
- (j) Number and type of employees, hours of operation, and proposed or actual hours of operation of pretreatment facility.
- (k) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- (l) The location for monitoring all wastes covered by the permit.
- (m) The measured average daily and thirty-minute peak wastewater flow rates, including daily, monthly and seasonal variation in gallons, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in § 355-57E(3) [40 CFR § 403.6(e)].
- (n) The nature and concentration of any pollutants in the discharge which are limited by any city, state, or national pretreatment requirements (including local limits) or categorical standards, and a statement regarding whether or not the categorical standard or pretreatment requirements are being met on a consistent basis and, if not, how the industrial user proposes to meet the pretreatment standards and requirements, including whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the industrial user to meet the applicable standard. If the applicant is a categorical industrial user, this statement shall be signed by a certified professional.

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33. Editor's Note: See 33 U.S.C. § 1314(g).

- (o) If additional pretreatment and/or O&M will be required to meet categorical standards or other pretreatment requirements (including local limits), the shortest schedule by which the industrial user will provide such additional pretreatment shall be developed and submitted. The completion date of this schedule shall not be later than the compliance date established for any applicable categorical standard. The following conditions shall apply to this schedule:
    - [1] The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable categorical standards or other pretreatment requirements (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.)
    - [2] No increment referred to in Subsection H(1)(o)[1] shall exceed nine months.
    - [3] Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the city, including, as a minimum, whether or not it complied with the increment of the progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the city.
  - (p) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.
  - (q) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
  - (r) Any other information as may be deemed by the city to be necessary to evaluate the application.
- (2) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.
- I. Application signatories and certifications. All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in § 355-61C. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the city prior to or together with any reports to be signed by an authorized representative.
  - J. Individual wastewater discharge permit decisions. The city will evaluate the data furnished by the user and may require additional information. The city will then determine whether to issue an individual wastewater discharge permit. The city may deny any application for

an individual wastewater discharge permit.

K. Confidentiality of applications.

- (1) All information required by the city in the permit application shall be provided by the industrial user to the best of its ability.
- (2) If information regarding raw materials, processes, production rates or other manufacturing information is regarded as confidential by the industrial user, such information shall be marked "confidential" on the application form.
- (3) Confidentiality shall not apply to information regarding the flow of or the constituents in the industrial wastewater discharge.
- (4) Information accepted by the city as confidential shall be handled as detailed in § 355-61N of this Part 4.

L. Individual wastewater discharge permit duration. An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five years, at the discretion of the city. Each individual wastewater discharge permit will indicate a specific date upon which it will expire. The industrial user shall apply for reissuance of the wastewater discharge permit a minimum of 180 days prior to the expiration of the industrial user's existing wastewater discharge permit. The terms and conditions of the wastewater discharge permit may be subject to modification by the city during the term of the wastewater discharge permit as limitations or requirements as indicated in § 355-57 are modified or other just cause exists. The industrial user shall be informed of any proposed changes in its wastewater discharge permit at least 30 days prior to the effective date of change. Any changes or new conditions in the wastewater discharge permit shall include a reasonable time schedule for compliance.

M. Delayed permit renewal.

- (1) If the industrial user has complied with the terms of the wastewater discharge permit and this Part 4, and has applied for renewal as provided for in Subsection L of this section and the wastewater discharge permit is not renewed on or before the expiration date through no fault of the industrial user, then the existing wastewater discharge permit shall remain in effect until it is reissued or rescinded by the city.
- (2) If the wastewater discharge permit is not renewed because of a failure of the industrial user to apply for renewal in a timely fashion or through an act or omission of the industrial user, then discharge of industrial waste by the industrial user without a wastewater discharge permit is an unauthorized discharge and is subject to the enforcement provisions of this Part 4.

N. Appeal of wastewater discharge permits.

- (1) Any industrial user that is issued a wastewater discharge permit may appeal the permit conditions, in whole or in part. Appeal procedures shall be set forth in § 355-62J of this Part 4.
- (2) During the process of appeal, the wastewater discharge permit shall remain in effect and shall be enforced with the exception of those conditions specified in writing in

the appeal. Conditions imposed by federal or state regulations (e.g., categorical standards) shall not be waived. Conditions which, in the opinion of the city, would set hazard or pose potential threat of pollution if waived shall not be waived during an appeal.

- O. Individual wastewater discharge permit contents. An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the city to prevent pass-through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

- (1) Individual wastewater discharge permits must contain:

- (a) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date.
- (b) A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with Subsection P of this section, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
- (c) Effluent limits, including best management practices, based on applicable pretreatment standards;
- (d) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.
- (e) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.
- (f) Requirements to control slug discharge, if determined by the city to be necessary.

- (2) Wastewater discharge permits shall be expressly subject to all provisions of this Part 4 and all other applicable regulations, user charges and fees established by the city. Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:

- (a) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
- (b) Limits on the average and maximum wastewater constituents and characteristics, including local limits and/or categorical standards, as applicable.
- (c) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
- (d) Requirements for the development and implementation of spill control plans or

other special conditions, including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges such as slug load as per § 355-57K.

- (e) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
  - (f) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.
  - (g) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices.
  - (h) A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit.
  - (i) List of prohibited discharges, as presented in § 355-57 of this Part 4.
  - (j) Requirements for submission of technical reports or discharge reports, including the information to be contained and the signatory requirement of these reports.
  - (k) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.
  - (l) Requirements for maintaining and retaining records relating to industrial waste and wastewater discharges and characteristics as specified by the city and affording the city access thereto.
  - (m) Requirements for installation and maintenance of pretreatment facilities.
  - (n) Compliance schedules.
  - (o) Other conditions as deemed appropriate by the city to ensure compliance with this Part 4, and state and federal laws, rules, and regulations.
- P. Transferability of permits. Wastewater discharge permits are issued to a specific industrial user for specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new person, new industrial user, different premises or a new or changed operation without the approval of the city. Any succeeding industrial user shall also comply with the terms and conditions of the existing wastewater discharge permit. The city may, at its discretion, deny the transfer of a wastewater discharge permit and require application for a new wastewater discharge permit under the provision of this section.
- Q. Permit modification. The city may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements.
  - (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge

permit issuance.

- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
  - (4) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters.
  - (5) Violation of any terms or conditions of the individual wastewater discharge permit.
  - (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
  - (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
  - (8) To correct typographical or other errors in the individual wastewater discharge permit.
  - (9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Subsection P of this section.
- R. Change in operations. Each user must notify the city of any significant changes to the user's operations or system including manufacturing processes, raw materials, auxiliary processes, pretreatment processes, or other changes which might alter the nature, quality, volume or flow rate of its wastewater at least 30 days before the change or, if unplanned, immediately upon making the change. The report shall include all information necessary to determine the effect on the wastewater of the change.
- (1) The city may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 355-60H of this Part 4.
  - (2) The city may, on receipt of such a report:
    - (a) Continue an existing wastewater discharge permit in effect.
    - (b) Require application for a new wastewater discharge permit.
    - (c) Modify an existing wastewater discharge permit to reflect the changed nature of the waste.
    - (d) Rescind and reissue an existing wastewater discharge permit in order to make substantial changes in wastewater discharge permit conditions.
    - (e) Revoke an existing wastewater discharge permit or require the industrial user to cease or prevent the discharge.
    - (f) Take such action as it deems appropriate.

### **§ 355-61. Monitoring and inspection requirements.**

#### **A. Baseline monitoring reports.**

- (1) As soon as possible following the promulgation of a categorical standard, the

wastewater discharge permit of industrial users subject to such standards shall be revised, if necessary, to require compliance with such categorical standards within the time frame prescribed by the categorical standard.

- (2) Where an industrial user, subject to newly promulgated categorical standard, has not previously submitted an application for a wastewater discharge permit as required by § 355-60H, the industrial user shall, within 180 days after the promulgation of the applicable categorical standard:
  - (a) Apply for a wastewater discharge permit.
  - (b) Provide the baseline monitoring information required by 40 CFR § 403.12(b). This information may be incorporated into the application for a wastewater discharge permit.
- (3) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the city a report which contains the information listed in Subsection A(4), below. At least 90 days prior to commencement of their discharge, new sources and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard shall submit to the city a report which contains the information listed in Subsection A(4), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (4) Users described above shall submit the information set forth below.
  - (a) All information required in Subsection H of this section. See 40 CFR § 403.12(b)(1).
  - (b) Measurement of pollutants.
    - [1] The user shall provide the information required in § 355-60H(1)(g), (n), (p) and (q) of this section.
    - [2] The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.
    - [3] Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 CFR § 403.6(e) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the control authority.
    - [4] Sampling and analysis shall be performed in accordance with Subsections F and G of this section.

- [5] The city may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
- [6] The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- (c) Compliance certification. A statement, reviewed by the user's authorized representative as defined in § 355-56 and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Subsection B of this section.
- B. Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 355-61A(4)(d) of this Part 4.
- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (2) No increment referred to above shall exceed nine months;
- (3) The user shall submit a progress report to the city no later than 14 days following each date in the schedule and the final date of compliance, including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (4) In no event shall more than nine months elapse between such progress reports to the city.
- C. Signature and report certification.
- (1) Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 355-60G and H; users submitting baseline monitoring reports under Subsection A of this section [see 40 CFR

§ 403.12(1)]; users submitting reports on compliance with the categorical pretreatment standard deadlines under Subsection D of this section [see 40 CFR § 403.12(d)]; users submitting periodic compliance reports required by Subsection E of this section [see 40 CFR § 403.12(e) and (h)]. The following certification statement must be signed by an authorized representative as defined in § 355-56:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- D. Categorical compliance report. Within 90 days following the date for final compliance with applicable categorical standards or, in the case of a new source, following commencement of the discharge of industrial waste from processes regulated by categorical standards shall submit to the city a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by categorical standards and the average and maximum daily flow for those process units in the industrial user's facility which are limited by such categorical standards. The report shall certify that the information contained therein concerning wastewater constituents and flows is representative of discharges during normal work cycles. The report shall also state whether the applicable categorical standards are being met on a consistent basis and, if not, what additional operation and management practices and/or pretreatment is necessary to bring the industrial user into compliance with the applicable categorical standards, and include a schedule for completion of the required actions in the form described in Subsection B of this section.
- E. Periodic compliance reports.
- (1) All significant industrial users must, at a frequency determined by the city but no less than twice per year (June and December) submit reports indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a best management practice (BMP) or pollution prevention alternative, the user must submit documentation required by the city or the pretreatment standard necessary to determine the compliance status of the user.
  - (2) For significant industrial users subject to categorical standards, if discharge limits are based on mass units per production unit, then production information regarding the regulated processes during the reporting period shall be included in the report, along with flow and concentration values, so that a determination of compliance or noncompliance with categorical standards can be made.
  - (3) All periodic compliance reports must be signed and certified in accordance with Subsection C of this section.
  - (4) All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean,

and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

- (5) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the city, using the procedures prescribed in Subsection F of this section, the results of this monitoring shall be included in the report [see 40 CFR § 403.12(g)(6)].

F. Reporting and resampling of discharge limit violations.

- (1) If, upon receipt of valid sampling and testing results, a significant industrial user becomes aware that a violation of discharge limits has occurred, the significant industrial user shall, within 24 hours of becoming aware of the violation, notify the city of this fact. Within 30 days of becoming aware of the violation, the significant industrial user shall also sample and analyze its discharge(s) for each parameter found to be in violation and report the results of the resampling and analysis to the city.
- (2) Each significant industrial user shall have a duty, on receipt of validly obtained sampling and analysis results, of inspecting the results and determining if any wastewater discharge permit condition has been violated. Failure to examine and compare testing results with wastewater discharge permit conditions shall not be a valid defense for failure to comply with these reporting conditions.

G. Sampling and analysis.

- (1) All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the city or other parties approved by EPA.
- (2) Monitoring results submitted to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report that is representative of conditions occurring during the reporting period.
- (3) Except as indicated in Subsection G(4) and (5) below, the user must collect wastewater samples using twenty-four-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the city. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory.

Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

- (4) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- (5) For sampling required in support of baseline monitoring and ninety-day compliance reports required in § 355-61A and B [40 CFR 403.12(b) and (d)], a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data is available, the city may authorize a lower minimum. For the reports required by § 355-61 [40 CFR §§ 403.12(e) and 403.12(h)], the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

#### H. Monitoring facilities.

- (1) The city may require an industrial user to provide and operate, at the industrial user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the wastewater or industrial waste discharge. The monitoring facility should normally be situated on the industrial user's premises, but the city may, when such a location would be impractical or cause undue hardship on the industrial user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
- (2) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the industrial user.
- (3) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

I. Individual wastewater discharge permit reissuance. A user with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with § 355-60H of this Part 4, a minimum of 180 days prior to the expiration of the user's existing individual wastewater discharge permit.

J. Inspections. The city shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this Part 4 and any individual wastewater discharge permit or order issued hereunder. Users shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements

with its security guards so that, upon presentation of suitable identification, The Superintendent or Pretreatment Coordinator shall be permitted to enter without delay for the purposes of performing specific responsibilities.

- (2) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Superintendent or Pretreatment Coordinator and shall not be replaced. The costs of clearing such access shall be borne by the user.
  - (3) Unreasonable delays in allowing the city access to the user's premises shall be a violation of this Part 4.
- K. Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Superintendent as the city may require.
- L. Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.
- M. Recordkeeping.
- (1) Users subject to the reporting requirements of this Part 4 shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Part 4 and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the city.
  - (2) The city shall keep and maintain all records relating to the administration and enforcement of the industrial pretreatment program, including, but not limited to, wastewater discharge permit applications, investigations and calculations, wastewater discharge permits, inspection reports, industrial user reports, sampling results and enforcement activities for a minimum of three years. In case of ongoing litigation, records shall be maintained as long as they may be required.
- N. Confidentiality.
- (1) Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the Superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data.

- (2) When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR § 2.302, shall not be recognized as confidential information and shall be available to the public without restriction.
- (3) The city shall maintain a secure place to store records containing confidential information and shall insure that all records marked as confidential are kept secure from casual or public scrutiny.
- (4) When information accepted by the city as confidential is transmitted to any government agency, a notification to the industrial user shall be provided listing the confidential information transmitted and the governmental entity requesting it.

#### **§ 355-62. Enforcement.**

- A. Right to refuse. The city reserves the right to refuse to accept wastewater, or combinations of wastewater, which are discharged in violation of the terms or conditions of the industrial pretreatment program or any written directions issued by the city pursuant to the conditions of the industrial pretreatment program. The city may take such steps as it deems necessary, as outlined in this Part 4, to compel discontinuance of use of the sewer system or pretreatment of industrial wastes in order to comply with the provisions of the industrial pretreatment program.
- B. Individual wastewater discharge permit revocation.
  - (1) The city may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
    - (a) Failure to notify the city of significant changes to the wastewater or the operations prior to the changed discharge.
    - (b) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
    - (c) Falsifying self-monitoring reports and certification statements.
    - (d) Tampering with monitoring equipment.
    - (e) Refusing to allow the city timely access to the facility premises and records.
    - (f) Failure to meet effluent limitations.
    - (g) Failure to pay fines.
    - (h) Failure to pay sewer charges.
    - (i) Failure to meet compliance schedules.
    - (j) Failure to complete a wastewater survey or the wastewater discharge permit

application.

- (k) Failure to provide advance notice of the transfer of business ownership of a permitted facility.
  - (l) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Part 4.
- (2) Discharge of any industrial waste to the sewer system by a significant industrial user without a wastewater discharge permit is an unauthorized discharge, as provided herein, and is subject to the penalties provided herein.
  - (3) Any industrial user notified of a revocation of its wastewater discharge permit shall immediately stop or eliminate the discharge. In the event of a failure of the industrial user to comply voluntarily with the notice of revocation, the discharge shall be considered an unauthorized discharge and the city shall take such steps as deemed necessary, which may include immediate severance of the connection between the building sewer and the sewage collection system, to prevent or minimize damage to the sewer system or endangerment to the environment or any property or person.
  - (4) Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a user are void upon the issuance of a new individual wastewater discharge permit that user.

C. Suspension of permit.

- (1) The city may suspend the wastewater discharge permit when such suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference or pass through or causes the city to violate any condition of its NPDES permit or any other national or state law, rule, regulation or permit condition.
- (2) Any industrial user notified of a suspension of its wastewater discharge permit shall immediately stop or eliminate the discharge. In the event of a failure of the industrial user to comply voluntarily with the notice of suspension, the discharge shall be considered an unauthorized discharge and the city shall take such steps as deemed necessary, including immediate severance of the connection between the building sewer and the sewage collection system, to prevent or minimize damage to the sewer system or endangerment to the environment or any property or person.
- (3) If a permit has been suspended as a result of an unauthorized discharge, which discharge resulted in or contributed to damages to the sewer system or to any person or property, the permit shall not be reinstated until such time as all such damages have been satisfied.
- (4) The city shall reinstate the wastewater discharge permit upon submission of proof by the industrial user of the elimination of the unauthorized discharge. A detailed written statement submitted by the industrial user describing the causes of the unauthorized discharge and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence.

- D. Notice of violation. Whenever the city finds that any industrial user has violated or is violating this Part 4, its wastewater discharge permit or any prohibition, limitation or requirements contained herein, the city may serve upon such industrial user a written notice stating the nature of the violation and requiring a response within a specified time. Within five days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the city. Responses required of industrial users may include, but are not limited to, actions, plans, compliance schedules or written explanations. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- E. Show cause hearing.
- (1) Any industrial user who causes or allows an unauthorized discharge to enter the sewer system, or who violates any condition or requirement of the industrial pretreatment program or its wastewater discharge permit, may request to show cause before the City Manager why the proposed enforcement action should not be taken. A written notice shall be served on the industrial user specifying the time and place of a hearing to be held by the City Manager regarding the violation, the reasons why the action is to be taken, the proposed enforcement action and directing the industrial user to show cause before the City Manager why the proposed enforcement action should be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least 10 days before the hearing. Service may be made on any agent or officer of a corporation if the industrial user is a corporation.
  - (2) The City Council may designate any of its members or any representative to:
    - (a) Issue in the name of the city notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing.
    - (b) Conduct the hearing.
    - (c) Take the evidence.
    - (d) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations for action thereon.
  - (3) At any hearing held pursuant to this Part 4, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.
  - (4) After the City Manager has reviewed the evidence, he shall, in writing, direct the industrial user to take certain actions to correct the unauthorized discharge or to achieve compliance. The actions which may be directed include, but are not limited to:
    - (a) Installation of pretreatment facilities or equipment.
    - (b) Modification or additions to existing pretreatment facilities or equipment.

- (c) Initiation of management practices which are required to alter the nature of the industrial waste being discharged.
  - (d) Development or implementation of SPCC plans or other measures.
  - (e) Other measures found to be necessary to correct the unauthorized discharge or other noncompliance.
  - (f) The direction may be in form of a schedule for compliance, setting dates by which certain actions shall be taken.
- (5) Failure of an industrial user to comply with written directions issued pursuant to a hearing constitutes a violation of this Part 4.
- F. Administrative orders. The city shall issue written directions as described in Subsection E(4), above, without a show cause hearing if the city determines that such directions are necessary to correct or remedy continuing violations of this Part 4 or any wastewater discharge permit or other requirements of the industrial pretreatment program, the city or federal or state regulations.
- G. Compliance orders. When the city finds that a user has violated or continues to violate any provision of this Part 4, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the city may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.
- H. Cease-and-desist orders. When the city finds that a user has violated or continues to violate any provision of this Part 4, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the city shall issue an order to the user directing it to cease and desist all such violations and directing the user to:
- (1) Immediately comply with all requirements; and
  - (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease-and-desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.
- I. Consent orders. The city may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have

the same force and effect as the administrative orders issued pursuant to Subsections G and H of this section and shall be judicially enforceable.

J. Right of appeal.

- (1) An industrial user may appeal the enforcement actions enumerated above in Subsections B, C, E and F of this section; or wastewater discharge permit conditions, in whole or in part. An appeal is subject to the following requirements:
  - (a) The appeal must be made in writing to City Council.
  - (b) The appeal must be made within 30 calendar days from the date of receipt of the wastewater discharge permit, written directions or notice of denial, suspension, modification or revocation of a wastewater discharge permit being appealed by the industrial user.
  - (c) The appeal must state the specific provision(s) of a wastewater discharge permit or the specific directions of the city which are being contested.
  - (d) The appeal must state the reason for the appeal of each provision.
  - (e) The appeal may suggest alternate or revised provisions to replace those appealed.
- (2) Provisions mandated by federal or state regulations (e.g., compliance with categorical standards) shall not be appealed.
- (3) The appeal shall be reviewed by the City Manager.
- (4) Within 30 days of receipt, the City Manager shall report, in writing, to City Council the results of the review. The report shall contain, at a minimum:
  - (a) A summary of each item appealed the appellant's reasons for appeal and the appellant's proposed remedies, if any.
  - (b) The finding of merit for each point and the reason(s) for finding.
  - (c) For each point found to be with merit, a proposed remedy and a finding that the remedy is allowable under this Part 4 and all applicable federal, state and local rules, regulations and laws.
- (5) City Council shall review the report and, at one or more regular or special public meetings, take any additional testimony offered by the appellant, reviewer, pretreatment program coordinator or other interested party. City Council shall, within 45 days of the conclusion of testimony, decide to:
  - (a) Grant the appeal or portions of the appeal, applying such remedies as it deems proper.
  - (b) Deny the appeal.
  - (c) Such decision of City Council constitutes final administrative action.

K. Publication of users in significant noncompliance. The city shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the

jurisdictions served by the POTW, a list of the users which, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall be applicable to all significant industrial users [or any other industrial user that violates Subsection K(3) and (4) of this section] and shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 355-56.
  - (2) Technical review criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by § 355-56 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH).
  - (3) Any other violation of a pretreatment standard or requirement as defined by § 355-56 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Superintendent determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of POTW personnel or the general public.
  - (4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of his emergency authority to halt or prevent such a discharge.
  - (5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.
  - (6) Failure to provide within 45 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules.
  - (7) Failure to accurately report noncompliance.
- L. Records. The city shall maintain records of all enforcement actions taken, the reasons for those actions and the results of those actions. These records shall be made available to the public during normal city business hours.
- M. Civil actions. If any person violates the provisions of the industrial pretreatment program, including local, national or state pretreatment requirements, categorical standards or any wastewater discharge permit or written directions issued by the city, the city may commence an action for appropriate legal and/or equitable relief in the Court of Common Pleas of Clinton County or any other appropriate forum.
- (1) When the city finds that a user has violated or continues to violate any provision of this Part 4, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the city may fine such user in an

amount not to exceed \$1,000 and costs. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. In default of payment of said fines and costs, user will be subject to a term of imprisonment not to exceed 30 days.

- (2) In addition to the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporters fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Part 4 or the rules, regulations and permits issued hereunder.
  - (3) Users desiring to dispute such fines must file a written request for the city to reconsider the fine along with full payment of the fine amount within 30 days of being notified of the fine. Where a request has merit, the city may convene a hearing on the matter. In the event the user's appeal is successful, the payment shall be returned to the user. The city may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
  - (4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.
- N. Injunctive relief. When the city finds that a user has violated, or continues to violate, any provision of this Part 4, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the city may petition the Clinton County Court of Common Pleas through the city's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, or other requirement imposed by this Part 4 on activities of the user. The city may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.
- O. Remedies nonexclusive. The remedies provided for in this Part 4 are not exclusive. The city may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city may take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant user.

### **§ 355-63. Supplemental enforcement action.**

- A. Enforcement response plan. The city shall develop an enforcement response plan to guide the pretreatment coordinator in the administration of the industrial pretreatment program. The enforcement response plan shall meet the requirements of 40 CFR § 403.8(f)(5) regarding the contents of enforcement response plans. The pretreatment coordinator shall be guided by the enforcement response plan when reviewing industrial user reports, inspection results and other compliance information, and when recommending to the city enforcement action in response to noncompliance.
- B. Payment of outstanding fees and penalties. The city may decline to issue or reissue an individual wastewater discharge permit to any user who has failed to pay any outstanding

fees, fines or penalties incurred as a result of any provision of this Part 4, a previous individual wastewater discharge permit, or order issued hereunder.

- C. Water supply severance. Whenever a user has violated or continues to violate any provision of this Part 4, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will recommence, at the user's expense, only after the user has satisfactorily demonstrated its ability to comply.
- D. Affirmative defenses to discharge violations.
- (1) Upset.
- (a) For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of Subsection D(1)(c), below, are met.
- (c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
- [1] An upset occurred and the user can identify the cause(s) of the upset;
- [2] The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- [3] The user has submitted the following information to the city within 24 hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five days]:
- [a] A description of the indirect discharge and cause of noncompliance;
- [b] The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
- [c] Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

- (f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.
- (2) Prohibited discharge standards.
  - (a) A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 355-57A of this Part 4 or the specific prohibitions in § 355-57C(1)(a) through (s) of this Part 4 if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:
    - [1] A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass-through or interference; or
    - [2] No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.
  - (3) Bypass.
    - (a) For the purposes of this section,
      - [1] Bypass means the intentional diversion of waste streams from any portion of a user's treatment facility.
      - [2] Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
    - (b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of Subsection D(3)(c) and (d) of this section.
    - (c) Bypass notifications.
      - [1] If a user knows in advance of the need for a bypass, it shall submit prior notice to the city, at least 10 days before the date of the bypass, if possible.
      - [2] A user shall submit oral notice to the city of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided

within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The city may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

- (d) Bypass is prohibited, and the city may take an enforcement action against a user for a bypass, unless.
  - [1] Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - [2] There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - [3] The user submitted notices as required under Subsection D(3)(c) of this section.
- (e) The city may approve an anticipated bypass, after considering its adverse effects, if the city determines that it will meet the three conditions listed in Subsection D(3)(d) of this section.

**Chapter 369****SMOKE DETECTORS**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 5-1-1989 by Ord. No. 20 (Ch. 7, Part 1, of the 1989 Code of Ordinances). Amendments noted where applicable.]**

**§ 369-1. Definitions.**

For purposes of this article, the following words shall have the following meanings:

**MULTIPLE DWELLING** — Any building containing rental units. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**OWNER** — Any person who, alone, or jointly or severally with other persons, has legal title to any premises. This includes any person who has charge, care or control over any premises as:

- A. An agent, officer, fiduciary, or employee of the owners;
- B. The committee, conservator, or legal guardian of an owner who is incompetent, a minor or otherwise under a disability;
- C. A trustee, elected or appointed, or a person required by law to act as a trustee, other than a trustee under a deed of trust to secure the payment of money; or
- D. An executor, administrator, receiver, fiduciary, officer appointed by any court, attorney-in-fact, or other similar representative of the owner or his or her estate. This does not include a lessee, a sublessee or other person who merely has the right to occupy or possess a premises.

**RENTAL UNIT** — A structure, or portion thereof, or a building, or portion thereof, arranged for the use of one or more individuals living together as a housekeeping unit on a permanent, temporary or transient basis, which may or may not include sanitary facilities or facilities for preparation, storage or serving of food; and leased by an owner to an individual(s) for some period of time.

**SMOKE DETECTOR** — A device which detects visible or invisible particles of combustion, and is capable of providing a suitable audible alarm of at least 85 decibels at 10 feet, of either ionization or photo-electric type.

**§ 369-2. Smoke detectors required in dwelling units.**

In each individual apartment within buildings used as a multiple dwelling, there shall be provided by the owner of the real estate a minimum of one smoke detector sensing device, which has received Underwriters Laboratories approval.

**§ 369-3. Alarm requirements.**

Said smoke detector sensing device shall provide an alarm suitable to warn occupants within individual dwelling units in the event of fire.

**§ 369-4. Time of installation.**

The smoke detector sensing device shall be installed immediately, as outlined above, in all multiple dwellings within the Township of Porter.

**§ 369-5. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who shall violate any provisions of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

**Chapter 388****SOLID WASTE**

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

## ARTICLE I

**Waste Collection and Disposal**

[Adopted 9-2-1974 by Ord. No. 10; amended in its entirety 5-1-1989 by Ord. No. 20 (Ch. 20, Part 1, of the 1989 Code of Ordinances)]

**§ 388-1. Short title.**

This article shall be known and may be cited as the "Solid Waste Ordinance of Porter Township."

**§ 388-2. Definitions.**

For the purpose of this article, the following terms and words shall have the meaning given herein, unless the context clearly indicates otherwise; and words used in the present tense include the future tense, words in the plural number include the singular number, and, conversely, words in the singular number include the plural number:

**AUTHORITY** — The Clinton County Solid Waste Authority and its successors.

**COLLECTOR** — Any person the municipality may license or designate to collect municipal waste within the Municipality.

**COMMERCIAL ESTABLISHMENT** — Any establishment engaged in nonmanufacturing or nonprocessing business, including, but not limited to, stores, markets, office buildings, restaurants, shopping centers and theatres.

**DISPOSAL** — The incineration, disposition, injection, dumping, spilling, leaking, or placing of solid waste into or on land or water in a manner that the solid waste or a constituent of the solid waste enters the environment, is emitted into the air or is discharged to the waters of the commonwealth.

**DWELLING UNIT** — Any group of rooms located within a dwelling or building and forming a single, habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

**GARBAGE** — All animal and vegetable wastes attending to or resulting from the handling, dealing, storing, preparation, cooking and consumption of foods; and all refuse of animal or vegetable matter which has been used for, or was intended to be used for, food for human consumption, including excess fruits from trees other than from trees on farms or in orchards.

**HAZARDOUS or HAZARDOUS WASTE** — The meaning defined and described in the Pennsylvania's Solid Waste Management Act, Act No. 97, P.L. 380, approved July 7, 1980,<sup>34</sup> as heretofore and hereafter amended, or in any subsequent similar statutes, and the rules and regulations of the commonwealth heretofore and hereafter promulgated.

**INDUSTRIAL ESTABLISHMENT** — Any establishment engaged in manufacturing or processing, including but not limited to, factories, foundries, mills, processing plants, refineries, mines and slaughterhouses.

**MUNICIPAL WASTE** — Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material resulting from operation of residential, municipal, commercial or institutional establishments or from community activities, and any sludge not meeting the definitions of "residual waste" or

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34. Editor's Note: See 35 P.S. § 6018.101 et seq.

"hazardous waste" hereunder from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant, or air pollution control facility.

**MUNICIPALITY** — Porter Township, a second class Township, organized and existing under the laws of the Commonwealth of Pennsylvania and located in the County of Clinton in said commonwealth, and its successors.

**OCCUPANT** — The person generally in possession and control of any dwelling unit or premises.

**PERSON** — Includes every natural person, firm, partnership, association, corporation, joint-stock company, trust, unincorporated organization, municipal authority or similar body, municipality, government or political subdivision thereof or organization of any kind; and with respect to any fine or imprisonment hereunder, the term "person" shall include the officers and directors of any corporation or legal entity having officers and directors, in accordance with the culpability provisions of the Pennsylvania Crimes Code.<sup>35</sup>

**PREMISES** — Any improved real property subject to the terms of this article.

**PROCESSING** — Any technology used for the purpose of reducing the volume of municipal waste or residual waste or any technology used to convert part or all of such waste materials for off-site reuse. Processing facilities include, but are not limited to, transfer facilities, composting facilities, and resource recovery facilities.

**REFUSE** — The collective term applying to all garbage, rubbish, ashes, leaves, grass trimmings and ruffraff from residential, municipal, commercial or institutional premises of the municipality.

**RESIDENTIAL PROPERTY** — Any property or parcel of land on which there is a place of residence for one or more persons, such as single-family dwelling units in buildings which have other uses such as retail stores, and all other such places occupied and used by persons as a dwelling unit.

**RESIDUAL WASTE** — Any garbage, refuse, other discarded material or other waste, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, mining or agricultural operations, and any sludge from an industrial, mining or agricultural water supply treatment facility, wastewater treatment facility or air pollution control facility, provided that it is not hazardous. The term "residual waste" shall not include coal refuse as defined in the Coal Refuse Disposal Control Act.<sup>36</sup> "Residual waste" shall not include treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to the Clean Streams Law.<sup>37</sup>

**SOLID WASTE** — Any municipal waste, including solid, liquid, semisolid or contained gaseous materials, but excluding residual waste and all hazardous wastes.

**STORAGE** — The containment of any municipal waste on a temporary basis in such a manner as not to constitute disposal of such waste, and it shall be presumed that the containment of any municipal waste in excess of one year constitutes disposal.

**TRANSPORTATION** — The off-site removal of any municipal solid waste generated or present at any time within the municipality.

**TREATMENT** — Any method, technique, or process, including neutralization, designed to

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35. Editor's Note: See 18 Pa.C.S.A. § 101 et seq.

36. Editor's Note: See 52 P.S. § 30.51 et seq.

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

change the physical, chemical, or biological character or composition of any municipal waste so as to neutralize such waste or so as to render such waste safer for transport, suitable for recovery, suitable for storage, or reduced in volume. Such item includes any activity or processing designed to change the physical form or chemical composition of waste so as to render it neutral or nonhazardous.

**§ 388-3. Storage of municipal waste.**

A. General. It shall be the duty of every owner of property and every person occupying any dwelling unit, premises or place of business within the municipality where municipal waste is produced and is accumulated, by his own expense and cost:

- (1) To provide and keep at all times at such dwelling unit, premises or place of business a sufficient number of containers to hold all municipal wastes which may accumulate at such dwelling unit, premises or place of business during the intervals herein prescribed between collection of such municipal waste by the collector.
- (2) To keep and maintain all containers for the storage of municipal wastes in good and sanitary condition and to replace any such containers which may have defects.
- (3) To deposit daily all municipal wastes which may be produced or accumulated at such dwelling unit, premises or place of business in a proper container therefor as herein provided.
- (4) To drain the garbage of all liquids and to wrap such garbage in paper or similar material before depositing the same in any such container.
- (5) To keep all such containers for the storing of municipal wastes securely covered to prevent any of the contents from being scattered about and to prevent the propagation of rats, flies and other insects and vermin.

B. Storage on residential properties:

- (1) Containers. All municipal waste accumulated by owners of each property and/or the occupants of dwelling units, premises or places of business shall be placed in containers for collection by the collector. The containers shall be obtained by such owners and/or occupants, at their own expense, and shall be durable, watertight, and made of rust-resistant galvanized metal or heavy plastic with a tight-fitting lid and two handles. The size of each such container shall not exceed a thirty-gallon capacity. Upon notification from the municipality, unsatisfactory containers shall be replaced promptly by such owner and/or occupant at his own expense.
- (2) Location of containers. Each municipal waste container with respect to a residential property shall be located in a location accessible to the collector at ground level near the rear door of the residential building. The exact location shall facilitate removal of the contents of the container by the collector. The access to such location shall be kept clear of snow, ice and other obstructions which may interfere with reasonable access to and the collection of the containers by the collector. The collector shall be required to make collections from such a location, but the collector shall not be required to collect from any location at the second floor, basement, from inside the garage or other similar location. Such property owner or occupant shall securely close the top of the containers in such a manner as to prevent the contents of the container from

spilling out prior to the time scheduled for collection of the container, but not so as to prevent the removal of the contents of the containers upon the collection thereof by the collector. The collector will remove the contents from the containers to the extent practicable in a manner to prevent the contents from being spilled upon such property, dwelling unit, premises or place of business and shall thereupon remove such collected municipal waste from such property, dwelling unit, premises or place of business.

C. Storage on commercial, institutional and industrial properties.

(1) Storage of municipal waste on commercial, institutional and industrial properties shall be done in the same type of containers as are required for residential properties except where the accumulation for each commercial, institutional or industrial property is in excess of an amount that can be stored in three such containers for a period of one calendar week, in which case such owner or occupant of the commercial, institutional or industrial property shall make special arrangements with the collector for the storing of such additional quantities. Such special arrangements shall include the following:

- (a) The type of special bulk container to be furnished by the collector and as may be approved by the municipality;
- (b) The number of such containers as shall be agreed to between the collector and such owner or occupant of the commercial, institutional or industrial property to be used in any collection period;
- (c) The number of collection periods more frequent than weekly to be provided, which schedule of collections shall be approved by the municipality; and
- (d) The cost for providing any such special container and the extra collection service, as agreed upon by the collector and such owner or occupant of the commercial, institutional or industrial property; provided, however, such extra cost and such extra service shall not be unsatisfactory to the municipality and shall be contained in the written list of such charges or an amendment thereto as herein provided.

(2) Containers for collection at commercial, institutional and industrial properties shall be located on such premises at a place agreed upon by such owner or occupant of the commercial, institutional and industrial property and the collector and shall not be unsatisfactory to the municipality. Such location shall not interfere with public or private sidewalks, walkways, driveways, roads, streets, highways or entrance and exits of public or private buildings.

D. Storage on other or special premises. Storage of municipal waste on other or special premises shall be subject to the same provisions as provided for commercial, institutional and industrial properties in Subsection C of this § 388-3.

**§ 388-4. Collection and removal of municipal waste.**

A. Residential collections. Collections of municipal waste from residential properties shall be made by the collector not less than one time each calendar week.

- B. Industrial and manufacturing collections. Collections of municipal waste shall be made at least once each week from commercial and institutional properties and in accordance with the provisions of Subsection C of § 388-3 of this article.
- C. Commercial, industrial and institutional collections. Collection of municipal waste shall be made at least once each week from commercial, industrial, and institutional properties in accordance with the provisions of Subsection C of § 388-3 of this article.
- D. Collection from other or special premises. Collection of municipal waste from other or special premises provided for in Subsection D of § 388-3 of this article shall be arranged for between the owner and/or occupant of such other or special premises and the collector.

#### **§ 388-5. Prohibitions.**

- A. No person shall place or dispose of any municipal waste in or about any street, sidewalk, alley, roadway, highway or other public area or property in or upon any private property within the municipality, whether owned by such person or not, except in proper containers for collection as prescribed for in this article. No person shall throw or deposit any municipal waste in any river, stream or other body of water in the municipality.
- B. Any unauthorized accumulation of municipal waste on any premises within the municipality is hereby declared to be a nuisance and is prohibited.
- C. No person shall cast, place, sweep or deposit anywhere within the municipality any municipal waste in such manner that it may be carried or deposited by the elements, animals or persons upon any street, sidewalk, alley, roadway, highway or other public area of property, within the municipality.
- D. No person shall haul, transport or convey municipal waste in an open unenclosed vehicle in the municipality though prior written permission by the municipality may be given in the event of an emergency situation.
- E. No person shall ignite or feed an open fire for the destruction of municipal waste or in the conduct of a salvage operation in any public or private place in the municipality outside of any building, or cause, suffer, allow or permit the maintenance of any open fire for the destruction of municipal waste or in the conduct of a salvage operation on any property within the municipality under such person's control outside of any building. The only exception to this prohibition is that the burning of leaves, grass clippings, wood and wood products, shall be permitted within Porter Township only if:
  - (1) During daylight hours, with all flames and coals to be extinguished by dark;
  - (2) The fire is personally attended by the landowner, or other competent adult;
  - (3) The fire can be started and maintained in a manner that the fire or smoke therefrom does not constitute a nuisance or hazard to neighboring landowners;
  - (4) And such other regulations as the Porter Township Supervisors may adopt from time to time.<sup>38</sup>

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38. Editor's Note: Original Secs. 106, Collection and Disposal, 107, Conditions Relating to Licenses, and 108, Disposal Facilities for Licensees, of Ch. 20, Part I, of the 1989 Code of Ordinances, which immediately followed this section, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 388-6. Collection regulations.**

Except in case of emergency, as determined by the municipality, no collection, transportation, removal or disposal of municipal waste shall be permitted in the municipality before 7:00 a.m. and after 5:00 p.m., prevailing time, from Monday through Friday, both inclusive; and no collection, transportation, removal and disposal of municipal waste shall be permitted on Saturdays, Sundays or holidays of the municipality, except as may be approved by the municipality in emergency situations.

**§ 388-7. Rules and regulations.**

The municipality is hereby empowered to adopt, by resolution, such rules and regulations as it shall hereafter deem necessary and convenient for the administration of this article and which may concern and amplify all provisions of this article. A violation of such rules and regulations shall be subject to the same penalties as a violation of this article.

**§ 388-8. Exclusions.**

- A. Nothing contained herein shall be deemed to prohibit any person not regularly engaged in the business of hauling municipal waste for profit from hauling such municipal waste on an irregular and unscheduled basis to any facility permitted by the Commonwealth of Pennsylvania, Department of Environmental Protection.
- B. Nothing contained in this article shall prohibit a farmer from carrying out the normal activities of his farming operation, including composting and spreading of manure or other farm-produced agricultural wastes.

**§ 388-9. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who shall violate any provisions of this article shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not less than \$100 nor more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

**§ 388-10. Exceptions.**

No hazardous waste shall be stored, collected, transported, processed or disposed of under the terms of this article, nor is this article intended to apply to anything but the storage, collection, transportation, processing and disposal of municipal waste, including ashes, garbage, rubbish and other similar refuse materials.

**Chapter 400**

**STORMWATER MANAGEMENT**

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

**Part 1**  
**Fishing Creek/Cedar Run Watershed**  
**[Adopted 5-7-2007 By Ord. No. 53-5-2007]**

ARTICLE I  
**General Provisions**

**§ 400-1. Short title.**

This Part 1 shall be known and may be cited as the "Porter Township Fishing Creek/Cedar Run Watershed Stormwater Management Ordinance."

**§ 400-2. Findings.**

The governing body of the Municipality finds that:

- A. Inadequate management of accelerated runoff of stormwater resulting from development throughout a watershed increases flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of streams and storm sewers, greatly increases the cost of public facilities to carry and control stormwater, undermines floodplain management and flood control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases nonpoint source pollution of water resources.
- B. A comprehensive program of stormwater management, including reasonable regulation of development and activities causing accelerated runoff, is fundamental to the public health, safety and welfare and the protection of people of the commonwealth, their resources and the environment.
- C. Stormwater is an important water resource, which provides groundwater recharge for water supplies and base flow of streams, which also protects and maintains surface water quality.
- D. Federal and state regulations require certain municipalities to implement a program of stormwater controls. These municipalities are required to obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES).

**§ 400-3. Purpose.**

The purpose of this Part 1 is to promote health, safety, and welfare within the Municipality and its watershed by minimizing the harms and maximizing the benefits described in § 400-2 of this Part 1, through provisions designed to:

- A. Meet legal water quality requirements under state law, including regulations at 25 Pa. Code Chapter 93, to protect, maintain, reclaim and restore the existing and designated uses.
- B. Preserve the natural drainage systems as much as possible.
- C. Manage stormwater runoff close to the source.
- D. Provide the minimum procedures and performance standards for stormwater planning and management.

- E. Maintain groundwater recharge to prevent degradation of surface and groundwater quality and to otherwise protect water resources.
- F. Prevent scour and erosion of stream banks and streambeds.
- G. Provide proper operations and maintenance of all permanent SWM BMPs that are implemented within the municipality.
- H. Provide the minimum standards to meet NPDES permit requirements.

**§ 400-4. Statutory authority.**

- A. Primary authority. The municipality is empowered to regulate these activities by the authority of the Act of October 4, 1978, P.L. 864 (Act 167), 32 P.S. § 680.1 et seq., as amended, the "Storm Water Management Act" and the (appropriate municipal code).
- B. Secondary authority. The Municipality also is empowered to regulate land use activities that affect runoff by the authority of the Act of July 31, 1968, P.L. 805, No. 247, the Pennsylvania Municipalities Planning Code, as amended.<sup>39</sup>

**§ 400-5. Applicability.**

All regulated activities and all activities that may affect stormwater runoff are subject to regulation by this Part 1.

**§ 400-6. Repealer.**

Any other ordinance provision(s) or regulation of the municipality inconsistent with any of the provisions of this Part 1 is hereby repealed to the extent of the inconsistency only.

**§ 400-7. Severability.**

In the event that a court of competent jurisdiction declares any section or provision of this Part 1 invalid, such decision shall not affect the validity of any of the remaining provisions of this Part 1.

**§ 400-8. Effect on other provisions.**

Approvals issued and actions taken under this Part 1 do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other code, law, regulation or ordinance. In the event that other ordinances regulating stormwater management would be more restrictive than this Part 1, then the stormwater management provisions of the more restrictive ordinance shall apply.

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<sup>39</sup>. Editor's Note: See 53 P.S. § 10101 et seq.

ARTICLE II  
**Terminology**

**§ 400-9. Word usage.**

For the purposes of this Part 1, certain terms and words used herein shall be interpreted as follows:

- A. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender; and words of feminine gender include masculine gender.
- B. The word "includes" or "including" shall not limit the term to the specific example but is intended to extend its meaning to all other instances of like kind and character.
- C. The words "shall" and "must" are mandatory; the words "may" and "should" are permissive.
- D. The word "person" includes an individual, firm, association, organization, partnership, trust, company, corporation, or any other similar entity.
- E. The words "used or occupied" include the words "intended, designed, maintained, or arranged to be used or occupied."

**§ 400-10. Definitions.**

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

**AGRICULTURAL ACTIVITY** — The work of producing crops including tillage, land clearing, plowing, disking, harrowing, planting, harvesting crops, or pasturing and raising of livestock and installation of conservation measures. Construction of new buildings or impervious area is not considered an agricultural activity.

**APPLICANT** — A landowner, developer or other person who has filed an application for approval to engage in any regulated earth disturbance activity at a project site in the municipality.

**BMP (BEST MANAGEMENT PRACTICE)** — Activities, facilities, designs, measures or procedures used to manage stormwater impacts from regulated activities, to meet State Water Quality Requirements, to promote groundwater recharge and to otherwise meet the purposes of this Part 1. BMPs include but are not limited to infiltration, filter strips, low-impact design, bioretention, wet ponds, permeable paving, grassed swales, forested buffers, sand filters and detention basins. Structural SWM BMPs are permanent appurtenances to the project site.

**CONSERVATION DISTRICT** — A conservation district, as defined in Section 3(c) of the Conservation District Law [3 P.S. § 851(c)], which has the authority under a delegation agreement executed with the Department to administer and enforce all or a portion of the erosion and sediment control program in this commonwealth.

**DEP** — The Pennsylvania Department of Environmental Protection.

**DESIGN STORM** — The magnitude and temporal distribution of precipitation from a storm event measured in probability of occurrence (e.g., a five-year storm) and duration (e.g., 24 hours), used in the design and evaluation of stormwater management systems.

**DETENTION** — The volume of runoff that is captured and released into the waters of this

commonwealth at a controlled rate.

DEVELOPMENT SITE (SITE) — See "project site."

EARTH DISTURBANCE ACTIVITY — A construction or other human activity which disturbs the surface of the land, including but not limited to clearing and grubbing; grading; excavations; embankments; road maintenance; building construction; conversion of pervious surfaces to impervious surfaces; the moving, depositing, stockpiling, or storing of soil, rock, or earth materials; or any other action that causes any alteration or an alteration to the land surface.

EROSION — The natural process by which the surface of the land is worn away by water, wind or chemical action.

EXTENDED DETENTION VOLUME (EDV) — Release of detained runoff in excess of permanently removed volume (PRV) over an extended period of time of 24 to 72 hours.

FLOODPLAIN — Any land area susceptible to inundation by water from any natural source or delineated by applicable Federal Emergency Management Agency (FEMA) maps and studies as being a special flood hazard area. Also included are areas that comprise Group 13 Soils, as listed in Appendix A of the Pennsylvania Department of Environmental Protection (PADEP) Technical Manual for Sewage Enforcement Officers (as amended or replaced from time to time by PADEP).

FLOODWAY — The channel of the watercourse and those portions of the adjoining floodplains that is reasonably required to carry and discharge the 100-year flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the 100-year floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the stream to 50 feet from the top of the bank of the stream.

FOREST MANAGEMENT/TIMBER OPERATIONS — Planning and activities necessary for the management of forestland. These include timber inventory and preparation of forest management plans, silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, site preparation and reforestation.

HYDROLOGIC SOIL GROUP (HSG) — Infiltration rates of soils vary widely and are affected by subsurface permeability as well as surface intake rates. Soils are classified into four HSGs (A, B, C, and D) according to their minimum infiltration rate, which is obtained for bare soil after prolonged wetting. The Natural Resources Conservation Service (NRCS) of the U.S. Department of Agriculture defines the four groups and provides a list of most of the soils in the United States and their group classification. The soils in the area of the development site may be identified from a soil survey report that can be obtained from local NRCS offices or conservation district offices. Soils become less pervious as the HSG varies from A to D.

IMPERVIOUS SURFACE (IMPERVIOUS AREA) — A surface that prevents the infiltration of water into the ground. Impervious surfaces (or covers) shall include, but not be limited to, roofs, additional indoor living spaces, patios, garages, storage sheds and similar structures, and any new streets or sidewalks, decks, parking areas, and driveway areas.

KARST — A type of topography or landscape characterized by surface depressions, sinkholes, rock pinnacles/uneven bedrock surface, underground drainage and caves. Karst is formed on carbonate rocks, such as limestone or dolomite.

LAND DEVELOPMENT (DEVELOPMENT) — Inclusive of any or all of the following meanings:

- A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
- (1) A group of two or more buildings; or
  - (2) The division or allocation of land or space between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups, or other features.
- B. Any subdivision of land;
- C. Development in accordance with Section 503(1.1) of the PA Municipalities Planning Code.<sup>40</sup>

MUNICIPALITY — Porter Township, Clinton County, Pennsylvania.

NRCS — Natural Resources Conservation Service (previously SCS).

PENNDOT — Pennsylvania Department of Transportation.

PEAK DISCHARGE — The maximum rate of stormwater runoff from a specific storm event.

PERMANENTLY REMOVED VOLUME (PRV) — The volume of runoff that is permanently removed from the runoff and not released into surface waters of this commonwealth during or after a storm event.

PERVIOUS SURFACE (PERVIOUS AREA) — Ground surfaces that may be vegetated or unvegetated, and that are not covered with any type of impervious surface(s).

PROJECT SITE — The specific area of land where any regulated activities in the municipality are planned, conducted or maintained.

QUALIFIED PROFESSIONAL — Any person licensed by the Pennsylvania Department of State or otherwise qualified by law to perform the work required by the chapter.

REGULATED ACTIVITIES — All activities involving land development or earth disturbance activity.

RETENTION/REMOVED — The volume of runoff that is captured and not released directly into the surface waters of this commonwealth during or after a storm event.

RETURN PERIOD — The interval, in years, within which a storm event of a given magnitude can be expected, on average, to recur. For example, the twenty-five-year return period rainfall would be expected, on average, to recur every 25 years.

RUNOFF — Any part of precipitation that flows over the land.

SEDIMENT — Soils or other materials transported by surface water as a product of erosion.

STATE WATER QUALITY REQUIREMENTS — The regulatory requirements to protect, maintain, reclaim, and restore water quality under Pennsylvania Code Title 25 and the Clean Streams Law.<sup>41</sup>

STORMWATER — Drainage runoff from the surface of the land resulting from precipitation, snow, or ice melt.

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40. Editor's Note: See 53 P.S. § 10503(1.1).

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

**STORMWATER MANAGEMENT BMPs** — Is abbreviated as "SWM BMPs" throughout this Part 1.

**STORMWATER MANAGEMENT FACILITY** — Any structure, natural or man-made, that, due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater runoff. Typical stormwater management facilities include, but are not limited to, detention and retention basins, open channels, storm sewers, pipes, and infiltration structures.

**STORMWATER MANAGEMENT PLAN** — The plan for managing stormwater runoff adopted by the County of Clinton for the Fishing Creek/Cedar Run watershed as required by the Act of October 4, 1978, P.L. 864, (Act 167), as amended, and known as the "Storm Water Management Act."<sup>42</sup>

**STORMWATER MANAGEMENT SITE PLAN** — The plan prepared by the developer or his representative indicating how stormwater runoff will be managed at the project site in accordance with this Part 1. Stormwater management site plan will be designated as "SWM site plan" throughout this Part 1.

**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, transfer of ownership, or building or lot development.

**USACE** — United States Army Corps of Engineers.

**WATERS OF THIS COMMONWEALTH** — Rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs and other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this commonwealth.

**WATERSHED** — Region or area drained by a river, watercourse or other body of water, whether natural or artificial.

**WETLAND** — Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, fens, and similar areas.

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42. Editor's Note: See 32 P.S. § 680.1 et seq.

ARTICLE III  
**Stormwater Management Standards**

**§ 400-11. General requirements.**

- A. No regulated activities shall commence until the municipality approves a plan, which demonstrates compliance with the requirements of this Part 1.
- B. Plans approved by the municipality shall be on site throughout the duration of the regulated activity.
- C. The municipality may, after consultation with DEP, approve alternative methods for meeting the state water quality requirements other than those in this Part 1, provided that they meet the minimum requirements of, and do not conflict with, State law including but not limited to the Clean Streams Law.<sup>43</sup>
- D. For all regulated activities equal to or greater than 1,000 square feet in area, implementation of peak rate controls and preparation of a SWM site plan are required, unless exempted by § 400-12 of this Part 1. Please note that a pre-design conference shall be required to discuss the design and implementation of peak rate controls, and the preparation of a SWM site plan, unless waived by the Township Engineer. Also note that both the applicant and the qualified professional must attend this pre-design conference. The qualified professional will be provided with a copy of the municipality's applicable stormwater management design manual at this pre-design conference.
- E. Impervious areas.
  - (1) The measurement of impervious areas shall include the all of the imperious areas in the total proposed development even if development is to take place in stages.
  - (2) For development taking place in stages, the entire development plan must be used in determining conformance with this Part 1.
  - (3) For projects that add impervious area to a parcel, the total impervious area on the parcel is subject to the requirements of this Part 1.
- F. Discharges onto adjacent property. Permission of the adjoining property owner(s) shall be required when a SWM plan proposes a concentrated discharge where none currently exists. In addition, permission of the downstream property owner(s) may be required by the Township if, in the opinion of the Township Engineer, the downstream property owner(s) are being significantly impacted by the proposed SWM plan.
- G. All regulated activities shall include such measures as necessary to:
  - (1) Protect health, safety, and property;
  - (2) Meet state water quality requirements as defined in Article II;
  - (3) Meet the water quality goals of this Part 1 by implementing measures to:
    - (a) Minimize disturbance to floodplains, wetlands, natural slopes over 15%, and existing native vegetation.

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

- (b) Preserve and maintain trees and woodlands. Maintain or extend riparian buffers and protect existing forested buffer. Provide trees and woodlands adjacent to impervious areas whenever feasible.
  - (c) Establish and maintain nonerosive flow conditions in natural flow pathways.
  - (d) Minimize soil disturbance and soil compaction. Cover disturbed areas with topsoil having a minimum depth of four inches. Use tracked equipment for grading when feasible.
  - (e) Disconnect impervious surfaces by directing runoff to pervious areas.
- (4) Incorporate the techniques described in Appendix A of this Part 1 (Low-Impact Development Practices)<sup>44</sup> whenever practical.
- H. The design of all facilities over Karst shall include an evaluation of measures to minimize adverse effects.
- I. The design storm volumes to be used in the analysis of peak rates of discharge should be obtained from the Precipitation-Frequency Atlas of the United States, Atlas 14, Volume 2, U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Weather Service, Hydrometeorological Design Studies Center, Silver Spring, Maryland, 20910. NOAA's Atlas 14 can be accessed at Internet address: <http://hdsc.nws.noaa.gov/hdsc/pfds/>.
- J. All project sites shall be evaluated for the presence of wetlands. If wetlands are present, then the applicant shall obtain a jurisdictional determination from the USACE.

#### § 400-12. Exemptions.

- A. Regulated activities that create less than 1,000 square feet of new impervious area and that meet the area of influence (AOI) requirements shown in Table 1A are exempt from the peak rate control and the SWM site plan preparation requirement of this Part 1.
- B. Regulated activities that create less than 1,000 square feet of new impervious area and that meet the area of influence (AOI) requirements shown in Table 1B are exempt from the rate control requirements of this Part 1.
- C. Use the Guidelines in Appendix D<sup>45</sup> to determine the area of influence (AOI), in acres, and the total impervious area (TIA), in square feet, to determine if an exemption is applicable for regulated activities less than 1,000 square feet.
- D. After the date of this Part 1 adoption, if a subdivision, land development plan, or any plan for a regulated activity is submitted that addresses peak rate control and includes a SWM site plan, then the impervious exemption is calculated from the date of approval of that plan, based upon the impervious area shown on the subdivision and land development plan.
- E. Agricultural plowing and tilling are exempt from the rate control and SWM site plan preparation requirements of this Part 1 provided the activities are performed according to the requirements of 25 Pa. Code Chapter 102.

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44. Editor's Note: Appendix A is included as an attachment to this chapter.

45. Editor's Note: Appendix D is included as an attachment to this chapter.

- F. Exemptions from any provisions of this Part 1 shall not relieve the applicant from the requirements in § 400-11F, G, H, and J.

TABLE 1A SWM exemptions from Peak Rate Controls and SWM Site Plan preparation for Area of Influence (AOI) less than 3 acres	
Area of Influence (AOI) (acres)	Total Impervious Area (TIA) Exempt from Peak Rate Controls and from SWM Site Plan Preparation (square feet)
<0.125 acre	1,000
0.2	1400
0.3	1900
0.4	2300
0.5	2700
0.6	3100
0.7	3500
0.8	3900
0.9	4200
1.0	4600
1.1	4900
1.2	5200
1.3	5500
1.4	5900
1.5	6200
1.6	6500
1.7	6800
1.8	7100
1.9	7300
2.0	7600
2.1	7900
2.2	8200
2.3	8400
2.4	8700
2.5	9000
2.6	9200

TABLE 1A SWM exemptions from Peak Rate Controls and SWM Site Plan preparation for Area of Influence (AOI) less than 3 acres	
Area of Influence (AOI) (acres)	Total Impervious Area (TIA) Exempt from Peak Rate Controls and from SWM Site Plan Preparation (square feet)
2.7	9500
2.8	9800
2.9	10000

TABLE 1B SWM exemptions from peak rate controls (ONLY) for Area of Influence (AOI) 3.0 acres and greater	
Area of Influence (AOI) (acres)	Total Impervious Area (TIA) Exempt from Peak Rate Controls ONLY (square feet)
3	10300
3.1	10500
3.2	10800
3.3	11000
3.4	11300
3.5	11500
3.6	11700
3.7	12000
3.8	12200
3.9	12500
4	12700
4.1	12900
4.2	13200
4.3	13400
4.4	13600
4.5	13800
4.6	14100
4.7	14300
4.8	14500
4.9	14700

TABLE 1B SWM exemptions from peak rate controls (ONLY) for Area of Influence (AOI) 3.0 acres and greater	
Area of Influence (AOI) (acres)	Total Impervious Area (TIA) Exempt from Peak Rate Controls ONLY (square feet)
5	15000
>5	15000

NOTES: The area of influence (AOI) in acres and the total impervious area (TIA) in square feet are calculated using the guidelines provided in Appendix D.

### § 400-13. Water quality.

- A. Water quality control shall be implemented using the following methodologies:
- (1) The Simplified Method, as detailed below, is independent of site conditions.
    - (a) Retention and detention facilities shall be sized to capture the first two inches of runoff from all impervious surfaces.
    - (b) The first one inch of runoff shall be permanently removed and shall not be released into the surface waters of this commonwealth. This is the permanently removed volume (PRV). Removal options include reuse, evaporation, transpiration, and infiltration. A list of the site conditions and BMPs generally suitable for infiltration is provided in Appendix B.
    - (c) The subsequent one inch of runoff shall be detained. This is the extended detention volume (EDV).
    - (d) Infiltration of the first 0.5 inch of the PRV is encouraged. This portion of the PRV is the groundwater recharge volume (GRV). A list of the site conditions and BMPs generally suitable for infiltration is provided in Appendix B.
    - (e) The permanently removed volume (PRV) requirement for land areas with existing cover consisting of meadow, brush, wood-grass combination, or woods proposed for conversion to any other nonequivalent type of pervious cover shall be 1/4 inch of runoff.
    - (f) Retention and detention facilities should be designed to drain both the PRV and EDV completely within 48 to 96 hours from the start of the storm.
    - (g) Retention facilities should be designed to accommodate infiltration of the PRV. Infiltration areas should be spread out and located in the sections of the site that are most suitable for infiltration. A list of the site conditions and BMPs generally suitable for infiltration is provided in Appendix B.
  - (2) The Design Storm Method, as detailed below, requires technical modeling based on site conditions.

- (a) Do not increase the post-development total runoff volume for all storms equal to or less than the two-year, twenty-four-hour duration rainfall.
  - (b) Do not increase peak rate of runoff for one-, two-, ten-, twenty-five-, 100-year storms (at minimum), pre-development to post-development; as necessary, provide additional peak rate control for as required by Act 167 planning.
  - (c) Existing (predevelopment) nonforested pervious areas must be considered meadow or its equivalent.
  - (d) Twenty percent of existing impervious area, when present, shall be considered meadow in the model for existing conditions. Township may require up to 100% of the existing area be modeled as meadow for existing conditions for sites with known stormwater concerns.
- (3) In all cases, retention and detention facilities should be designed to completely drain water quality volumes (in the case of the Simplified Method, this includes both the PRV and EDV) over a period of time not less than 48 hours and not more than 96 hours from the start of the design storm.
- B. The Pennsylvania Stormwater Best Management Practices Manual provides guidance on selection and application of both water quality control methodologies.

#### **§ 400-14. Rate controls.**

- A. Areas not covered by a Release Rate Map from an approved Act 167 Stormwater Management Plan: Post-development discharge rates shall not exceed the predevelopment discharge rates for the one-, two-, ten-, twenty-five-, and 100-year storms. If it is shown that the peak rates of discharge indicated by the post-development analysis are less than or equal to the peak rates of discharge indicated by the predevelopment analysis for one-, two-, ten-, twenty-five-, and 100-year, twenty-four-hour storms, then the requirements of this section have been met. Otherwise, the applicant shall provide additional controls as necessary to satisfy the peak rate of discharge requirement.
- B. Areas covered by a Release Rate Map from an approved Act 167 Stormwater Management Plan: For the one-, two-, ten-, twenty-five-, and 100-year storms, the post-development discharge rates will follow the release rate maps in this Part 1. For any areas not shown on the release rate maps, the post-development discharge rates shall not exceed the predevelopment discharge rates.
- C. BMPs for rate controls. A list of BMPs for peak rate controls is provided in Appendix B, Item C.<sup>46</sup>

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46. Editor's Note: Appendix B is included as an attachment to this chapter.

ARTICLE IV  
**Stormwater Management (SWM) Site Plan Requirements**

**§ 400-15. Plan contents.**

The following items shall be included in the SWM site plan:

- A. Appropriate sections from the Municipal Subdivision and Land Development Ordinance<sup>47</sup> shall be followed in preparing the SWM site plans. In instances where the Municipality lacks Subdivision and Land Development regulations, the County Subdivision and Land Development Ordinance shall be followed.
- B. The SWM site plan shall provide the following supplemental information:
- (1) The overall stormwater management concept for the project.
  - (2) A determination of site conditions in accordance with Appendix B.<sup>48</sup> A detailed site evaluation shall be completed for projects proposed in karst topography.
  - (3) Stormwater runoff computations as specified in this Part 1.
  - (4) Expected project time schedule.
  - (5) An erosion and sediment pollution control plan, as prepared for and submitted to the approval authority. Proof of approval by the approval authority must be provided prior to execution of the qualified professional's signature block.
  - (6) The effect of the project (in terms of runoff volumes and peak flows) on adjacent properties and on any existing municipal stormwater collection system that may receive runoff from the project site.
  - (7) Plan and profile drawings of all SWM BMPs, including open channels and swales.
  - (8) SWM site plan shall show the locations of existing and proposed septic tank infiltration areas and wells.
  - (9) A permanent fifteen-foot-wide pathway for use by vehicles shall be provided around all SWM BMPs, such as ponds and infiltration structures. The pathways shall connect to a public thoroughfare.
  - (10) The following signature block for the municipality:  
  
" \_\_\_\_\_, on this date (date of signature), has reviewed this SWM Site Plan in accordance with the design standards and criteria of the applicable Municipal Ordinances."
  - (11) The following signature block for the qualified professional:  
  
" \_\_\_\_\_, on this date (date of signature), hereby certify that this SWM Site Plan was prepared in strict accordance with all of the design standards and criteria of all applicable Municipal Ordinances."

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47. Editor's Note: See Ch. 415, Subdivision and Land Development.

48. Editor's Note: Appendix B is included as an attachment to this chapter.

- (12) An NPDES permit (when required by DEP) as prepared for and submitted to the approval authority. Proof of approval by the approval authority must be provided prior to execution of the qualified professional's signature block.

**§ 400-16. Plan submission.**

- A. Five copies of the SWM site plan shall be submitted as follows:
  - (1) Two copies to the municipality.
  - (2) One copy to the Municipal Engineer (when applicable)
  - (3) One copy to the County Conservation District.
  - (4) One copy to the County Planning Commission/Office.
- B. Additional copies shall be submitted as requested by the municipality, DEP, or PennDOT.

**§ 400-17. Plan review.**

- A. The SWM site plan shall be reviewed by a qualified professional for the municipality for consistency with the provisions of this Part 1. After review, the qualified professional shall provide a written recommendation for the municipality to approve or disapprove the SWM site plan. If it is recommended to disapprove the SWM site plan, the qualified professional shall state the reasons for the disapproval in writing. The qualified professional also may recommend approval of the SWM site plan with conditions and, if so, shall provide the acceptable conditions for approval in writing. The SWM site plan review and recommendations shall be completed within the time allowed by the Municipalities Planning Code for reviewing subdivision plans.
- B. The municipality shall notify the applicant in writing within 45 calendar days whether the SWM site plan is approved or disapproved. If disapproved, the municipality shall cite the reasons for disapproval.
- C. The municipality's approval of a SWM site plan shall be valid for a period not to exceed five years. This five-year time period shall commence on the date that the municipality signs the approved SWM site plan. If stormwater management facilities included in the approved SWM site plan have not been constructed, or if an as-built survey of these facilities has not been approved within this five-year time period, then the municipality may consider the SWM site plan disapproved and may revoke any and all permits. SWM site plans that are considered disapproved by the municipality shall be resubmitted in accordance with § 400-19 of this Part 1.

**§ 400-18. Modification of plans.**

A modification to a submitted SWM site plan that involves a change in SWM BMPs or techniques, or that involves the relocation or redesign of SWM BMPs, or that is necessary because soil or other conditions are not as stated on the SWM site plan as determined by the municipality, shall require a resubmission of the modified SWM site plan in accordance with this article.

**§ 400-19. Resubmission of disapproved SWM site plans.**

A disapproved SWM site plan may be resubmitted, with the revisions addressing the municipality's concerns, to the municipality in accordance with this article. The applicable review fee must accompany a resubmission of a disapproved SWM site plan.

**§ 400-20. As-built surveys, completion certificate, and final inspection.**

- A. The developer shall be responsible for completing an "as-built survey" of all SWM BMPs included in the approved SWM site plan. The as-built survey and an explanation of any discrepancies with the design plans shall be submitted to the municipality.
- B. The submission shall include a certification of completion from an engineer, architect, surveyor or other qualified person verifying that all permanent SWM BMPs have been constructed according to the plans and specifications and approved revisions thereto.
- C. After receipt of the completion certification by the municipality, the municipality may conduct a final inspection.

ARTICLE V  
**Operation and Maintenance**

**§ 400-21. Responsibilities.**

- A. The municipality shall make the final determination on the continuing maintenance responsibilities prior to final approval of the SWM site plan. The municipality may require a dedication of such facilities as part of the requirements for approval of the SWM site plan. Such a requirement is not an indication that the municipality will accept the facilities. The municipality reserves the right to accept the ownership and operating responsibility for any or the entire stormwater management controls.
- B. Structural SWM BMPs shall be enumerated as permanent real estate appurtenances and recorded as deed restrictions.

**§ 400-22. Operation and maintenance agreements.**

The owner is responsible for operation and maintenance of the SWM BMPs, and for preparing an Operation and Maintenance Agreement in accordance with Appendix C.<sup>49</sup> If the owner fails to adhere to the Operation and Maintenance Agreement, the municipality may perform the services required and charge the owner appropriate fees. Nonpayment of fees may result in a lien against the property.

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**49. Editor's Note: Appendix C is included as an attachment to this chapter.**

ARTICLE VI  
**Fees and Expenses**

**§ 400-23. General.**

- A. The municipality may include all costs incurred in the review fee charged to an applicant.
- B. The review fee may include but not be limited to costs for the following:
  - (1) Administrative/clerical processing.
  - (2) Review of the SWM site plan.
  - (3) Attendance at meetings.
  - (4) Inspections.
  - (5) Engineering review costs.

ARTICLE VII  
**Prohibitions**

**§ 400-24. Prohibited discharges.**

- A. Any drain or conveyance, whether on the surface or subsurface, which allows any nonstormwater discharge, including sewage, process wastewater, and wash water to enter the waters of this commonwealth, is prohibited.
- B. Discharges, which may be allowed, if they do not significantly contribute to pollution to the waters of this commonwealth, are:
- (1) Discharges from firefighting activities.
  - (2) Potable water sources, including dechlorinated water line and fire hydrant flushings.
  - (3) Irrigation drainage.
  - (4) Air-conditioning condensate.
  - (5) Springs.
  - (6) Water from crawl space pumps.
  - (7) Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used.
  - (8) Flows from riparian habitats and wetlands.
  - (9) Uncontaminated water from foundations or from footing drains.
  - (10) Lawn watering.
  - (11) Dechlorinated swimming pool discharges.
  - (12) Uncontaminated groundwater.
  - (13) Water from individual residential car washing.
  - (14) Routine external building wash down (which does not use detergents or other compounds).
- C. In the event that the municipality or DEP determines that any of the discharges identified in § 400-24B, significantly contribute to pollution of the waters of this commonwealth, the municipality or DEP will notify the responsible person(s) to cease the discharge.

**§ 400-25. Roof drains.**

Roof drains and sump pumps shall discharge to infiltration or vegetative BMPs to the maximum extent practicable.

**§ 400-26. Alteration of BMPs.**

No person shall modify, remove, fill, landscape, or alter any SWM BMPs without the written

approval of the municipality.

ARTICLE VIII  
**Enforcement and Penalties**

**§ 400-27. Right of entry.**

As a condition of approval of an applicant's stormwater management site plan, and upon presentation of proper credentials, the applicant agrees that the municipality, and/or their agents, may enter upon any property within the municipality to inspect the condition of the stormwater structures and facilities in regard to any aspect regulated by this Part 1.

**§ 400-28. Inspection.**

SWM BMPs shall be inspected by the landowner/developer (including municipality for dedicated facilities) according to the following list of frequencies:

- A. Annually for the first five years.
- B. Once every three years thereafter.
- C. During or immediately after the cessation of any storm event.

**§ 400-29. Enforcement.**

- A. It shall be unlawful for a person to undertake any regulated activity except as provided in an approved SWM site plan.
- B. It shall be unlawful to alter, remove, or fail to implement any control structure required by the SWM site plan.
- C. Inspections regarding compliance with the SWM site plan are a responsibility of the municipality.

**§ 400-30. Suspension and revocation.**

- A. Any approval for a regulated activity may be suspended or revoked (in writing) by the municipality for:
  - (1) Noncompliance with, or failure to implement any provision of the approval, including as-built surveys and completion certificates.
  - (2) A violation of any provision of this Part 1 or any other applicable law, ordinance, rule or regulation relating to the regulated activity.
  - (3) The creation of any condition or the commission of any act during the regulated activity which constitutes or creates a hazard or nuisance, pollution, or which endangers the life or property of others.
- B. A suspended approval may be reinstated by the municipality when:
  - (1) The municipality has inspected and approved the corrections to the violations that caused the suspension.
  - (2) The municipality is satisfied that the violation has been corrected.

- C. An approval that has been revoked by the municipality cannot be reinstated. The applicant may apply for a new approval under the provisions of this Part 1.
- D. Prior to revocation or suspension of a permit, if there is no immediate danger to life, public health, or property, the municipality may notify the landowner/developer to discuss the noncompliance.

**§ 400-31. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who shall violate any provisions of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense. In addition, the Township may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this chapter. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

**§ 400-32. Appeals.**

- A. Any person aggrieved by any action of the municipality or its designee, relevant to the provisions of this Part 1, may appeal to the municipality within 30 days of that action.
- B. Any person aggrieved by any decision of the municipality, relevant to the provisions of this Part 1, may appeal to the County Court Of Common Pleas in the county where the activity has taken place within 30 days of the municipality's decision.

ARTICLE IX

**References**

**§ 400-33. Publications referenced.**

- A. Pennsylvania Department of Environmental Protection, 2005. Draft Pennsylvania Stormwater Best Management Practices Manual. Harrisburg, PA.

**Chapter 410**

**STREETS AND SIDEWALKS**

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

## ARTICLE I

**Excavations; Driveways****[Adopted 10-8-1973 by Ord. No. 7 (Ch. 21, Part 1, of the 1989 Code of Ordinances)]****§ 410-1. Permit for excavation of streets.**

- A. Any person, firm, association or corporation desiring to dig up or excavate any street, pavement, road or alley in the Township of Porter, for any purpose whatsoever, shall before doing so obtain a permit from the Zoning Officer, who shall keep a complete record of all such permits issued and shall make a monthly report thereof to the Supervisors together with fees collected. The fee for such permit shall be \$25.
- B. At the time of the issuance of such permit and prior to the commencement of work, the permittee shall make a cash deposit with the Township Secretary in the following amounts: \$7 per square yard of excavation on unimproved roads and \$15 per square yard on hard surface, concrete or macadam roads; which deposit shall be forfeited in the event that the permittee shall fail, upon written notice by the Township Secretary, to properly replace the excavated portion of said street, pavement, road or alley so as to return the surface to substantially the same condition as it was found, or in the event the permittee excavates state-maintained pavements, in accordance with the standards of the Pennsylvania Department of Transportation.
- C. There shall be no refund of any cash deposit until after the expiration of two years from the completion of repairs and then only after the repairs have been approved by the Township Roadmaster.
- D. Upon failure of any person, firm, association or corporation to make proper repairs to any street, pavement, road or alley after five days' written notice to do so by the Township Secretary, the Township of Porter shall make the necessary repairs to said street, pavement, road or alley and shall deduct the cost thereof from the cash deposit made by the permittee.

**§ 410-2. Driveway permit.**

- A. No business or private driveway shall be constructed by any person, firm, association or corporation before first obtaining a permit from the Zoning Officer, who shall keep a complete record of all such permits issued and shall make a monthly report thereof to the Township Supervisors together with fees collected. The fee for such permit shall be \$10.
- B. No permit shall be issued unless the applicant provides satisfactory written plans for the construction of said driveway, which plans shall include the proper drainage of the proposed driveway and any adjacent land or drainage ditches.
- C. The construction of a driveway that does not conform to the written plans presented shall be considered a violation of this article and, upon the failure of any person, firm, association and corporation to conform to said written plans after five days' notice to do so by the Township Secretary, the Township of Porter shall make the necessary alterations and collect the cost of the same from the permittee.

**§ 410-3. Violations and penalties. [Amended 5-1-1989 by Ord. No. 20; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who shall violate any provisions of this article shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

## ARTICLE II

**Street Openings and Excavations****[Adopted 5-20-1974 by Ord. No. 9 (Ch. 21, Part 2, of the 1989 Code of Ordinances)]****§ 410-4. Permit required. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

In accordance with the provisions of 53 P.S. § 67322, as amended, no railroad or street railway shall hereafter be constructed upon any Township Road, nor shall any railroad or street railway crossings, nor any gas pipe, water pipe, electric conduits, or other piping, be laid upon or in, nor shall any telephone, telegraph, or electric light or power poles, or any coal tipples or any other obstructions be erected upon or in, any portion of a Township road except under such conditions, restrictions and regulations relating to the installation and maintenance thereof as may be prescribed in permits granted by the Township for such purpose.

**§ 410-5. Application for permit. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The application for a permit shall be on a form prescribed by the Township and submitted to the Township in duplicate. The application shall be accompanied by a fee in accordance with the schedule of fees set forth by the Department of Transportation for processing the application and another fee for making the inspection. Each application shall be accompanied by both fees. In addition, the applicant shall submit two copies of a sketch showing such dimensions as the location of the intended facility, width of the traveled roadway, right-of-way lines and a dimension to the nearest intersecting street.

**§ 410-6. Issuance of permit.**

A permit shall be issued to the applicant after all the aforementioned requirements have been filed.

**§ 410-7. Notice of work completion.**

Upon completion of the work, the applicant shall give written notice thereof to the Township.

**§ 410-8. Inspection; correction of defects. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Upon completion of the work authorized by the permit, the Township shall inspect the work and, when necessary, enforce compliance with the conditions, restrictions and regulations prescribed by the permit. In addition to that inspection, the Board of Supervisors or its agents may reinspect the work not more than two years after its completion, and if any settlement of the road surface or other defect appears in the work contrary to the conditions, restrictions and regulations of the Township, the Board of Supervisors may enforce compliance therewith. Where any settlement or defect in the work occurs, if the applicant shall fail to rectify any such settlement or other defect within 60 days after written notice from the Township to do so, the Township may do the work and shall impose upon the applicant the cost thereof, together with an additional 20% of such cost, provided that defects which present imminent threats to public safety or health may be rectified with 48 hours.

**§ 410-9. Emergency work. [Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Nothing in this article shall be construed to require a permit in advance for emergency repairs necessary for the safety of the public or the restoration or continuance of public utility service or other public service, but application for the permit and the fees shall be submitted within five days after completion of the work, after which time the remaining provisions of this article apply.

**§ 410-10. Violations and penalties. [Amended 5-1-1989 by Ord. No. 20; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who shall violate any provisions of this article shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

**Chapter 415**

**SUBDIVISION AND LAND DEVELOPMENT**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 2-28-2005.**

**Amendments noted where applicable.]**

## ARTICLE I

**Short Title, Authority and Purpose****§ 415-1. Short title.**

This chapter shall be known and cited as the "Porter Township Subdivision and Land Development Ordinance of 2005" and is intended to serve as a comprehensive revision to the Porter Township Subdivision and Land Development Ordinance enacted in 1975, as amended May 1, 1989.

**§ 415-2. General legislative authority.**

- A. Section 501 of the PA Municipalities Planning Code (P.L. 1329, Act 170, as reenacted December 21, 1988, and as subsequently may be amended),<sup>50</sup> provides that the governing body of a municipality may regulate subdivisions and land development within that municipality by enacting a subdivision and land development ordinance.
- B. The Supervisors of Porter Township, Clinton County, PA, under the authority cited above, do hereby ordain that this chapter was enacted to regulate subdivisions and land developments occurring within the Township in order to promote and protect the health, safety, morals and general welfare of the residents of the municipality, and to implement the purposes outlined in § 415-5 herein.

**§ 415-3. Activities to be regulated.**

Activities to be governed by this Chapter 415, Subdivision and Land Development, shall be defined as follows:

- A. "Subdivision" is defined as the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, or parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.
- B. "Land development" is defined as 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:
    - (a) 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
    - (b) 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.

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50. Editor's Note: See 53 P.S. § 10501.

- (2) A subdivision of land.

**§ 415-4. Exemptions from requirements.**

- A. Where small portions of existing lots, tracts or parcels of land are being acquired by governmental units for use in road improvements, these divisions of land may be exempt from the requirements of this chapter.
- B. Where portions of existing lots, tracts or parcels of land are being acquired by utility companies or other public utility corporations for the placement or utility lines, the expansion of existing buildings, or the construction of new buildings, such divisions of land shall be exempt from the requirements of this chapter as per PUC regulations, state law, or federal law.
- C. Where a new deed is to be filed to correct an existing inaccurate parcel description, such revised deed shall be exempt from the requirements of this chapter, so long as the original inaccuracy was inadvertent and the correction does not significantly alter the legal descriptions of other properties in the vicinity.
- D. As established by Section 503(1.1) of the PA Municipalities Planning Code,<sup>51</sup> or as may hereafter be amended, the following activities shall be exempt from the land development requirements of this chapter:
- (1) The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into not more than three residential units, unless such units are intended to be a condominium;
  - (2) The addition of an accessory building, including farm buildings, on a lot(s) subordinate to an existing principal residential building or agricultural use; or
  - (3) The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For purposes of this subsection, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until plans for the expanded area have been approved by proper authorities.

**§ 415-5. Purpose.**

The Porter Township Board of Supervisors hereby cite the following as the specific purposes for which this chapter was enacted:

- A. To accomplish orderly, efficient, and harmonious development of the Township.
- B. To protect and promote the health, safety, and general welfare of the citizens of the Township.
- C. To ensure coordination of subdivision and land development proposals with municipal public improvement plans and programs.
- D. To secure the protection of soil and water resources and natural drainageways.

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51. Editor's Note: See 53 P.S. § 10503(1.1).

- E. To facilitate the safe and efficient movement of people and goods through the Township.
- F. To ensure equitable processing of all subdivision and land development plans by providing uniform standards and procedures.
- G. To encourage the utilization of flood hazard areas in a manner that will not increase the flood hazard.
- H. Ensure that the cost of design and installation of improvements in proposed subdivisions and land developments be borne by the developer rather than by preexisting Township residents.
- I. Promote the proper monumenting and accuracy of description of land subdivided and conveyed in the Township.

#### **§ 415-6. Applicability and jurisdiction.**

Any person, partnership or corporation intending to subdivide or develop property in Porter Township shall prepare plans in accordance with the standards contained in this chapter. Such plans and all required documentation shall be submitted to the Porter Township Planning Commission for review and to the Township Supervisors for approval or disapproval, as per the requirements of this chapter. The Supervisors shall consider all review comments and recommendations received prior to taking action on a proposed subdivision or land development. The Supervisors shall, however, have full authority to approve or disapprove all such plans or proposals.

#### **§ 415-7. Authority of County Planning Commission.**

- A. Copies of all subdivision and land development plans for proposals to be located within Porter Township shall be forwarded or delivered, upon receipt by the municipality, to the Clinton County Planning Commission for review and comment.
- B. The Supervisors shall not act on such proposal until receipt of the County's comments or until the expiration of 30 days from the date such proposal was forwarded or delivered to the County Planning Commission. [See also § 415-20B(2) of this chapter for additional procedural details of this process.]

#### **§ 415-8. Effect on other provisions.**

The provisions of this chapter shall be held to be minimum requirements to meet the purposes stated herein. Where the provisions of this chapter impose greater restrictions than those of any statute, other ordinance or regulation (i.e., state enabling statutes, local zoning or building codes, etc.), the provisions of this chapter shall prevail. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than those of this chapter, the provisions of such statute, ordinance or regulation shall prevail.

#### **§ 415-9. Applicability.**

No subdivision or land development of any lot, tract or parcel of land shall be made, no street, sanitary sewer, storm sewer, water main or other improvements in connection therewith shall be constructed, opened or dedicated for public use or travel, or for the common use of occupants of buildings abutting thereon, unless and until a final plat has been prepared in full compliance

with the provisions of this chapter and such has been finally approved and recorded as provided and required herein.

**§ 415-10. Disclaimer of municipal liability.**

The grant of approval of a subdivision or land development plan or of any improvement installed as a condition thereof, shall not constitute a representation, guarantee, or warranty of any kind by Porter Township nor by any official, employee or appointee thereof as to the practicability or safety of the proposed use, and shall create no liability upon the Township nor any of their officials, employees or appointees for any damage that may result pursuant thereto. The applicant shall in all cases rely on accepted engineering methods or building practices when designing a subdivision or land development or installing any required improvement. In addition, no such approval shall guarantee the accuracy of any survey or subdivision or land development plans prepared by a registered professional land surveyor, PA-licensed engineer or architect, as applicable.

ARTICLE II  
**Terminology**

**§ 415-11. Word usage.**

Unless the context requires otherwise, the following definitions shall be used in the interpretation of this chapter. In addition, the word "lot" includes the words "plot" and "parcel"; words in the present tense shall include the future; the singular shall include the plural and the plural the singular; the male gender shall include the female; the word "person" shall include a partnership or corporation, as well as an individual; and the term "shall" is mandatory, the word "may" permissive.

**§ 415-12. Definitions.**

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

**ABUT** — To physically touch or border upon; to share a common property line; or to be contiguous. The term "abut" implies a closer proximity than the term "adjacent."

**ACCESS DRIVE** — A means, other than a street, which provides vehicular access from a street to a lot or property; i.e., a driveway or private right-of-way.

**ACRE** — A measure of land area containing 43,560 square feet.

**AGENT** — Any person, other than the landowner, who, acting for the landowner, submits subdivision or land development plans to Porter Township for the purpose of obtaining approval thereof. (See also "developer.")

**AGRICULTURAL PURPOSES** — The use of land for the purpose of producing agricultural commodities, which shall include but not be limited to: growing grains, fruits, vegetables, nursery plants, Christmas trees, or timber; raising poultry or livestock; or producing agricultural commodities through greenhouse production. In some instances, the use of land for agricultural purposes may involve the construction of barns, silos, feed lots and/or farm-related accessory buildings.

**AGRICULTURE** — The use of land for agricultural purposes, including crop farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, aquaculture, forestry, and animal and poultry husbandry, and the accessory uses for packing, treating, and storage of produce; provided, however, that the operation of any such accessory use shall be secondary to that of the normal agricultural activities.

**APARTMENT BUILDING** — A dwelling structure containing three or more dwelling units, with or without separate outside access to each unit, excluding single-family attached dwelling structures as defined herein.

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

**APPLICATION** — The application form and all accompanying documentation required of an applicant by the requirements of this chapter for review and approval of a subdivision or land development proposal, whether preliminary or final in nature.

**AREA** — The surface included within a set of lines.

A. **AREA, LOT** — The area contained within the property lines of individual parcels of land shown on a subdivision or land development plan, excluding any area within a street right-

of-way, but including the area of any easement.

- B. AREA, SITE — The total area of a proposed subdivision or land development, regardless of interior lot lines or proposed lots, streets or easements.

BERM — See "shoulder."

BEST MANAGEMENT PRACTICES — For the purposes of this chapter, best management practices (BMPs) shall be defined as the best accepted technologies available to manage stormwater runoff, including traditional and nontraditional approaches.

BLOCK — An unit of land bounded by streets or a combination of streets and public land, rights-of-way, waterways or other barrier to the continuity of development, which area is normally somewhat square or rectangular in shape.

BUFFER YARD — Land area, either landscaped or planted, used to visibly separate one use from another or to shield or block noise, light, or other potential nuisance.

BUILDING — A structure, or part thereof, having walls and a roof which is used or intended to be used for the housing or enclosure of persons, animals or property. Included shall be all mobile or manufactured homes and trailers to be used for human habitation.

- A. BUILDING, ACCESSORY — A detached, subordinate building located on the same lot as the principal building, serving a purpose customarily incidental to the use of the principal building.
- B. BUILDING, PRINCIPAL — The main structure on a given lot, in which the primary use of the site is conducted.
- C. BUILDING, TEMPORARY — A building erected or placed for a fixed period of time or for the duration of a specific activity, where such building is removed at the end of that period or conclusion of the specified activity.

BUILDING SETBACK LINE — The line established by the required minimum front yard setback from the street right-of-way or front lot line to any buildings or structures. The building setback line shall be the point at which minimum lot width shall be measured.

CAMPGROUND — A tract or tracts of land, or any portion thereof, used or intended to be used for the purpose of providing two or more spaces for recreational vehicles or tents for camping purposes, regardless of whether a fee is charged for the leasing, renting or occupancy of such space. The term "campground" shall also include recreational vehicle parks.

CARTWAY — The surface of a street or alley available for vehicular traffic, including traveled lanes and on-street parking spaces, but excluding shoulders, curbs, sidewalks or drainage swales.

CENTER LINE — A line located exactly in the center of the width of the cartway, right-of-way, easement, access, road, or street.

CHAIRMAN — The Chairman of the Porter Township Supervisors or Township Planning Commission, as indicated.

CLEAR SIGHT TRIANGLE — An area of unobstructed vision at street or driveway intersections defined by lines of sight between points at a given distance from the intersection of the street center lines.

COMMISSION OR PLANNING COMMISSION — The Porter Township Planning Commission, unless specified otherwise.

**CONDOMINIUM** — A building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

**CONSERVATION DISTRICT** — The Clinton County Conservation District.

**CONTOUR** — A line that connects the points on a land surface that have the same elevation.

**COUNTY** — Clinton County, PA, unless specified otherwise.

**CUL-DE-SAC** — See "street, cul-de-sac."

**CURB** — A barrier, either concrete or bituminous, marking the edge of a roadway or paved area of the cartway.

**CUT** — An excavation or material removed in excavation; also, the difference between a point on the original ground and a designated point of lower elevation on the final grade.

**DEDICATION** — The deliberate appropriation or donation of land or property by its owner for any general and public uses, reserving to himself no other rights than are compatible with the full exercise and enjoyment of the public uses to which the property has been designated. Acceptance of any such dedication by the Township is at the complete discretion of the Township Supervisors.

**DEED** — A legal document conveying ownership of real property.

**DEED RESTRICTION** — A restriction on the use of land set forth in the deed or instrument of conveyance. Said restriction usually runs with the title of the land and is binding upon subsequent owners of the property. It shall not be the responsibility of Porter Township to enforce deed restrictions, unless the restriction(s) resulted as a condition or stipulation of subdivision or land development approval.

**DENSITY** — The number of families, individuals, dwelling units, or housing structures permitted to be constructed or situated on a specific unit of land.

**DEP** — The PA Department of Environmental Protection.

**DETENTION BASIN** — A basin or pond designed to retard stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate.

**DEVELOPER** — Any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development. (See also "agent" and "subdivider.")

**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 mobile homes or manufactured housing; streets, or other paving; utilities; filling, grading, and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land. (See also "land development.")

**DISTURBANCE ACTIVITY** — Any activity that could effect earth resources, including the creation of impervious surfaces, earth disturbances (grading, filling, etc.), or timber harvesting.

**DRAINAGE AREA** — The entire region or area in which all of the surface and/or sub-surface runoff concentrates at a selected point or into a particular stream. (See also "watershed area.")

**DRAINAGE EASEMENT** — An easement required for the installation of stormwater management facilities or drainage swales, and/or required for the preservation or management of a natural stream or watercourse or other drainage facility.

**DRAINAGE FACILITY** — Any ditch, gutter, swale, pipe, culvert, storm sewer or other structure or facility designed, intended or constructed for the purpose of diverting surface waters from or carrying surface waters off streets, public rights-of-way, parks, recreation areas, or any part of any subdivision or land development. (See also "stormwater management facility.")

**DRAINAGEWAY** — Any natural or artificial watercourse, trench, ditch, swale or similar depression into which surface water flows.

**DRIVEWAY** — A minor vehicular accessway providing access between a public or private street and a parking area or garage within the lot or property.

**DROPPED CURB** — A section of curbing which is lowered to the street pavement level to permit access into a property or properties for vehicles or handicapped persons.

**DWELLING** — A building, structure, or other shelter designed for or occupied exclusively as the residence or sleeping place of one or more persons.

- A. **DWELLING, APARTMENT BUILDING** — See "apartment building."
- B. **DWELLING, MOBILE HOME** — See "mobile home."
- C. **DWELLING, MULTIFAMILY** — See "apartment building."
- D. **DWELLING, SINGLE-FAMILY ATTACHED** — See "townhouse" and "single-family attached dwelling structure."
- E. **DWELLING, SINGLE-FAMILY DETACHED** — See "single-family detached dwelling."
- F. **DWELLING, TOWNHOUSE** — See "townhouse."
- G. **DWELLING, TWO-FAMILY** — See "two-family dwelling."

**DWELLING UNIT** — One or more rooms in a dwelling structure designed for the use by one or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities. Recreational vehicles and facilities for transient lodging shall not be considered as dwelling units for the purpose of this chapter.

**EARTH DISTURBANCES** — See "disturbance activity."

**EARTH RESOURCES** — Any organic or physical component of the earth, either natural or man-made, including but not limited to air, soil, water, vegetation, wildlife, etc.

**EASEMENT** — A defined right of use or privilege granted for a limited use of land for a public or quasi-public purpose.

**ELEVATION** —

- A. A vertical distance above or below a fixed reference level; or
- B. A flat scale drawing of the front, rear or side of a building.

**ENGINEER** —

- A. A professional engineer licensed in the Commonwealth of Pennsylvania; or
- B. The professional engineer duly appointed as the engineer for Porter Township as determined appropriate on a case-by-case basis.

**EROSION** — The removal of surface materials by the action of natural elements.

**EROSION AND SEDIMENTATION CONTROL** — Temporary and permanent actions or measures taken to reduce erosion and sedimentation and to control stormwater runoff during and after development activities, generally carried out as part of a plan developed prior to the initiation of the earth moving activity. (See also "erosion and sedimentation control plan.")

**EROSION AND SEDIMENTATION CONTROL PLAN** — A plan that indicates necessary land treatment measures, including a schedule for installation, which will effectively minimize soil erosion and sedimentation.

**EXCAVATION** — Removal or recovery by means whatsoever of soil, rock, minerals mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

**FARM BUILDING** — A detached accessory structure, whether fully or partially enclosed, intended to provide housing, shelter, enclosure or support for animals, farm equipment, farm supplies or produce, grain, feed, etc. Such building shall be incidental and accessory to the type of farming activities conducted upon the property containing the building or on other properties owned or leased by the same farmer, and shall not be used for residential purposes.

**FILL** —

- A. Any act by which earth, sand, gravel, rock or other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface and shall include the conditions resulting therefrom;
- B. The difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade; or
- C. The material used to make a fill.

**FINANCIAL SECURITY** — A bond, certified check, irrevocable letter of credit, special savings or escrow account, or other form of monetary guarantee satisfactory to the Township which is intended to ensure that the developer installs all improvements required as a condition of final subdivision or land development plan approval or which is intended to guarantee the structural integrity of completed improvements. (See also "improvement guarantee.")

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

- A. **FLOOD, 100-YEAR** — A flood that, on the average, is likely to occur once every 100 years, i.e., that has a 1% chance of occurring in any given year; for the purposes of this chapter, the "regulatory flood."
- B. **FLOOD, REGULATORY** — The flood that has been selected to serve as the basis upon which the floodplain management provisions of this chapter have been based; the 100-year flood.

**FLOOD FRINGE** — That portion of the 100-year floodplain outside the floodway, excluding areas shown as approximate 100-year flood zones on the Township's Flood Boundary and Floodway Maps.

**FLOODPLAIN** —

- A. A relatively flat or low land area adjoining a stream, river, or watercourse, which is subject to partial or complete inundation; or
- B. Any area subject to the unusual and rapid accumulation or runoff of surface waters from

any source. The boundary of this area shall coincide with the boundary of the 100-year flood.

**FLOODPROOFING** — Any combination of structural and nonstructural modifications or other changes or adjustments to buildings or their contents, undertaken to reduce or eliminate flood damage.

**FLOODWAY** — The designated area of a floodplain required to carry and discharge the flood waters of a 100-year flood.

**FULL-TIME RESIDENTIAL OCCUPANCY** — For the purposes of this chapter, full-time residential occupancy shall be defined as the continuous use of a lot or parcel for residential purposes. In general, uninterrupted occupancy of a lot or parcel for a period of more than one month at any given time during a year shall be considered continuous use of the lot or parcel. (See also "intermittent recreational use.")

**GENERAL FLOODPLAIN** — That portion of the floodplain for which no specific flood profiles exist and which is designated as approximated 100-year floodplain area on the Township's Flood Boundary and Floodway Maps.

**GOVERNING BODY** — The Board of Supervisors of Porter Township; the elected officials.

**GRADE** — The degree of rise or descent of a sloping surface.

- A. **GRADE, STREET** — The elevation of the center line of an existing or proposed street; the percentage of slope.
- B. **GRADE, FINISHED** — The final elevation of the ground surface after development.

**IDENTIFIED FLOODPLAIN AREA** — The floodplain area specifically identified in Chapter 490, Zoning, as being inundated by the 100-year flood, including areas identified as floodway, flood fringe and general floodplain.

**IMPERVIOUS SURFACE** —

- A. Any surface which reduces or prevents absorption of stormwater into previously undeveloped land;
- B. The percentage of a lot that does not absorb precipitation.

**IMPROVEMENT AGREEMENT** — A formal agreement executed by the developer and the Porter Township Supervisors guaranteeing that the developer will install all improvements required as a condition of final approval of his subdivision or land development plans, and including financial security in an amount and form acceptable to the Township. (See § 415-25.)

**IMPROVEMENT GUARANTEE** — Financial security filed by a developer with the Porter Township Supervisors in an amount and form acceptable to the Township intended to guarantee the installation of any improvements required as a condition of final subdivision or land development plan approval. (See § 415-26.)

**IMPROVEMENTS** — Those physical additions, installations or changes made to the land which are necessary to produce usable and desirable lots, including but not limited to, streets, curbs, sidewalks, streetlights, water mains, sewer lines, fire hydrants, drainage and/or stormwater management facilities, bridges and culverts.

**INTERMITTENT RECREATIONAL USE** — For the purposes of this chapter, intermittent recreational use shall be defined as the use of a lot or parcel for other than full-time occupancy,

for seasonal, leisure, or other recreational purposes. (See also "full-time residential occupancy.")

LAND DEVELOPMENT —

A. 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:
  - (a) 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;
  - (b) 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; or
- (2) A subdivision of land.

B. Provided, however, that the following activities shall be exempted from the definition of land development:

- (1) The conversion of an existing single-unit detached dwelling into not more than three residential units, unless such units are intended to be a condominium;
- (2) The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal residential building or agricultural use; and
- (3) The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this chapter, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the proper authorities.

LAND DEVELOPMENT, COMMERCIAL — The subdivision or development of a tract of land into lots or spaces which are designed or intended for commercial purposes, including but not limited to restaurants, shopping centers, motels, and other similar types of activities or services which generate revenue, whether or not for profit.

LAND DEVELOPMENT, INDUSTRIAL — The subdivision or development of a tract of land into lots or spaces which are designed or intended for industrial purposes, including but not limited to industrial parks, multitenant buildings, and other similar types of development.

LAND DEVELOPMENT, INSTITUTIONAL — The subdivision or development of a tract of land into lots or spaces which are designed or intended for institutional purposes, including but not limited to schools, hospitals, nursing or personal care homes, municipal buildings, or other similar types of development.

LAND DEVELOPMENT, RECREATIONAL — The subdivision or development of a tract of land into lots or spaces which are designed or intended for intermittent recreational purposes, including but not limited to campgrounds, vacation home developments, private or public parks or playgrounds, or other similar types of development.

**LAND DEVELOPMENT, RESIDENTIAL** — The subdivision or development of a tract of land into lots or dwelling units which are designed or intended for full-time residential occupancy, including but not limited to cluster developments, single-family attached and other multifamily dwellings or housing developments, or mobile home parks.

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

**LEASE** — A contract or agreement by which one conveys real estate for a specific term, for a specified rent.

**LEVELING AREA** — A safe stopping area at the intersection of streets or the intersection of a driveway and a street which is designed in accordance with the standards of this chapter.

**LOADING BERTH** — An off-street space, accessible from a street or alley, in a building or on a lot, designed or intended for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

**LOCATION MAP** — A map sketch or diagram included on a subdivision or land development plan showing the relation of the site to all road and highway systems and municipal boundaries in the area surrounding the proposed subdivision or development.

**LOT** — A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

- A. **LOT, ADD-ON** — A parcel of ground located immediately adjacent to other property owned by the intended grantee, that is being added to the grantee's existing lot of record. Said lots shall not be subject to the minimum area or soils testing requirements of this chapter provided that the grantee is willing to combine both parcels into one description in a new deed OR indicate therein that both parcels are to be considered as one for subdivision purposes. [See § 415-31B(6).]
- B. **LOT, AREA** — See "area."
- C. **LOT, CORNER** — A lot with two adjacent sides abutting on public or private streets, or upon two parts of the same street forming an interior angle of less than 135°.
- D. **LOT, DEPTH** — The average horizontal distance measured from the front lot line to the rear lot line.
- E. **LOT, DOUBLE FRONTAGE** — A lot which extends from one street along its front lot line to another street along its rear lot line, with frontage on both streets.
- F. **LOT, FRONTAGE** — The length of the front lot line measured at the street right-of-way line.
- G. **LOT, INTERIOR** — A lot other than a corner lot.
- H. **LOT, REVERSE FRONTAGE** — A double-frontage lot extending between and having frontage on an arterial or collector street and on a local street or alley, with vehicular access restricted to the latter, usually due to topographic constraints or safety considerations.
- I. **LOT, WIDTH** — The horizontal distance measured between the side lot lines at the

required building setback line; in the case where there is only one side lot line, between such lot line and the opposite lot line.

**LOT LINE** — The property lines bounding the lot.

- A. **LOT LINE, FRONT** — The line separating the lot from a street or street right-of-way; or where a lot has no road frontage, the line opposite the rear lot line.
- B. **LOT LINE, REAR** — The lot line opposite and most distant from the front lot line.
- C. **LOT LINE, SIDE** — Any lot line other than a front or rear lot line.

**LOT OF RECORD** — Any lot which individually or as a part of a subdivision has been recorded in the Office of the Recorder of Deeds of Clinton County, PA.

**MARKER** — An iron pipe or iron or steel bar set by a registered professional land surveyor to permanently mark the beginning and end of curves along property lines, angles in property lines, and lot corners. (See also "monument.")

**MEDIATION** — A voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

**MOBILE HOME** — A transportable, single-family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and is constructed so that it may be used without a permanent foundation. For floodplain management purposes, the term shall also include manufactured housing, and park trailers, travel trailers, recreational vehicles and other similar units which are placed on a site for a period of time exceeding 180 consecutive days.

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

**MOBILE HOME PAD** — The part of an individual mobile home lot which has been reserved for the placement of the mobile home, appurtenant structures and connections.

**MOBILE HOME PARK** — A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes. For floodplain management purposes, the term shall also include facilities for the placement of two or more manufactured homes, or park trailers, travel trailers, recreational vehicles, or other similar units for a period of time exceeding 180 consecutive days. (See Article VIII of this chapter for specific mobile home park regulations.)

**MODIFICATION** — See "waiver."

**MONUMENT** — For the purposes of this chapter, a monument shall be defined as a reinforced concrete or stone marking, or a concrete-filled cast-iron pipe, set by a registered professional land surveyor to permanently identify the intersection of major street right-of-way lines, the intersection of lines forming angles in the boundaries of the subdivision, or at other locations as determined appropriate by the Township. (See also § 415-41.)

**MULTIFAMILY DWELLING** — See "apartment building" or "townhouse."

**MULTIFAMILY DWELLING STRUCTURE** — See "apartment building" or "single-family

attached dwelling structure."

**MULTIFAMILY HOUSING DEVELOPMENT** — For the purposes of this chapter, a multifamily housing development shall be defined as a residential development containing more than one apartment building or single-family attached dwelling structure on the same tract of ground.

**MUNICIPALITY** — Porter Township, Clinton County, PA.

**OFF-STREET LOADING** — See "loading berth."

**OFF-STREET PARKING** — See "parking area" and "parking space."

**OPEN SPACE** — Space not occupied by a structure, open to the sky, and on the same lot with a building or structure.

- A. **OPEN SPACE, COMMON** — A specific area of land or water, or a combination of land and water within a development site, not individually owned or dedicated for public use, which is designed and intended for the principal use or enjoyment of the occupants of the development, not including streets, off-street parking areas, and land dedicated for public or community facilities or use.
- B. **OPEN SPACE, PUBLIC** — Any land area set aside, dedicated, designated or reserved for public enjoyment.

**PA DEP** — The Pennsylvania Department of Environmental Protection.

**PARCEL** — A lot, plot, or tract of land.

**PARKING AREA** — Any public or private land area designated and used for parking of vehicles including parking lots, garages, private driveways and legally designated areas of public streets.

**PARKING SPACE** — An off-street area on a lot or in a parking area, designed or intended to be used for the parking of one vehicle having direct, usable access to a street or road.

**PAVEMENT** — A subbase, base, or surface course placed on a subgrade to support traffic load.

**PEDESTRIAN WALKWAY** — A specified easement, walkway, path, sidewalk or other reservation which is designed and used exclusively by pedestrians.

**PENNDOT** — The Pennsylvania Department of Transportation.

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

**PLAN** — A map or plat of a subdivision or land development, whether sketch, preliminary or final. (See also "subdivision plan.")

- A. **PLAN, SKETCH** — An informal plan, not necessarily to exact scale, indicating salient existing features of a tract and its surroundings and the general layout of a proposed subdivision or land development.
- B. **PLAN, PRELIMINARY** — A general subdivision or land development plan indicating the approximate proposed layout of a subdivision or land development as a basis for consideration prior to preparation of the final plan.
- C. **PLAN, FINAL** — A complete and exact subdivision or land development plan prepared

for official approval and recording as required by statute.

**PLANNING COMMISSION** — The Porter Township Planning Commission, unless designated otherwise.

**PLAT** — The map or plan of a subdivision or land development, whether preliminary or final. (See also "plan.")

**PLOT** — A parcel of land that can be identified and referenced to a recorded plat or map.

**PRIVATE** — Something owned, operated and supported by private individuals or a private corporation, rather than a government.

**PUBLIC** — Something owned, operated and controlled by a government agency (federal, state or local), including a corporation created by law for the performance of certain specialized governmental functions.

**PUBLIC HEARING** — A formal meeting held pursuant to public notice by any of the Township Supervisors, Township Planning Commission, or Township Zoning Hearing Board, intended to inform and obtain public comment, prior to taking certain actions as required by the PA Municipalities Planning Code.<sup>52</sup>

**PUBLIC MEETING** — A forum held pursuant to notice under 65 Pa.C.S.A. Chapter 7 (relating to open meetings). [**Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)**]

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

**RECREATION AREA** — Undeveloped land within a subdivision or development which is set aside or reserved for recreational use in accordance with the requirements of this chapter. (See § 415-33.)

**RECREATIONAL VEHICLE** — A vehicle which is:

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

**RECREATIONAL VEHICLE PARK** — Any site upon which two or more recreational vehicles are, or are intended to be, located. (See also "campground.")

**REGULATORY FLOOD ELEVATION** — The 100-year flood elevation.

**RESIDENTIAL CLUSTER DEVELOPMENT** — A large-scale residential development in which individual dwelling units or buildings are grouped together rather than spread out on conventional lots. Modification or reduction of the minimum lot and yard requirements are permitted in exchange for an equivalent amount of land in open space to be preserved for scenic,

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

recreation, or conservation purposes. (See also § 415-45B.)

**RESIDUAL PROPERTY** — The lot or parcel created through subdivision which is the remaining portion of the parent tract. The residual property shall be considered as an integral part of the proposed subdivision and shall be required to meet the standards of this chapter, where determined appropriate or necessary by the Township Planning Commission or Supervisors.

**RETENTION BASIN** — A pond, pool or basin used for the permanent storage of stormwater runoff.

**RIGHT-OF-WAY** —

- A. A specific type of easement being limited to use for passage over another person's land; for example, an easement for vehicular passage or public utility passage; or
- B. A strip of land acquired by reservation, dedication, prescription, or condemnation which is occupied or intended to be occupied by a road, crosswalk, railroad, electric transmission line, oil or gas pipeline, water lines, sanitary sewer or storm sewer lines or other similar use.

**RUNOFF** — The surface water discharge or rate of discharge of a given watershed after a rainfall or snowfall that does not enter the soil but runs off the surface of the land.

**SANITARY SEWAGE** — Any liquid waste containing animal or vegetable matter in suspension or solution, or the water-carried waste resulting from the discharge of water closets, tubs, washing machines, sinks, dishwashers, or any other source of water-carried waste of human origin or containing putrescible material.

**SANITARY SEWER** — Pipes that carry only domestic, commercial or industrial sewage and into which storm, surface and ground waters are not intentionally admitted.

**SCREEN PLANTING** — A barrier to visibility, glare, and noise between adjacent properties made of plant materials such as trees or shrubs which shall be of such species that will produce the desired visual screen and be of such density as is necessary to achieve the intended purpose.

**SEDIMENT** — Deposited silt that is being or has been moved by water or ice, wind, gravity or other means of erosion.

**SEDIMENTATION** — The process by which mineral or organic matter is accumulated or deposited by moving wind, water or gravity.

**SERVICE OR AUXILIARY BUILDING** — A structure housing operational, office, recreational, maintenance and other facilities usually associated with a land development, i.e., a mobile home park or recreational complex.

**SETBACK** — The horizontal distance between a structure and a street line or property line. (See also "building setback line.")

**SEWAGE** — A substance that contains the waste products or other discharge from the bodies of human beings or animals and noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation, or which constitutes pollution under the Clean Streams Law.<sup>53</sup>

**SEWAGE FACILITY** — A system of sewage collection, conveyance, treatment and disposal which will prevent the discharge of untreated or inadequately treated sewage or other waste

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

into waters of the commonwealth or otherwise provide for the safe and sanitary treatment and disposal of sewage or other waste.

**SEWAGE SYSTEM, COMMUNITY** — A sewage facility, whether publicly or privately owned, for the collection of sewage from two or more lots, or two or more equivalent dwelling units and the treatment or disposal, or both, of the sewage on one or more of the lots or at another site.

- A. **SEWAGE SYSTEM, COMMUNITY ON-LOT** — A community sewage system which uses a system of piping, tanks or other facilities for collecting, treating and disposing of sewage into a subsurface soil absorption area or retaining tank.
- B. **SEWAGE SYSTEM, COMMUNITY SEWERAGE** — A community sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a subsurface absorption area, or retention in a retaining tank.

**SEWAGE SYSTEM, INDIVIDUAL** — A sewage facility, whether publicly or privately owned, located on a single lot and serving one equivalent dwelling unit and collecting, treating and disposing of sewage in whole or in part into the soil or into waters of the commonwealth or by means of conveyance of retaining tank wastes to another site for final disposal.

- A. **SEWAGE SYSTEM, INDIVIDUAL ON-LOT** — An individual sewage system which uses a system of piping, tanks or other facilities for collecting, treating and disposing of sewage into a subsurface absorption area or a retaining tank.
- B. **SEWAGE SYSTEM, INDIVIDUAL SEWERAGE** — An individual sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a subsurface absorption area, or retention in a retaining tank.

**SHOULDER** — That portion of the roadway which is adjacent to the cartway and is provided for lateral support of the pavement, emergency stopping, and a minimal amount of recovery area beyond the pavement edge.

**SIDEWALK** — A suitably surfaced and leveled area, paralleling but usually separated from the street, used as a pedestrian walkway.

**SIGHT DISTANCE** —

- A. The length of street, measured along the center line, which is continuously visible from any point four feet above the road surface;
- B. That area of unobstructed vision at street intersections formed by lines of sight between points which are a specified distance from the intersection of the street center lines; or
- C. The amount of distance required to be provided at a street or driveway intersection which is considered adequate for a driver to be able to see in order to proceed in a safe manner.

**SINGLE-FAMILY ATTACHED DWELLING STRUCTURE** — A residential dwelling structure which contains a minimum of three and a maximum of six townhouse units.

**SINGLE-FAMILY DETACHED DWELLING** — A dwelling structure containing one dwelling unit from ground to roof, having independent outside access and open space on all sides, including a mobile home as defined herein.

**SITE ALTERATION** — Any change or adjustment to the grade of an existing site, i.e., any earth-moving activity. Such alterations generally require the completion of a soil erosion and

sedimentation control plan.

SITE IMPROVEMENTS — See "improvements."

SITE PLAN — A plan for the development of a single tract of land, whether or not a subdivision is involved, which shows the existing and proposed conditions of the parcel including, but not limited to, topography, drainage, floodplains, wetlands, waterways, open spaces, walkways or pedestrian easements, means of ingress and egress, utility service line locations, landscaping, structures, lighting and screening devices and any other information that may reasonably be required in order that an informed decision can be made by the Township. Such plans are generally required in order to evaluate land development proposals, including multifamily residential, commercial, institutional, industrial, or recreational development submissions.

SLOPE —

- A. The face of an embankment or cut section;
- B. The degree of deviation of a surface from the horizontal, usually expressed in percent of degrees, i.e., a ratio determined by dividing the vertical difference between two points (change in elevation) by the horizontal distance measured between the same two points.

SOLID WASTE — Any waste, including but not limited to, municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous materials.

SPECIAL PERMIT — A special approval issued by the PA Department of Community and Economic Development<sup>54</sup> or local municipality in accordance with 25 Pa. Code Chapter 106 for specific types of development and obstructions which present a special hazard to the health and safety of the public or occupants, or may result in significant pollution, increased flood levels or flows, or debris endangering life on property, when such development or obstructions are located in all or a designated portion of a floodplain. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

SQUARE FOOTAGE — The unit of measure used to express the area of a lot, tract, or parcel involved in a subdivision or land development; the length of a lot, in feet, times the width of a lot, in feet.

STABILIZATION — Natural or mechanical treatment of a mass of soil or ground area to increase or maintain its stability or otherwise improve its engineering properties and resistance to erosion.

STORM SEWER — A conduit that collects and transports runoff.

STORMWATER MANAGEMENT FACILITY — Any structural or nonstructural device, or combination thereof, which is designed, constructed and maintained to manage or control stormwater runoff from a development site, including but not limited to drainage swales, easements, seepage pits, level lip spreaders, culverts, pipes, storm sewers, detention or retention basins, ponds and other similar facilities.

STORMWATER MANAGEMENT PLAN — A plan for managing the stormwater runoff from a proposed subdivision or land development, including data and calculations, prepared by the developer in accordance with the standards of this chapter or any applicable municipal or watershed stormwater management ordinance.

STREET — A strip of land, including the entire right-of-way, intended for use as a means of

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54. Editor's Note: See now the Pennsylvania Emergency Management Agency.

vehicular and pedestrian circulation, whether public or private. For the purposes of this chapter, the term "street" shall include avenues, alleys, boulevards, highways, freeways or roads.

- A. STREET, ALLEY — A minor street, privately or publicly owned, which provides secondary access to abutting properties primarily for service to the back or sides of such properties.
- B. STREET, CUL-DE-SAC — A street intersecting a through street at one end and terminating at the other in a vehicular turnaround.
- C. STREET, LOCAL — Streets which are used primarily for access to abutting properties, including streets within subdivisions or developments, usually characterized by low operating speeds.
- D. STREET, MAJOR ARTERIAL — Major highways used primarily for rapidly moving traffic, which carries a large volume of vehicles between regions and major metropolitan areas; i.e., inter- and intrastate highways or limited-access freeways or expressways; i.e., Interstate 80.
- E. STREET, MAJOR COLLECTOR — Streets which facilitate intercommunity travel within the region and provide connection to arterial streets and highways; i.e., PA Route 64.
- F. STREET, MARGINAL ACCESS — Local streets which are parallel and adjacent to arterial or collector streets and which provide access to abutting properties and protection from through traffic.
- G. STREET, MINOR ARTERIAL — Highways which provide for the movement of large volumes of through traffic between centers of regional importance, and provide connections between major arterials and collector roads.
- H. STREET, MINOR COLLECTOR — Streets which move traffic into and between subdivisions, developments, rural village centers, or other local traffic generators. For the purposes of street design and construction, streets serving 20 or more lots or dwelling units shall be considered to be minor collector streets.
- I. STREET, PRIVATE — All streets not dedicated, accepted, or maintained as public streets.
- J. STREET, PUBLIC — All streets open to public use and maintained by, or dedicated to and accepted by Porter Township, the county, the state or the federal government.

STREET LINE — The dividing line between the street right-of-way and the lot.

STREET SYSTEM — All public and private streets intended for use as a means of vehicular circulation.

- A. STREET SYSTEM, MUNICIPAL — All public streets maintained by Porter Township, including local streets and minor and major collector streets, as applicable.
- B. STREET SYSTEM, STATE — All public streets maintained by the PA Department of Transportation, including minor and major collector streets, arterial highways, and interstate highways.

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

A. STRUCTURE, ACCESSORY — A structure detached from a principal structure, but located on the same lot, which is customarily incidental and subordinate to the principal building, structure or use.

B. STRUCTURE, PRINCIPAL — The main or primary structure on a given lot.

SUBDIVIDER — Any landowner, agent of such landowner or tenant with the permission of such landowner who makes or causes to be made a subdivision of land or a land development. (See also "developer.")

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

SUBDIVISION OR LAND DEVELOPMENT PLAN — A proposal to subdivide or develop one or more tracts of land. The plan shall include the proposed layout of the subdivision or land development and shall be accompanied by all other supplementary materials required by this chapter when submitted for consideration. (See also "plan.")

SUBDIVISION ORDINANCE ADMINISTRATOR — An individual appointed by Porter Township, on a full- or part-time basis, to assist the Township Supervisors and Planning Commission with the administration and enforcement of the provisions of this chapter.

SUBSTANTIALLY COMPLETED — A subdivision or land development shall be considered substantially completed when, in the judgment of the Porter Township Engineer, at least 90% (based on the cost of the required improvements for which financial security was posted) of those improvements required as a condition of final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended purpose.

SUPERVISORS or TOWNSHIP SUPERVISORS — The Board of Supervisors of Porter Township, Clinton County, PA; the elected governing body of the municipality.

SURVEYOR — A professional land surveyor, licensed and registered in the Commonwealth of Pennsylvania.

SWALE — A low-lying stretch of land which gathers or carries surface water runoff.

TOWNHOUSE — A single dwelling unit from ground to roof with independent outside access and a portion of one or two walls in common with an adjoining dwelling unit(s).

TOWNSHIP — Porter Township, Clinton County, PA, unless otherwise specified.

TRACT — An area, parcel, site, piece of land or property which is the subject of a subdivision or land development application.

TWO-FAMILY DWELLING — A dwelling structure containing two independent dwelling units which are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common basement or cellar; i.e., a duplex.

UNDEVELOPED LAND — Land in its natural state before development.

USE — The specific purpose or activity for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

- A. **USE, ACCESSORY** — A use subordinate to the principal use of a building or structure located on the same lot and serving a purpose customarily incidental to the use of the principal building or structure. If no principal use exists on the lot with a lawful accessory use, then such accessory use shall be considered a principal use.
- B. **USE, PRINCIPAL** — The primary purpose for which a lot is occupied or utilized.

**WAIVER** — A modification granted by the Porter Township Supervisors for relief from the strict application of a specific requirement or provision of this chapter, which, if enforced, would cause unique and undue hardship for the applicant.

**WATER COURSE** — Any river, stream, run, drainageway, lake, pond or other body of water appearing as a permanent or intermittent waterway on United States Geological Survey maps.

**WATER FACILITY** — Any water works, water supply or water distribution system or part thereof designed, intended or constructed to provide or distribute potable water.

**WATER SYSTEM** — A water facility providing potable water to individual lots or to the public for human consumption.

- A. **WATER SYSTEM, NONPUBLIC** — All water systems which are not public water systems.
- B. **WATER SYSTEM, OFF-LOT** — An approved system in which potable water is supplied to a dwelling or other building from a central water source which is not located on the lot with the dwelling or building.
- C. **WATER SYSTEM, ON-LOT** — A well or other approved system designed to provide potable water to a dwelling or building located on the same lot as the source.
- D. **WATER SYSTEM, PUBLIC** — A water system, as defined by the PA Department of Environmental Protection, which has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

**WATERSHED AREA** — The drainage area of a particular stream or watercourse. (See also "drainage area.")

**WATERSHED STORMWATER MANAGEMENT PLAN** — A plan for managing stormwater runoff from and within a particular watershed area.

**WETLANDS** — Areas which are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. For the purposes of this chapter, the term includes, but is not limited to, wetland areas listed in the State Water Plan, the U.S. Forest Service Wetlands Inventory of PA, the PA Coastal Zone Management Plan, the U.S. Fish and Wildlife National Wetlands Inventory and wetlands designated by a river basin commission.

**YARD** — An open space which lies on the same lot with a building or structure, unoccupied and unobstructed from the ground upward. The required yard shall be the minimum area or open space required by Chapter 490, Zoning, to be provided between the front, side or rear lot lines and a principal or accessory building or structure on the lot.

**ZONING ORDINANCE** — Chapter 490, Zoning, as amended.

ZONING PERMIT —

- A. The permit required by Chapter 490, Zoning, for the construction, alteration, or change of use of any building or structure; or
- B. A permit stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements of Chapter 490, Zoning, for the zoning district in which the use is to be located.

ARTICLE III  
**Plan Requirements**

**§ 415-13. General requirements.**

All subdivision and land developments plans, whether intended as sketch, preliminary or final submissions, shall meet the requirements outlined in the following sections. (See also Article IV, Plan Processing Procedures.)

**§ 415-14. Sketch plans (optional) (see also § 415-19).**

Although the utilization of a sketch plan is optional, subdividers and developers are strongly encouraged to prepare and submit informal sketch plans to the Township Planning Commission for review and discussion prior to filing formal preliminary or final subdivision or land development plans.

- A. Sketch plan content. When utilized, sketch plans need not be prepared by a registered professional land surveyor, but should be legibly drawn at a reasonable scale and should include or show the following data to ensure the greatest usefulness.
- (1) Title block, containing the name of the owner of the tract, municipality, date, approximate scale of the drawing, and North arrow.
  - (2) Tract boundary sketch showing the location of the proposed subdivision or development in relation to the entire tract and zoning district boundaries.
  - (3) Location map showing the relationship of the proposed subdivision or land development to all adjoining properties and the road and highway system in the area.
  - (4) Proposed street and lot layout, including the approximate dimensions and acreage of the area to be developed.
  - (5) The location of all significant topographic and physical or natural features, including watercourses, wetlands, forests, or floodplains on or adjacent to the subdivision or development site.
  - (6) The location of all existing buildings or structures on the site.
  - (7) The location of all existing streets, rights-of-way, and utilities on or adjacent to the site.
  - (8) The probable location of any proposed community sewer and water facilities, as well as proposed stormwater management facilities or other proposed site improvements.
- B. Data to be submitted with a sketch plan. The following data, information, or documents should also be submitted with all sketch plans:
- (1) A description of the ultimate character, degree and type of development proposed or the extent of subdivision intended.
  - (2) An approximate timetable or staging sequence for the proposed subdivision or land development.
  - (3) Topographic contour information relative to the site of the proposed development,

i.e., a copy of the USGS quadrangle for the area.

- (4) Copies of proposed deed restrictions, where applicable.

**§ 415-15. Preliminary plans (see also § 415-20).**

- A. Preliminary plan requirements. Preliminary subdivision or land development plans shall be either black and white or blue and white prints, drawn on twenty-four-inch-by-thirty-six-inch or eighteen-inch-by-twenty-four-inch sheets, and shall be prepared at a scale not to exceed 100 feet to the inch. If the preliminary plan is drawn in two or more sections, it shall be accompanied by a key map showing the exact location of the sections. Preliminary plans shall be prepared by a PA-registered professional land surveyor and shall include the following data:
  - (1) Title block, containing an indication that the submission is a preliminary plan, the name and address of the owner of the tract, name of the development, municipality, date, graphic scale, and the name, address, and profession of the individual preparing the plan.
  - (2) North arrow; perimeter boundaries showing bearings and distances of the area to be developed; proposed lot lines; dimensions of areas to be dedicated to public use; building setback lines; total number of parcels or dwelling units, including a numbering system to identify each lot; approximate area of each lot; total acreage; and existing zoning classification and applicable district dimensional requirements.
  - (3) Tract boundary sketch, showing the location of the proposed development in relation to the entire tract and showing the names of owners of all adjoining property and of all abutting subdivisions.
  - (4) Location map, showing the relation of the tract to adjoining properties, the road and highway system and municipal boundaries, including an area extending at least 1/2 mile from the subdivision boundaries.
  - (5) Location and width of all existing or proposed streets, rights-of-way, parking areas, and easements on or adjacent to the tract, including right-of-way and pavement widths and street names. (Duplication of existing street names within the Township shall not be permitted.) And, where required by the standards set forth in § 415-32J of this chapter, the location of all proposed driveways with sight distance noted for each direction of approach.
  - (6) Location and width of all existing or proposed utility rights-of-way or easements (including telephone, electric, gas, fiber optics, etc.) on or adjacent to the tract.
  - (7) Location and size of existing and proposed sewers, water mains, stormwater management facilities and/or culverts, buildings, transmission lines, fire hydrants, and other significant man-made features on or adjacent to the tract.
  - (8) Soil percolation test sites and/or deep test pit locations, and soils mapping or soil type information, as appropriate, except where public sewers are provided.
  - (9) Existing watercourses, floodplains, wetlands, wooded areas and other significant natural features. The boundary of the 100-year floodplain shall be shown utilizing the Flood Insurance Study (FIS) and accompanying flood maps for the municipality. If

detailed information is not obtainable, the floodplain shall be generally located utilizing the best available data such as Corps of Engineers' Floodplain Studies or mapping of previous floods. The 100-year flood elevation shall be provided wherever the FIS is available, wherever feasible, or where new developments of more than 50 lots or five acres, whichever is less, are involved.

- (10) Topographic contours at vertical intervals of a minimum of 10 feet and datum and benchmark to which contour elevations refer. Topographic contours of less than ten-foot intervals may be required for flat sites; for plans with average lot sizes less than 1/2 acre; and for all sites located within in the 100-year floodplain. (The Township Planning Commission may waive the requirements for topographic contours for subdivision plans with average lot sizes greater than one acre involving no public water or sewer systems and where a site investigation provides sufficient information for approval.)
  - (11) An indication of those areas intended for private use, including streets, roads, easements, open space areas, etc.
  - (12) Preliminary plan review/approval signature blocks for the Porter Township Planning Commission, the Board of Supervisors, and the Clinton County Planning Commission.
  - (13) Plan acknowledgement statement, with signature of developer and/or property owner of record if other than the developer, to the effect that the proposal accurately reflects his/her intentions for the site.
  - (14) Certification, with seal and original ink signature, by the PA-registered professional land surveyor having prepared the plan, indicating that the survey and map are correct.
- B. Data to be submitted with the preliminary plan. The following information, data, and documents shall be submitted with all preliminary subdivision or land development plans:
- (1) Completed subdivision or land development application form, where applicable.
  - (2) Applicable plan processing and improvement design review fees.
  - (3) Proof of record ownership.
  - (4) Copies of proposed deed restrictions and preliminary right-of-way use and maintenance agreements to be utilized, where applicable.
  - (5) A description of the technique or a preliminary copy of the agreement to be used to insure proper maintenance of common areas or facilities intended for private use.
  - (6) Typical cross-sections and center line profiles prepared by a registered professional engineer or other individual of demonstrated qualifications for each proposed street, and preliminary designs of proposed bridges and culverts, where applicable. (Cross-sectional drawings shall show street right-of-way and cartway widths, and the location of all stormwater control devices, sidewalks, parking lots, driveway entrances, and similar facilities or improvements, where applicable.)
  - (7) Sketch of proposed street and lot layout for the remainder of the affected parcel where

the preliminary plan covers only part of the subdivider's holdings, where determined appropriate by the Township Planning Commission.

- (8) Documentation, in accordance with § 415-34 of this chapter, that the subdivider has adequately planned for sewage disposal, including preliminary designs of proposed sewerage systems and appropriate local sewer authority approvals or permits from the PA Department of Environmental Protection where public or community systems are to be utilized, and, if required, feasibility studies or soils test results for each proposed lot where public or community systems are not utilized.
- (9) Where appropriate, approval letters or permits issued by local water authorities or the PA Department of Environmental Protection, as required in § 415-35 of this chapter, regarding proposed water supply systems, preliminary designs of such systems, and, if required, feasibility studies.
- (10) Documentation, in accordance with § 415-36 of this chapter, which shows that the subdivider has adequately provided for the location and installation of all utilities, including letters from utility companies indicating their intent and ability to serve the proposed development. Where the land included in the proposed subdivision has a gas pipeline, a petroleum or petroleum products transmission line, or electricity or fiber optics transmission line located thereon, a copy of the recorded document for such pipeline or transmission line may be required to be submitted to verify the location and width of said right-of-way.
- (11) Such evidence as may be necessary or required by § 415-37 of this chapter to show that effective soil conservation measures have been planned and are to be implemented in accordance with Title 25, Chapter 102 of the Rules and Regulations of the PA Department of Environmental Protection, or as may hereafter be amended, including a preliminary grading plan. (For further information concerning proper soil erosion and sedimentation control procedures, the subdivider or developer is referred to the Clinton County Conservation District.)
- (12) A stormwater management plan for the proposed subdivision in accordance with the requirements of § 415-38 of this chapter.
- (13) Where appropriate, wetlands determinations and/or delineations as per the requirements of § 415-39 of this chapter.
- (14) If any portion of the proposed development is in an identified floodplain area, additional information concerning protection and use of this area shall be submitted as required by § 415-40 of this chapter. Such information shall include assurances that all utilities and facilities, such as streets and sewer, gas, electrical and water systems are located and constructed to minimize flood damage, and that adequate drainage is provided so as to reduce exposure to flood hazards.
- (15) Other documentation and certificates of approval from the proper authorities as may be required by the Planning Commission, including but not limited to PennDOT Highway Occupancy Permits.
- (16) Engineer-prepared estimates or contractor's bids of the cost of all proposed or required improvements, when applicable. (See also § 415-26.)

- (17) An approximate timetable or staging sequence for the proposed subdivision or land development.

**§ 415-16. Final plans (see also § 415-20).**

A. Final plan requirements. Final subdivision or land development plans shall be either black-and-white or blue-and-white prints, drawn on eighteen-inch-by-twenty-four-inch sheets, and shall be prepared at a scale not to exceed 100 feet to the inch. When necessary, the plan may be placed on several sheets, accompanied by an index sheet showing the entire subdivision. Final plans shall be prepared by a PA-registered professional land surveyor and shall include the following data:

- (1) Title block, containing an indication that the submission is a final plan, the name and address of the owner of the tract, name of the development, municipality, date, graphic scale, and the name, address, and profession of the individual preparing the plan.
- (2) North arrow; and perimeter boundary lines by bearings and distances which provide a survey of the area to be developed, closing with an error of not more than one foot in 5,000 feet.
- (3) Proposed lot lines by their courses and distances showing bearings to the nearest second and distances to nearest 1/100 of a foot (circular lines shall be defined by their radius, arc distances and the long chord bearing and distance); acreage and dimensions of areas to be dedicated to public use; building setback lines; total number of parcels or dwelling units, including a numbering system to identify each lot; acreage of each lot; total acreage; and existing zoning classification and applicable district dimensional requirements.
- (4) Tract boundary sketch showing the location of the proposed development in relation to the entire tract and showing the names of owners of all adjoining property and all adjacent subdivisions.
- (5) Location map showing the relation of the tract to adjoining properties, the road and highway system and municipal boundaries, including an area extending at least 1/2 mile from the subdivision boundaries.
- (6) Location and width of all existing or proposed streets, rights-of-way, parking areas, and driveways (as determined appropriate) on or adjacent to the tract, including bearings and distances of rights-of-way and easements, right-of-way and pavement widths, and street names. (Duplication of existing street names within the Township shall not be permitted.) And, where required by the standards set forth in § 415-32J, the location of all proposed driveways with sight distance noted for each direction of approach.
- (7) Location and width of all existing or proposed utility rights-of-way or easements (including telephone, electric, gas, fiber optics, etc.) on or adjacent to the tract.
- (8) Location and size of existing and proposed sewers, water mains, drainage and/or stormwater management facilities and/or culverts, buildings, transmission lines, fire hydrants, streetlights, and other significant man-made features on or adjacent to the tract.

- (9) Soil percolation test sites and/or deep test pit locations, and soils mapping or soil type information, as applicable, except where public sewers are provided.
  - (10) Existing watercourses, floodplains, wetlands, wooded areas and other significant natural features. The boundary of the 100-year floodplain shall be shown utilizing the Flood Insurance Study (FIS) and accompanying flood maps for the municipality. If detailed information is not obtainable, the floodplain shall be generally located utilizing the best available data such as Corps of Engineers' Floodplain Studies, or mapping of previous floods. The 100-year flood elevation shall be provided wherever the FIS is available, wherever feasible, or where new developments of more than 50 lots or five acres, whichever is less, are involved.
  - (11) Topographic contours at vertical intervals of a minimum of 10 feet and datum and benchmark to which contour elevations refer. Topographic contours of less than ten-foot intervals may be required for flat sites; for plans with average lot sizes less than 1/2 acre; and for all plans located within the 100-year floodplain. (The Township Planning Commission may waive the requirements for topographic contours for subdivision plans with average lot sizes greater than one acre involving no public water or sewer systems and where a site investigation provides sufficient information for approval.)
  - (12) An indication of those areas intended for private use, including streets, roads, easements, open space areas, etc.
  - (13) Final plan review/approval signature blocks for the Porter Township Planning Commission, the Board of Supervisors, and the Clinton County Planning Commission.
  - (14) Plan acknowledgement statement, with applicable deed book and page number reference and signature of the property owner certifying record ownership of the tract, and indicating that the proposal accurately reflects his/her intentions for the site. (Where a valid sales agreement or contract is provided, the plan acknowledgement statement may be signed by the person or corporation having equitable title in the property.)
  - (15) Location and material of all permanent monuments and markers.
  - (16) Plan acknowledgement statement, with the signature of the Pennsylvania-registered professional land surveyor having prepared the plan, certifying that the monuments and/or markers shown on the plan have been set and indicating the date such markings were set.
  - (17) Certification, with seal and original ink signature, by the Pennsylvania-registered professional land surveyor having prepared the plan, indicating that the survey and map are correct.
- B. Data to be submitted with the final plan. The following information, data, and documents shall be submitted with all final subdivision or land development plans:
- (1) Corrected and updated material from the preliminary plan.
  - (2) Completed subdivision or land development application form, where applicable.

- (3) Applicable plan processing, improvement design review, and inspection fees.
- (4) Copies of proposed deed restrictions, right-of-way use and maintenance agreements, and deeds proposing dedication of improvements to the Township, where applicable. In addition, where improvements are offered to the Township, the developer shall furnish a written guarantee (release of liens) that all indebtedness incurred for supplies, material, labor, or engineering and professional services for construction of the improvement(s) shall have been paid in full and that there are no claims for damage or suits against the contractor involving such improvements.
- (5) Final cross-sections and center-line profiles for each street, and final designs of bridges and culverts prepared by a registered professional engineer or other individual of demonstrated qualifications, where applicable. (Cross-sectional drawings shall show street right-of-way and cartway widths, and the location of all stormwater control devices, sidewalks, parking lots, driveway entrances, and other similar facilities and improvements, where applicable.)
- (6) Documentation, in accordance with § 415-34 of this chapter, that the subdivider has adequately planned for sewage disposal, including final designs of sewerage systems and appropriate local sewer authority approvals or permits from the Pennsylvania Department of Environmental Protection where public or community systems are to be utilized or soils test results for each proposed lot where public or community systems are not to be utilized.
- (7) Where appropriate, approval letters or permits issued by local water authorities or the PA Department of Environmental Protection, as required by § 415-35 of this chapter, regarding proposed water supply systems, and final designs of such systems.
- (8) Documentation, in accordance with § 415-36 of this chapter, which shows that the subdivider has adequately provided for the location and installation of all utilities, including letters from utility companies indicating their intent and ability to serve the proposed development. Where the land included in the proposed subdivision has a gas pipeline, a petroleum or petroleum products transmission line, or electricity or fiber optics transmission line located thereon, a copy of the recorded document for such pipeline or transmission line may be required to be submitted to verify the location and width of said right-of-way.
- (9) Such evidence as may be necessary or required by § 415-37 of this chapter to show that effective soil conservation measures have been planned and are to be implemented in accordance with Title 25, Chapter 102 of the Rules and Regulations of the PA Department of Environmental Protection or as may hereafter be amended, including a final grading plan. (For further information concerning proper soil erosion and sedimentation control procedures, the subdivider or developer is referred to the Clinton County Conservation District.)
- (10) Final designs of any stormwater control improvements, and related documentation required in accordance with § 415-38 of this chapter.
- (11) Where appropriate, wetland determinations and/or delineations as per the requirements of § 415-39 of this chapter.
- (12) If any portion of the proposed development is located within an identified floodplain

area, additional information concerning protection and use of this area shall be submitted as required by § 415-40 of this chapter. Such information shall include assurances that all utilities and facilities, such as streets and sewer, gas, electrical and water systems, are located and constructed to minimize flood damage and that adequate drainage is provided so as to reduce exposure to flood hazards.

- (13) Other documentation and certificates of approval from the proper authorities as may be required by the Township, including but not limited to PennDOT highway occupancy permits.
- (14) An improvement agreement prepared in accordance with the requirements of § 415-25 of this chapter or a copy of the arrangements made regarding ownership and maintenance of all dedicated and undedicated recreation or open space areas in the development, streets, parking lots, stormwater management facilities, and/or other site improvements.
- (15) Where appropriate, an improvement guarantee (financial security) assuring the satisfactory installation of all required improvements as set forth in § 415-26 of this chapter or a certificate from the Township Engineer indicating that all improvements have been inspected and found to be installed in accordance with specifications approved as part of the preliminary plan.
- (16) Where improvements have been installed prior to final plan approval, a bond or other financial security satisfactory to the Township Supervisors which guarantees the structural integrity of all such improvements in accordance with the requirements of § 415-29B of this chapter.

#### **§ 415-17. Land development plans (see also Article VII).**

All proposed land development proposals shall conform to the requirements for sketch, preliminary and final plan submissions contained in §§ 415-14, 415-15 and 415-16 of this chapter in addition to the standards outlined below.

- A. Land development plan requirements. In addition to meeting the requirements of the above-referenced sections, all preliminary and final land development plans shall also show the following information:
  - (1) Location and size of all existing and/or proposed principal and accessory buildings and structures, including solid waste storage sites, signs, lighting facilities, fences, walls, and similar features.
  - (2) Location of accessways, and parking, loading/unloading areas.
  - (3) Location of all proposed on-site pedestrian and vehicular circulation routes and controls, including sidewalks, crosswalks, traffic signals, etc.
  - (4) Location and width of all buffer yards and screen plantings.
- B. Data to be submitted with land development plans. The following additional documentation or data shall also be submitted with all preliminary and final land development plans:
  - (1) A description of the proposed development in sufficient detail for the Township to evaluate the submission, including anticipated traffic volumes and traffic flows, and

numbers of expected employees, tenants, customers, or inhabitants. (For all residential land developments in excess of an aggregate total of 15 dwelling units and all nonresidential proposals exceeding 15,000 square feet, the Township Planning Commission may require the developer to submit a detailed transportation study which describes the expected impact of the development on the roads and highway system in the vicinity of the development site. Such study shall be prepared by a registered professional engineer or other transportation specialist acceptable to the Township.)

- (2) Cross-sections showing the design details of proposed accessways, parking, and loading/unloading areas.
- (3) Plans addressing proposed landscaping, lighting and signage, where applicable.

ARTICLE IV  
**Plan Processing Procedures**

**§ 415-18. General plan review and approval procedure.**

All plans of proposed subdivisions and land development in Porter Township, whether preliminary or final, shall be subject to approval, modification or rejection by the Porter Township Board of Supervisors. Prior to action by the Supervisors, however, all plans shall be submitted to the Township Planning Commission and to the Clinton County Planning Commission for their review, evaluation and recommendations. Copies of the plans may also be submitted to the Township Engineer, where applicable, and to other appropriate agencies for review at the discretion of the Township Planning Commission before recommendations for action are made to the Township Supervisors. (See plan processing details below and illustrated in the flow chart following § 415-23.)

**§ 415-19. Sketch plans (optional) (see also § 415-14).**

- A. Prior to the filing of an application for review and approval of a proposed subdivision or land development, it is recommended that the developer submit a sketch plan to the Porter Township Planning Commission for advice on the requirements necessary to achieve conformity with the standards and other provisions of this chapter; as well as to alert the developer to other factors pertinent to the design and effectuation of the subdivision or land development. The submission of a sketch plan shall not constitute the filing of an application for approval of a subdivision or land development.
- B. The developer or his agent or representative should be present to discuss any such proposal with the Planning Commission. No formal action will be taken on a sketch plan submission, but the Commission shall, after review and evaluation of the proposal, indicate to the developer or his agent their findings and recommendations regarding preparation of preliminary or final plans. The Commission shall complete its review as promptly as possible. One copy of the sketch plan shall be left with the Commission for their files. The review of a sketch plan shall not authorize the recording of the plan nor the conveyance of lots.

**§ 415-20. Preliminary and final plans (see also §§ 415-15 and 415-16).**

- A. Plan classifications and submission requirements.
  - (1) For the purposes of this chapter, any proposed subdivision or land development plan which is submitted to the Township for review and approval but does not meet the applicable plan or other ordinance requirements, may be considered as a sketch plan at the request of the applicant and upon recommendation of the Township Subdivision Ordinance Administrator. [See also § 415-20B(1) below for additional details on the application submission process.]
  - (2) Plans involving the installation of streets, sanitary sewers, public water supplies, stormwater management facilities and other site improvements shall be considered as preliminary plans for initial consideration.
  - (3) Where site improvements have been installed in accordance with a previously approved preliminary plan, the proposed subdivision or land development plan may

be considered as a final plan.

- (4) Where a subdivision or land development proposal consists of five or fewer lots or dwelling units, each with frontage along an existing public street and where no site improvements are proposed by the developer or required by the Township, the proposed subdivision or land development plan may be considered as a final plan.
  - (5) Where a preliminary or final plan covers only a portion of a tract of ground, the developer may be required to submit a sketch plan of the remainder of the tract to the Township Planning Commission illustrating his future intent and use for the property. [See also § 415-20B(3)(c).]
  - (6) The final plan shall conform in all significant respects with any approved preliminary plan. Otherwise, the plan submitted shall be considered as a revised preliminary plan. [See also § 415-20D(2).]
  - (7) It shall be the ultimate responsibility of the subdivider/developer to coordinate his plans with all appropriate public and private utilities and/or service agencies in the manner set forth in this chapter and to provide sufficient data and information to the Township upon which to review the proposed plan.
- B. Plan evaluation process. Applications for preliminary or final plan review and approval shall be submitted to Porter Township and shall be processed in accordance with the following procedures:
- (1) Application.
    - (a) Nine copies of all proposed preliminary or final subdivision and land development plans and three copies of all other materials and information required by this chapter shall be submitted to the Township Zoning Officer or Subdivision Ordinance Administrator, as applicable, no less than 14 days in advance of the next regular meeting of the Township Planning Commission at which the plan is to be considered. (A plan shall be considered filed upon receipt by the Administrator of all required plans and materials, including plan processing fees.) Plans submitted less than 14 days before the next scheduled meeting of the Planning Commission will not be considered filed until the date of the following regular meeting of the Commission.
    - (b) The Zoning Officer or Subdivision Ordinance Administrator, as applicable, shall, upon receipt of a subdivision or land development plan proposed for either preliminary or final approval, check the submission for completeness. If incomplete, the submission shall immediately be returned to the applicant/developer, with an indication of its deficiencies. Where applicable, the Administrator may also indicate to the applicant/developer that such plans could be submitted for sketch plan consideration as per the standards contained in § 415-20A(1) of this chapter. Written concurrence from the applicant/developer shall be required for such consideration.
  - (2) Referrals. If the submission is determined complete by the Ordinance Administrator, copies of the plans shall be distributed as follows:
    - (a) The subdivider/developer shall forward or deliver a minimum of five copies of

the plan (or other number as may be required) and one copy of all accompanying documentation (including any applicable review fee) to the Clinton County Planning Commission for their review and recommendations. The County Planning Commission shall review the proposed subdivision or land development, stamp or sign the plans indicating a review was conducted, and shall report its findings and return all but one copy of the plans to the Township within 30 days of the date that such plans were submitted to them.

- (b) Where a proposed subdivision or land development involves the design of new streets (whether public or private), stormwater management facilities, or other similar site improvements, one copy of the plan and appropriate improvement designs shall be forwarded by the Zoning Officer or Subdivision Administrator, as applicable, to the Township Engineer for review and recommendations. In addition, copies of the plan may also be forwarded to the PA Department of Transportation, the PA Department of Environmental Protection, the Clinton County Conservation District, officials from adjacent municipalities, or other agencies, organizations or professionals for input or comments, where such is deemed appropriate by the Township Planning Commission or the Subdivision Administrator. (All review agencies shall be given 30 days to respond with comments.)
  - (c) Where a proposed subdivision or land development involves the utilization of public sewer service, it shall be the responsibility of the subdivider/developer to deliver a copy of the proposed plans and all applicable data and documentation to the East Nittany Valley Joint Municipal Authority for review and approval. Plans involving the use of a public water supply shall be delivered by the subdivider/developer to the Porter Township Municipal Authority or to the Nittany Water Company, as applicable, for their review and approval. Copies of such approvals shall be provided to the Township as verification that all sewer and/or water design plans have been reviewed and approved by the appropriate authority or company and their engineer.
  - (d) All remaining copies of the plans and accompanying documentation shall be retained by the Administrator for the review, evaluation and recommendations of the Township Planning Commission.
- (3) Planning Commission review and recommendations.
- (a) At its first regular meeting following acceptance of a filed plan, the Township Planning Commission shall consider the subdivision or land development plan to determine its conformity to the design standards and plan requirements contained in this chapter. (The developer or his agent shall be present to discuss all such proposed plans with the Commission and to facilitate the plan review process, or action on the plan by the Commission may be tabled.) In addition, the Commission shall also consider all comments received from the County Planning Commission, the Subdivision Ordinance Administrator, and from other review agencies. The Commission shall then make recommendations for approval, disapproval, or other appropriate action to the Supervisors.
  - (b) In order to better evaluate a proposed submission, the Planning Commission may, at its discretion, view the site of the subdivision or land development prior

to taking action on the plan.

- (c) The Planning Commission may recommend that the developer or subdivider be required to submit a sketch or preliminary plan for remaining undeveloped or residual property where they feel such would be in the best interest of the Township or where they feel such action would facilitate evaluation of subsequent submissions by the developer.
- (d) The Commission's recommendations regarding proposed plans shall be communicated to the Township Supervisors in writing, a copy of which shall also be forwarded to the applicant. The recommendations shall be signed and dated by the Chairman of the Planning Commission, or in his absence, the Vice Chairman or other presiding officer. If disapproval is recommended, the specific defects of the plan shall be cited in the Commission's communication to the Supervisors.
- (e) When a proposal is recommended for approval, the Chairman of the Planning Commission, or in his absence, the Vice Chairman or other presiding officer, shall also sign and date all remaining copies of the plan. Such plans shall then be forwarded, along with the Commission's recommendations, to the Township Supervisors for action.

C. Plan approval process.

- (1) Upon receipt of recommendations from the Township Planning Commission, the Township Supervisors shall consider and take action on proposed subdivision and land development plans. (The developer or his agent shall be present to discuss all such proposed plans with the Township Supervisors and to facilitate the plan approval process, or the plan may be disapproved.) The Supervisors shall render a decision and communicate it to the applicant not later than 90 days following the date of the regular meeting of the Planning Commission next following the date that the plan is filed, provided that should the next regular meeting occur more than 30 days following the filing of the plan, the said ninety-day period shall be measured from the 30th day following the date the plan is filed.
- (2) The Township Secretary shall notify the applicant of the decision made by the Township Supervisors in accordance with the following procedure:
  - (a) Within 15 calendar days after the Supervisors' meeting, the Secretary shall notify the subdivider/developer or his agent, in writing, of the action taken by the Supervisors specifying what changes, or additions, if any, will be required prior to plan approval.
  - (b) If the proposed plan is disapproved, the decision shall specify the defects found, describe the requirements which have not been met, and cite the provisions of the ordinance which have been relied upon.
  - (c) Failure of the Supervisors to render a decision and communicate it to the applicant within the time and in the manner required herein shall be deemed an approval of the proposed plan, unless the applicant has agreed, in writing, to an extension of the time period or change in the manner of presentation or communication of the decision.

- (3) All plans approved by the Supervisors shall bear the signature of the Chairman or Vice Chairman of the Board and the date of such action. One copy of the plan shall be retained by the Township for its files and the other remaining copies shall be returned to the applicant.
- (4) The Supervisors may grant preliminary or final plan approval subject to conditions acceptable to the applicant. Such conditions shall either be written on all copies of the plan and be signed by the applicant indicating concurrence or the Supervisors shall produce a list of all such conditions within 15 days of the date of conditional approval and present such listing to the applicant for written concurrence. Failure of the applicant to sign the plans or execute the list to indicate concurrence, as applicable, and return it to the Township within 30 days of the conditional approval date or prior to the Supervisors' next regular meeting, whichever comes first, shall nullify the approval granted. Plans shall not be signed by the Supervisors until receipt of the executed concurrence from the applicant.
- (5) The Supervisors may offer a mediation option as an aid in completing proceedings authorized by this section. In exercising such an option, the Supervisors and mediating parties shall meet the stipulations and follow the procedures set forth in Section 908.1 of the PA Municipalities Planning Code, or as may hereafter be amended.<sup>55</sup>
- (6) In order to facilitate financing, when requested by the subdivider/developer, the Supervisors may furnish the subdivider/developer with a signed copy of a resolution indicating approval of the final plan contingent upon the developer obtaining a satisfactory financial security. The final plan or record plan shall not be signed nor recorded until the financial improvements agreement is executed. The resolution or letter of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within 90 days unless a written extension is granted by the Supervisors; such extension shall not be unreasonably withheld and shall be placed in writing at the request of the subdivider/developer.

D. Effect of plan submissions and approvals.

- (1) From the time a plan, whether preliminary or final, is duly filed as provided in this chapter, and while such plan is pending approval or disapproval, no change or amendment of any zoning, subdivision or other governing ordinance applicable to the plan shall affect the decision on such plan adversely to the applicant unless the applicant voluntarily and without duress consents. The applicant shall be entitled to a decision in accordance with the provisions of said ordinances as they stood at the time the plan was duly filed.
- (2) Approval of the preliminary plan shall constitute approval of the subdivision or land development as to the character and intensity of development, and the arrangement and approximate dimensions of streets, lots, and other planned features. The approval binds the subdivider/developer to the general scheme of the subdivision shown and permits the subdivider/developer to proceed with final detailed design of improvements, and with preparation of the final plan. Approval of the preliminary plan does not authorize the sale of lots nor the recording of the preliminary plan, nor

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55. Editor's Note: See 53 P.S. § 10908.1.

does it constitute approval of the final plan.

- (3) The applicant shall have a period of five years from the date of preliminary approval in which to submit a final plan(s) for the subdivision and/or substantially complete all aspects of the approved development, including installation of all site improvements. If the applicant fails to do so within the five-year period, the approval of the preliminary plan shall become null and void unless an extension of time is requested by the applicant, in writing, along with a schedule for submission of the final plan, and is approved by the Supervisors prior to the expiration date.
- (4) In the case of a preliminary plan calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the developer with the preliminary plan delineating all proposed phases as well as deadlines within which applications for final plat approval of each phase are intended to be filed. Such schedule shall be updated annually by the subdivider/developer on or before the anniversary of the preliminary plan approval, until final plat approval of the final phase has been granted, and any modification in the aforesaid schedule shall be subject to approval by the Supervisors at their discretion.
- (5) When an application for approval of a plat, whether preliminary or final, has been approved, no subsequent change or amendment in Township zoning or subdivision regulations shall adversely affect the right of the applicant to commence and to complete any aspect of the approved years of such approval. The five-year period shall, however, be extended for the duration of any litigation, including appeals, which prevent the commencement or completion of the development, and for the duration of any sewer or utility moratorium, or prohibition which was imposed subsequent to the filing of an application for preliminary approval of the plat. In the event of an appeal filed by any party from the approval or disapproval of a plat, the five-year period shall be extended by the total time from the date the appeal was filed until a final order in such manner has been entered and all appeals have been concluded. No extension shall be based upon any water or sewer moratorium which was in effect at the time the preliminary plan application was filed.
- (6) The final plan may be submitted in phases, each covering a portion of the entire subdivision or land development shown on the preliminary plan. However, each phase in a residential subdivision or land development, except the last phase, shall contain a minimum of 25% of the total number of lots or dwelling units depicted on the preliminary plan, unless a lesser percentage is approved by the Supervisors.

**§ 415-21. Land development plans (see also Article VII).**

- A. Plans involving the utilization of a single tract of ground for the development or location of one or more nonresidential structure or two or more residential structures or dwelling units shall be considered, reviewed and evaluated as land development proposals (except those exempted by definition). Land development activities shall include, but are not limited to, the development or construction of:
  - (1) Industrial or commercial buildings or complexes;
  - (2) Multifamily dwelling structures, such as apartment buildings, or single-family attached dwelling structures; and

- (3) Mobile home parks or other multifamily housing developments, including residential cluster developments.
- B. Land development plans shall be reviewed and approved in accordance with the plan submission, processing and approval procedures contained in § 415-20 of this chapter. Final approval of a land development plan does not authorize the conveyance of lots, but may authorize the conveyance of individual dwelling units, i.e., condominiums.

**§ 415-22. Plan recording requirements.**

- A. Upon notification of approval of the final plan, the subdivider/developer shall record one copy of the approved plan in the Office of the Clinton County Recorder of Deeds within 90 days of the date of approval or the date the Supervisors' approval is noted on the plan, whichever is later. Should the subdivider/developer fail to record the final plan within such ninety-day period, the approval of the Supervisors shall be null and void unless an extension of time is requested by the subdivider/developer in writing and is granted in writing by the Supervisors prior to the expiration date. A copy of the approved final plan must be recorded and where applicable, all conditions of final approval must be met, before proceeding with the sale of lots. Further, the applicant shall supply the Township with a receipt from the County Register and Recorder's Office verifying recording of the final plan prior to the issuance of a zoning permit authorizing the use of the approved parcels.
- B. Recording of the final plan shall not constitute grounds for assessment increases until such time as lots are sold or improvements are installed on the subject land.
- C. Recording the final plan after approval shall have the effect of an irrevocable offer to dedicate all streets and other ways to public use, and to dedicate or reserve all park and other public areas to public use unless reserved by the subdivider/developer as hereinafter provided. Approval by the Township Supervisors, however, shall not impose any duty upon Porter Township concerning acceptance, maintenance or improvement of any such dedicated streets, parks, areas or portions of same until the Supervisors shall have made actual appropriation of the same by ordinance or resolution, or by entry, use, or improvement.

**§ 415-23. Resubdivision procedures. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

For any replatting or resubdivision of land, the same procedure, rules, and regulations shall apply as prescribed herein for an original subdivision or land development.

**SUBDIVISION AND LAND DEVELOPMENT PLAN PROCESSING PROCEDURES**

Zoning Officer reviews submission to determine completeness. If incomplete, plans are returned to the applicant; if complete, applicant delivers plans to the Clinton County Planning Commission and the Twp Planning Board to begin the plan evaluation process.

Applicant delivers **(7 plans)** to the County Planning Commission Office for review and recommendation 7 days before meeting. (County meetings held the 3<sup>rd</sup> Tuesday of each month.) Minor, single lot subdivisions may be approved by PC staff, who will stamp and date each copy of the plans and retain 1, six return to the Twp. 5 Planning Board members and 1 original for office copy. Any plans involving right of ways, roads, new utilities, land development or more than 5 lots will need to be reviewed by the full Planning Commission at a monthly meeting before Twp PC review.

If a planning module is required for subdivisions make sure all DEP documentation are included with submission.

Plans **(6 Copies)** are submitted to the Twp Zoning Officer no less than **(7 days)** before Twp Planning Board meeting. ( Twp meetings held the last Tuesday of each month.) Applicant, Surveyor and or Engineer is requested to attend the meeting to be available for any questions.

If plan is to be reviewed by County 1 signed, stamped plan and a letter of evaluation for approval /recommendation from the County must be returned to the Twp within 30 days.

Twp Planning Board reviews plans and makes recommendations to the Twp Supervisors.

Twp Supervisors take action on plan within 90 days of 1<sup>st</sup> regular PC meeting following date of plan filled.

After plans have been approved by Twp Supervisors and signed applicant delivers plans to County Deeds and Records to be registered and recorded. It must take place within 90 days of the approved date on the plans.

To request a new address for a subdivision property, you must contact the Clinton County GIS Department (570-893-4280 or by e-mail [911addressing@clintoncountypa.com](mailto:911addressing@clintoncountypa.com))

## ARTICLE V

**Installation and Approval of Improvements****§ 415-24. General requirements.**

- A. Improvements required by the Township Supervisors may include streets, sanitary sewers, water supply systems, stormwater management controls, utilities, or other such improvements necessary for development of a site.
- B. Improvements shall be installed by the subdivider/developer prior to final plan approval or a suitable improvement agreement with satisfactory improvement guarantee (financial security) shall be provided which shall ensure installation of the improvements by the subdivider/developer at the standards set forth in these regulations. The final plan shall not be approved until final detailed design of the improvements is approved and the improvements are installed and inspected and determined to have been constructed in accordance with the approved plans or until a suitable improvement agreement and improvement guarantee for installation and maintenance of such improvements is provided.

**§ 415-25. Improvement agreement.**

Where an improvement agreement is to be utilized, such a document shall be a legally binding contract between the developer and the Township, and shall at a minimum include the following assurances:

- A. That development will occur as shown on the approved plot plans and that improvements will be installed in accordance with the plans, specifications and schedules approved by the Township Supervisors;
- B. That the subdivider/developer will be responsible for bearing the cost of installation of all required improvements for the development and for meeting all terms of the plan's approval;
- C. That satisfactory financial arrangements have been made to guarantee the installation and maintenance of all required improvements in accordance with the requirements set forth in §§ 415-26 and 415-29 below;
- D. That, where applicable, the developer has approval from and an agreement with the East Nittany Valley Joint Municipal Authority for installation of public sewers in the development; and
- E. That, where applicable, the developer has approval from and an agreement with the Porter Township Municipal Authority or the Nittany Water Company for the utilization of public water in the development.

**§ 415-26. Improvement guarantee.**

- A. In lieu of completion of any improvements required as a condition of final plan approval, the applicant shall file with the Township, financial security (in a form determined suitable by the Township Supervisors) as an improvement guarantee in the amount of 110% of the cost to install the improvements estimated as of 90 days after the date of scheduled completion of the improvements. The cost of the required improvements shall be established by a qualified professional engineer selected by the applicant and submitted to

the Township Supervisors for approval. The Supervisors may choose to reject such estimate for good cause shown.

- B. If the developer and the Township Supervisors are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by a qualified professional engineer chosen mutually by the Supervisors and the developer. The estimate certified by this engineer shall be presumed fair and reasonable, and shall be the final estimate. In the event an engineer is so chosen, fees for the services of said engineer shall be paid equally by the Supervisors and the developer.
- C. Should completion of the required improvements require more than one year, the Supervisors may increase the amount of financial security by an additional 10% for each one-year period beyond the first anniversary date of the posting of the original security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period.
- D. If a development is projected over a period of years, the Supervisors may authorize submission of plans by stages, which shall be subject to such requirements or guarantees as the Supervisors deem essential for the protection of any finally approved section of the development.
- E. If sanitary sewer lines or water mains, or both, along with apparatus or facilities related thereto are to be installed under the jurisdiction and pursuant to the rules and regulations of the East Nittany Valley Joint Municipal Authority, the Porter Township Authority, or the Nittany Water Company, or other public utility separate and distinct from the Township, financial security to assure proper completion and maintenance of such installations shall be posted in accordance with the regulations of the controlling authority or utility, and shall not be included in the financial security as otherwise required by this section. Copies of any such arrangements shall, however, be provided to the Township as verification that appropriate security has been posted.
- F. Further, the applicant shall not be required to provide financial security for any improvements for which financial security is required by and provided to the PA Department of Transportation in connection with the issuance of a highway occupancy permit.

**§ 415-27. Inspections required and release from improvement guarantee.**

- A. During the process of construction of the required improvements the subdivider/developer shall notify the Supervisors at least two working days prior to the initiation of each phase of the installation so that the Township can arrange for progress inspections. Furthermore, it shall be the responsibility of the applicable authority or utility company to conduct and complete all inspections associated with the installation of sanitary sewer lines and/or public water supplies approved by such entities. The subdivider/developer shall coordinate all such inspections as well as arrangements for release from any improvement guarantee with the appropriate authority or utility.
- B. As the work of installing the required improvements proceeds, the Supervisors may authorize the release to the subdivider/developer of such portions of the security necessary for payment to the contractor or contractors performing the installation of required improvements. Any request for the release of such portions of funds shall be in writing to

the Supervisors and the Board shall have 45 days from receipt of the request within which to authorize their engineer to inspect and certify, in writing, that the improvements to be covered by the funds have been completed satisfactorily. Upon such certification, the Supervisors shall authorize release, by the bonding company or lending institution, of the amount estimated by the engineer which fairly represents the value of the completed improvements. The Supervisors may, prior to final release at the time of completion and certification by their Engineer, retain 10% of the original amount of the posted financial security for the aforesaid improvements. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- C. Under certain conditions, the Supervisors may agree to other procedures for the release of portions of any posted financial security so long as the work has been done in accordance with the terms of plan approval.
- D. When all necessary improvements have been completed, the subdivider/developer shall notify the Supervisors in writing, by certified or registered mail, of said completion and shall send a copy of said notification to the Township Engineer. The Supervisors shall, within 10 days after receipt of such notice, authorize an inspection by their engineer of the aforesaid improvements. A written report shall be filed by the engineer with the Supervisors, and a copy mailed to the subdivider/developer by certified or registered mail, within 30 days after receipt of the Supervisor's inspection authorization. Said report shall indicate approval or rejection of the completed improvements. If all or any portion of the improvements are rejected, the report shall include a statement of reasons for the rejection.
- E. The Supervisors shall notify the subdivider/developer within 15 days of receipt of the engineer's report, in writing by certified or registered mail, of their action with respect to approval or rejection of the completed improvements.
- F. If any portion of the completed improvements shall be found not satisfactory, the subdivider/developer shall proceed to correct or complete those improvements and upon completion shall notify the Supervisors by those procedures contained in this section.
- G. Upon approval of the completed improvements, the Supervisors shall release to the subdivider/developer those funds remaining in the financial security deposit including all interest accrued thereunder. Prior to release of such funds however, the subdivider/developer shall guarantee to the Supervisors, in writing, the functioning and structural integrity of the improvements for a period of 18 months from the date of acceptance of dedication. (See also § 415-29B below.) In addition, prior to release of the final portion of the financial security deposit, the subdivider/developer shall submit record drawings or "as-builts" to the Supervisors for all site improvements completed and certified as completed by the Township Engineer.
- H. Should the Supervisors or their engineer fail to comply with the time limitations as provided, all improvements will be deemed to have been approved and the subdivider/developer shall be released from all liability pursuant to his performance bond or other improvement guarantee.

#### **§ 415-28. Remedies to effect completion of improvements.**

In the event that any improvements which may be required have not been installed as provided in this chapter or in accordance with the approved final plan, the Supervisors shall enforce

any corporate bond, or other security or performance guarantee, by appropriate legal and equitable remedies. If proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the Supervisors may, at their option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the monies necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the subdivider/developer, or both, shall be used solely for the installation of the improvements covered by the security, and not any other municipal purpose.

**§ 415-29. Dedication of improvements.**

- A. Upon completion of the required improvement(s), the subdivider/developer shall take the final steps to dedicate those improvement(s) he intends for public usage, and have the same accepted by the Supervisors. A deed which dedicates the land and the improvements to the Township shall be recorded with the final plan or shall be recorded upon completion of the construction of such improvements and approval by the Township Engineer, as applicable. A copy of such deed shall also be submitted with the subdivision plan, where the construction of such improvements is completed, inspected and approved by the applicable engineer prior to final plan approval. In addition, the developer shall submit "as-built" drawings to the Township for all improvements being dedicated to the municipality. Such action shall be taken prior to acceptance of the improvements by the Supervisors and before release of the improvement guarantee. Further, all streets proposed for dedication to the Township shall undergo at least one freeze/thaw cycle prior to being considered for acceptance by the municipality.
- B. Where the Township accepts dedication of all or some of the required improvements, the Supervisors may require up to 15% of the actual cost of installation of said improvements for financial security to insure the structural integrity of those improvements for a term not to exceed 18 months from the date of acceptance of dedication.
- C. The Supervisors may approve a final plan without an offer of dedication for streets or other improvements, provided that such improvements are noted as private on the final plan. The subdivider/developer shall also be required to provide a notice in each deed, lease, or conveyance setting forth an arrangement between the subdivider/developer and the buyer or lessee for maintenance of such private facilities.
- D. Nothing herein shall, however, require the Township to accept dedication of any improvements which may be required by the municipality as a condition of subdivision or land development approval.

ARTICLE VI  
**Improvement Design and Construction Standards**

**§ 415-30. General standards.**

- A. The principles, standards, and requirements of this article shall be applied by the Porter Township Planning Commission and Supervisors in evaluating and reviewing proposed subdivision and land development plans and shall be considered minimum standards. Where deemed appropriate or necessary to protect the public health, safety or welfare, the Planning Commission may recommend and the Supervisors may require more restrictive standards. Whenever other applicable regulations impose more restrictive standards, those regulations shall apply.
- B. The use of land in any proposed subdivision or land development shall comply with the provisions of Chapter 490, Zoning, which was enacted on September 17, 1998, or as may hereafter be amended, and any other ordinances or regulations hereafter enacted by the Township.
- C. Land deemed by the Township to be uninhabitable because of the hazards it presents for life, health or property, such as areas of excessive slope, unstable soils or soils of inadequate weight bearing strength, or sites susceptible to severe flooding (i.e., floodway sites), or those with very poor access, shall not be plotted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard.
- D. All subdivisions and land developments and all areas contained therein shall be so planned as to take advantage of the natural contour of the land in order to maximize natural drainage, wind shelter and sun exposure. Grading, disruption of topsoil and destruction of natural vegetation and other natural environmental conditions shall be minimized to the extent possible to achieve these goals.
- E. Every precaution shall be taken to preserve those natural and historic features determined to be worthy of preservation by the Township Planning Commission, including but not limited to large trees or stands of trees, watercourses, historic areas and structures, and scenic vistas.
- F. New subdivisions and land developments shall be coordinated to the extent possible with all existing or proposed developments on adjacent properties.

**§ 415-31. Blocks, lots and building setback lines.**

- A. Blocks.
  - (1) The length, width and shape of blocks shall be determined with due regard to the provision of adequate sites for the type of buildings proposed, applicable zoning requirements, topography, and the requirements for safe and convenient vehicular and pedestrian circulation. In general, blocks shall not be less than 500 feet in length nor exceed 1,600 feet.
  - (2) Where deemed appropriate by the Township, a walkway, with a right-of-way width of not less than 12 feet and a surfaced width of not less than five feet, may be required to afford pedestrian access to schools, playgrounds, shopping centers, or other places

of public assembly. The surface of such walkway shall be determined on a case-by-case basis.

- (3) Residential blocks shall be of sufficient depth to accommodate two tiers of lots, except where reverse frontage lots are necessary; in the case of residential cluster development layouts; or where topographic conditions or other property limitations effectively prevent such design.

B. Lots.

- (1) All lots shall conform to the minimum area and width requirements contained in Chapter 490, Zoning, and to the related requirements of the Pennsylvania Sewage Facilities Act<sup>56</sup> and all other applicable state and local sewage and water regulations.
- (2) Lot size, dimension and the placement of lots within blocks shall be such that they provide the largest amounts of usable open space for the users thereof; the most economical provision of services; and the most advantageous relationship with the site's natural topography and vegetation.
- (3) All lots shall abut a public street or shall have access to a public street via a private street or right-of-way no less than 50 feet in width, except in the case of a lot being added to and becoming a part of an adjacent existing lot with road frontage.
- (4) In general, side lot lines should be at right angles or radial to street lines. Lots located on cul-de-sac turnarounds or curves in the road or lots of unusual shape may have lot widths of less than those required in Chapter 490, Zoning, provided that the average of the front and rear lot line is equal to or greater than the required lot width. In no case, however, shall the front lot line have a width less than 50 feet.
- (5) Double-frontage lots shall be avoided, except where essential to provide separation between residential developments and collector or arterial streets or to overcome topographic or orientation disadvantages. Where double-frontage lots are permitted, a buffer yard with suitable screen planting, at least 10 feet in width, shall be required along the side of the property adjacent to the thoroughfare or other inharmonious use, across which there shall be no right of access.
- (6) A parcel being subdivided for the purpose of being added to an existing, adjacent lot of record shall not be subject to the minimum lot size or soils testing requirements of this chapter, provided that a note indicating the parcel's addition status is placed on the plot plan and the existing lot and the addition are combined into a single deed of record. The plan note shall also include a reference to the Deed Book and Page Number of the existing parcel. If both parcels are described separately in the same deed, then notes shall be placed on the plan and in the deed indicating the total acreage of the combined parcels and that both lots are to be considered as one for subdivision purposes. In this manner, the purchaser is precluded from subsequent conveyance of the acquired addition without prior approval under the terms and conditions of this chapter.

C. Building setback lines.

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

- (1) All buildings shall be set back in accordance with the minimum standards contained in Chapter 490, Zoning.
- (2) The straight alignment of dwellings along established minimum front setback lines shall be discouraged and instead, varying structure setbacks shall be encouraged to promote variety and avoid monotony in development design.

### § 415-32. Streets and driveways.

#### A. Street system classifications.

- (1) The State Highway System includes all public streets and highways operated and maintained by the PA Department of Transportation (PennDOT).
- (2) The municipal street system includes all public streets and roads owned and maintained by Porter Township. Subdividers or developers proposing public dedication of streets within a subdivision shall submit road design and construction plans which meet the Township's minimum specifications as a part of the plan submission process. In instances where the Township agrees to accept a road constructed within a subdivision or development, a deed dedicating the street and its right-of-way to the municipality shall be recorded with the final plan or shall be recorded upon completion of the street construction and approval by the Township Engineer, as applicable. (See also § 415-29 of this chapter.)
- (3) Private streets include all streets not dedicated, accepted, and maintained as public streets. Private streets may be permitted where the following conditions are met:
  - (a) Private streets shall be designed and constructed in accordance with the standards and specifications contained in Tables 1 and 2 of this chapter.<sup>57</sup>
  - (b) A survey of the center line of the private street shall be shown on the plot plans along with a notation identifying the street and its right-of-way as being private.
  - (c) The subdivider shall include a Use and Maintenance Agreement in each deed, lease, or conveyance prescribing the width of the street right-of-way, its location, and setting forth an arrangement between the subdivider and buyer or lessee for improvement and maintenance of the private roadway. A copy of any such agreement shall be submitted to the Township for review and approval along with the subdivision or land development plans.
  - (d) Where an existing private street or right-of-way is proposed to provide access to a new subdivision, the subdivider shall prepare a Use and Maintenance Agreement and have it signed by all property owners using the existing roadway if such an agreement is not included in their existing deeds. Where such an agreement is secured, it shall be recorded with the final plan and shall describe the width of the street right-of-way, its location in accordance with the standards of this chapter, and shall set forth arrangements for maintenance of the private roadway. A copy of any such agreement shall be submitted to the Township for review and approval along with the subdivision or land development plans.

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57. Editor's Note: Tables 1 and 2 are included as attachments to this chapter.

- (e) Where such an agreement can not be secured, despite a bona fide effort on the part of the subdivider, the Township may consider the proposed subdivision or land development plans with a Use and Maintenance Agreement signed by all users of the private street in the new subdivision or land development. A copy of any such Agreement shall be submitted to the Township for review and approval along with the subdivision or land development plans. The approved agreement shall then be incorporated into each deed, lease or conveyance for the development. (See also § 415-32G for applicable construction standards for private streets.)
- B. Access permit requirements.
- (1) In order to protect public safety, the Township may limit access onto a public street or highway to specific locations and may require such locations to be shown on the plot plan.
  - (2) A highway occupancy permit must be issued by the PA Department of Transportation (PennDOT) before construction of access onto any state highway can be initiated. Where any such access is proposed as part of a subdivision or land development proposal, the subdivider shall submit a copy of the PennDOT Highway Occupancy Permit to the Township along with his subdivision or land development plans. Where the location of such access is not known at the time of subdivision plan submission, a note shall be placed on the plans indicating the need to obtain this permit prior to the initiation of driveway construction. (See also § 415-32J.)
  - (3) A driveway permit must be issued by the Township before construction of access onto a Township street can be initiated. In instances where new street intersections are proposed as part of a subdivision or land development proposal, the subdivider shall include a copy of the Township driveway permit as a part of his plan submission. Where the location of specific driveway accesses is not known at the time of subdivision plan submission, a note shall be placed on the plans indicating the need to obtain such permit prior to the initiation of driveway construction. (See also § 415-32J.)
- C. General street system standards.
- (1) All subdivision or land development plans shall extend or continue existing public rights-of-way at a width no less than the minimum specified by this chapter.
  - (2) Local streets within a new development or subdivision shall be laid out to discourage through traffic. However, provision for the extension and continuation of streets into and from adjoining areas may be required.
  - (3) Where a subdivision or land development abuts or contains an existing or proposed arterial or collector street, the Township may require marginal access streets, reverse frontage lots, or such other treatment as will provide protection for abutting properties; reduction in the number of intersections with the arterial or collector street; and separation of local and through traffic.
  - (4) Where the lots in a development are large enough for resubdivision, or if a portion of the tract is not subdivided, suitable access and street openings for such an eventuality shall be provided.

- D. Street design standards. (See also Illustration I of Appendix A.)<sup>58</sup> Minimum design standards for streets serving residential, commercial, institutional, and industrial development are shown on Table 1 and are further detailed in the following subsections. (See also PennDOT's Publication 70, Guidelines for the Design of Local Roads and Streets, or most current standards.)
- (1) Provision for additional street right-of-way may be required by the Township for public safety and convenience, or for access to off-street parking in commercial and industrial areas and in areas of high-density residential development.
  - (2) In addition to the minimum street grade and alignment standards shown in Table 1,<sup>59</sup> the following requirements shall also be applied:
    - (a) Whenever street lines deflect from each other at any point, connection shall be made by horizontal curves with minimum center line radii no less than those shown on Table 1.
    - (b) Vertical curves shall be used in changes of grade exceeding 1%. The minimum length of all vertical curves for local streets and minor collector streets shall be 200 feet, and 400 feet for major collectors and arterial highways.
    - (c) Proper sight distance shall be provided with respect to both horizontal and vertical alignments as established in Table 1.
    - (d) Street grades shall be as established in Table 1.
    - (e) Street crown grades shall be 1/4 inch to 3/8 inch per foot for paved streets and 3/8 inch to 1/2 inch per foot for stabilized streets, except where super-elevated curves are used. Shoulder grades shall not exceed 3/4 inch per foot.
- E. Intersections.
- (1) Streets shall be laid out to intersect as nearly as possible at right angles, and no street shall intersect any other at less than 60°. Multiple intersections involving the junction of more than two streets shall be avoided where at all possible.
  - (2) Where the grade of any private or public street at the approach to an intersection exceeds 6%, a leveling area shall be provided having a grade no greater than 4% for a distance of 25 feet measured from the nearest right-of-way line of the intersecting street.
  - (3) The maximum grade within any intersection shall not exceed 1% in any direction.
  - (4) The edge of pavement radius for the intersection of two local streets shall be 35 feet, 50 feet for the intersection of a local and collector street, and 50 feet for the intersection of two collector streets or a collector street and an arterial highway. Curb radii for the intersection of two local streets shall be 15 feet, 25 feet for the intersection of a local and collector street, and 35 feet for the intersection of two collector streets or a collector street and an arterial highway. The curb radii for driveway intersections shall be no less than 10 feet.

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58. Editor's Note: Appendix A is included as an attachment to this chapter.

59. Editor's Note: Table 1 is included as an attachment to this chapter.

- (5) Clear sight triangles shall be provided at all street intersections. At all street and/or driveway intersections, no significant obstructions or plantings (including streetlights or utility poles) measuring higher than 30 inches or hanging lower than eight feet above road grade shall be permitted within this area. The area required for such clear sight triangles shall be as provided below and shall be measured from the point of intersection of the street and/or driveway center lines. (Sight distance shall be measured at a height of four feet above road surface.)
    - (a) Streets. For the intersection of two local streets, the minimum distance required shall be 75 feet; for the intersection of a local street and a collector street, the minimum distance shall be 100 feet; and for the intersection of two collector streets or a collector street and an arterial highway, the minimum distance required shall be 150 feet.
    - (b) Driveways. For the intersection of a street and a driveway, the minimum distance between center lines shall be 50 feet where the street involved is a local street; 75 feet where a collector street is involved; and 100 feet where the street involved is classified as an arterial highway.
  - (6) Streets intersecting on opposite sides of a street shall be laid out directly opposite each other, or where permitted by the Township, shall be separated by at least 200 feet between center lines.
  - (7) Streets intersecting on the same side of a local street shall be separated by intervals of no less than 600 feet, measured from center line to center line, and no less than 800 feet when involving collector streets or arterial highways.
- F. Cul-de-sac streets. Cul-de-sac streets may only be utilized in Porter Townships where "through" streets cannot be provided. When utilized, such streets must be designed to protect public safety and simplify maintenance. The standards set forth in Table 1<sup>60</sup> shall apply to the design of cul-de-sac streets in addition to the following requirements:
- (1) Cul-de-sac streets shall be a minimum of 250 feet in length and shall not exceed 1,600 feet in length nor serve more than 20 lots or dwelling units, whichever is less. Additional length may only be approved by the Township where such length is deemed to be in the best interest of the municipality, and where it is determined that such extension will cause no jeopardy to public safety.
  - (2) All cul-de-sac streets shall be provided with a turnaround area which shall be graded and surfaced in the same manner as the street. Center islands shall be avoided in the design of turnaround areas, and parking shall also be prohibited in these areas.
  - (3) Circular turnarounds shall be designed to include two, at-grade "storage" or "pull-off" areas intended to facilitate snow removal and road maintenance. Such areas shall be part of the right-of-way of the street and shall each be 50 feet in width and 100 feet in depth. They shall be situated at "12:00" and "3:00" at the head of the turnaround. No parking, driveways, trees or plantings, or utility poles or boxes shall be permitted in these areas. (See Illustration III of Appendix A for an illustration of this requirement.)<sup>61</sup>

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60. Editor's Note: Table 1 is included as an attachment to this chapter.

61. Editor's Note: Appendix A is included as an attachment to this chapter.

- (4) Any street dead-ended for access to an adjoining property, or because of authorized staged development shall be provided with a temporary turnaround with a stabilized surface and an outside diameter of at least 100 feet. (The specific time period allotted for such temporary construction shall be set forth in an agreement between the Township and developer.)
- G. Street construction standards. (See also Illustration I of Appendix A.) Minimum construction standards for public and private streets serving residential, commercial, institutional and industrial development are shown on Table 2,<sup>62</sup> and are further detailed in the following subsections.
- (1) All streets proposed for dedication to the Township shall meet the requirements set forth in Table 2 for local or collector streets at the time of dedication. (See also §§ 415-27 and 415-29 for additional dedication requirements.)
  - (2) Streets shall be surfaced to the grades and dimensions shown on plans, profiles, and cross-sections submitted by the subdivider or developer and approved by the Township. Before finalizing street installation, the subdivider shall install any required utilities and provide adequate drainage facilities for the street in accordance with the requirements of §§ 415-32H, 415-37 and 415-38 of this chapter.
  - (3) The pavement subbase, base, and wearing surface shall be constructed to the specifications contained in Table 2.<sup>63</sup> (See also PennDOT's Publication 70, Guidelines for the Design of Local Roads and Streets, or most current standards.) All components of the pavement structure shall meet the requirements specified in the most current version of PennDOT's Publication, Form 408.
  - (4) Where low volumes of traffic are anticipated, the Township Supervisors may authorize the use of the alternate standards for construction of local streets as set forth in Table 2. At a minimum, all such streets shall meet the specifications of the State's Dirt and Gravel Roads Program and shall be reviewed and inspected by the Clinton County Conservation District prior to consideration of acceptance by the Township.
  - (5) The subbase shall extend full depth through the shoulder width on each side of the proposed street. The subbase shall be composed of 2A coarse aggregate and shall be constructed to the depth set forth in Table 2. **[Amended 6-1-2009 by Ord. No. 61-6-2009]**
  - (6) Street shoulders shall be constructed to a compacted depth equal to the depth of the base and wearing surface of the street. The finished surface elevation of the shoulder shall meet the finished elevation of the edge of the cartway. (See Table 1<sup>64</sup> for minimum width requirements.)
  - (7) In instances where access to a subdivision is proposed via a private street or right-of-way, the following construction standards shall apply:
    - (a) Private streets serving one or two lots or dwelling units need not be constructed to meet specific standards, but shall provide a minimum right-of-way width of

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62. Editor's Note: Table 2 is included as an attachment to this chapter.

63. Editor's Note: Table 2 is included as an attachment to this chapter.

64. Editor's Note: Table 1 is included as an attachment to this chapter.

50 feet.

- (b) Private streets serving three or four lots or dwelling units shall be constructed to the private street standards outlined in Table 2.<sup>65</sup>
- (c) Private streets serving five or more lots or dwelling units shall be constructed in accordance with the standards for local streets contained in Table 2.
- (d) All private streets being offered for dedication to the Township shall be constructed in accordance with the standards for local streets contained in Table 2.
- (e) Existing private streets proposed as access to a new subdivision or development must be constructed with a stabilized, all-weather driving surface in accordance with the standards of this chapter. An independent engineering analysis, paid for by the subdivider or developer, may be required by the Township to evaluate the capability of the existing road to accommodate the projected additional use generated by the proposed development.
- (f) Where additional development is proposed utilizing an existing private street or right-of-way, the total number of lots or dwelling units served by the private roadway shall determine the applicable construction standards. It shall be the responsibility of the subdivider or developer to improve the condition of the existing private street where such improvement is deemed appropriate by the Township. [See also § 415-32A(3)(d) regarding the use and maintenance of private streets.]

#### H. Curbs and drainage swales.

- (1) Curbs. Curbs shall be provided in those circumstances determined appropriate by the Township Supervisors. For local streets, curbs may be either the vertical or mountable type. No mountable curbs may, however, be used for collector or arterial streets. The transition from one type of curb to another shall be affected only at a street intersection. Where required, curbs shall be constructed of concrete, and may include pre-cast curb and gutter products as approved by the Supervisors, and shall include a minimum seven-inch reveal. Concrete curbs shall be provided with expansion joints every 20 feet. Curbs shall also conform to all applicable PennDOT and Township standards.
- (2) Drainage swales. In areas where curbing is not required or a waiver is granted by the Township Supervisors, stabilized drainage swales shall be provided along all new streets to avoid erosion and control runoff. These drainage swales, along with other drainage facilities, shall be designed to handle the runoff from the proposed development and areas of the drainage basin already accommodated. At a minimum, all erosion and sedimentation control standards set forth in Title 25, Chapter 102 of the PA Code, the Rules and Regulations of the Department of Environmental Protection, and the following specifications shall be met:
  - (a) The side slope shall be a maximum of 2:1 horizontal to vertical ratio, 3:1 or flatter slope being desirable.

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65. Editor's Note: Table 2 is included as an attachment to this chapter.

- (b) There shall be a rounded area with a cross-sectional dimension of two feet at the point of intersection of the shoulder and side slope.
  - (c) The minimum depth of the swale shall be one foot below the outer edge of the shoulder.
  - (d) The bottom of the swale shall have a rounded area with a cross-section dimension of four feet.
  - (e) The minimum and maximum gradient of the drainage swale shall be 0.75% and 12%, respectively.
  - (f) The swale shall be sodded, seeded or otherwise stabilized to avoid erosion problems as follows. Any portion of a swale which exceeds a 5% gradient shall have its bottom rounding area lined with stone to a depth below the finished grade equal to 1 1/2 times the average size of the largest stone used. For swales of 5% gradient, at least 25% of the stone used shall be eight inches or larger, 75% may be less than eight inches in size. For swales of 12% gradient, at least 25% of the stone used shall be 19 inches or larger in size. Drainage swales having a gradient between 5% and 12% shall use stones which are proportionately larger than the eight-inch stone used for the 5% gradient swale.
- (3) Drainage pipes. Where a new driveway is proposed to cross a drainage swale adjacent to a public or private street, a drainage pipe of adequate size and length shall be installed by the property owner underneath the driveway to handle the runoff. Where such intersections are to be created along a municipally owned or private street, Township officials shall determine the appropriate pipe size and length as a part of the local driveway permit process. Where a state-owned street is involved, PennDOT shall make the necessary determinations.

I. Street verge.

- (1) Sidewalks. Sidewalks may be required by the Township Supervisors, where, in their opinion, the type of development proposed or the character of the neighborhood warrants. Sidewalks shall be at least four feet in width; shall be constructed of reinforced concrete at least four inches in depth; and shall be laid on at least four inches of compacted gravel or stone. Sidewalks shall be scored in five-foot blocks with expansion joints generally every 20 feet, or as otherwise appropriate. Where driveways cross over sidewalks, sidewalks shall be a minimum of six inches in depth with welded wire fabric reinforcement. Pre-cast concrete sidewalks may also be approved for use by the Township. Sidewalks to be located within a state right-of-way shall be designed and constructed in accordance with PennDOT standards and specifications.
- (2) Street signs. Street signs shall be placed at all intersections at the expense of the subdivider or developer. The type, design, height and installation arrangements for such signs shall be subject to approval by the Township Supervisors. Street signs shall be erected prior to municipal acceptance of the street.
- (3) Street names. Names proposed for new streets shall not duplicate or resemble closely the name of any other existing street in the Township in order to facilitate and simplify emergency dispatching and response. Proposed streets in obvious alignment

with others already existing and named, shall be given the name of the street they continue. All proposed street names shall be subject to approval by the Township, county emergency personnel, and the local post office, where necessary.

- (4) Street trees. Street trees shall be permitted to be located between the sidewalk and the building line of all new lots. No trees shall, however, be planted within the right-of-way of any public or private street, nor shall they be located within the clear sight triangle of any street or driveway intersection. At maturity, no part of any street tree shall be closer to a street or property line than five feet.
- (5) Streetlights. Where deemed necessary by the Township for safety reasons, a streetlight shall be installed at one corner of every intersection in a proposed development. Additional streetlights may be required at intervals determined appropriate by the applicable utility provider. Design, height and installation arrangements shall be subject to approval by the Township Supervisors.

J. Driveways and/or access drives.

- (1) All proposed lots or land developments shall be situated in such a fashion so that safe access onto a public or private road can be provided. The Driveway and Access Drive Design Guidelines set forth in Table 3 below shall be utilized to the greatest extent possible for the design and construction of driveways and/or access drives.
- (2) In a situation where significant potential safety hazards exist, such as excessive slope or areas of extremely limited sight distance, the Township may require, prior to granting final subdivision approval, that:
  - (a) The subdivider construct the driveway or access drive in accordance with the requirements contained in Table 3 of this chapter;
  - (b) The specific driveway or access drive location be shown on the plot plans; (see also § 415-32B); or
  - (c) A deed restriction be placed on the future use of the lot requiring the provisions of Table 3 of this chapter to be complied with when a driveway or access drive is proposed for construction.
- (3) Driveways or access drives serving five or more lots, uses or dwelling units shall be designed and constructed in accordance with the standards for local streets set forth in Tables 1 and 2 of this chapter.<sup>66</sup>
- (4) Clear sight triangle requirements for driveways are set forth in § 415-32E(5) of this chapter.
- (5) Curb radii requirements for driveways are set forth in § 415-32E(4) of this chapter.
- (6) Where a lot fronts on both a local street and a collector street or arterial highway, driveway access shall be from the local street.
- (7) Driveways or access drives shall not intersect a street right-of-way within:
  - (a) Five feet of a catch basin or drainage inlet;

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**66. Editor's Note: Said tables are included as attachments to this chapter.**

- (b) Five feet of a property line, unless adjoining property owners mutually agree to a common drive location; nor
- (c) Fifteen feet of a fire hydrant.

Type of Development	Min. Width (feet)	Max. Grade <sup>1</sup>	Min. Curb Radius <sup>2</sup> (feet)	Min. Intervals <sup>3</sup> (feet)	Min. Sight Distance <sup>4</sup> (feet)
Single-unit residential	10	15%	10	40	150
Multunit residential <sup>5</sup>	20	12%	15	200/75	200
Nonresidential uses	15 per lane	8%	15	200/100	300

**NOTES:**

- <sup>1</sup> All driveways shall provide a stopping or leveling area having a grade less than or equal to 5% which extends 25 feet from the edge of the shoulder of the intersecting street. This leveling area shall intersect the street at an angle no less than 60°, preferably 90°.
- <sup>2</sup> Where dropped curbs are used to provide driveway access, the minimum width of the dropped curb shall be 20 feet for single-family residential uses and 35 feet for multifamily and nonresidential uses. The transition from the normal driveway width to the width with the dropped curb shall begin 10 feet back from the edge of the curb for residential uses and 15 feet back for multifamily and nonresidential uses.
- <sup>3</sup> Minimum intervals for single-family residential uses shall apply between an intersection and the first driveway only. For multifamily and nonresidential uses, the minimum interval between a street intersection and a driveway or access drive shall be 200 feet. Minimum intervals between any other points of access shall be 75 feet and 100 feet, respectively.
- <sup>4</sup> Minimum sight distance shall be measured from the point of intersection of the driveway center line and the street right-of-way line to a point at the specified distance on the cartway center line. No significant obstructions or plantings measuring higher than 30 inches or hanging lower than eight feet above road grade shall be permitted within this area.
- <sup>5</sup> For the purposes of driveway or access drive design, the multiunit residential design criteria shall be used for driveways or access drives serving two to five lots or dwelling units. Driveways or access drives serving more than five lots or dwelling units shall be designed and constructed in accordance with the standards for local streets set forth in Tables 1 and 2 of this chapter.<sup>67</sup>

**§ 415-33. Open space/recreation area.**

All subdivision and land development proposals meeting the thresholds set forth in this section shall be required to provide open space and/or recreation area(s) for the use and enjoyment of the occupants of their development in accordance with the following standards:

- A. Where a proposed subdivision or land development of a tract contains 25 or more lots or dwelling units, whether such total is proposed initially or occurs over time as part of a phased development, the Township may require the reservation and/or dedication of up to 10% of the total area of the proposed development (or as may be required otherwise in this

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67. Editor's Note: Said tables are included as attachments to this chapter.

chapter or in Chapter 490, Zoning) for the common use of all residents of the development. Such reservation may be waived by the Township where the average lot size in a subdivision or land development is greater than 1/2 acre.

- B. Any open space required by the Township shall be suitable for varied outdoor uses, including recreational activities. Such open space shall be located so as to be easily and safely accessible from all areas of the subdivision and shall be free of safety and health hazards. Open space may also be designed and situated to provide connection to other existing or proposed open space or recreation areas, and may include segments of the site containing unique characteristics or physical features, such as rock outcroppings, virgin or important tree stands, or other environmentally sensitive natural attributes. Portions of the area to be used for recreational purposes shall have suitable physical characteristics for varied recreational use, including well-drained soils, gentle topography, and suitable shape and size.
- C. Where open space/recreation area is required by the Township, the subdivider or developer shall submit, with his subdivision or land development plan, a proposal indicating the type of recreation or related facilities to be installed or constructed in such area. Or, upon agreement of the developer, the Township may accept the payment of fees in lieu of said construction or installation from the developer. Such fees shall bear a reasonable relationship to the use of the open space and facilities by future inhabitants of the development and shall be used only for the purpose of providing park or recreation facilities accessible to the development. All fees collected by the Township shall be set aside for construction of specific recreation facilities identified as part of the approved subdivision. The Township shall utilize any such fees within three years from the date they were paid or the developer may request a refund. The Township may also require the developer to complete installation of such recreation facilities during the initial phases of his development to ensure their availability to residents as soon as possible.
- D. Where open space/recreation area is provided, the subdivider shall submit, with his subdivision or development plans, a proposal which provides for the maintenance and ultimate ownership of such space. Where such open space is not dedicated to the Township or where such dedication is not accepted by the Township, an Agreement which assigns maintenance responsibilities for the open space and/or recreational facilities shall be approved by the Township, recorded with the final plan, and referenced in the deeds of each parcel within the development.

#### **§ 415-34. Sewage facilities.**

All subdivisions and land developments shall be provided with adequate sewage facilities. It shall be the responsibility of the developer to make the necessary arrangements and/or conduct the appropriate tests to determine that such facilities can or will be provided to handle the sewage generated by his development in accordance with the following standards:

- A. General requirements.
  - (1) In general, the type of sewage facilities to be provided shall be determined by the Township, giving consideration to the following order of preference:
    - (a) Connection to a public sanitary sewer or other community sewerage system designed and constructed in accordance with the requirements of the PA

Department of Environmental Protection (PA DEP), particularly where public sanitary sewers are available within 1,000 feet of the proposed property line of the development;

- (b) Provision by the developer of a complete private sanitary sewer or community sewerage system using a treatment plant, designed and constructed in accordance with the requirements of the PA DEP;
  - (c) Individual on-lot sewage systems designed and constructed in accordance with the requirements of the PA DEP.
- (2) The judgment of the Township as to the method of sewage disposal to be used will be made after study and review of a sewage feasibility report submitted by the developer. The submission of such a report may be waived by the Township where it is deemed unnecessary. When required, however, such report shall be prepared by a registered professional engineer or other individual of demonstrated qualifications. In such cases, the Township may also require a written review and/or recommendation from the East Nittany Valley Joint Municipal Authority or other applicable Sewer Authority.
- B. Planning requirements. Documentation which demonstrates that the subdivider/developer has adequately planned for sewage disposal within the proposed subdivision or land development shall be submitted with the initial plan (the preliminary or final submission, as applicable) or the subdivider/developer shall provide the Township with written documentation from the PA DEP or a designated local agency that the proposed subdivision/land development has received an exemption from the sewage planning process. Unless such an exemption is granted, the subdivider/developer shall submit the appropriate DEP Planning Module Component(s) to the Township along with plans for the proposed subdivision or land development. No final subdivision or land development plan shall be considered complete or filed with the Township until the applicant has provided the appropriate sewage facilities planning documentation.
- C. Individual on-lot sewage systems.
- (1) All proposed subdivisions and land developments shall have appropriate soils testing performed by the municipal Sewage Enforcement Officer or a qualified soils scientist in accordance with PA DEP standards, unless connection to or provision of a sanitary sewer or community sewerage system is proposed by the developer. The location of all pit and percolation test sites shall be marked on the subdivision or land development plan, where individual on-lot sewage systems are to be utilized.
  - (2) For single-lot subdivisions or for residual parcels created by the subdivision of other land, where the subdivider provides written documentation to the Township which demonstrates that the proposed subdivision or residue is not intended for development, the Township may waive the requirement for soils testing. (All appropriate PA DEP sewage planning requirements shall, however, still be met, including approval of Non-Building Waiver Request Forms, where applicable.) In such cases, plot plans shall be stamped or marked by the Township indicating that approved lots are "Not For Development." Prior to development, all such plans shall be resubmitted to the Township for approval and the requirements of this section shall be met in full at that time.

- (3) Where soils testing indicates that the soils of a site, lot or parcel will not accommodate an individual on-lot sewage system, the Township may approve a proposed subdivision, provided that the plot plans indicate which lot(s) has failed the soils testing. Further, these plans shall be stamped or marked by the Township indicating that such approved lots are "Not For Development" and that prior to development, plans for these lots shall be resubmitted to the Township for approval.

D. Sanitary sewer or community sewerage systems.

- (1) Where extension of an existing sanitary sewer or community sewerage system or construction of a new sanitary sewer or community sewerage system, either public or private, is proposed or required, the subdivider or developer shall provide the Commission with plans prepared by a registered professional engineer and a letter of certification indicating that the proposed facility has been designed in accordance with the standards of the PA Department of Environmental Protection (PA DEP) or a copy of the DEP-approved water quality permit for the facility. Where an existing sanitary sewer or community sewerage system is to be extended, the developer shall also submit a letter from the East Nittany Valley Joint Municipal Authority or other applicable Sewer Authority approving the plans for the proposed extension and indicating their intent to serve the subdivision or development, as part of the plan submission process.
- (2) Following construction where an existing sanitary sewer or community sewerage system is extended, the developer shall provide the Township with an approved inspection report from the East Nittany Valley Joint Municipal Authority or other applicable Sewer Authority indicating that such construction was completed satisfactorily. Where a privately owned community sewerage system is constructed, the developer shall provide the Township with documentation from the PA DEP or other qualified engineer/inspector, approved by the Township, which indicates that the facility was installed in accordance with the terms of the water quality permit. (The Township reserves the right to retain an independent registered professional engineer to certify that the sewerage facility has been properly constructed or installed. In this case, the subdivider or developer shall reimburse the Township for all reasonable expenses charged by the engineer for such inspection in accordance with the procedure established in § 415-61 of this chapter.)
- (3) A plan addressing the maintenance of all private sanitary sewer or community sewerage systems shall be made by the developer and furnished to the Township and the PA DEP for review and approval as a part of the subdivision or development plan submission process.
- (4) Where a public sanitary sewer system is not available to a subdivision or land development at the time of plan submission but is planned for construction at or near the development site within five years and will have the capacity to serve the development, the subdivider or developer shall install sewer lines, including lateral connections, to provide adequate service to each lot when connection to the public system is made. The sewer lines shall be capped at the limits of the subdivision and the laterals shall be capped at the street right-of-way. When capped sewers are provided, individual on-lot sewage systems shall also be permitted. The installation of such sewer lines and laterals shall also be subject to the inspection process set forth in Subsection D(2) above.

**§ 415-35. Water supply.**

All subdivisions and land developments shall be provided with a safe, adequate and potable water supply. It shall be the responsibility of the subdivider or developer to provide such service or assure that each lot to be developed or each dwelling unit proposed in his development can be provided with water utilizing one of the following methods:

**A. Public water systems.**

- (1) Subdivisions and land developments shall be connected to an existing public water system where connection to such system is feasible. Where the number of lots or dwelling units in a subdivision or land development exceeds 25, the Township may require installation of a community water system if it is not feasible to connect to an existing public system. In such instances, the Township may require the developer to submit a feasibility study prepared by a registered professional engineer or other qualified individual to show that the use of a public or community water system is not feasible.
- (2) If water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the subdivision or development, the developer shall present evidence to the Township that water is to be supplied to the subdivision by a certified public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the PA Public Utility Commission or an application for such certificate, a cooperative agreement, or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence.
- (3) New public water systems which are proposed to service new subdivisions or land developments shall be designed and constructed in accordance with the regulations of the PA Department of Environmental Protection (PA DEP). The developer shall submit to the Township a copy of the appropriate PA DEP approval letter or permit for construction and operation of the new public water system as a part of the subdivision or development plan submission.
- (4) Extensions to existing water systems which are proposed to service new subdivisions or land developments shall be designed and constructed in accordance with the regulations of the PA DEP. The developer shall submit to the Township a letter from the Porter Township Municipal Authority, the Nittany Water Company, or other applicable Water Authority approving the plans for the proposed extension to the existing system and indicating their intent to serve the development as a part of the subdivision or development plan submission.
- (5) Fire hydrants with sufficient pressure shall be provided as an integral part of any public water supply system and shall be placed at such locations as are deemed appropriate, based on the type of development proposed, but shall be no more than 600 feet apart. In addition, the Township may request that plans involving the provision of fire hydrants be reviewed by the local Fire Department to determine the suitability and adequacy of the proposed units and their placements.

**B. Nonpublic water systems.**

- (1) Where a proposed subdivision or land development involves the conveyance of lots

served by a nonpublic water supply system or the development of a tract upon which an on-site well is to be provided to serve all or parts of the development, the subdivider or developer shall provide the Township with a letter or permit from the PA DEP which approves the construction and operation of the proposed system. This documentation shall be supplied to the Township as a part of the subdivision or land development plan submission.

- (2) A plan addressing the maintenance of the proposed nonpublic water supply system shall be made by the developer and furnished to the Township and the PA DEP as a part of the subdivision or development plan submission.

C. Individual on-lot wells.

- (1) Where neither a public or nonpublic water supply system is proposed by a developer to serve his development, individual on-lot wells shall be installed by each property owner. Where groundwater problems are known to exist, or where anticipated levels of development may result in water supply problems, the Township may require the developer to demonstrate that a reliable, safe and adequate groundwater supply exists to support the water usage demands of the proposed subdivision without detrimental effects upon existing adjacent water wells. (Supporting documentation must be provided by a qualified engineer or other professional of demonstrated capability; i.e., a hydrogeologist or hydrologist.) The standards set forth in the Safe Drinking Water Act<sup>68</sup> and other appropriate PA DEP regulations shall apply in such instances.
- (2) Individual on-lot wells shall be located at least 100 feet from the drain field of any individual on-lot sewage system.

**§ 415-36. Utilities.**

- A. Plans for the location and installation of other utilities, including but not limited to, electric, gas, streetlight supply, cable television, and telephone, shall be approved by the Township and the applicable utility company. The location, width, and purpose of all utility easements shall be indicated on the subdivision or development plans. Utility easements shall have a minimum width of 10 feet, and where feasible, shall be located within the street right-of-way. Otherwise, such easements shall be located along rear or side lot lines to the extent possible. (Local utility companies shall be consulted by the developer when designing or locating easements.)
- B. Letters from all appropriate utility companies indicating their ability to supply service for the proposed subdivision or land development shall be provided to the Township by the developer as a part of the subdivision or land development plan submission.
- C. All utilities shall be installed underground in accordance with the PA Underground Utilities Act (Act 287 of 1974, as amended by Act 187 of 1996).<sup>69</sup> Utilities need not be installed underground however where a variance to the requirements of Act 287 has been granted by the PA Public Utilities Commission.
- D. Underground installation of the utility distribution and service lines shall be completed prior to street paving and storm drainage or curbing installation. All street rights-of-way

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68. Editor's Note: See 35 P.S. § 721.1 et seq.

69. Editor's Note: See 73 P.S. § 176 et seq.

and other easements where utility lines are to be installed shall be graded to within six inches of final grade before trenches are excavated.

- E. All natural gas lines shall be installed in accordance with the ASA Code B31, 80 of 1958, as amended. The minimum separation distance from a natural gas line to a dwelling unit or structure shall be as required by the applicable transmission or distributing company.
- F. All proposed dwelling units or structures shall be located at least 100 feet from the center line of any petroleum or petroleum products transmission line which traverses the proposed subdivision or land development, measured at the point of closest proximity.
- G. The Township may require the installation of utilities prior to final plan approval where the cost of installation, including the cost of excavation for underground utilities, will not be completely paid by the utility company. In each case, the Township shall consider the procedures of the applicable utility company involved for the extension of utility service to lots within a new subdivision or land development. The Township may only permit the developer to delay the installation of utilities where the full cost of such installation is included as part of the developer's approved improvement agreement.

**§ 415-37. Site preparation requirements.**

- A. Erosion and sedimentation control. Effective soil conservation measures shall be planned and implemented for all subdivisions and land developments in accordance with the Rules and Regulations of the PA Department of Environmental Protection (PA DEP) (Pa. Code, Title 25, Chapter 102. Erosion Control/Earthmoving, or as may hereafter be amended) and the following criteria.
  - (1) No changes shall be made in the contour of the land; no grading, excavating, removal or destruction of the topsoil, trees or other vegetative cover of the land shall be commenced unless adequate provisions are made by the landowner for minimizing soil erosion and sedimentation.
  - (2) For the purposes of this chapter, a complete erosion and sedimentation control plan as outlined in the most current edition of the Erosion and Sediment Pollution Control Program Manual, developed by the Bureau of Soil Conservation of the PA DEP, shall be prepared by an individual of demonstrated capability for subdivisions or land development proposals where:
    - (a) More than one acre will be disturbed to develop the site (including construction of the dwelling, driveway and sewage system, etc.);
    - (b) Site improvements are involved;
    - (c) Major earthmoving activities are proposed;
    - (d) Disturbances are proposed for areas of steep or severe slope or for areas adjacent to streams or water bodies;
    - (e) The proposal involves any commercial, institutional or industrial use;
    - (f) The site is located within Fishing Creek Watershed; or
    - (g) Where such is deemed appropriate by the Township.

- (3) When required, Erosion and Sedimentation Control Plans shall be submitted by the developer to the Township along with preliminary or final subdivision or land development plans, as appropriate. A copy of the plan shall then be forwarded by the Township to their Engineer, the Clinton County Conservation District, and as necessary, to the PA DEP, for review and acceptance prior to approval of the proposed subdivision or land development. [See also § 415-20B(2)(b) for review procedures.]
  - (4) Where appropriate, a notice may be required to be placed on all final subdivision and land development plans indicating that future property owners or developers must meet the Erosion and Sedimentation Control requirements of the PA DEP before lot development is initiated.
  - (5) Whenever sedimentation results from stripping vegetation, grading, regrading or other activity, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense according to the time frame specified by the Township. (All state-mandated permits shall be obtained by the contractor before initiating work in a stream or watercourse.)
  - (6) Where construction activities associated with a subdivision or land development propose to disturb one more acres of land (or as may hereafter be amended by state or federal statutes), the developer shall apply for and obtain an National Pollutant Discharge Elimination System (NPDES) Permit for his site runoff and discharge from the PA DEP prior to initiating such activities. A copy of this permit shall be submitted to the Township as a part of the subdivision or land development plan submission.
- B. Grading. In order to provide suitable building sites, the following standards shall be met:
- (1) All lots, tracts or parcels shall be graded to provide proper drainage away from buildings without creating ponding problems, and all land within a development shall be graded to drain stormwater water as provided in § 415-38 of this chapter.
  - (2) Grading shall not divert water onto adjacent properties without the express permission of the landowner and the Township.
  - (3) Grading equipment shall not enter or cross any wetland, stream or watercourse without first obtaining the necessary approval or permit from the PA DEP, U.S. Army Corps of Engineers, or other agencies, as appropriate.
  - (4) All excavation and fill activities shall adhere to the following standards:
    - (a) Cut-and-fill slopes shall not be steeper than 3:1 unless stabilized by a retaining wall or cribbing.
    - (b) Adequate provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills.
    - (c) Cut-and-fill slopes shall not endanger adjoining properties and shall be graded or tapered so that the bottom edge of the slope is no closer than 10 feet to any property line.
    - (d) Fills shall be placed, compacted, and stabilized to minimize sliding or erosion.

- (e) Fills shall not encroach on natural wetlands, watercourses, nor constructed channels.
  - (f) Fills placed adjacent to natural watercourses or constructed channels shall have suitable protection against erosion during periods of flooding and shall be subject to all applicable municipal floodplain management regulations and all floodplain requirements of the PA DEP, Federal Emergency Management Agency (FEMA), and U.S. Army Corps of Engineers. No fill shall be placed in any designated floodway.
- (5) Grading shall not accelerate stormwater runoff rates without provision for adequate erosion protection.

### **§ 415-38. Stormwater management.**

The management of stormwater from a site, both during and after any subdivision or land development, shall be accomplished in accordance with the standards and provisions of this chapter and any PA Storm Water Management Act (Act 167-1978, or as may hereafter be amended)<sup>70</sup> Watershed Plan or Ordinance that may be adopted and implemented hereafter. The provisions of this section are intended to provide protection against uncontrolled stormwater runoff, and to assure that downstream property owners and watercourses are not adversely affected by increases in stormwater runoff resulting from a subdivision or land development. [In addition, all permitting requirements established in the Federal Clean Water Act relating to stormwater discharges shall be met. See Subsection A(4) below.]

#### **A. General requirements.**

- (1) A Stormwater Management Plan meeting the criteria outlined in this section shall be prepared by a registered professional engineer, hydrologist, or other professional of demonstrated capability for all subdivision or land development proposals where:
  - (a) Disturbance activities that could affect earth resources (such as the creation of impervious surfaces, earth disturbances, or timber harvesting) are proposed that may affect stormwater runoff; or streets or other related improvements are proposed which will increase the total impervious area of the tract;
  - (b) Slopes of the site or adjacent areas could affect stormwater runoff as the lot(s) within the proposed subdivision are developed; or
  - (c) Areas of poor drainage or stormwater runoff problems are known to exist within or directly adjacent to, or immediately down gradient from the proposed subdivision.
- (2) All subdivision and land development proposals shall meet the requirements of any Watershed Stormwater Management Plan or Stormwater Management Ordinance in effect in the Township (including the Fishing Creek Watershed Management Plan) or as may hereafter be enacted.
- (3) Stormwater Management Plans shall be submitted by the developer to the Township along with preliminary and final subdivision or development proposals, as

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**70. Editor's Note: See 32 P.S. § 680.1 et seq.**

appropriate. A copy of the plan will then be forwarded by the Township to their engineer, the Clinton County Conservation District, and as necessary, to the PA DEP, for review and acceptance prior to approval of the proposed development. All such plans shall meet the minimum standards suggested by the Conservation District. [See also § 415-20B(2)(b) for review procedures.]

- (4) Where construction activities associated with a subdivision or land development propose to disturb one or more acres of land (or as may hereafter be amended by state or federal statutes), the developer shall apply for and obtain an National Pollutant Discharge Elimination System (NPDES) Permit for his proposed stormwater discharge from the PA DEP prior to initiating such activities. A copy of this permit shall be submitted to the Township as a part of the subdivision or land development plan submission process.
- B. Performance standards. In order to improve the quality and general utility of stormwater management plans, subdivisions and land developments shall be planned, designed, and constructed in accordance with the following principles:
- (1) Stormwater management control facilities shall be incorporated into the overall design of any subdivision or land development or improvement in such a way that they may serve multiple purposes such as wildlife areas, recreation areas, fire protection ponds, etc.
  - (2) The natural infiltration and water resource potential of the proposed development site shall guide design, construction, and vegetation decisions. Runoff in excess of natural conditions from roofs and other surfaces which are unlikely to contain pollutants shall be recharged to the groundwater table or stored for nonpotable water uses to the maximum extent possible.
  - (3) Improvements to manage drainage and stormwater runoff within a subdivision or land development shall be designed to increase the amount of water which infiltrates into the soil where possible, and to control the rate of runoff released off-site through temporary storage of stormwater on-site. Such improvements may include, but are not limited to, deed covenants which restrict the allowable amount of impervious surface for each lot, the provision of drainage easements, seepage pits, swales, infiltration swales/trenches, and detention or retention basins.
  - (4) Existing trees and shrubs shall be preserved and protected to the maximum extent possible.
  - (5) All natural streams, channels, drainage swales and areas of surface water concentration shall be maintained in their existing condition except where changes can be justified on the basis of other design standards.
  - (6) Stormwater management facilities shall be designed so that the peak rate of runoff from any subdivision or development after development shall be no greater than the peak rate of runoff from the site prior to development, unless this general performance standard is specifically modified by a Watershed Stormwater Management Plan.
- C. Design standards. It shall be the developer's responsibility to provide sufficient plans, documentation and other technical data to demonstrate that the capacity of his proposed stormwater management facilities will adequately control runoff from his development.

The following general and technical standards shall be applied when designing such facilities:

- (1) General design criteria.
  - (a) In calculating the predevelopment runoff rate, the following assumptions shall apply:
    - [1] Woodland shall be used as the existing condition for those portions of the site having trees greater than six inches in diameter measured breast high (DBH), or where trees existed for at least 18 months prior to the development application.
    - [2] Meadow shall be used for all other areas, including areas which are presently covered by impervious surfaces, unless modified by the Township upon recommendation of its Engineer.
  - (b) Calculations for the design of stormwater management facilities shall also assume that all driveways, traffic areas and driving surfaces within the development or subdivision will be paved or covered with an impervious surface.
  - (c) The design for all proposed stormwater management improvements shall be reviewed and approved by the Township and its Engineer prior to construction of any such proposed improvements. The applicant and/or owner shall reimburse the Township for any and all engineering review charges by the Township Engineer in accordance with the procedure set forth in § 415-61A of this chapter.
  - (d) Stormwater runoff shall not be concentrated onto adjacent properties unless written approval is given by the property owner and the applicable municipality. When stormwater drainage is to be directed into an adjacent municipality, all provisions for accommodating such drainage shall be submitted to the governing body of that municipality for review prior to approval of the subdivision or land development proposal.
  - (e) Storm sewers and related installations shall be required by the Township when stormwater runoff cannot be satisfactorily handled within the street right-of-way, as determined appropriate by PennDOT or the Township Engineer, as applicable.
  - (f) Where existing storm sewers are reasonably accessible and of adequate capacity, subdivisions and land developments may connect to the existing system, subject to approval of the authority or municipality having jurisdiction over the existing system.
  - (g) Where a subdivision or land development is traversed by a watercourse, drainageway, channel or stream, or such plans propose stormwater management facilities, a drainage easement conforming substantially with the line of such watercourse shall be provided. The drainage easement shall be of such width (minimum 20 feet) as will be adequate to preserve the unimpeded flow of natural drainage; or for the purpose of widening, deepening, relocating,

maintaining, improving or protecting such drainageway; or for the purpose of protecting such watercourse for the purpose of stormwater management or installation of a storm sewer. Any change proposed in the existing drainageway shall be subject to the approval of the PA DEP and the U.S. Army Corps of Engineers.

- (h) All storm drainage facilities constructed along or crossing public streets or rights-of-way shall conform to all applicable requirements of the PennDOT related to such drainage facilities.
- (2) Technical design criteria - stormwater detention/retention.
- (a) Proposed stormwater detention facilities shall be designed to reduce post-development peak runoff rates to predevelopment condition rates for the one-, ten-, twenty-five- and 100-year design storms. These design storms shall be routed through stormwater detention systems using the modified Puls procedure.
  - (b) The Modified Rational Method may be used to complete hydrologic computations required for the design of stormwater detention basins involving drainage areas that are less than 30 acres. Runoff coefficients for the Modified Rational Method shall be selected using the attached table (Figure 1 in Appendix B of this chapter)<sup>71</sup> (Rawls, et al, 1981). Hydrologic times of concentration should be computed using the procedures described in Technical Release 55 (TR-55, USDA, SCS, 1986, or as may hereafter be amended). Rainfall intensities used in the Modified Rational Method shall be selected from the PennDOT Storm Intensity-Duration-Frequency chart for Region 3 (Figure 2 in Appendix B of this chapter).
  - (c) The Natural Resources Conservation Service Unit Hydrograph Method or Technical Release 55 should be used to complete hydrologic computations that are required for the design of stormwater detention basins involving drainage areas that exceed 30 acres. Rainfall data for the TR-55 and the SCS Unit Hydrograph Method shall be obtained from the PennDOT Storm Intensity-Duration-Frequency chart for Region 3 (Figure 2 in Appendix B of this chapter).
  - (d) All stormwater detention basins shall be designed to safely discharge the 100-year peak discharge through an emergency spillway, and all other outlets, in a manner that will not damage the integrity of the basin. The invert elevation of the emergency spillway device shall be placed a minimum of one foot above the 100-year design water surface elevation in the stormwater detention basin. The emergency spillway shall be designed to convey the entire 100-year peak discharge. A modified Puls routing of the 100-year design storm through the basin shall be completed assuming that the emergency spillway is the only operable basin outlet device.
  - (e) All stormwater basins, except those designed to retain water or special vegetation as part of best management practices, shall be designed to completely drain within 24 hours. Allowances for best management practices shall be made if they are designed in accordance with the publication, "Controlling Urban Runoff; A Practical Manual for Planning and Designing Urban BMPs"

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71. Editor's Note: Appendix B is included as an attachment to this chapter.

(Metropolitan Washington Council of Governments, 1987, or as may hereafter be amended). Otherwise, low-flow channels shall be provided that would extend between points of concentrated inflow to the basin and the basin outlet structure.

- (f) Earth fill embankments shall be designed using the following minimum standards:
    - [1] The height of the embankment should not exceed 10 feet.
    - [2] The minimum top width of embankments shall be 10 feet.
    - [3] The side slopes of the embankment fill should not be steeper than three horizontal to one vertical.
    - [4] The side slopes of areas in a cut should not be steeper than three horizontal to one vertical.
    - [5] A cutoff trench of impervious materials shall be provided under all earth fill embankments exceeding four feet in height.
    - [6] All pipes through embankments shall be constructed with anti-seep collars. The design of such collars shall be in accordance with the attached design procedure and detail specifications (Figure 3 in Appendix B of this chapter).
  - (g) Trash racks may be required at basin outlet structures. These trash racks shall be designed in accordance with recommendations provided in Chapter 11 of "Design and Construction of Urban Stormwater Management Systems" (Water Environment Federation, American Society of Civil Engineers, 1992, or as may hereafter be amended).
  - (h) Riser outlet structures (where required) shall be constructed on a foundation to prevent floating and movement of the outlet structure due to water and frost action.
  - (i) Trees and shrubs shall not be planted along the embankment(s) of stormwater basins.
  - (j) The Township reserves the right to require fencing around stormwater basins where, in their opinion, such protection is warranted.
- (3) Technical design criteria - conveyance systems.
- (a) Stormwater conveyance systems (such as storm sewers) may be designed for storm events other than the 100-year design storm. However, an overland flow path shall be provided to convey 100-year storm runoff to a stormwater detention/retention/infiltration facility without incidental flooding of a building, parking areas, traffic lanes, or pedestrian areas.
  - (b) The Rational Method may be used to compute peak runoff for drainage areas involving less than 100 acres. Runoff coefficients and rainfall intensities used in the Modified Rational Method should be selected as described above for the Modified Rational Method. The SCS Unit Hydrograph Method or TR-55 should be used to compute runoff rates for drainage areas involving more than 100

acres. Rainfall data for TR-55 and the SCS Unit Hydrograph Method shall be obtained from the PennDOT Storm Intensity-Duration-Frequency chart for Region 3 (Figure 2 in Appendix B of this chapter).<sup>72</sup>

- (c) Detailed hydraulic design computations shall be provided for all storm pipes. Recommended hydraulic computational procedures are described in detail in "Design of Urban Highway Drainage - The State of the Art" (US DOT, FHA, 1979, or as may hereafter be amended) and "Hydraulic Charts for the Selection of Highway Culverts" (Hydraulic Engineering Circular Number 5, US DOT, FHA, 1965, or as may hereafter be amended).
  - (d) Manufactured end sections shall be provided at terminus ends of all storm pipes.
  - (e) Energy dissipators shall be placed at the outlets of all storm pipes. Design computations shall be submitted for all proposed energy dissipators. Recommended design procedures are described in "Erosion and Sediment Pollution Control Program Manual" (PA DEP, 2002, or as may hereafter be amended).
  - (f) Drainage swales shall be designed in accordance with procedures described in "Design of Roadside Channels with Flexible Linings" (Hydraulic Engineering Circular Number 15, US DOT, FHA, 1988, or as may hereafter be amended).
  - (g) Detailed hydraulic computations shall be provided for stormwater inlet grates. Recommended hydraulic computational procedures are described in detail in "Inlet Grate Capacities for Gutter Flow and Poned Water" (Neenah Foundry Company, 1987, or as may hereafter be amended) and "Drainage for Highway Pavements" (Hydraulic Engineering Circular Number 12, US DOT, FHA, 1984, or as may hereafter be amended).
  - (h) Design water surface elevations in stormwater inlets should be at least six inches below the grate elevation; otherwise, the inlet grate may not accept any stormwater runoff.
  - (i) Profile drawings shall be required for all stormwater conveyance systems.
  - (j) An engineering evaluation of existing stormwater facilities may be required by the Township or the County Conservation District.
- (4) Technical design criteria - infiltration systems to encourage recharge (infiltration pits/swales/trenches).
- (a) Stormwater infiltration devices shall be designed in accordance with recommendations provided in "Controlling Urban Runoff: A Practical Manual for Planning and Designing Urban BMPs" (Metropolitan Washington Council of Governments, 1987, or as may hereafter be amended).
  - (b) Specific criteria.

[1] Infiltration devices shall store the entire volume of a 100-year/one-hour (Region 3 equals 2.4 inches of rainfall) and the two-year/twenty-four0hour

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72. Editor's Note: Appendix B is included as an attachment to this chapter.

(Region 3 equals 2.6 inches of rainfall). This corresponds to a required storage volume (voids) of 0.22 cubic feet/square feet or a required storage volume (Stone - ASSHTO No. 57) equal to 0.73 cubic feet/square feet for each square foot of proposed impervious surface area. All designs must show complete drainage of infiltration device within 48 hours.

- [2] Soils on which infiltration devices are located shall have a minimum infiltration rate of 0.27 inches per hour, based upon soils data obtained by direct testing methods in accordance with procedures outlined in the Technical Manual for Sewage Enforcement Officers (PA DEP), or other approved DEP methods.
- [3] Infiltration devices shall not be on slopes greater than 20%. The longer dimensions of the devices shall be parallel to ground contours where slopes exceed 5%.
- [4] Infiltration devices or the drains to them shall have a sediment trap that can be maintained regularly. All downspouts shall have leaf strainers to prevent leaves from clogging the infiltration device.
- [5] Infiltration devices connected to roof downspouts shall be located at least 10 feet from basement walls and downslope of the building.
- [6] The bottom of the infiltration device shall be at least two feet above the seasonally high water table and bedrock or otherwise be shown to be capable of handling the required design volumes.
- [7] Stormwater runoff capacity may be distributed among several infiltration devices, as long as the total required volume is achieved, and that corresponding volumes of stormwater are routed to these devices.
- [8] The use of perforated pipe, concrete vault, or other storage devices may be used to obtain additional storage.
- [9] In all cases, an overflow system should be provided to accommodate storm frequencies in excess of the design requirements.

D. Plan requirements.

- (1) The Stormwater Management Plan for a proposed subdivision or land development shall include a brief description of the following:
  - (a) Existing drainage patterns and stormwater runoff characteristics of the site, including any existing drainage or stormwater runoff problems and facilities;
  - (b) The anticipated impact that future development of the property will have on existing stormwater runoff and drainage patterns; and
  - (c) The type of structural and nonstructural improvements planned to manage post-development stormwater runoff.
- (2) The proposed location of both structural and nonstructural improvements shall be shown on the subdivision or development plot plans. The Township shall require the subdivider to provide topographic contour information at such intervals as deemed

appropriate on the plot plans in order to better evaluate the proposed stormwater management techniques and/or facilities.

- (3) Separate, detailed specifications, including complete design calculations, cross-sections, profiles, manufacturer's details, etc. shall be submitted by the developer for all proposed structural stormwater management improvements.
- (4) The subdivider shall also submit a proposal for ownership and maintenance of all proposed stormwater management improvements within his development, in accordance with the following provisions:
  - (a) Where the subdivider proposes to dedicate such improvements to the Township and the Township has agreed to accept the ownership and maintenance responsibilities thereof, a deed which dedicates the land to be used for the stormwater management improvement to the Township shall be submitted as a part of the Stormwater Management Plan. If approved by the Township, the deed of dedication shall be recorded with the final subdivision or development plan.
  - (b) Alternately, where no municipal participation is anticipated, an Ownership and Maintenance Agreement, specifying ownership and assigning maintenance responsibilities for the proposed improvements to either the developer or property owners within the subdivision, shall be recorded with the final subdivision or development plan and shall be referenced in the deeds for each property within the subdivision. The following criteria shall apply to all stormwater management ownership and maintenance agreements:
    - [1] The party (or parties) responsible for the maintenance of all stormwater management facilities shall be identified in the ownership and maintenance agreement. The Township may require the developer to organize a homeowner's association to own and maintain such facilities, in lieu of an acceptable alternative suggested by the developer. Regardless of the type of agreement selected, the developer shall be responsible for the stormwater management facilities and/or participation in the homeowner's association until all lots in the development are sold or until all units are leased, as applicable.
    - [2] A stormwater management maintenance plan shall be submitted by the developer to the Township for review and approval by the municipality and its engineer. This maintenance plan shall include specific stormwater management maintenance requirements.
    - [3] A copy of the applicable stormwater management plan (including the maintenance plan), erosion and sediment pollution control plan, and design plan(s) for each subdivision and/or stormwater management facility shall be maintained by the party (or parties) identified above for reference purposes.
    - [4] An inspection of all stormwater management facilities shall be conducted at least every six months, and after severe rainfall events by the responsible party (parties). This inspection shall be followed up with a letter report. Copies of this letter report shall be submitted to the Township and to the

County Conservation District. Items to be reviewed during this inspection shall include, but need not be limited to, rodent damage, erosion problems, embankment failures, sediment and/or debris accumulation, and vandalism.

- [5] Any damaged facilities shall be repaired and/or replaced by the responsible party (parties) in accordance with the time frame established by the Township.
  - [6] The Township Supervisors and the County Conservation District shall be contacted immediately in the event of severe damage to any stormwater management facility. In such instances, the Township shall reserve the right to review and approve plans to repair and/or replace severely damaged facilities.
  - [7] When, for any reason, the responsible party (parties) fails to properly maintain any stormwater management facilities identified in their maintenance plan, the Township Supervisors shall have the right to enter upon such property as may be necessary to access the facilities and perform the appropriate maintenance. Upon completion of such maintenance, the Township shall assess all property owners of the development for costs associated with the necessary maintenance.
- (5) A record drawing ("as-builts") of all stormwater management improvements certified by a registered professional engineer or land surveyor shall be provided to the Township Supervisors by the developer upon completion of all such construction activities. (See also § 415-29 for improvement dedication requirements.)

#### **§ 415-39. Wetlands.**

- A. No subdivision or land development plan shall be approved by the Commission where wetlands are known or are expected to exist until sufficient determination has been made regarding the actual existence and location of such areas. Wetland delineations shall be made utilizing the National Wetland Inventory Maps for Porter Township and the hydric soils listing contained in the Clinton County Soil Survey. Where such wetlands are situated within the proposed development area of a site, specific evaluations shall be conducted by a qualified wetlands specialist (with technical training and expertise in botany, hydrology, soil science, or a related field) to determine the actual location and dimension of the wetland areas. Following delineation by the wetlands specialist, a Jurisdictional Determination or verification of the designated wetlands shall be made by the U.S. Army Corps of Engineers.
- B. A statement shall be placed on all plot plans involving wetlands indicating that the landowner and/or his surveyor were responsible for locating such wetland areas and indemnifying the Township against any and all liability arising therefrom. In addition, the statement shall include the source(s) used to make the wetland determination.
- C. Where determined appropriate by the findings of Subsection A above, specific wetland delineations shall be shown on the subdivision or land development plot plans and any additional information or determinations shall be submitted to the Township along with the preliminary or final subdivision or land development plans, as applicable. Subdivision

approval may be granted for developments including wetlands, but such approval shall prohibit building construction within 50 feet of these areas unless the requirements of Subsection D below can be met.

- D. Construction within wetland areas of the Township shall not be permitted unless such development can comply with Section 404 of the Federal Clean Streams Act and Chapter 105 of the State Regulations for Bodies of Water within the Commonwealth.<sup>73</sup> (Permits to meet both sets of requirements, administered by the U.S. Army Corps of Engineers and the PA DEP, respectively, can be applied for using a joint application.) Zoning permits shall not be issued by the Porter Township Zoning Officer until both the federal and state regulations have been met.

#### **§ 415-40. Floodplain management.**

The management and regulation of subdivision or development in identified floodplain areas of Porter Township shall be accomplished in accordance with the standards and requirements of the National Flood Insurance Program and the PA Flood Plain Management Act (Act 166-1978).<sup>74</sup> The provisions of this section are intended to protect property owners from increased flood hazards resulting from inappropriate development of the floodplain and to protect potential buyers from purchasing land which may not be suitable for development.

A. General requirements.

- (1) Subdivision and land development proposals for properties located in an identified floodplain area must comply with the Floodplain Management Regulations contained in Chapter 490, Zoning (enacted September 17, 1998, or as may hereafter be amended).
- (2) Land areas susceptible to flooding shall be identified using the most current National Flood Insurance Program mapping, prepared by the Federal Emergency Management Agency (FEMA), for the Township. In areas of the Township where detailed flood mapping is not provided by FEMA, the best available elevation and floodway information from federal, state, and other acceptable sources shall be used to determine the flood hazard area.
- (3) Subdivision and land development proposals for property located within the floodplain may be approved by the Township, with the stipulation that any planned or future development of the property shall comply with the floodplain management regulations contained in Chapter 490, Zoning.
- (4) The Township may require the subdivider, as a stipulation of subdivision or land development approval, to include a notice on the plot plans and in every deed stating that the subdivision is located in a floodplain and that development of lots within the subdivision must occur in accordance with all federal, state and municipal floodplain management regulations.

- B. Design standards. All subdivisions or land developments proposed to be located within any identified floodplain area shall be designed in accordance with the standards contained in Chapter 490, Zoning (enacted September 17, 1998, or as may hereafter be amended).

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73. Editor's Note: See 25 Pa. Code. § 105.1 et seq.

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

C. Plan requirements.

- (1) All plans for subdivision or development of property located within an identified floodplain must show the location of the 100-year floodplain boundary and the location of the floodway, if available, according to the most current National Flood Insurance Program flood mapping for the Township.
- (2) Where applicable, and as may be required by the PA Department of Community and Economic Development,<sup>75</sup> a copy of a special permit application shall be submitted to the Township for evaluation along with the subdivision or land development plans.

**§ 415-41. Monuments and markers.**

Monuments and markers shall be constructed and located as provided below and shall be set by a registered professional land surveyor prior to final plan approval.

A. Material and size. Monuments and markers shall be constructed of the following materials and shall be of the following sizes:

	Construction	Minimum Size
Monument	Concrete or stone	6" x 6" x 30" or 4" diam. x 30"
Monument	Concrete-filled, cast-iron pipe	4" diameter x 30"
Marker	Iron rods or iron or steel bars	5/8" x 15"

B. Placement and markings. Monuments and markers must be placed by a registered professional land surveyor so that the scored or marked point coincides exactly with the point of intersection of the lines being monumented. The top of the monument or marker must be level with the surface of the surrounding ground. Concrete monuments shall be marked on top with a copper or brass dowel. Cut stone monuments shall have a point marking. All monuments and/or markers shall be set prior to the granting of final plan approval.

C. Location of monuments.

- (1) Monuments must be set at:
  - (a) The intersections of major street right-of-way lines;
  - (b) The intersections of lines forming angles in the boundaries of the subdivision; and
  - (c) Such intermediate points as may be required by the Township.
- (2) In subdivisions or land developments involving five or fewer lots or dwelling units, the Township may approve the substitution of iron pins set in concrete for monuments.

D. Location of markers. Lot markers must be set at:

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75. Editor's Note: Now the Pennsylvania Emergency Management Agency.

- (1) All points where lot lines intersect curves, either front or rear;
  - (2) All angles in property lines of lots; and
  - (3) All other lot corners, except those monumented.
- E. Maintenance or removal. It shall be the responsibility of the subdivider or developer to see that all monuments or markers are properly maintained until such time as the lot or tract is conveyed. Maintenance of such monuments or markers shall then become the responsibility of the new owner. Any monuments or markers that are removed shall be replaced by a registered professional land surveyor at the expense of the person(s) removing them.

ARTICLE VII  
**Land Developments**

**§ 415-42. General requirements.**

- A. The standards outlined in this article shall be applied by the Township Planning Commission in evaluating land development proposals. These standards shall be considered minimum standards. The Supervisors may require more restrictive standards be met by the applicant in those circumstances that they determine appropriate, or upon recommendation of the Township Planning Commission. Plans for land development proposals shall comply with the requirements of this article as well as all other applicable provisions of this chapter, including § 415-17. (See also § 415-43 for exemptions.)
- B. All land development proposals shall also meet the design and construction standards outlined in Article VI of this chapter, unless otherwise noted. Proposals for land developments not specifically listed in this article shall be submitted to the Township for review and action in accordance with the procedures contained in § 415-21 of this chapter.
- C. Innovative design techniques which will provide for all foreseeable problems and which will enhance the character of the Township may be permitted and will be encouraged. The criteria for review will be the quality of the design and the proposed development.
- D. All proposed land developments shall conform to the provisions of Chapter 490, Zoning, or as may hereafter be amended.
- E. In addition to the requirements outlined below, land development proposals shall also comply with all state and federal laws and regulations. Approval of a land development plan by Porter Township does not absolve the developer from his responsibilities to meet such other requirements as may be applicable.

**§ 415-43. Exemptions by definition.**

As established by Section 503(1.1) of the PA Municipalities Planning Code,<sup>76</sup> the following activities shall be exempt from the land development requirements of this chapter.

- A. The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into not more than three residential units, unless such units are intended to be a condominium;
- B. The addition of an accessory building, including farm buildings, on a lot(s) subordinate to an existing principal residential building or agricultural use; or
- C. The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For purposes of this subsection, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until plans for the expanded area have been approved by proper authorities.

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<sup>76</sup>. Editor's Note: See 53 P.S. § 10503(1.1).

**§ 415-44. Site planning requirements.**

The following site planning requirements shall be utilized in the design of all proposed land developments, as they may be applicable.

**A. Pedestrian circulation.**

- (1) Pedestrian walkways shall be provided within all multifamily residential developments, commercial, industrial and institutional developments, or in other circumstances which may be deemed appropriate by the Township, in order to promote safe pedestrian circulation throughout the developed area. Width, alignment and gradient of walkways shall provide for the safety and convenience of the intended users.
- (2) Pedestrian walkways shall be physically separated from all streets and, where possible, from vehicle circulation ways within nonresidential developments.
- (3) Parking lots shall be designed to minimize the necessity for pedestrians to walk within and across vehicle circulation areas.
- (4) Where possible, common open space areas and other residential service areas should be located at the interior of development sites to minimize the necessity for pedestrians to cross streets. Other safety precautions as deemed appropriate by the Township may be required.

**B. Structure orientation.**

- (1) Structure sites shall be clustered whenever possible to ensure the largest, most usable tracts of open space are preserved.
- (2) All buildings shall be situated so as to assure that the sight distance required for driveways set forth in Table 3 of this chapter<sup>77</sup> can be met.
- (3) Commercial structures should be located in reasonable proximity to their parking areas in order to minimize required walking distance for safety and convenience.

**C. Landscaping.**

- (1) Development shall be planned to minimize the removal of existing trees, shrubs and ground cover and to minimize the percentage of each site covered with structures, paved parking areas, and other impermeable surfaces. (See also §§ 415-37 and 415-38 of this chapter.)
- (2) New street trees may be provided in development areas to absorb traffic noise; provide shade; reduce the visual impacts of development; mitigate air pollution; and improve community appearance. [See also § 415-32I(4) of this chapter.]
- (3) All sites shall be landscaped in accordance with the requirements set forth in Chapter 490, Zoning, or as may hereafter be amended.

**D. Buffering and screen planting.**

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77. Editor's Note: See § 415-32J.

- (1) Buffer yards shall be provided in accordance with the requirements set forth in Chapter 490, Zoning, or as may hereafter be amended.
  - (2) Screen plantings shall be provided in the following instances and shall be accomplished in accordance with the standards set forth in Chapter 490, Zoning, or as may hereafter be amended.
    - (a) Where commercial and industrial districts abut and where such zones abut residential districts or uses;
    - (b) Where residential developments abut arterial highways, including reverse frontage lots;
    - (c) Around all open sides of commercial or industrial storage, service or other unsightly areas; and
    - (d) Any other location determined necessary by the Township, or as set forth in Chapter 490, Zoning, or as may hereafter be amended.
- E. Off-street parking. Off-street parking spaces shall be provided in accordance with the requirements of Chapter 490, Zoning, or as may hereafter be amended.
- F. Off-street loading. Off-street loading berths shall be provided in accordance with the requirements of Chapter 490, Zoning, or as may hereafter be amended.
- G. Street and outdoor lighting.
- (1) Where streetlights are required by the Township, the developer shall be responsible for making the necessary arrangements with the public utility company involved; provided, however, that whether or not streetlights are initially installed, the developer shall be responsible for providing utility easements for future streetlighting installations upon consultation with the applicable utility company.
  - (2) All on-premises types of outdoor lighting being provided as part of a development proposal shall be provided in accordance with the requirements of Chapter 490, Zoning, or as may hereafter be amended. At a minimum, all such lighting shall be mounted and shielded to effectively eliminate direct glare on adjacent properties or on public streets.

#### **§ 415-45. Residential developments.**

The placement of two or more residential buildings on a lot or tract of land or the division or allocation of space in a single residential structure for the purpose of creating additional residential dwelling units within the building (except the conversion of an existing single-family dwelling into not more than three noncondominium residential units) shall be considered residential land development. (For the purposes of this chapter, the placement of a single two-family dwelling on a lot shall not be considered a land development.) Residential developments shall include, but need not be limited to, multifamily dwellings (apartment buildings or townhouses) or developments, residential cluster developments, mobile home parks and other similar types of residential developments. (See also Article VIII for standards pertaining to mobile home parks.) The following standards shall apply to the design of residential land developments:

A. Multifamily dwellings (apartment buildings or townhouses). Multifamily dwelling structures may only be located in those zoning districts of the Township as specified in the district regulations of Chapter 490, Zoning, or as may hereafter be amended. Further, the minimum area and density standards, and open space requirements contained in Chapter 490, Zoning, shall be applied in evaluating plans for multifamily dwelling structures. The following standards shall also be met.

(1) General requirements.

- (a) All multifamily dwelling land development plans shall be prepared in accordance with the plan requirements contained in § 415-17 of this chapter and shall also comply with all applicable design and construction standards outlined in Article VI, including the standards for streets and driveways contained in § 415-32. Plans for these residential land developments shall be submitted to the Township for review and action pursuant to the procedure set forth in § 415-21 of this chapter.
- (b) Along with all appropriate development plans, the developer shall submit a written description of the type of housing proposed and shall indicate the total number of dwelling units being proposed per structure. In addition, the site planning requirements of § 415-44 above shall be applied in the design of multifamily dwelling developments.

(2) Arrangement of buildings and facilities.

- (a) All of the elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and shape of the plot, the character of the adjoining property, and the type and size of the proposed buildings in order to produce a livable and economic land use pattern.
- (b) Buildings shall be arranged in favorable relation to the natural topography, existing desirable trees, views within and beyond the site, and exposure to the sun and other buildings on the site. Grading around the buildings shall be designed to be in harmony with the natural topography, at the same time assuring adequate drainage and safe and convenient access. (See also §§ 415-37 and 415-38.)
- (c) Adequate provision shall be made for light, air, and privacy in the arrangement of buildings to each other. Each dwelling unit shall have a minimum of two exterior exposures.
- (d) The maximum length of any single-family attached dwelling structure shall be 150 feet.

(3) Access and circulation.

- (a) Access to the dwellings and circulation between buildings and other important project facilities for vehicular and pedestrian traffic shall be safe, adequate and convenient for the occupants.
- (b) Access and circulation for firefighting equipment, furniture moving vans, fuel trucks, garbage collection, deliveries and snow removal shall be planned for efficient operation and maintenance.

- (c) Walking distance from the main entrance of a building to a street, driveway or parking area shall be designed to be less than 100 feet. Any exceptions to this standard shall be reasonably justified by compensating advantages, such as desirable views and site preservation through adaptation to topography. In no case, however, shall the distance exceed 250 feet.
  - (4) Yards. Yards shall assure adequate privacy, desirable views, adequate natural light and ventilation, convenient access to and around the dwelling and other essential facilities or uses.
  - (5) Streets and access drives. All streets and/or access drives within multifamily residential developments shall meet the design and construction standards contained in § 415-32 of this chapter, as well as the provisions set forth in all applicable sections of Chapter 490, Zoning.
  - (6) Sewage and water facilities. Proposed sewage facilities and water supply systems shall be designed and constructed in accordance with the requirements of §§ 415-34 and 415-35 of this chapter. All multifamily housing developments shall be served by a public or community sewer system and a public or municipal water supply.
  - (7) Solid waste collection, storage and disposal. Arrangements for the collection, storage and disposal of solid wastes generated by the proposed development shall be made by the developer and submitted to the Township for approval as part of his development plan submission. Where determined appropriate, the Township may request review of the proposed arrangements by the PA DEP prior to granting their approval.
  - (8) Facility and open space maintenance. A proposal for the maintenance of all facilities and/or open space areas which are to be shared by the residents of the development shall be provided by the developer as a part of his plan submission. Where the developer proposes to subdivide and/or convey individual dwelling units of a single structure, i.e., townhouse or condominium units, an agreement which assigns maintenance responsibilities for commonly owned or used facilities or open space shall be submitted with the development plan, recorded with the final plan, and referenced in the deed for each conveyance. In addition, the developer shall demonstrate to the Township that all other requirements of the PA Uniform Condominium Act<sup>78</sup> will be met where individual units are to be conveyed independent of any land area.
- B. Residential cluster developments. The purpose of the following standards is to permit the clustering or grouping of single-family, two-family, and multifamily residential structures on a single tract of ground to maximize the amount of open space that can be preserved. (Clustering may be permitted only in those zoning districts as specified in the district regulations of Chapter 490, Zoning, as amended. Further, the type and density of residential units permitted shall be as set forth in Chapter 490, Zoning.)
- (1) General requirements.
    - (a) All residential cluster development plans shall be prepared in accordance with the plan requirements contained in § 415-17 of this chapter, and shall comply with all applicable design and construction standards outlined in Article VI,

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78. Editor's Note: See 68 Pa.C.S.A. § 3101 et seq.

including the standards for streets and driveways contained in § 415-32. Plans for these residential land developments shall be submitted to the Township for review and action pursuant to the procedure set forth in § 415-21 of this chapter.

- (b) Along with all appropriate development plans, the developer shall submit a written description of the type of housing proposed and shall indicate the total number of dwelling units being proposed per structure. In addition, the site planning requirements of § 415-44 above shall be applied to residential cluster developments.
- (2) Minimum tract area requirements. Each residential cluster development shall contain a minimum tract area of 25 contiguous acres of land, or such other area as may be designated in Chapter 490, Zoning. All areas exceeding 15% shall be exempted from the calculation of minimum tract size, and shall not exceed 25% of the tract's identified open space area. [See also Subsection B(6) below.]
- (3) Maximum density standards. For the purposes of this chapter, residential cluster developments shall be limited to single-family detached or two-family dwellings. The maximum number of lots or dwelling units permitted in the cluster development shall be no more than the gross density set forth in Chapter 490, Zoning, for the zoning district in which the development is to be located; that is, in the Agricultural District, the maximum allowable tract density shall not exceed 1.45 dwelling units per acre for single-family detached dwellings and two dwelling units per acre for two-family dwellings.
- (4) Permitted lot reductions. The minimum lot area requirements for single-family detached dwellings may be reduced up to 50% from the minimum established in the zoning district in which the development is to be located, and up to 25% for two-family dwellings.
- (5) Design standards. The site planning requirements and design standards set forth in §§ 415-44 and 415-45, Subsection A(2) through (7), respectively, shall also be applied in the planning and layout of all residential cluster developments.
- (6) Open space requirements. A minimum of 50% of the gross area of the cluster development shall be reserved as common open space for the use of all residents of the development. Such open space shall include areas of land or water, but shall exclude all roads, parking areas, structures or service lanes. Applications for cluster developments shall include a proposal which provides for the ultimate ownership and maintenance of all open space areas. Where such open space is not dedicated to the Township or where such dedication is not accepted by the Township, an agreement which assigns the maintenance responsibilities of the open space shall be submitted by the developer, approved by the Township, recorded with the final plan, and referenced in the deeds for each parcel or dwelling unit in the development.
- (7) Criteria for approving cluster developments. In addition to all other standards set forth in this chapter for land development applications, the following criteria shall be utilized in reviewing applications for cluster developments:
  - (a) The proposed cluster development shall be in harmony with the general goals, objectives, purposes, and standards of this chapter and Chapter 490, Zoning;

- (b) The proposed cluster development shall not have substantial or undue adverse effects, as compared to standard development permitted by this chapter, upon adjacent property, the character of the area or neighborhood, traffic conditions, parking, utility facilities, safety and general welfare;
  - (c) The proposed cluster development shall be served by essential public utilities, facilities and services, such as highways, streets, parking areas, drainage structures, solid waste collection services, sanitary sewers or a community sewerage system, and a public water supply; and
  - (d) The proposed cluster development shall not result in destruction, loss or damage of any natural, scenic, or historic features of significant importance.
- C. Mobile home parks. See Article VIII of this chapter for specific standards pertaining to the design of mobile home parks.

#### **§ 415-46. Commercial developments.**

The placement of one or more commercial buildings on a lot, regardless of the number of occupants or tenure, shall be considered a commercial land development. Commercial developments shall include, but need not be limited to, retail stores or shopping areas, lodging facilities, restaurants, public entertainment facilities, automotive service stations and sales facilities, business and professional offices, and other personal service activities. (See also the district regulations for the Neighborhood Commercial and Commercial-Industrial Zoning Districts in Chapter 490, Zoning.) The following standards shall apply to the design of all such developments:

- A. General requirements. All commercial land development plans shall be prepared in accordance with the plan requirements contained in § 415-17 of this chapter and shall also comply with all applicable design and construction standards outlined in Article VI, including the standards for streets and driveways contained in § 415-32. In addition, all requirements established in Chapter 490, Zoning, or as may hereafter be amended, regarding such developments shall apply. Plans for commercial developments shall be submitted to the Township for review and action pursuant to the procedures set forth in § 415-21 of this chapter.
- B. Design standards. All site planning requirements contained in § 415-44 above shall be applied in the design of commercial land developments, and all plans required to meet such standards shall be prepared by the developer and submitted to the Township as part of the development submission process, including plans for landscaping, buffering and screening, lighting, parking, and loading. In addition, the following standards shall also be met:
  - (1) Access to public streets shall be limited to well-defined, well-marked entrance and exit lanes.
  - (2) Painted lines, arrows and dividers shall be provided to control parking and vehicular circulation. To the extent possible, customer parking and circulation shall be separated from delivery service drives and loading areas.
  - (3) Drives providing vehicular access to such land developments shall be designed and constructed in accordance with the requirements established in Chapter 490, Zoning, and Table 3 of this chapter.<sup>79</sup>

- (4) Where a street is proposed to serve multiple commercial establishments in a shopping center or other retail development, the Township may require such a street to meet the design and construction standards for a minor collector street as set forth in Tables 1 and 2 of this chapter.
- (5) Where determined appropriate or necessary by the Township, bumper guards or curbing may be required along the perimeter of the commercial site.
- (6) Proposed sewage disposal and water supply systems shall be designed and constructed in accordance with the requirements of §§ 415-34 and 415-35 of this chapter.
- (7) Arrangements for the collection, storage and disposal of solid wastes generated by the proposed development shall be made by the developer and submitted to the Township for approval as part of the subdivision or development plan submission. Where determined appropriate, the Township may request review of the proposed arrangements by the PA DEP prior to granting their approval.

#### **§ 415-47. Industrial developments.**

The placement of one or more industrial buildings on a lot, regardless of the number of occupants or tenure, shall be considered an industrial land development. Industrial developments shall include, but need not be limited to, specified industrial uses, such as, light manufacturing or assembly operations; research or testing laboratories; and warehousing facilities (See also the district regulations for the Commercial-Industrial Zoning District and other zones in Chapter 490, Zoning, for various industrial uses.) The following standards shall apply to the design of all such developments:

- A. General requirements. All industrial land development plans shall be prepared in accordance with the plan requirements contained in § 415-17 of this chapter and shall also comply with all applicable design and construction standards outlined in Article VI, including the standards for streets and driveways contained in § 415-32. In addition, all requirements established in Chapter 490, Zoning, as amended, regarding such developments shall apply. Plans for industrial developments shall be submitted to the Township for review and action pursuant to the procedure set forth in § 415-21 of this chapter.
- B. Design standards. All site planning requirements contained in § 415-44 above shall be applied in the design of industrial land developments, and all plans required to meet such standards shall be prepared by the developer and submitted to the Township as part of the development submission process, including plans for landscaping, buffering and screening, lighting, parking, and loading. In addition, the following standards shall be met:
  - (1) Access to public streets shall be limited to well-defined, well-marked entrance and exit lanes.
  - (2) Painted lines, arrows and dividers shall be provided to control parking and vehicular circulation. To the extent possible, visitor parking and circulation shall be separated from delivery service drives and loading areas.

- (3) Drives providing vehicular access to such land developments shall be designed and constructed in accordance with the requirements established in Chapter 490, Zoning, and Table 3 of this chapter.<sup>80</sup>
- (4) Where a street is proposed to provide serve multiple industries in an industrial park or other industrial development, the Township may require such a street to meet the design and construction standards for a minor collector street as set forth in Tables 1 and 2 of this chapter.<sup>81</sup>
- (5) Proposed sewage disposal and water supply systems shall be designed and constructed in accordance with the requirements of §§ 415-34 and 415-35 of this chapter.
- (6) Arrangements for the collection, storage and disposal of solid wastes generated by the proposed development shall be made by the developer and submitted to the Township for approval as part of the subdivision or development plan submission. Where determined appropriate, the Township may request review of the proposed arrangements by the PA DEP prior to granting their approval.

#### **§ 415-48. Recreational developments.**

The division or allocation of space on a lot or tract of land for intermittent recreational use; the placement of two or more recreational buildings or dwelling units on a lot; or the creation of a recreational complex or facility, whether public or private, shall be considered a recreational land development. Recreational developments shall include, but need not be limited to, campgrounds or recreational vehicle parks; vacation home developments; outdoor commercial recreation uses; playgrounds; and similar facilities. (See also Chapter 490, Zoning, district regulations for various recreational uses.) The following standards shall apply to the design of all such developments:

- A. **General requirements.** All recreational land development plans shall be prepared in accordance with the plan requirements contained in § 415-17 of this chapter and shall also comply with all applicable design and construction standards outlined in Article VI, including the standards for streets and driveways contained in § 415-32. In addition, all requirements established in Chapter 490, Zoning, or as may hereafter be amended, regarding such developments shall apply. Plans for recreational developments shall be submitted to the Township for review and action pursuant to the procedure set forth in § 415-21 of this chapter.
- B. **Design standards.** All applicable site planning requirements contained in § 415-44 above shall be applied in the design of recreational land developments, and in addition, the following standards shall be met:
  - (1) Access to public streets shall be limited to well-defined, well-marked entrance and exit lanes.
  - (2) Drives providing vehicular access to such land developments shall be designed and constructed in accordance with the requirements established in Chapter 490, Zoning, and in Table 3 of this chapter.<sup>82</sup>

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**80. Editor's Note:** See § 415-32J.

**81. Editor's Note:** Said tables are included as attachments to this chapter.

**82. Editor's Note:** See § 415-32J.

- (3) Proposed sewage disposal and water supply systems shall be designed and constructed in accordance with the requirements of §§ 415-34 and 415-35 of this chapter.
  - (4) Arrangements for the collection, storage and disposal of solid wastes generated by the proposed development shall be made by the developer and submitted to the Township for approval as part of his subdivision or development plan submission. Where determined appropriate, the Township may request review of the proposed arrangements by the PA DEP prior to granting their approval.
- C. Campgrounds. See Chapter 490, Zoning, or as may hereafter be amended, for specific standards pertaining to the design of campgrounds or recreational vehicle parks.

**§ 415-49. Institutional developments.**

The placement of one or more institutional buildings on a lot, regardless of the number of occupants or tenure, shall be considered an institutional land development. Institutional developments shall include, but need not be limited to, public and private schools, churches and places of worship, municipal buildings, fire stations, personal care or nursing homes, and cultural facilities. (See also Chapter 490, Zoning, district regulations for various institutional uses.) The following standards shall apply to the design of all such developments:

- A. General requirements. All institutional land development plans shall be prepared in accordance with the plan requirements contained in § 415-17 of this chapter and shall also comply with all applicable design and construction standards outlined in Article VI, including the standards for streets and driveways contained in § 415-32. In addition, all requirements established in Chapter 490, Zoning, or as may hereafter be amended, regarding such developments shall apply. Plans for institutional developments shall be submitted to the Township for review and action pursuant to the procedure set forth in § 415-21 of this chapter.
- B. Design standards. All site planning requirements contained in § 415-44 above shall be applied in the design of institutional land developments, and in addition, the following standards shall be met:
  - (1) Access to public streets shall be limited to well-defined, well-marked entrance and exit lanes.
  - (2) Painted lines, arrows and dividers shall be provided to control parking and vehicular circulation. To the extent possible, visitor parking and circulation shall be separated from delivery service drives and loading areas.
  - (3) Drives providing vehicular access to such land developments shall be designed and constructed in accordance with the requirements established in Chapter 490, Zoning, and in Table 3 of this chapter.<sup>83</sup>
  - (4) Proposed sewage disposal and water supply systems shall be designed and constructed in accordance with the requirements of §§ 415-34 and 415-35 of this chapter.

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**83. Editor's Note: See § 415-32J.**

- (5) Arrangements for the collection, storage and disposal of solid wastes generated by the proposed development shall be made by the developer and submitted to the Township for approval as part of his subdivision or development plan submission. Where determined appropriate, the Township may request review of the proposed arrangements by the PA DEP prior to granting their approval.

**§ 415-50. Other land developments.**

Plans for other types of land development not specifically listed shall be prepared in accordance with the plan requirements contained in § 415-17 of this chapter and shall also comply with all applicable design and construction standards outlined in Article VI. In addition, all requirements established in Chapter 490, Zoning, or as may hereafter be amended, regarding such developments shall apply. Plans for such developments shall be submitted to the Township for review and action pursuant to the procedure set forth in § 415-21 of this chapter.

ARTICLE VIII  
**Mobile Home Parks**

**§ 415-51. General requirements.**

- A. Mobile home parks may only be located in those zoning districts of the Township as specified in the district regulations of Chapter 490, Zoning, or as may hereafter be amended.
- B. All mobile home park development plans shall be prepared in accordance with the plan requirements contained in § 415-17 of this chapter and shall comply with the applicable design and construction standards outlined Article VI. Plans for mobile home park developments shall be submitted to the Township for review and action pursuant to the procedure set forth in § 415-21 of this chapter.

**§ 415-52. Design standards.**

All applicable site planning requirements contained in § 415-44 of this chapter shall be applied in the design of mobile home park developments, and in addition, the following standards shall be met:

- A. Minimum park area and density requirements. The minimum gross area provided for a mobile home park shall be at least two contiguous acres of land, unless specified otherwise in the district regulations of Chapter 490, Zoning. Overall density of the park shall not exceed four mobile home lots per acre of gross area of the park provided that all other applicable requirements of this chapter and Chapter 490, Zoning, can be met.
- B. Mobile home park lot area and width requirements.
  - (1) Minimum lot sizes. Each mobile home lot shall contain no less than 6,000 square feet.
  - (2) Minimum lot width. The minimum width of any mobile home lot, measured at the building setback line, shall be not less than 60 feet, exclusive of easements or rights-of-way.
- C. Mobile home lot pad requirements. All mobile home lots within the mobile home park shall be improved to provide durable and adequate support for the placement of the mobile home, and shall be properly equipped to render the lot usable. All such improvements shall be maintained in satisfactory condition by the developer or park owner. At a minimum, the following standards shall be met:
  - (1) The mobile home lot pad shall be equal to the length and width of the mobile home proposed to use the lot.
  - (2) The mobile home lot pad shall not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration, or other forces acting on the structure and shall be designed to uniformly support the mobile home in a level position. At a minimum, each pad shall be provided with one frost-proof footer at least 16 inches in width, extending the full width of the pad, for every 10 feet of mobile home length.
  - (3) Each mobile home lot pad shall be provided with anchors and tie-downs, such as "deadman" eyelets embedded in the concrete, or runways, screw augers, arrowhead

anchors, or other devices designed to secure the stability of the mobile home. The type, number and location of the tie-downs or anchors shall be as specified by the manufacturer of the mobile home, or where such information is not available, shall be of a type consistent with mobile home industry standards. At a minimum, there shall be one tie-down on each corner of the home, with two additional tie-downs placed at intermediate locations.

- (4) Each mobile home lot shall be equipped with properly designed and approved water and sewer connections, and shall be provided with approved electrical service connections.
  - (5) Each mobile home lot shall be provided with an all-weather patio not less than 200 square feet in area.
- D. Minimum yard requirements.
- (1) Setbacks from public streets. All mobile homes and auxiliary park buildings shall be located at least 40 feet from the right-of-way of any adjoining public street or road.
  - (2) Side and rear yard setbacks. All mobile homes (including attached patios, decks or carports) shall be set back a minimum of 15 feet from the side and rear lines of the mobile home lot. Where rear yards abut a street, mobile homes shall be set back a minimum of 25 feet from the edge of the street right-of-way and shall be separated from the street by the use of a barrier fence at least six feet in height. Accessory structures shall be set back a minimum of 15 feet from the side line of the mobile home lot and no less than 10 feet from the rear lot line.
  - (3) Minimum distance between mobile homes. Each mobile home (including attached patios, decks or carports) shall be located at least 30 feet from any other mobile home in the park.
  - (4) Minimum distance between mobile homes and auxiliary structures. All mobile homes shall be located at least 50 feet from any auxiliary park buildings and repair, maintenance, or storage buildings. Screening may also be required to effectively and attractively conceal repair, maintenance, or storage buildings from mobile home lots, park streets, or public roads.
  - (5) Park perimeter buffer yard requirements. All mobile homes and auxiliary park buildings shall be set back at least 50 feet from the boundary lines of the mobile home park. If, however, a suitable attractive screen, either fencing or natural plantings, is provided along the perimeter of the tract, the minimum buffer yard may be reduced to 25 feet. Buffering and screening shall be provided in accordance with the requirements set forth in § 415-44D of this chapter.
- E. Traffic access. All mobile home lots shall abut and have access on a street of the mobile home park internal street system. No individual dwelling unit shall have direct access to a public street. Where possible, mobile home parks shall be provided with two points of ingress and egress. All such accessways shall be designed in accordance with the requirements of § 415-32 of this chapter. And, in order to minimize congestion and hazards at the entrance and exit of the facility and allow free movement of traffic on adjacent streets in the mobile home park, a fifty-foot-wide cartway shall be provided at all of the park's entry/exit intersections extending for a distance of 100 feet.

- F. Mobile home park internal street system requirements. Streets and related drainage control, systems shall be designed and constructed in accordance with the standards for local streets outlined in § 415-32 of this chapter, except that street widths shall be as follows:
- (1) Where no parking is permitted on either side of the street, a minimum cartway width of 20 feet shall be required for all streets being provided in mobile home parks.
  - (2) Where parking is permitted along one side of the street, a minimum cartway width of 28 feet shall be required.
  - (3) Where parking is permitted along both sides of the street, a minimum cartway width of 32 feet shall be required.
- G. Off-street parking requirements. A minimum of two off-street parking spaces shall be provided for each mobile home lot within the mobile home park. These parking spaces shall be located within 200 feet of the mobile home lot which they are intended to serve. All off-street parking spaces shall be designed and provided in accordance with the standards set forth in Chapter 490, Zoning.
- H. Grading and ground cover (soil erosion and sedimentation control). Where any excavating or grading is proposed or where any existing trees, shrubs or other vegetative cover will be removed, plans shall be presented showing what steps will be taken to avoid soil erosion. Exposed ground surfaces in the park shall be paved, stabilized with stone screenings, or otherwise protected with a vegetative cover capable of preventing soil erosion. In addition, all grading and erosion and sedimentation control requirements set forth in § 415-37 of this chapter shall be met.
- I. Drainage facilities. The ground surface in the mobile home park shall be graded and equipped to drain all surface water in a safe, efficient manner. In addition, all drainage and stormwater management standards set forth in § 415-38 of this chapter shall be met. It shall be the responsibility of the mobile home park owner to maintain the integrity of the approved stormwater management plan.
- J. Park streetlighting. Each mobile home park shall be furnished by the developer with lighting designed to adequately illuminate driveways, walkways, streets, intersections and to provide for the safe movement of vehicles and pedestrians throughout the park at night. All such lighting shall be designed in accordance with the requirements of § 415-44G of this chapter and all applicable sections of Chapter 490, Zoning.
- K. Common open space requirements. A minimum of 10% of the gross park area or 1,000 square feet per dwelling unit, whichever is greater, shall be reserved by the developer as common open space for the use of all residents of the park. At least a portion of this area shall be set aside for recreation use. All such space shall be suitable for outdoor recreation activity and shall be easily accessible to all mobile homes. Such areas shall be maintained free of potentially harmful growths. Applications for mobile home parks shall include a proposal regarding the ultimate ownership and maintenance responsibilities for such open space areas. Copies of these arrangements shall be included in the lease for each lot in the park. (See also § 415-33 of this chapter for additional requirements for open space/recreation areas.)

**§ 415-53. Utilities and park facilities.**

- A. Water supply system. An adequate, safe supply of water shall be provided by the developer for mobile homes, service buildings and other accessory facilities. Where a public water supply system of satisfactory quantity, quality and pressure is available, connection shall be made to it and its supply shall be used exclusively. Where a satisfactory public water supply system is not available, the developer shall design, install, and maintain a private water supply system according to the standards of and with the approval of the PA DEP and the requirements of § 415-35 of this chapter.
- B. Sewage facilities. An adequate and safe sewage system shall be provided by the developer in all mobile home parks for conveying and disposing of sewage from mobile homes, service buildings and other accessory facilities. Mobile home parks shall be connected to public sanitary sewer systems, where possible. Where a satisfactory public sanitary sewer system is not available, the developer shall design, install and maintain an approved private, community sewerage system according to the standards of the PA DEP and the requirements of § 415-34 of this chapter.
- C. Other utility systems. Telephone, electric, television cable, natural or bottled gas, fuel oil, or other utilities shall be provided by the developer in accordance with plans submitted to and approved by the Township and the appropriate utility company. Underground installation of the utility distribution lines shall be required.
- D. Solid waste collection, storage, and disposal. Arrangements for the collection, storage, and disposal of solid waste generated by residents of the mobile home park shall be made by the developer and submitted to the Township for approval as part of the development plan submission process.
- E. Service and other auxiliary park buildings. Service, maintenance, and management buildings, and recreation or community buildings required for the management, servicing and maintenance of the park and for the well-being of park residents shall be allowed within the mobile home park boundaries. The entire area of these buildings shall be used exclusively for the management, servicing and maintenance requirements of the park and park residents. No park of a mobile home park shall be used for nonresidential purposes other than those described in this section. Nothing contained herein shall, however, be deemed to prohibit the sale of an individual mobile home located on a lot in the mobile home park.
- F. Park management. Each mobile home park owner shall designate a manager who shall be responsible for maintaining the park in accordance with the requirements of this chapter and the terms and conditions of the park's approval. In addition, such manager shall notify the Township Zoning Officer when mobile homes move into or out of the park.

**§ 415-54. Park rules and regulations.**

The developer shall submit a copy of the proposed rules and regulations to be followed by tenants of the mobile home park to the Township for approval as part of the development plan submission process. At a minimum, such regulations shall include the following provisions:

- A. Each mobile home shall be skirted. (Skirting shall include materials which have been prefabricated for this specific purpose or similar materials, but shall not include bales of hay, straw, interior plywood, or like materials.) Skirting shall be installed around the entire perimeter of the base of the mobile home, but shall not be used to attach the mobile home

to its foundation. Where a mobile home is provided with a masonry wall around its entire perimeter, additional skirting shall not be required.

- B. Garbage and trash shall be placed in appropriate receptacles.
- C. One storage building or accessory structure containing a maximum of 100 square feet, provided by the individual tenant, may be situated on each lot in the mobile home park. The placement of such building shall meet all setback requirements established in § 415-52D above, and shall be approved by the resident manager. A zoning permit shall also be required prior to the placement of any such storage building or accessory structure.
- D. Each mobile home lot in the mobile home park shall be provided with an identification number by the developer or owner of the park. To facilitate emergency location, the developer shall be responsible to see that all lot numbers are readily visible from the park's internal street system.

ARTICLE IX  
**Administration and Enforcement**

**§ 415-55. Waivers or modifications.**

- A. The provisions of this chapter represent minimum standards for the protection of the public welfare.
- B. If an applicant feels that any mandatory provision of this chapter is unreasonable and would cause unique and undue hardship as it applies to his proposed subdivision or land development, such applicant may apply to the Township Supervisors in writing for a waiver of said provision. If, upon review, the Supervisors find that substantial justice would be served and the public interest secured by granting the applicant's request, they may grant a waiver or modification in writing to such applicant; provided that such waiver or modification will not have the effect of nullifying the intent and purpose of this chapter.
- C. In granting waivers or modifications, the Township Supervisors may impose such conditions as will, in their judgement, encourage innovative design and secure substantially the objectives of the standards or requirements so waived or modified.

**§ 415-56. Records.**

The Township Planning Commission and Supervisors shall maintain an accurate public record of all the plans they review and those upon which they take action and of their findings, decisions, and recommendations in relation thereto.

**§ 415-57. Amendments.**

The Township Supervisors may, from time to time, revise, modify, and amend this chapter by proceeding to advertise and take action at a scheduled public meeting, all in accordance with the applicable provisions of Section 505 of the PA Municipalities Planning Code, or as may hereafter be amended.<sup>84</sup>

**§ 415-58. Preventive remedies.**

- A. In addition to other remedies, the Porter Township Supervisors may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations; to prevent unlawful construction; to recover damages; and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferrer from such penalties or from the remedies herein provided.
- B. As provided by Section 515.1 of the PA Municipalities Planning Code, or as may hereafter be amended,<sup>85</sup> the Porter Township Supervisors may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of the Porter Township Subdivision and Land Development Ordinance of 1975, as amended May 1, 1989, or any prior regulations, adopted pursuant to the requirements of the PA

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<sup>84</sup>. Editor's Note: See 53 P.S. § 10505.

<sup>85</sup>. Editor's Note: See 53 P.S. § 10515.1.

Municipalities Planning Code, which may have been in effect in Porter Township. The authority to deny such a permit or approval shall apply to any of the following applicants:

- (1) The owner of record at the time of such violation.
  - (2) The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
  - (3) The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
  - (4) The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
- C. As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the Township Supervisors may require compliance with the conditions that would have applied to the property at the time the applicant acquired an interest in such real property.

**§ 415-59. Administration.**

- A. In order to properly carry out the administration and enforcement of this chapter, the Porter Township Supervisors may appoint a Subdivision Ordinance Administrator and may grant to this individual the power and authority to administer and enforce the provisions of this chapter. Said Administrator shall hold no elective office in the Township, nor be an appointed member of the Township Planning Commission. The individual selected shall meet the qualifications established by the Township and shall be able to demonstrate a working knowledge of municipal subdivision regulations, and he may be compensated for his work.
- B. The Administrator shall be technically responsible to the Township Supervisors and shall report to them monthly on work accomplished. He shall also work closely with the Township Planning Commission and assist them as they review all proposed subdivision and land development applications. The Administrator shall verify all subdivision information supplied as part of any application for a zoning permit and shall coordinate with the Township Zoning Officer on other matters as necessary or appropriate. In addition, the Administrator shall perform all other tasks as designated in his job description. In the event that the Subdivision Ordinance Administrator is unavailable to perform the duties and responsibilities assigned herein, the Township Zoning Officer or other individual duly designated by the Township Supervisors may temporarily perform these functions.

**§ 415-60. Violations and enforcement.**

Failure to obtain subdivision or land development approvals as required by this chapter, or failure to carry out the requirements of any such approval, shall be considered a violation of this chapter and shall be remedied as follows:

- A. Enforcement notice. Whenever it appears to the Subdivision Ordinance Administrator or other individual designated to administer this chapter that there has been a violation of any

provision of this chapter, the Administrator, on behalf of the Township, shall give notice of such alleged violation as hereinafter provided. Such enforcement notice shall:

- (1) Be in writing;
- (2) Be served upon the owner of record of the property on which the violation has occurred, or be sent to him by certified mail (return receipt requested);
- (3) State the name of the owner of record and any other person against whom the Township intends to take action;
- (4) Indicate the location of the property in violation;
- (5) Identify the specific violation(s) with a description of the requirements which have not been met, citing in each instance the applicable provisions of the chapter;
- (6) Contain an outline of remedial action which, if taken, will effect compliance, or specify a time period within which the property owner must contact the Administrator to discuss appropriate remedial action; and
- (7) Indicate that failure to comply with the notice within the time specified shall constitute a violation and will be prosecuted or remediated as provided in this section.

B. Enforcement remedies.

- (1) Any person, partnership or corporation who or which has violated the provisions of this chapter, whether enacted under current law or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by Porter 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 be commenced or be imposed, levied or be payable until the date of the determination of a violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, Porter 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 Magisterial District Judge determines that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the Magisterial District Judge and 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 chapter shall be paid over to Porter Township.
- (2) In addition to the procedures set forth above, Porter Township may also utilize the procedures set forth in § 415-58A of this chapter as enforcement remedies.
- (3) The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.
- (4) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than Porter Township, or their duly appointed agent, the right to commence any action for enforcement pursuant to this section.

**§ 415-61. Fees.**

- A. Township fees. All plan processing, improvement design review and inspection fees shall be paid to Porter Township. Such fees shall be as defined below and shall be designed to cover reasonable and necessary costs associated with processing and evaluating subdivision and land development plans, reviewing proposed designs for site improvements, and conducting inspections of improvement construction and installations required by this chapter.
- (1) Municipal plan processing fees. Fees for the processing and evaluating of preliminary and final subdivision and land development plans shall be established by resolution of the Porter Township Supervisors. Such fees shall be reasonable and shall include all municipal review and processing charges. These fees shall accompany the submission of plans to Porter Township and shall be nonrefundable.
  - (2) Improvement design review fees.
    - (a) The applicant shall reimburse the Township for all reasonable and necessary charges by the Township Engineer and/or consultant for review of site improvement or development designs. Such engineering and/or consulting fees shall be in accordance with the ordinary and customary charges by the engineer or consultant for similar service in the region, but in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the Township when fees are not reimbursed or otherwise imposed on applicants. These fees shall be paid to Porter Township prior to approval of preliminary or final plans, as applicable.
    - (b) In the event the applicant disputes the amount of such design review fees, the procedure for resolution of such disputes contained in Section 503(1) of the PA Municipalities Planning Code, or as may hereafter be amended,<sup>86</sup> shall be applied.
  - (3) Improvement inspection fees.
    - (a) Where site improvements are required by the Township to be installed as a condition of final approval of a subdivision or land development plan, said improvements must be inspected by the Township Engineer in accordance with the procedure set forth in § 415-27 of this chapter upon their completion. The applicant shall reimburse the Township for the reasonable and necessary expenses incurred for the inspection of such improvements. Such expense shall be in accordance with the ordinary and customary fees charged by the Township Engineer for work performed for similar services in the region, but in no event shall the fees exceed the rate or cost charged by the engineer to the Township when fees are not reimbursed or otherwise imposed on applicants. These fees shall be paid to Porter Township prior to approval of a final plan or prior to the release of an improvement guarantee or other financial security guaranteeing satisfactory improvement installation.
    - (b) In the event the applicant disputes the amount of such inspection fee, the procedure for the resolution of such disputes contained in Section 510(g) of the

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86. Editor's Note: See 53 P.S. § 10503(1).

PA Municipalities Planning Code, or as may hereafter be amended,<sup>87</sup> shall be applied.

- B. County plan review fees. Fees for County Planning Commission review of plans for proposed subdivision or land development located in Porter Township shall be established by the Clinton County Board of Commissioners. Applicants shall be responsible for assuming all costs associated with the County review of subdivision or land development plans, according to the Fee Schedule and procedure established by the county.

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**87. Editor's Note: See 53 P.S. § 10510(g).**

ARTICLE X

**Miscellaneous Provisions and Enactment**

**§ 415-62. Severability and validity.**

The provisions of this chapter shall be severable. Should any section, subsection or provision of this chapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the chapter as a whole, or of any part thereof.

**§ 415-63. Repealer.**

All ordinances or sections thereof, which are inconsistent with any of the provisions herein, are hereby repealed, including the Porter Township Subdivision and Land Development Ordinance of 1975 and its subsequent amendments. Nothing in this chapter shall be construed to affect any suit or proceeding now pending in any court or any rights accrued or liability incurred or any causes of action accrued or existing under any ordinance repealed by this chapter. Nor shall any right or remedy be lost, impaired, or affected by this chapter.

**§ 415-64. Effective date.**

To become effective on the 5th day of March 2005.

**Chapter 424****SWIMMING POOLS**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 5-1-1989 by Ord. No. 20 (Ch. 23, Part 1, of the 1989 Code of Ordinances). Amendments noted where applicable.]**

**§ 424-1. Location of pools.**

- A. A private swimming pool may be located only in the rear yard or side yard of the property on which it is an accessory use.
- B. A private swimming pool, including any walks or paved areas or accessory structures adjacent thereto, shall not be closer than 20 feet to any property line of the property on which it is located.
- C. A private swimming pool shall only be located in zoning districts where such pools are permitted pursuant to the provisions of Chapter 490, Zoning.
- D. A private pool must be a minimum of 10 feet away from any sewage drain field gravel bed. Any questions regarding such location are to be submitted to the Porter Township Sewage Enforcement Officer for approval.

**§ 424-2. Fences and gates.**

The swimming pool area shall be completely surrounded by a fence or wall that is not less than four feet in height with no gap or space in the fence greater than two inches square. All passages through said fence shall be constructed, maintained and provided with a self-closing, self-locking gate to prevent unauthorized use of the pool and to prevent accidents; provided, however, that if said pool is located more than 3 1/2 feet above ground level, then a fence is not required if all points of access to said pool are adequately protected by a self-closing, self-locking gate.

**§ 424-3. Permit required.**

No private swimming pool shall be erected or constructed in the Township except in accordance with a permit therefor previously obtained from the Township upon written application accompanied by a plan showing the size, shape and location of the swimming pool and its enclosure.

**§ 424-4. Use of pools.**

A private swimming pool is intended, and is to be used, solely for the enjoyment of the occupants of the principal use of the property on which it is located and their guests.

**§ 424-5. Transition.**

Any person who owns or maintains a private swimming pool which is in existence on the effective date of this chapter shall comply with the provisions of § 424-2 of this chapter within six months after the date of enactment hereof.

**§ 424-6. Definitions.**

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

**PRIVATE SWIMMING POOL** — Any reasonably permanent pool or open tank not located within a completely enclosed building, whether or not affixed to the land, and containing, or normally capable of containing, water to a depth at any point greater than 1 1/2 feet. Farm ponds and/or lakes are not to be considered private swimming pools, provided that swimming was not the primary purpose for their construction.

**§ 424-7. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who shall violate any provisions of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

**Chapter 432****TAXATION**

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

## ARTICLE I

**Occupational Privilege Tax****[Adopted by Ord. No. 4 (Ch. 24, Part 1, of the 1989 Code of Ordinances)]****§ 432-1. Definitions.**

The following words and phrases, when used in this article, shall have the meaning ascribed to them in this section except where the context or language clearly indicates or requires a different meaning.

**COLLECTOR** — The duly designated person to be the Collector of this tax as designated by the Board of Supervisors of Porter Township.

**EMPLOYER** — Any individual, partnership, association, corporation, governmental body, agency, or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.

**FISCAL YEAR** — The twelve-month period beginning January 1, 1971, and ending December 31, 1971.

**HE, HIS, or HIM** — Indicates the singular and plural number as well as male, female and neuter gender.

**INDIVIDUAL** — Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the Township of Porter.

**OCCUPATION** — Any trade, profession, business, or undertaking of any type, kind or character, including services carried on or performed within the corporate limits of the Township of Porter for which compensation is charged or received whether by means of salary, wages, commissions or fees for services rendered.

**TAX** — The occupation privilege tax in the amount of \$10 levied by this chapter.

**TOWNSHIP OF PORTER** — The area within the corporate limits of the Township of Porter.

**§ 432-2. Levy. [Amended 5-1-1989 by Ord. No. 20]**

The Township of Porter hereby levies and imposes on each occupation engaged in by individuals within its corporate limits during the fiscal year of 1971, and every year thereafter, an occupation privilege tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Township of Porter.

**§ 432-3. Amount of tax. [Amended 5-1-1989 by Ord. No. 20]**

Each occupation, as hereinbefore defined, engaged in within the corporate limits of the Township of Porter shall be required to pay an occupation privilege tax in the amount of \$10 per annum.

**§ 432-4. Duty of employers.**

Each employer within the Township of Porter as well as those employers situated outside the Township of Porter but who engage in business within the Township of Porter, is hereby charged with the duty of collection from each of his employees engaged by him and performing for him within the Township of Porter the said tax of \$10 per annum and making a return and payment

thereof to the Collector. Further, each employer is hereby authorized to deduct this tax from each employee in his employ, whether said employee is paid by salary, wages or commission and whether or not part or all such services are performed within the Township of Porter.

**§ 432-5. Returns.**

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Collector. Each employer in filing this return and making payment of the tax withheld from his employees shall be entitled to retain a commission calculated at the rate of 2% of the gross tax due and payable, provided that such tax is collected and paid over by the employer on or before the dates hereinafter set forth. It is further provided that if the employer fails to file said return and pay said tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to said employee, the employer shall be responsible for the payment of the tax in full without deducting a commission and as though the tax had originally been levied against him.

**§ 432-6. Dates for determining tax liability and payment. [Amended 5-1-1989 by Ord. No. 20]**

Each employer shall use his employment records from the first day of February to the 15th day of May for determining the number of employees from which said tax shall be deducted, and said tax shall be paid over to the Collector on or before June 30 of each year. Supplemental reports shall be made by each employer on August 15 and October 15 of new employees as reflected in his employment records. Payment on the supplemental reports shall be made on September 15 and November 15, respectively.

**§ 432-7. Individuals engaged in more than one occupation.**

Each individual who shall have more than one occupation within the Township of Porter shall be subject to the payment of this tax on his principal occupation and his principal employer shall deduct this tax and deliver to him evidence of deductions on a form to be furnished to the employer by the Collector, which form shall be evidence of deduction having been made and when presented to any employer shall be authority for such employer to not deduct this tax from the employee's wages, but to include such employee on his return by setting forth his name, address and the name and account number of the employer who deducted this tax.

**§ 432-8. Self-employed individuals.**

All self-employed individuals who perform services of any type or kind, engage in any occupation or profession within the Township of Porter shall be required to comply with this article and pay the tax to the Collector by August 6, 1971, and in each successive year by June 30 or as soon thereafter as he engages in an occupation.

**§ 432-9. Employers and self-employed individuals residing beyond the corporate limits of the Township of Porter.**

All employers and self-employed individuals residing or having their place of business outside of the Township of Porter but who perform services of any type or kind or engage in any occupation or profession within the Township of Porter do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the Township of Porter. Further,

any individual engaged in an occupation within the Township of Porter and an employee of a nonresident employer may, for the purpose of this article, be considered a self-employed person, and in the event this tax is not paid, the Township shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

**§ 432-10. Administration of tax.**

- A. It shall be the duty of the Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person together with the date the tax was received.
- B. The Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered to prescribe, adopt, promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of the payroll records of any employer subject to this article; the examination and correction of any return made in compliance with this article and any payment alleged or found to be incorrect, or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal to the Court of Common Pleas of Clinton County as in other cases provided.
- C. The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer, or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.

**§ 432-11. Suits for collection.**

- A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this article together with interest and penalty.
- B. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of said tax shall be calculated beginning with the due date of said tax and a penalty of 5% shall be added to the flat rate of said tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

**§ 432-12. Exemption. [Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Persons whose total income from all sources is less than \$12,000 per annum are hereby exempted from this tax.

**§ 432-13. Violations and penalties. [Amended 5-1-1989 by Ord. No. 20; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Whoever makes any false or untrue statement on any return required by this article, or who refuses inspection of his books, records or accounts in his custody and control setting forth the number of employees subject to this tax who are in his employment, or whoever fails or refuses to file any return required by this article, shall, upon conviction in a summary proceeding brought

before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refuses to file a return required by this article.

ARTICLE II  
**Mercantile Privilege Tax**  
**[Adopted 12-3-1984 by Ord. No. 17]**

**§ 432-14. Definitions.**

The following words and phrases when used in this article shall have the meaning ascribed to them in this section, except when the context indicates a different meaning.

ENGAGE IN BUSINESS — Engage in business within the Township of Porter, Clinton County, Pennsylvania.

FISCAL YEAR — The Township's fiscal year, beginning the first day of January.

GROSS or WHOLE VOLUME OF BUSINESS — Includes both cash and credit transactions occurring within the Township of Porter, Clinton County, Pennsylvania, excepting that the tax shall not be levied on the dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise taken by any dealer as a trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.

PERSON —

- A. Includes natural persons, corporations, partnerships, associations, firms and fiduciaries. Whenever used in any clause prescribing and imposing a penalty, the term "person," as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- B. The term "person" shall not include those corporations or associations organized for religious, charitable or educational purposes, nor agencies of the government of the United States, or of the Commonwealth of Pennsylvania.

QUARTERLY or QUARTER — One of the four periods into which the fiscal year is divided, namely as follows: first quarter - January 1 to March 31; second quarter - April 1 to June 30; third quarter - July 1 to September 30; fourth quarter - October 1 to December 31.

RETAIL DEALER OR VENDOR — Any person who is a dealer in, or a vendor of goods, wares and merchandise who is not a wholesale dealer or wholesale vendor.

TAX COLLECTOR — The person duly elected or appointed by the Township of Porter to collect the tax hereinafter imposed.

TEMPORARY, SEASONAL OR ITINERANT BUSINESS — Any business that is conducted at one location for less than 60 consecutive calendar days.

WHOLESALE DEALER OR VENDOR — Any person who sells to dealers in or vendors of goods, wares and merchandise, and shall include any merchandise broker, factor or commission merchant.

**§ 432-15. Imposition of tax.**

A tax for general revenue purposes is hereby imposed upon the privilege of doing business within the Township of Porter, on and after July 1, 1985, according to the following schedule:

- A. Wholesale vendors or dealers in goods, wares, and merchandise at the rate of one mill on

each dollar of whole or gross volume of business transacted.

- B. Retail vendors or dealers, and such businesses which may not be said to be wholesale, or retail, including all theaters and moving-picture houses; morticians; tombstone and monument dealers; meat dealers; grocers; druggists; confectioners; restaurants or other places where food, drink or refreshments are sold; produce and merchandise vendors; stationers; jewelers; lumber dealers, including commission men and all persons who make a business of buying lumber for sale; persons engaged in the development or improvement of real estate for profit; new and used furniture dealers; merchants offering for sale goods, wares or merchandise at public auction; and those who engage in or conduct any of the several trades, businesses or occupations herein enumerated with the use of vending machines; and dealers and/or collectors of salvage, rags, junk, ashes, or refuse, at the rate of 1 1/2 mills on each dollar of gross volume of business transacted.
- C. Persons who are engaged in a business which is both wholesale and retail, or in both types of business, at the rate of one mill on each dollar of the annual gross volume of wholesale business transacted, and at the rate of 1 1/2 mills on the gross volume of business transacted.
- D. Persons who are engaged in a business, temporary, seasonal or itinerant by its nature, if at wholesale at the rate of one mill on each dollar of the whole volume gross of business transacted within the territorial limits of the Township of Porter and if at retail at the rate of 1 1/2 mills on each dollar of the whole volume gross of business transacted by him within the territorial limits of the Township of Porter.

**§ 432-16. Returns.**

- A. Every person subject to the tax herein imposed by this article shall make a quarterly return to the Tax Collector upon a form provided by the Tax Collector, which form shall include the computed quarterly gross volume of business, the classification of the business, the rate of the tax, and such other pertinent information as the Tax Collector may require. Every return shall be given under oath as to the facts appearing thereon, or may be certified to as a true and correct and complete return given under penalty of perjury. The return for a quarter as required in this section shall be filed on or before the 15th day of the quarter next succeeding the quarter for which the return is to be filed; that is, the return for the quarter from the first day of July to the 30th day of September shall be filed on or before the 15th day of October, and likewise for the following quarters on the 15th day of January, April, and July, respectively. No person, however, shall be considered to have failed to have filed a return under this section until 15 days after the date for filing the return.
- B. Those temporary, seasonal or itinerant persons who shall engage in business for a period of less than 60 consecutive days shall file their return on the day they conclude their business, but the Tax Collector in his discretion may extend the time of filing an additional 15 days before the person will be considered to have failed to file a return.

**§ 432-17. Improper returns and failure to file a return.**

- A. If the Tax Collector is of the opinion that any person shall have made a return that is not true and correct or shall have failed to file a return, the Tax Collector shall assess the said person for such gross volume of business and at such rate, and in such classification, as shall be proper. The Tax Collector may make an assessment at any time after the returns

have been filed, or after the returns have not been filed.

- B. If the Tax Collector shall make an assessment, the Tax Collector shall give notice of the assessment to the person affected. Such notice shall set forth the fact of the assessment, the classification of the business, the rate of tax and the tax due according to the assessment. Any person aggrieved by any decision of the Tax Collector shall have the right to appeal to the appropriate court as in other cases provided.

**§ 432-18. Payment.**

- A. Payment of the tax imposed by this article for a quarter shall be made on or before the 15th day of the quarter next succeeding the quarter for which the tax is to be paid, but no tax imposed by this article shall be considered overdue until 15 days after the date for paying the tax.
- B. An assessment or appeal shall not affect the day payment is due, but any amounts imposed by an assessment shall be considered due as above; that is, retroactively from the final assessment.
- C. Those persons who engage in business for a period of less than 60 days, consecutively, shall pay the tax imposed by this article on the day their return should be filed with the Tax Collector according to § 432-16 above, and the tax will be immediately overdue if not paid by such date.

**§ 432-19. Issuance of receipts.**

The Tax Collector shall issue a receipt upon payment of the tax imposed by this article. If an additional sum is found due under an assessment, the Tax Collector shall issue a supplemental receipt upon payment of the additional sum.

**§ 432-20. Retention of receipts.**

Every person who shall have received a receipt issued in accord with § 432-19 above shall retain the same and exhibit it upon request during a period of one year after the time when the tax which is receipted shall have become due.

**§ 432-21. Conduct of business without paying tax.**

No person shall conduct any business subject to the payment of the tax imposed by this article after the payment of the tax shall have become overdue and remain unpaid.

**§ 432-22. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, or any officer, agent, employee, employer, or servant who knowingly makes any incomplete, false or fraudulent return or application required in this article, or who fails, neglects, or refuses to file a return or application required by this article, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and

each section of this article that is violated shall also constitute a separate offense.

**§ 432-23. Suit on collection and penalty.**

- A. The Tax Collector may sue for the recovery of taxes due and unpaid under this article.
- B. If for any reason the tax is not paid when due in each year, interest at the rate of 6% per annum on the amount of said tax and an additional penalty of 1% per centum per annum on the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and penalties herein imposed.

**§ 432-24. Construction.**

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

**§ 432-25. Effective date.**

This article and the tax imposed hereby shall become effective the first day of July, 1985.

ARTICLE III  
**Real Estate Transfer Tax**  
[Adopted 6-4-2007 by Ord. No. 55-6-2007]

**§ 432-26. Imposition of tax.**

The Township of Porter adopts the provisions of Article XI-D of the Tax Reform Code of 1971 and imposes a realty transfer tax as authorized under that article subject to the rate limitations therein. The tax imposed under this section shall be at the rate of 0.5%.

**§ 432-27. Administration.**

The tax imposed under § 432-26 and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965 (P.L. 1257, No. 511), as amended, known as the "Local Tax Enabling Act,"<sup>88</sup> provided that if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Township of Porter, pursuant to Section 1102-D of the Tax Reform Code of 1971 (72 P.S. § 8102-D), authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect, and enforce the tax, interest and penalties.

**§ 432-28. Interest.**

Any tax imposed under § 432-26 that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent on municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53 P.S. § 7101 et. seq.), as amended, known as the "Municipal Claims and Tax Liens Act." The interest rate shall be 10% per annum.

**§ 432-29. Saving clause.**

The provisions of the Porter Township Code of Ordinances, so far as they are the same as those ordinances and regulations enforced immediately prior to the adoption of this article, are intended as a continuation of such ordinances and regulations and not as a new enactment. The provisions of this article shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances or regulations, except as otherwise provided by law.

**§ 432-30. Severability.**

It is hereby declared to be the intention of the Board of Supervisors that the parts, sections, paragraphs, sentences, clauses and phrases of this article are severable. If any part, section, paragraph, sentence, clause or phrase of this article is declared unconstitutional, illegal or otherwise invalid by the judgment or decree of a court of competent jurisdiction, that invalidity shall not affect any of the remaining parts, sections, paragraphs, sentences, clauses or phrases of this article.

**§ 432-31. Effective date.**

The provisions of this article shall become effective on and be applicable to any document made, executed, delivered, accepted or presented for recording on or after October 5, 2005.

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88. Editor's Note: See 53 P.S. § 6924.101 et seq.

ARTICLE IV  
**Earned Income Tax**  
[Adopted 12-5-2011 by Ord. No. 64-12/11]

**§ 432-32. Authorization.**

This article is hereby enacted pursuant to the authority granted by the Local Tax Enabling Act, P.L. 1257, known as "Act No. 511 of 1965," effective January 1, 1966, as amended through Act 166 of 2002 and Act No. 32 of 2008, 53 P.S. § 6924.101 et seq. (known as the Local Tax Enabling Act and herein referred to as the "Act").

**§ 432-33. Incorporation by reference.**

Act 32 (53 P.S. § 6924.901) and its definitions, duties, directives, rules, regulations, powers and penalties are hereby adopted by reference as if same had been set forth fully herein.

**§ 432-34. Definitions.**

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

**DOMICILE** — The place where a person lives and has a permanent home and to which the person has the intention of returning whenever absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the voluntarily fixed place of habitation of a person, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce the person to adopt some other permanent home. In the case of a business, domicile is that place considered as the center of business affairs and the place where its functions are discharged.

**EARNED INCOME** — The compensation as required to be reported to or as determined by the Department of Revenue under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971,<sup>89</sup> and rules and regulations promulgated under that section. Employee business expenses as reported to or determined by the Department of Revenue under Article III of the Tax Reform Code of 1971<sup>90</sup> shall constitute allowable deductions in determining earned income. The term does not include offsets for business losses. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

**NET PROFITS** — The net income from the operation of a business, other than a corporation, as required to be reported to or as determined by the Department of Revenue under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971,<sup>91</sup> and rules and regulations promulgated under that section.

**NONRESIDENT** — A person or business domiciled outside of Porter Township.

**RESIDENT** — A person or business domiciled in the political subdivision levying the tax.

**TAX COLLECTION COMMITTEE (TCC)** — The Clinton Tax Collection Committee established to govern this tax collection district for the purpose of income tax collection.

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**89. Editor's Note: See 72 P.S. § 7303.**

**90. Editor's Note: See 72 P.S. § 7301 et seq.**

**91. Editor's Note: See 72 P.S. § 7303.**

**TAX COLLECTION DISTRICT (TCD)** — The tax collection district is established under Section 504 of Act 32<sup>92</sup> and includes the school districts and municipalities set forth in the Clinton Tax Collection Committee Tax Collection Agreement.

**TAX OFFICER/TAX COLLECTOR** — The agency engaged to administer and collect earned income taxes for this tax collection district. Unless otherwise specifically provided, for purposes of the obligations of an employer, the term shall mean the tax officer for the tax collection district within which the employer is located, or, if an employer maintains workplaces in more than one district, the tax officer for each such district with respect to employees principally employed therein. In addition to the above definitions, this section incorporates by reference those words, phrases and definitions as listed in Act 32 (53 P.S. § 6924.101 through 53 P.S. § 6924.901).

**§ 432-35. Imposition of tax.**

- A. Resident tax. A tax at the rate of 1/2% is hereby levied on all earned income and net profits, as defined by Act 32, on residents of Porter Township.
- B. Nonresident tax. A tax at the rate of 1/2% is hereby levied on all earned income and net profits earned by nonresidents for work done or services performed or rendered in Porter Township.
- C. All changes shall remain in effect on a calendar year basis without annual reenactment unless the rate of tax is subsequently changed.

**§ 432-36. Administration, powers and duties of officer.**

The collection and administration of the tax provided for in this article shall be performed by the Tax Officer appointed by the Tax Collection Committee. Said Tax Officer shall receive compensation for services and expenses as determined by agreement between the TCC and the Tax Officer. The Tax Officer shall have the power as provided for by the Local Tax Enabling Act.

**§ 432-37. Exemptions and credits.**

- A. No exemptions or credits based on age or income, or any other conditions are granted by this article. Nothing in this article is intended to preclude or inhibit any credit or exemption imposed by act of law or regulation.
- B. Payments of tax on income due any state other than Pennsylvania or to any political subdivision thereof by residents thereof pursuant to any state or local law, to the extent that such income includes salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation or net profits of businesses, professions or other activities, but in such proportions as hereinafter set forth, shall be credited to and allowed as a deduction from the liability of such person for the tax imposed by this article on salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation or net profits of business, professions or other activities, if residents of Porter Township receive like credits and deductions of a similar degree from the tax on income imposed by the other state or political subdivision thereof.

(1) Where a credit or deduction is allowable, it shall be allowed in proportion to the

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92. Editor's Note: See 53 P.S. § 6924.504.

concurrent periods of which taxes are imposed by the other state or respective political subdivisions, but not in excess of the amount paid for the concurrent period and not in excess of the local Pennsylvania tax liability. No other exemptions based on any other factor to include age or income level is granted by this article. Nothing in this article is intended to preclude or inhibit any credit or exemption imposed by act of law or regulation.

- (2) No credit or deduction shall be allowed against any tax on earned income imposed under authority of this article to the extent of the amount of credit or deduction takes from the same period by the taxpayer against any income tax imposed by the Commonwealth of Pennsylvania under Section 314 of the Act of March 4, 1971 (P.L. 6, No. 2) known as the "Tax Reform Code of 1971,"<sup>93</sup> on account of taxes imposed on income by other states or by their political subdivisions.
- C. Any nonresident who is otherwise subject to the earned income tax of Porter Township is hereby exempted from the imposition, collection, and payment of this Tax, provided the domicile of the nonresident taxpayer provides a like exemption from the imposition, collection, and payment of an earned income tax to any resident of Porter Township, Clinton County, Pennsylvania, who would otherwise be subject to an earned income tax in the domicile of that nonresident. No other exemption or credit based on any other factor to include age or income level is granted by the article. Nothing in this article is intended to preclude or inhibit any credit or exemption imposed by act or law or regulation.

**§ 432-38. Severability.**

Should any section, subsection, sentence, clause or phrase of this article be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the article in its entirety or of any part thereof other than that part declared to be invalid.

**§ 432-39. Effective date.**

The article shall be effective January 1, 2012. It is the intention of the governing body of Porter Township that this article shall provide procedural modifications only to the previously adopted Earned Income Tax Ordinance, and no gap as to imposition of the tax set forth herein should be inferred.

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93. Editor's Note: See 72 P.S. § 7314.

## ARTICLE V

**Waiver of Additional Charges for Real Estate Taxes  
[Adopted 10-10-2022 by Ord. No. 10-10-2022]****§ 432-40. Requirements for waiver.**

Any person or entity collecting taxes on behalf of the Township, including a) any person serving as a Tax Collector or elected Tax Collector, as that term is defined in 72 P.S. § 5511.2, b) a delinquent Tax Collector as defined in 72 P.S. § 5511.26a, c) the tax claim bureau or an alternative collector of taxes as provided in the Act of July 7, 1947 (P.L. 1368, No. 542), codified at 72 P.S. § 5860.101 et seq. and known as the "Real Estate Tax Sale Law," d) an employee, agent or assignee authorized to collect the tax, e) a purchaser of claim for the tax or any other person authorized by law or contract to secure collection of, or take any action at law or in equity against, the person or property of the taxpayer for the real estate or amounts, liens or claims derived from the real estate tax, is hereby required to waive additional charges for real estate taxes beginning in the first tax year after the effective date of this subsection, if the taxpayer does all of the following:

- A. Provides a waiver request of additional charges to the Tax Collector in possession of the claim within 12 months of a qualifying event;
- B. Attests that a notice was not received;
- C. Provides the Tax Collector in possession of the claim with one of the following:
  - (1) A copy of the deed showing the date of real property transfer; or
  - (2) A copy of the title following the acquisition of a mobile or manufactured home subject to taxation as real estate showing the date of issuance or a copy of an executed lease agreement between the owner of a mobile or manufactured home and the owner of a parcel of land on which the mobile or manufactured home will be situated showing the date the lease commences; and
- D. Pays the face value amount of the tax notice for the real estate tax with the waiver request.

**§ 432-41. Repealer.**

All ordinances inconsistent herewith are hereby repealed.

**§ 432-42. Severability.**

It is hereby declared to be the intention of the Board of Supervisors that the parts, sections, paragraphs, sentences, clauses and phrases of these amendments and additions are severable. If any section, paragraph, sentence, clause or phrase of this article or its amendments and additions is declared unconstitutional, illegal or otherwise invalid by the judgment or decree of a court of competent jurisdiction, that invalidity shall not affect any of the remaining parts, sections, paragraphs, sentences, clauses or phrases of this article or its amendments or additions.

**§ 432-43. When effective.**

This article shall take effect on the earliest date provided by applicable law.

**Chapter 444****VEHICLE NUISANCES**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 5-1-1989 by Ord. No. 20 (Ch. 10, Part 1, of the 1989 Code of Ordinances). Amendments noted where applicable.]**

**§ 444-1. Definitions.**

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

LESSEE — Owner for the purpose of this chapter when the lessor holds the lessee responsible for maintenance and repairs.

MOTOR VEHICLE — Any type of mechanical device, propelled by a motor, in which persons or property may be transported upon public street or highways, and including trailers or semitrailers pulled thereby.

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

OWNER — The actual owner, agent or custodian of the property on which motor vehicles are stored, whether individual or partnership, association, or corporation.

PERSON — A natural person, firm, partnership, association, corporation, or other legal entity.

- B. In this chapter, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

**§ 444-2. Motor vehicle nuisances prohibited.**

It shall be unlawful for any person, owner or lessee to maintain a motor vehicle nuisance upon the open private grounds of such person, owner or lessee within the Township of Porter. A motor vehicle nuisance shall include any motor vehicle which is unable to move under its own power and has any of the following physical defects:

- A. Broken windshields, mirrors or other glass, with sharp edges.
- B. One or more flat or open tires or tubes which could permit vermin harborage.
- C. Missing doors, windows, hood, trunk or other body parts which could permit animal harborage.
- D. Any body parts with sharp edges including holes resulting from rust.
- E. Missing tires resulting in unsafe suspension of the motor vehicle.
- F. Upholstery which is torn or open which could permit animal and/or vermin harborage.
- G. Broken headlamps or taillamps with sharp edges.
- H. Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle.

- I. Protruding sharp objects from the chassis.
- J. Broken vehicle frame suspended from the ground in an unstable manner.
- K. Leaking or damaged oil pan or gas tank which could cause fire or explosion.
- L. Exposed battery containing acid.
- M. Inoperable locking mechanism for doors or trunk.
- N. Open or damaged floorboards, including trunk and fire wall.
- O. Damaged bumpers pulled away from the perimeter of vehicle.
- P. Broken grill with protruding edges.
- Q. Loose or damaged metal trim and clips.
- R. Broken communication equipment antennas.
- S. Suspended on unstable supports.
- T. Such other defects which could threaten the health, safety and welfare of the citizens of the Township.

**§ 444-3. Storage of motor vehicle nuisances permitted.**

- A. Any person, owner or lessee who has one or more motor vehicle nuisances as defined in § 444-2 above may store such vehicle(s) in the Township only in strict compliance with the regulations provided herein. Such person, owner or lessee must first apply for a permit for either temporary or permanent storage and pay a fee to the Township such as may be provided from time to time by resolution of the Board of Supervisors. The motor vehicle nuisance(s) must be stored within a garage or other enclosed building or outside within an opaque fence at least six feet high, which is locked at all times when unattended. With the special approval of the Board of Supervisors, motor vehicle nuisances may also be stored outside in an area enclosed by a chain-link fence, at least six feet high, screened by shrubbery around the perimeter to the height of the fence, with an unobstructed gate capable of admitting fire or emergency equipment. Such gate shall remain locked at all times when unattended. In addition, all gas and oil or other flammable liquid shall be removed from the motor vehicle and it shall be kept free of vermin infestation while being stored. The total area of storage of motor vehicle nuisances may not exceed two acres.
- B. Nothing herein shall be construed to permit the storage of motor vehicle nuisances contrary to the provisions of Chapter 490, Zoning.

**§ 444-4. Inspection; notice to comply.**

- A. The enforcement officer is hereby empowered to inspect grounds on which motor vehicles are stored to determine if there is compliance with the provisions of this chapter. If noncompliance with the provisions of this chapter constitutes a nuisance, or if any condition, structure, or improvement poses a threat to the health, safety, or welfare of the public, he shall issue a written notice to be served by registered or certified mail upon the owner of said premises, or, if the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.

- B. Said notice shall specify the condition or structure or improvement complained of, and shall require the owner to commence to remove or otherwise rectify the condition or structure or improvement as set forth therein within 10 days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

**§ 444-5. Authority to remedy noncompliance. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

If the owner of grounds on which motor vehicles are stored does not comply with the notice to abate the conditions within the time limit prescribed, the Township shall have the authority to take measures to correct the conditions and collect the cost of such corrections, plus 10% of all costs, and the Township is authorized to place a lien upon such property to collect the same, including all costs and attorneys' fees. The Township, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

**§ 444-6. Hearing.**

- A. Any person aggrieved by the decision of the enforcement officer may request and shall then be granted a hearing before the Board of Supervisors, provided he files with the Board of Supervisors within 10 days after notice of the enforcement officer's decision a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. The hearing shall commence not later than 30 days after the date on which the petition was filed unless postponed for sufficient cause.
- B. After such hearing, the Board of Supervisors shall sustain, modify or overrule the action of the enforcement officer.

**§ 444-7. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who shall violate any provisions of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not less than \$100 nor more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

**§ 444-8. Remedies not mutually exclusive.**

The remedies provided herein for the enforcement of this chapter, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the Board of Supervisors.<sup>94</sup>

## Chapter 450

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94. Editor's Note: Original Sec. 109, Permit and Fee, of Ch. 10, Part 1, of the 1989 Code of Ordinances, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**VEHICLES AND TRAFFIC**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 5-1-1989 by Ord. No. 20 (Ch. 15 of the 1989 Code of Ordinances). Amendments noted where applicable.]**

ARTICLE I  
**General Regulations**

**§ 450-1. Definitions and interpretation.**

- A. Words and phrases, when used in this chapter, except for articles or sections to which different or additional definitions apply, shall have the meanings ascribed to them in the Vehicle Code (the Act of June 17, 1976, P.L. 162 No. 81), as amended,<sup>95</sup> except that, in this chapter, the word "street" may be used interchangeably with the word "highway," and shall have the same meaning as the word "highway" as defined in the Vehicle Code.
- B. The term "legal holidays" as used in this chapter shall mean and include: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
- C. In this chapter, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine.

**§ 450-2. Manner of adopting permanent traffic and parking regulations.**

All traffic and parking regulations of a permanent nature shall be enacted as ordinances, as parts of ordinances, as amendments to ordinances, or as amendments to this chapter, except where the law specifically authorizes less formal action.

**§ 450-3. Provisions to be continuation of existing regulations.**

The provisions of this chapter, so far as they are the same as those of ordinances and regulations in force immediately before the enactment of this chapter, are intended as a continuation of those earlier ordinances and regulations, and not as new enactments. Nothing in this chapter shall affect any act done or liability incurred, or any suit or prosecution pending or to be instituted under any of those repealed or superseded ordinances or regulations.

**§ 450-4. Temporary and emergency regulations.**

- A. The Pennsylvania State Police shall have the following powers to regulate traffic and parking temporarily and in time of emergency: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
  - (1) In the case of fire, flood, storm or other emergency, to establish temporary traffic and/or parking regulations; and
  - (2) In the case of emergency or to facilitate public works, or in the conduct of parades, processions or public events, to restrict or prohibit traffic and/or parking in limited areas for periods of not more than 72 hours.
- B. Such temporary and emergency regulations shall be enforced by the Pennsylvania State Police in the same manner as permanent regulations. Any person who shall operate or park a vehicle or tractor in violation of any such regulations, or who shall move, remove, destroy, injure or deface any sign or marking erected, posted or made to give notice of any such regulation, shall, upon conviction thereof, be subject to the penalty set forth in the law or elsewhere in this Chapter 450 for a violation of such nature, and, in case of a violation

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95. Editor's Note: See 75 Pa.C.S.A. § 101 et seq.

for which no specific penalty is set forth in the law or elsewhere in this chapter, to a fine of not more than \$25 together with costs of prosecution. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 450-5. Experimental regulations.**

The Board of Supervisors may, from time to time by resolution, designate places upon and along the highways in the Township where, for a period of not more than 90 days, specific traffic and/or parking regulations, prohibitions and restrictions shall be in force and effect, and shall designate such locations by proper signs and markings. Such regulations, prohibitions and restrictions shall be effective as if they had been specified in this chapter. No person shall operate or park a vehicle or tractor in violation of any such regulation, prohibition or restriction, and no person shall move, remove, destroy or deface any sign or marking erected, posted or made by authority of this section. Any person who shall violate any provision of this section shall, upon conviction thereof, be subject to the penalty set forth in the law or elsewhere in this chapter for a violation of such nature, and in case of a violation for which no specific penalty is set forth in the law or elsewhere in this chapter, to a fine of not more than \$25 together with costs of prosecution; provided, the purpose of this section is to allow for the test and experimental determination of the feasibility and desirability of permanent changes in the ordinances of the Township of Porter relative to traffic and parking.

**§ 450-6. Traffic on streets closed or restricted for construction, maintenance or special events.**

- A. Board of Supervisors shall have authority to close any street or specific part of a street to vehicular traffic and to place barriers or station Pennsylvania State Police officers at each end of the closed portion, while construction or maintenance work is underway or a special event is being conducted on the closed portion. It shall be unlawful for any person to drive a vehicle upon any such closed portion. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. Board of Supervisors shall have authority to establish a restricted traffic area upon any street where construction or maintenance work is underway and to station flagmen at each end of the restricted portion. It shall be unlawful for any person to drive a vehicle upon any such restricted traffic area at any time when the flagman is displaying a sign directing that vehicle to stop, or is signaling that vehicle, by a flag or other device, not to proceed.
- C. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

**§ 450-7. Use of streets by processions and assemblages.**

- A. For the purpose of this section, the words "assemblage" and "procession" shall have the following meanings:

ASSEMBLAGE — A gathering of people without vehicles, which interferes with the movement of pedestrian or vehicular traffic on any street;

PROCESSION — A group of individuals, vehicles, animals and/or objects moving along a street in a way that interferes with the normal movement of traffic. A procession shall not include a funeral caravan or military convoy.

- B. It shall be unlawful for any person to hold or participate in any assemblage unless the person organizing or conducting the assemblage first obtains a permit from the Pennsylvania State Police or the Chairman of the Board, which shall be issued without fee. Application for the permit shall be made at least one week in advance of the day on which the assemblage is proposed to be held, but in any case where a state-designated highway is proposed to be used, application shall be made at least three weeks in advance of the proposed date. The permit shall state the place where and the date when the assemblage is to be held, the hour when the assemblage may convene and the hour by which it shall have been completely dispersed. It shall be unlawful for any person to hold or to participate in any assemblage unless the permit has been granted, or at any time or place other than that authorized by the permit. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. It shall be unlawful for any person to hold or participate in any procession unless the person organizing or conducting the procession first obtains a permit from the Pennsylvania State Police or the Chairman of the Board, which shall be issued without fee. Application for the permit shall be made at least two weeks in advance of the day when the procession is proposed to be held, but in any case where a state-designated highway is proposed to be used, application shall be made at least three weeks in advance of the proposed date. The permit shall specify the date on which the procession is to be held, the route to be followed by the procession, the hour when and place where participants may commence to assemble and form before the procession is under way, the time when the procession may commence to move along its route, and the time by which the end of the procession shall have reached the end of the route of the procession and the procession shall have been disbanded. It shall be unlawful for any person to hold or to participate in any procession unless the permit shall have been granted, or under any conditions as to time or route or otherwise than those stated in the permit. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- D. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

**§ 450-8. Authority of police officers. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Pennsylvania State Police are hereby given authority to direct traffic on the highways of the Township and at intersections thereof.<sup>96</sup>

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96. Editor's Note: Original Sec. 109, Authorization for Use of Speed Timing Devices, of Ch. 15 of the 1989 Code of Ordinances, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ARTICLE II  
Traffic Regulations

**§ 450-9. Speed limits on certain streets.**

- A. Maximum speed limits are established on portions of specified streets, as follows, and it shall be unlawful for any person to drive a vehicle, on any part of a street where a maximum speed limit applies, at a higher speed than the maximum prescribed for that part of the street:

Street	From	To	Maximum Speed Limit (mph)
T-318	PA-64 SR-0064	LR-18043 SR-2002	35
T-318 [Added 9-2-1991 by Ord. No. 21-1991]	Township Route 2003	Lamar Fish Hatchery	35
T-318 (Cherry Run Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Pine Street	SR-2002	35
T-318 (Cherry Run Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	SR-0064	Pine Street	35
T-319 (McClain-Rogers Road)	LR-18043	Centre County line	25
T-319 (McClain-Rogers Road) [Amended 11-5-2007 by Ord. No. 56-11/5-2007]	Walker Township Line	SR-2002	35
T-320	SR-0064	SR-2018	35
T-320 (Peach Orchard Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	SR-0064	Jacksonville Road	25
T-321 (Dotterers Road)	SR-2018	Lamar Township	35
T-321 (Fox Hollow)	SR-2018	SR-2018	35
T-321 (Kryder Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Jacksonville Road	Lamar Township Line	35
T-322 (Silver Avenue)	PA-64 SR-0064	Stop intersection T-323	25
T-322 (Stone House Road)	SR-0064	SR-2003	25
T-322 (Stone House Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	SR-0064	Whitetail Circle Road	25

Street	From	To	Maximum Speed Limit (mph)
T-322 (Stone House Road) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	Whitetail Circle Road	Dotterers Road	25
T-323 <b>[Added 9-2-1991 by Ord. No. 21-1991]</b>	Lamar Fish Hatchery	PA Legislative Route 64	35
T-323	LR-18043 SR 2002	T-322	35
T-323	T-322	Bridge SR 2001	25
T-323 (Furnace Road) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	Silver Avenue	Spring Run Road	25
T-323 (Furnace Road) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	Spring Run Road	Strouse Road	25
T-323 (Furnace Road) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	SR-2002	Silver Avenue	35
T-324	T-321	End, private drive	35
T-324 (Billman Lane) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	Dead end	Strouse Road	25
T-324 (Brown Hill)	SR-0064	SR-2018	35
T-324 (Strouse Road)	SR-2001/T-323	Private drive	25
T-325 (Strouse Road) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	Furnace Road	Billman Lane	25
T-326	SR-0064		35
T-326	SR-2004	I-80 condemnation	35
T-327 (Whitetail Circle Road) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	Stone House Road	Stone House Road	25
T-328 (Heltman Road)	SR-2004	Cul-de-sac	25
T-328 (Heltman Road) <b>[Amended 11-5-2007 by Ord. No. 56-11/5-2007]</b>	SR-2004	SR-0064	35
T-328 (Heltman Road)	SR-0064		35

Street	From	To	Maximum Speed Limit (mph)
T-331 (Fox Hollow Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Bartholomew Lane	Jacksonville Road	25
T-331 (Fox Hollow Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Courter's Lane	Bartholomew Lane	25
T-331 (Fox Hollow Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Jacksonville Road	Courter's Lane	25
T-333 (Brown's Hill Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	SR-0064	Jacksonville Road	30
T-335 (Silver Avenue) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Furnace Road	Spring Run Road	25
T-338 (Jacksonville Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Browns Hill Road	Peach Orchard Road	45
T-338 (Jacksonville Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Dotterers Road	Fox Hollow Road	45
T-338 (Jacksonville Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Fox Hollow Road	Browns Hill Road	45
T-338 (Jacksonville Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Fox Hollow Road	Lamar Township Line	45
T-338 (Jacksonville Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Kryder Road	Fox Hollow Road	45
T-338 (Jacksonville Road) [Added 3-2-1998 by Ord. No. 32-3-98]	Lamar Township, Clinton County line	Centre County line	45
T-338 (Jacksonville Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Marion Township Line	Dotterers Road	45
T-338 (Jacksonville Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Peach Orchard Road	Kryder Road	45

Street	From	To	Maximum Speed Limit (mph)
T-339 (Ridge Road) [Added 3-2-1998 by Ord. No. 32-3-98]	SR-0064	T-338 (Jacksonville Road)	35
T-339 (Dotterers Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Jacksonville Road	Stone House Road	35
T-339 (Dotterers Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Stone House Road	SR-8064	35
T-340 (Clintondale Hill Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Fishing Creek Road	SR-0064	35
T-341 (Spring Run Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Silver Avenue	Furnace Road	25
T-341 (Spring Run Road) [Added 3-2-1998 by Ord. No. 32-3-98]	SR-0064	T-342 (Fishing Creek Road)	25
T-342 (Fishing Creek Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Clintondale Hill Road	Spott's Road	40
T-342 (Fishing Creek Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Spott's Road	Heltman Road	40
T-342 (Fishing Creek Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Spring Run Road	Clintondale Hill Road	25
T-342 (Fishing Creek Road) [Added 3-2-1998 by Ord. No. 32-3-98]	T-341	Lamar Township, Clinton County line	25
T-450	T-321	End, private drive	35
T-467 (Bletz Road)	SR-0064	End, bridge out	25
T-468 (Zeigler Road)	PA-64 SR-0064	Private drive	25
T-553 (Pine Street) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	Walker Township Line	Cherry Run Road	25

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$35. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional fine of \$2 per mile for each mile in excess of five

miles per hour over the maximum speed limit.

**§ 450-10. Speed limits on certain bridges and elevated structures.**

- A. Maximum speed limits are established, as follows, on certain bridges and elevated structures, and it shall be unlawful for any person to drive a vehicle on any such bridge or elevated structure, at a higher speed than the maximum prescribed for that bridge or elevated structure:

Bridge or Elevated Structure	Location	Maximum Speed Limit
(Reserved)		

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$35. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional fine of \$2 per mile for each mile in excess of five miles per hour over the maximum speed limit.

**§ 450-11. Speed limits for certain vehicles on hazardous grades.**

- A. The following are declared to be hazardous grades, and, upon any such hazardous grade, no person shall drive a vehicle, having a gross weight in excess of that referred to for that grade, in the direction stated for that grade, at a speed in excess of that established in this section for that grade, and, if so stated for a particular grade, the driver of every such vehicle shall stop the vehicle before proceeding downhill:

Street	Between	Direction of Travel	Maximum Gross Weight	Maximum Speed Limit	Required to Stop Before Proceeding Downhill
(Reserved)					

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$35. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional fine of \$2 for each mile in excess of five miles per hour over the maximum speed limit.

**§ 450-12. Speed limits in parks.**

- A. A speed limit of 35 miles per hour is established on all streets and roadways in the public parks maintained and operated by the Township, except in the following locations, where the lower maximums, as specified, shall apply:

Park	Street	Location	Maximum Speed Limit
(Reserved)			

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$35. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional fine of \$2 per mile for each mile in excess of five miles per hour over the maximum speed limit.

**§ 450-13. Traffic signals at certain locations.**

- A. At the following locations, traffic signals as indicated below shall be erected (or are ratified if previously erected), and traffic at those locations shall be directed by those signals:

Location	Type of Signal
(Reserved)	

- B. Any driver of a vehicle who disobeys the directions of any traffic signal shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

**§ 450-14. Turn prohibited on red signal.**

- A. The following are established as intersections where drivers of vehicles headed in the direction or directions indicated are prohibited from making a right turn (or a left turn from a one-way street into another one-way street) on a steady red signal:

Intersection	Vehicles Traveling on	Facing
(Reserved)		

- B. Any driver of a vehicle who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

**§ 450-15. One-way streets.**

- A. The following are established as one-way streets, and it shall be unlawful for any person to drive a vehicle on any one-way street other than in the direction established for traffic on that street:

Street	From	To	Direction of Travel
(Reserved)			

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

**§ 450-16. Rotary traffic islands.**

- A. The following are designated as rotary traffic islands, and every vehicle passing around a rotary traffic island shall be driven only to the right of the island:

(Reserved)

- B. Any person who drives a vehicle otherwise than to the right of any rotary traffic island shall be guilty of a violation of this section, and, upon conviction, shall be sentenced to pay a fine of \$25 and costs.

**§ 450-17. Turning at certain intersections restricted.**

- A. It shall be unlawful for the driver of any vehicle, of the type indicated, traveling upon the

first-named street at any of the following intersections, in the direction or directions indicated in each case, to make a left turn and/or a right turn into the second-named street, as indicated, at any time when such a turn is prohibited by this section:

Vehicles Traveling on	Direction of Travel	Not to Make	Into	When	Type of Vehicle Applicable to
(Reserved)					

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

**§ 450-18. Right turns only at certain intersections.**

- A. It shall be unlawful for the driver of any vehicle, traveling upon the first-named street at any of the following intersections, in the direction or directions indicated in each case, to make other than a right turn, at any time stated, both left turns and straight-across traffic being prohibited:

Vehicles Traveling on	Direction of Travel	Times	Not to make left turn into or travel straight across
(Reserved)			

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

**§ 450-19. U-turns prohibited at certain locations.**

- A. It shall be unlawful for the driver of any vehicle, traveling upon any of the following portions of streets, in the direction or directions indicated for that street, to make a U-turn:

Street	Portion	Direction of Travel
(Reserved)		

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

**§ 450-20. No-passing zones.**

- A. The following are established as no passing zones, and it shall be unlawful for the driver of any vehicle to overtake or pass another vehicle or to drive on the left side of the roadway in any no-passing zone: **[Amended 11-5-2007 by Ord. No. 56-11/5-2007]**

Street
All streets within the Township

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

**§ 450-21. Through highways.**

- A. The following highways are established as through highways, thus authorizing stop or yield signs to be erected facing traffic approaching every intersection with the through highway except for those intersections with traffic signals, or with exceptions or modifications as indicated below. Every driver of a vehicle approaching a stop or yield sign authorized by this section shall stop the vehicle or yield right-of-way as required by Section 3323(b) or 3323(c) of the Vehicle Code,<sup>97</sup> as the case may be, and shall not proceed into or across the through highway until he has followed all applicable requirements of that section of the law:

Highway	Between
(Reserved)	

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

**§ 450-22. Stop intersections.**

- A. The following intersections (in addition to intersections with the through highways established by § 450-21) are established as stop intersections, and official stop signs shall be erected (or are ratified if previously erected) in such a position as to face traffic approaching the second-named street (the intersecting or through street) on the first-named street (the stop street) in the direction or directions indicated for that intersection. Every driver of a vehicle approaching the intersection on the first named or stop street, in the direction indicated in each case, shall stop the vehicle as required by Section 3323(b) of the Vehicle Code,<sup>98</sup> and shall not proceed into or across the second-named or intersecting or through street until he has followed all applicable requirements of that section of the law.

Stop Street	Intersecting or Through Street	Direction of Travel
Courter Road (T-450)	Fox Hollow Road (T-321)	Southeast
Farm Road (T-324)	Fox Hollow Road (T-321)	Southeast
Harris Road (T-553)	Cherry Run Road (T-318)	North
Silver Avenue (T-322)	Furnace Road (T-323)	South
Strouse Road (T-324)	Clintondale Bridge (T-323)	Northwest
SR-0064 [Added 11-2-2015 by Ord. No. 11-2-2015]	Ramps A and B (SR-8004)	Westbound
SR-0064 [Added 11-2-2015 by Ord. No. 11-2-2015]	Ramps C and D (SR-8004)	Eastbound
T-300 (Aspen Lane) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	T-328 (Heltman Road)	Southwest

97. Editor's Note: See 75 Pa.C.S.A. § 3323(b) or (c), respectively.

98. Editor's Note: See 75 Pa.C.S.A. § 3323(b).

Stop Street	Intersecting or Through Street	Direction of Travel
T-301 (Garden Lane) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	T-328 (Heltman Road)	Southwest
T-301 (Garden Lane) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	T-300 (Aspen Lane)	Northeast
T-302 (Cardinal Lane) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	T-328 (Heltman Road)	Southwest
T-302 (Cardinal Lane) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	T-300 (Aspen Lane)	Northeast
T-303 (Carnation Lane) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	T-328 (Heltman Road)	Southwest
T-304 (Stinson Lane) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	T-328 (Heltman Road)	Southwest
T-320 (Peach Orchard Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	T-338 (Jacksonville Road)	Northeast
T-321 (Kryer Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	T-338 (Jacksonville Road)	West
T-322 (Stone House Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	T-339 (Dotterers Road)	North
T-324 (Billman Lane) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	T-325 (Strouse Road)	North
T-325 (Strouse Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	T-323 (Furnace Road)	Northwest
T-326 (Spotts Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	T-342 (Fishing Creek Road)	Southeast
T-327 (Whitetail Circle Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	T-322 (Stone House Road)	West
T-328 (Heltman Road) [Added 11-5-2007 by Ord. No. 56-11/5-2007]	T-342 (Fishing Creek Road)	Southeast

Stop Street	Intersecting or Through Street	Direction of Travel
T-331 (Fox Hollow Road) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	T-338 (Jacksonville Road)	South
T-331 (Fox Hollow Road) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	T-338 (Jacksonville Road)	Southeast
T-332 (Bartholomew Lane) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	T-331 (Fox Hollow Road)	Southeast
T-333 (Brown's Hill Road) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	T-338 (Jacksonville Road)	North
T-335 (Silver Avenue) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	T-323 (Furnace Road)	South
T-339 (Dotterers Road) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	T-338 (Jacksonville Road)	North
T-340 (Clintondale Hill Road) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	T-342 (Fishing Creek Road)	Southeast
T-341 (Spring Run Road) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	T-323 (Furnace Road)	Southeast
T-450 (Courter's Lane) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	T-331 (Fox Hollow Road)	South
T-553 (Pine Street) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	T-318 (Cherry Run Road)	Northeast

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

#### § 450-23. Yield intersections.

- A. The following intersections (in addition to intersections with the through highways established by § 450-21) are established as yield intersections, and official yield signs shall be erected (or are ratified if previously erected) in such a position as to face traffic approaching the second-named street (the through street) on the first-named street (the yield street) in the direction or directions indicated for that intersection. Every driver of a vehicle approaching the intersection on the first-named or yield street, in the direction indicated in each case, shall slow down or stop the vehicle as required by Section 3323(c) of the Vehicle Code,<sup>99</sup> and then yield the right-of-way as required by that subsection of the

Vehicle Code.

Yield Street	Through Street	Direction of Travel
(Reserved)		

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

**§ 450-24. Play highways.**

- A. The following areas upon the streets in the Township of Porter are established as play highways:

Street	Between	Days	Hours
(Reserved)			

- B. The Pennsylvania State Police is authorized to designate as play highways, whenever he deems that action advisable, and for whatever period of time directed by him, any part of any street in the Township, where sledding and coasting, shall be permitted. That play highway shall be set apart for the purpose under the direction of the Chief of Police. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. No person shall drive any motor vehicle upon any play highway at any time when that street shall be designated as a play highway, except in case of emergency, with special permission of the Pennsylvania State Police or of the police officer in charge, who shall first clear that play highway of all persons using it for the purpose for which it was set aside. Any person who violates any provision of this subsection shall, upon conviction, be sentenced to pay a fine of \$25 and costs. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 450-25. Snowmobile roads.**

- A. The following roads and streets within the Township are designated as special snowmobile roads:

Street or Road	Between	Used by Snowmobiles Only When Closed to Vehicular Traffic	Shared with Vehicular Traffic?
(Reserved)			

- B. It shall be unlawful for any person to operate a snowmobile on any highway, street or road in the Township other than as provided above. Provided: nothing in this section shall prohibit any person from operating a snowmobile on any other street in the Township:
  - (1) As authorized by Section 7721 of the Vehicle Code<sup>100</sup> for emergency and bridge

99. Editor's Note: See 75 Pa.C.S.A. § 3323(c).

100. Editor's Note: See 75 Pa.C.S.A. § 7721.

crossings and for direct crossing of streets or two-lane highways; or

- (2) For special snowmobile events where authorized in advance and the street is blocked off as provided in Section 7723 of the Vehicle Code.<sup>101</sup> Any person who violates any provision of this section shall be subject to the penalties prescribed in Section 7752(a) of the Vehicle Code.<sup>102</sup>

**§ 450-26. Operation of motor vehicles on public lands.**

No motor vehicle or motorcycle or minibike shall be operated on any lands owned by the Township or any other public body or agency within the Township of Porter, except on those lands specifically designated for the operation of motor vehicles, motorcycles or minibikes by resolution of the Board of Supervisors.<sup>103</sup>

**§ 450-27. Skates, coasters, sleds and other toy vehicles.**

- A. It shall be unlawful for any person to ride on a sled upon any sidewalk in the Township, or upon any roadway unless that roadway is on a portion of a street blocked off for sledding by authority of § 450-5 of Article I or § 450-24 of Article II of this chapter. Provided: nothing in this subsection shall prevent a pedestrian from pulling a sled, with or without a rider, upon a sidewalk.
- B. It shall be unlawful for any person to engage in roller-skating or to ride upon or propel any coaster or other toy vehicle upon:
  - (1) Any street except in order to cross the roadway; or
  - (2) Any sidewalk located in a business district, except that nothing in this subsection shall prevent a pedestrian from pulling a coaster or other toy vehicle, with or without a rider, upon a sidewalk.
- C. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$5 and costs.

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101. Editor's Note: See 75 Pa.C.S.A. § 7723.

102. Editor's Note: See 75 Pa.C.S.A. § 7723.

103. Editor's Note: Original Sec. 219, Restrictions on Use of Pushcart, of Ch. 15 of the 1989 Code of Ordinances, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ARTICLE III
Size, Weight and Type of Vehicle and Load

§ 450-28. Vehicle weight limits on certain streets and bridges.

- A. On the following bridges and streets or parts of streets, by authority granted by Section 4902(a) of the Vehicle Code, it shall be unlawful for any person or persons to drive any vehicle or combination having a gross weight in excess of the maximum prescribed below for that bridge or street or part of street, as the case may be: [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

Table with 3 columns: Street or Bridge, Between, Maximum Gross Weight. Content: (Reserved)

- B. Any person who violates any provision of this section shall be prosecuted under Sections 4902(a) and 4902(g)(1) of the Vehicle Code, and, upon conviction, shall be sentenced to pay a fine of \$150 plus \$150 for each 500 pounds, or part thereof, in excess of 3,000 pounds over the maximum allowable weight, and costs.

§ 450-29. Size of vehicles on certain streets and bridges restricted.

- A. On the following bridges and streets or parts of streets, by authority granted by Section 4902(a) of the Vehicle Code, it shall be unlawful for any person to drive any vehicle or combination in violation of the size restrictions prescribed below for that bridge or street or part of street:

Table with 3 columns: Street or Bridge, Between, Restriction. Content: (Reserved)

- B. Any person who violates any provision of this section shall be prosecuted under Section 4902(a) and Section 4902(g)(1) of the Vehicle Code, and, upon conviction, shall be sentenced to pay a fine of \$75 and costs.

§ 450-30. Truck traffic restricted on certain streets.

104.Editor's Note: See 75 Pa.C.S.A. § 4902(a).

105.Editor's Note: See 75 Pa.C.S.A. § 4902(a) and (g)(1), respectively.

106.Editor's Note: See 75 Pa.C.S.A. § 4902(a).

107.Editor's Note: See 75 Pa.C.S.A. § 4902(a) and (g)(1), respectively.

108.Editor's Note: Original Sec. 303, Restrictions as to Weight and Size of Vehicles on Certain Streets and Bridges, of Ch. 15 of the 1989 Code of Ordinances, as amended 11-2-2015 by Ord. No. 11-2-2015, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- A. It shall be unlawful for any person to drive a vehicle other than a passenger car on any of the following streets or parts of streets:

Street	Between
(Reserved)	

- B. Provided: nothing in this section shall prohibit any person from driving an emergency vehicle on any of those streets or parts of streets, or from driving on any of those streets or parts of streets a truck or other commercial vehicle making local deliveries to or pickups from premises located along that street or part of a street.
- C. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

ARTICLE IV  
**General Parking Regulations**

**§ 450-31. Vehicles to be parked within marked spaces.**

Wherever a space is marked off on any street for the parking of an individual vehicle, every vehicle parked there shall be parked wholly within the lines bounding that space, and it shall be a violation of this article for any person to park a vehicle or allow it to remain parked otherwise.

**§ 450-32. Angle parking required on portions of certain streets.**

A. Only angle parking shall be permitted on the following portions of streets:

Street	Side	Between
(Reserved)		

B. On all streets where angle parking is required, every vehicle parked at the angle shall be parked with its front nearest the curb.

**§ 450-33. Parking prohibited at all times in certain locations.**

Parking shall be prohibited at all times in the following locations:

Street	Side	Between
PA Route 64	North	Nittany Valley Fire Co. to Fishing Creek bridge west of Lamar
PA Route 64	South	A point 100 feet west of Strouse and Bowmaster Lane to a point 150 feet east of said lane
T-300 (Aspen Lane) [Added 3-5-2012 by Ord. No. 68-3/12]	Both	Entire lane, from T-328 to T-302
T-301 (Garden Lane) [Added 3-5-2012 by Ord. No. 68-3/12]	Both	Entire lane, from T-328 to T-300
T-302 (Cardinal Lane) [Added 3-5-2012 by Ord. No. 68-3/12]	Both	Entire lane, from T-328 to T-300
T-303 (Carnation Lane) [Added 3-5-2012 by Ord. No. 68-3/12]	Both	Entire lane, from T-328 to T-304
T-304 (Stinson Lane) [Added 3-5-2012 by Ord. No. 68-3/12]	Both	Entire lane, from T-328 to T-303
T-324	Both	PA Route 64 and a point 2,720 feet west thereof

Street	Side	Between
T-324 (Strouse's Road) <b>[Added 9-2-1991 by Ord. No. 22-1991]</b>	Both	From Legislative Route 2003 a distance of 100 feet on either side of said roadway measured from the intersection, north and south
T-327 (Whitetail Circle Road) <b>[Added 3-5-2012 by Ord. No. 68-3/12]</b>	Both	Entire lane, from T-322 to T-322
T-333 (Brown's Hill Road) <b>[Added 11-5-2007 by Ord. No. 56-11/5-2007]</b>	Both	SR-0064 and a point 2,720 feet west thereof
T-335 (Silver Avenue) <b>[Added 8-2-1999 by Ord. No. 38-1999; amended 11-5-2007 by Ord. No. 56-11/5-2007]</b>	Both	SR-0064 and T-323 (Furnace Road)
T-340 (Clintondale Hill Road) <b>[Added 3-5-2012 by Ord. No. 68-3/12]</b>	Both	Entire lane, from SR-64 to T-342
T-467 (Bletz Road) <b>[Added 8-2-1999 by Ord. No. 38-1999; amended 11-5-2007 by Ord. No. 56-11/5-2007]</b>	Both	SR-0064 to dead end

**§ 450-34. Parking prohibited in certain locations certain days and hours.**

Parking shall be prohibited in the following locations at all times on the days and between the hours indicated in this section, as follows:

Street	Side	Between	Days	Hours
(Reserved)				

**§ 450-35. Parking of trucks, buses and certain other vehicles prohibited in certain locations.**

It shall be unlawful for any person to park, or to allow to remain parked, on any of the following streets or parts of streets, any vehicle other than a passenger car (which shall not include any bus, motor home or passenger car attached to a trailer of any kind):

Street	Between
(Reserved)	

**§ 450-36. Parking time limited in certain locations certain days and hours.**

No person shall park a vehicle, or allow it to remain parked, for longer than the time indicated, in any of the following locations, at any time on the days and between the hours indicated:

Street	Side	Between	Days	Hours	Parking Time Limit
(Reserved)					

**§ 450-37. Special purpose parking zones; parking otherwise prohibited.**

The following are established as special purpose parking zones, and it shall be unlawful for any person to park a vehicle or to allow it to remain parked, in any such zone, except as specifically provided for that zone:

Street	Side	Location	Authorized Purpose or Vehicle
(Reserved)			

**§ 450-38. Standing or parking on roadway for loading or unloading.**

It shall be unlawful for any person to stop, stand or park a vehicle (other than a pedalcycle) on the roadway side of any vehicle stopped or parked at the edge or curb of any street, except that standing or parking for the purpose of loading or unloading persons or property shall be permitted on the following named streets on Monday through Saturday, between the hours of 9:00 a.m. and 11:30 a.m. and between the hours of 1:30 p.m. and 4:00 p.m., and for no longer than necessary for the loading or unloading.

Street	Side	Between
(Reserved)		

**§ 450-39. Violations and penalties. [Amended 3-5-2012 by Ord. No. 68-3/12]**

Any person who violates any provision of Chapter 450, Article IV, relating to general parking regulations, shall, upon conviction, be sentenced to pay a fine of \$50, plus costs.

## ARTICLE V

**Removal and Impoundment of Illegally Parked Vehicles****§ 450-40. Applicability and scope.**

This article is enacted under authority of Section 6109(a)(22) of the Vehicle Code,<sup>109</sup> and gives authority to the Township of Porter to remove and impound those vehicles which are parked in a tow-away zone and in violation of parking regulations of this chapter. Vehicles which have been abandoned (as defined by the Vehicle Code) or which are parked in such a manner as to interfere with traffic or pose a hazard to others may be towed under the provisions of the Pennsylvania Motor Vehicle Code.

**§ 450-41. Authority to remove and impound.**

The Township shall have authority to remove and impound, or to order the removal and impounding, of any vehicle parked overtime or otherwise illegally, provided that the circumstances of its parking were within the conditions stated in § 450-40 of this article. Provided: no such vehicle shall be removed or impounded except in strict adherence to the provisions of this article, or the provisions of the Pennsylvania Vehicle Code.

**§ 450-42. Tow-away zones.**

The following designated streets and/or parking lots are hereby established as tow-away zones. Signs shall be posted to place the public on notice that their vehicles may be towed for violation of the Township parking regulations:

Street/Parking Lot	Side	Between
(Reserved)		

**§ 450-43. Designation of approved storage garages; bonding; towing and storage.**

Removal and impounding of vehicles under this chapter shall be done only by "approved storage garages" that shall be designated from time to time by Board of Supervisors. Every such garage shall submit evidence to Board of Supervisors that it is bonded or has acquired liability insurance in an amount satisfactory to Board of Supervisors as sufficient to indemnify owners of impounded vehicles against loss or damage to those vehicles while in the custody of the garagekeeper for the purpose of towing or storage. The approved storage garage shall submit to Board of Supervisors its schedule of charges for towing and storage of vehicles under this chapter, and, when the schedule is approved by Board of Supervisors, those charges shall be adhered to by the approved storage garage; no different schedule of charges shall be demanded of or collected from any person whose vehicle is removed or impounded under this chapter by any approved storage garage. Board of Supervisors shall delete from its list of approved storage garages any garage that makes any unapproved charge in connection with any vehicle removed or impounded under this chapter.

**§ 450-44. Payment of towing and storage charges.**

The payment of towing and storage charges shall not relieve the owner or driver of any vehicle

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<sup>109</sup>Editor's Note: See 75 Pa C.S.A. § 6109(a)(22).

from liability for any fine or penalty for the violation of the provision of this chapter for which the vehicle was removed or impounded.

**§ 450-45. Reclamation costs. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

In order to reclaim his vehicle, the owner shall pay towing and storage costs, plus a fee of \$50, of which \$25 shall be transferred to the Pennsylvania Department of Transportation by the garage to which the vehicle was taken.

**§ 450-46. Records of vehicles removed and impounded.**

The Township shall cause a record to be kept of all vehicles impounded under this article and shall be able at all reasonable times to furnish the owners or the agents of the owners of those vehicles with information as to the place of storage of the vehicle.

**§ 450-47. Restrictions upon removal of vehicles.**

No vehicle shall be removed under the authority of this article or the Vehicle Code if, at the time of the intended removal, the owner or the person for the time being in charge of the vehicle is present and expresses a willingness and intention to remove the vehicle immediately.

**§ 450-48. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person violating the provisions of this Article V is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine as set forth in 75 Pa.C.S.A. § 7312, together with all costs of disposing of the vehicle under the provisions of the Vehicle Code, 75 Pa.C.S.A. § 7301 et seq.

**§ 450-49. Reports and disposition of unclaimed vehicles.**

If after a period of 15 days the vehicle in storage remains unclaimed, a report shall be filed with PennDOT in accordance with § 7311 of the Vehicle Code,<sup>110</sup> by the person having legal custody of the vehicle. If the vehicle has not been claimed after 30 days, the vehicle may be transferred to a licensed salvor who will then be responsible for filing the proper reports and disposing of the vehicle in accordance with the provisions of Chapter 73 of the Pennsylvania Motor Vehicle Code (75 Pa C.S.A. § 101 et seq., as amended).

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**110. Editor's Note: See 75 Pa.C.S.A. § 7311.**

ARTICLE VI  
Snow and Ice Emergency

**§ 450-50. Declaration of snow and ice emergency. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

In order to facilitate the movement of traffic and to combat the hazards of snow and ice on the snow emergency routes named in § 450-52 of this article, the Pennsylvania State Police, in its discretion, may declare a snow and ice emergency (designated in this article as a "snow emergency"). Information on the existence of a snow emergency may be given by the Township through radio, newspaper or other available media, and information on the termination of the emergency may be given by use of the same media.

**§ 450-51. Parking prohibited, driving motor vehicles restricted, on snow emergency routes during emergency.**

After any snow emergency is declared, it shall be unlawful, at any time during the continuance of the emergency, for any person:

- A. To park a motor vehicle or to allow that vehicle to remain parked anywhere on any snow emergency route designated in § 450-52 of this article; or
- B. To drive any motor vehicle on any such snow emergency route, unless that vehicle is equipped with snow tires or chains.

**§ 450-52. Snow emergency routes.**

The following are designated as snow emergency routes:

Street	Between
(Reserved)	

**§ 450-53. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- A. If, at any time during a period of snow emergency declared under § 450-50 of this article, a person shall park a motor vehicle or allow a motor vehicle to remain parked anywhere upon a snow emergency route, that person shall be guilty of a violation of this article, and, upon conviction, shall be sentenced to pay a fine of not more than \$50 and costs.
- B. If, at any time during a period of snow emergency declared under § 450-50 of this article, a person shall drive a motor vehicle upon a snow emergency route without having that vehicle equipped with snow tires or chains, that person shall be guilty of a violation of this article, and, upon conviction in a summary proceeding before a Magisterial District Judge, shall be sentenced to pay a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days.

**Chapter 454**

**VEHICLES, OFF-ROAD**

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

ARTICLE I  
**ATV and Snowmobile Roads**  
**[Adopted 7-10-2023 by Ord. No. 071023]**

**§ 454-1. Designation.**

The following roads are hereby designated as ATV roads and snowmobile roads within the meaning of 75 Pa.C.S.A. § 7722:

<b>Road Name</b>	<b>Location</b>
Aspen Lane (Township Route 300)	From Heltman Road to Garden Lane
Aspen Lane (Township Route 300)	From Garden Lane to Cardinal Lane
Bartholomew Lane (Township Route 331)	From Fox Hollow Road to dead end
Bletz Road (Township Route 467)	From State Route 64 to dead end
Billman Lane (Township Route 324)	From dead end to Strouse Road
Brown Hills Road (Township Route 333)	From State Route 64 to Jacksonville Road
Cardinal Lane (Township Route 302)	From Heltman Road to Aspen Lane
Carnation Lane (Township Route 303)	From Heltman Road to Stinson Lane
Cheery Run Road (Township Route 318)	From State Route 64 to Pine Street
Cheery Run Road (Township Route 318)	From Pine Street to State Route 2002
Chicks Road (Township Route 336)	From dead end to State Route 64
Clintondale Hill Road (Township Route 340)	From Fishing Creek Road to State Route 64
Dobson Road (Township Route 334)	From Dotterers Road to dead end
Dotterers Road (Township Route 339)	From Dobson Road to Stonehouse Road
Dotterers Road (Township Route 339)	From State Route 64 to Dobson Road
Dotterers Road (Township Route 339)	From Stonehouse Road to Jacksonville Road
Fishing Creek Road (Township Route 342)	From Clintondale Hill Road to Spotts Road
Fishing Creek Road (Township Route 342)	From Spotts Road to Heltman Road
Fishing Creek Road (Township Route 342)	From State Route 2004 to Clintondale Hill Road
Fox Hollow Road (Township Route 331)	From Bartholomew Lane to Jacksonville Road
Fox Hollow Road (Township Route 331)	From Courter Lane to Bartholomew Lane
Fox Hollow Road (Township Route 331)	From Jacksonville Road to Courter Lane
Furnace Road (Township Route 323)	From Silver Avenue to Spring Run Road
Furnace Road (Township Route 323)	From Spring Run Road to State Route 2004
Furnace Road (Township Route 323)	From State Route 2002 to Silver Avenue
Garden Lane Township Route 301)	From Heltman Road to Aspen Lane

Road Name	Location
Heltman Road (Township Route 328)	From Aspen Lane to State Route 64
Heltman Road (Township Route 328)	From Cardinal Lane to Garden Lane
Heltman Road (Township Route 328)	From Carnation Lane to Cardinal Lane
Heltman Road (Township Route 328)	From Fishing Creek Road to Stinson Lane
Heltman Road (Township Route 328)	From Garden Lane to Aspen Lane
Heltman Road (Township Route 328)	From Stinson Lane to Carnation Lane
Jacksonville Road (Township Route 338)	From Browns Hill Road to Peach Orchard Road
Jacksonville Road (Township Route 338)	From Dotterers Road to Fox Hollow Road
Jacksonville Road (Township Route 338)	From municipal line to Dotterers Road
Jacksonville Road (Township Route 338)	From Fox Hollow Road to Browns Hills Road
Jacksonville Road (Township Route 338)	From Kryder Road to Fox Hollow Road
Jacksonville Road (Township Route 338)	From Peach Orchard Road to Kryder Road
Kryder Road (Township Route 321)	From Jacksonville Road to municipal line
McClain Rogers Road (Township Route 319)	From municipal line to State Route 2002
Peach Orchard Road (Township Route 320)	From State Route 64 to Jacksonville Road
Pine Street (Township Route 468)	From municipal line to Cherry Run Road
Porter Lane (Township Route 450)	From Fox Hollow Road to dead end
Silver Avenue (Township Route 335)	From Furnace Road to State Route 64
Spotts Road (Township Route 326)	From Fishing Creek Road to dead end
Spring Run Road (Township Route 341)	From State Route 64 to Furnace Road
Stinson Lane (Township Route 304)	From Heltman Road to Carnation Lane
Stonehouse Road (Township Route 322)	From Ridge Road to Whitetail Crossroad
Stonehouse Road (Township Route 322)	From Whitetail Crossroad to State Route 64
Strouse Road (Township Route 325)	From Billman Lane to State Route 2004
Walizer Bridge (Township Route 337)	From Fishing Creek to municipal line
Whitetail Cross Road (Township Route 327)	From Stonehouse Road to Whitetail Crossroad
Zeigler Road (Township Route 468)	From State Route 64 to Private Road

#### § 454-2. Requirements and restrictions.

Any operation of ATVs or snowmobiles as permitted by this article shall be conditioned upon the following requirements:

- A. The speed limit of any ATV is limited to the posted speed limit.
- B. The ATV must remain on the right shoulder of the road.
- C. ATVs must travel single file and may not be two or more abreast.
- D. Riders of ATVs must wear helmets.
- E. ATVs must be licensed and insured.
- F. Operators of ATVs must hold a valid driver's license.
- G. The Township is not responsible for any ATV accidents or injuries which may occur on Township roads.
- H. Streets or portions thereof designated in this article may be used only as transit roads from one point to another, and may not be used for general purpose riding.

**§ 454-3. Notices.**

Adequate notices of such designation and determination shall be sufficiently and prominently displayed.

**§ 454-4. Liability.**

In accordance with the Motor Vehicle Code of the Commonwealth of Pennsylvania, 75 Pa.C.S.A. § 7722, Porter Township hereby gives notice that no liability whatsoever shall be imposed on it as a result of designating any of the aforesaid Township roads as ATV roads or snowmobile roads.

**§ 454-5. Repealer.**

All ordinances or resolutions or parts of ordinances or resolutions, insofar as they are inconsistent herewith, be and the same are hereby repealed.

**§ 454-6. Severability.**

If any sentence, clause, section, or part of this article is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall in no manner affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this article. It is hereby declared as the intent of the Board of Supervisors of the Township that this article would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included therein.

**§ 454-7. When effective.**

This article shall become effective at the earliest date provided by applicable law.

**Chapter 466**

**WATER**

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

## ARTICLE I

**Water System Connections****[Adopted 6-7-1999 by Ord. No. 36-6-99]****§ 466-1. Definitions.**

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

**AUTHORITY** — The Porter Township Municipal Authority organized under the Municipalities Authority Act of 1945,<sup>111</sup> incorporated by the Township of Porter, Clinton County, Pennsylvania.

**BUILDING MAIN** — Extension from the water system of any structure to the lateral of a main.

**IMPROVED PROPERTY** — Any property within the Townships of Porter and/or Lamar, Clinton County, Pennsylvania, upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals.

**INDUSTRIAL ESTABLISHMENT** — Any improved property located within the Townships of Porter and/or Lamar, Clinton County, Pennsylvania, and used or intended for use, wholly or in part, for the manufacturing, processing, cleaning, laundering or assembling of any product, commodity or article.

**LATERAL** —

- A. Part of the water system extending from a main to the curblineline or, if there shall be no curblineline, extending to the property line; or
- B. If no such lateral shall be provided, "lateral" shall mean that portion of, or place in, a main which is provided for connection of any building main.

**MAIN** — Any pipe or conduit constituting a part of the water system used or usable for water distribution purposes.

**OWNER** — Any person vested with ownership, legal or equitable, sole or partial, of any improved property.

**PERSON** — Any individual, partnership, company, association, society, trust, corporation, a municipality, a municipal authority or other group or entity.

**TOWNSHIP** — The Township of Porter, a municipal corporation of Clinton County, Pennsylvania.

**WATER SYSTEM** — All facilities, as of any particular time, for production, transmission, storage and distribution of water in the Townships of Porter and/or Lamar, Clinton County, Pennsylvania, owned by the Porter Township Municipal Authority for maintenance, operation and use.

**§ 466-2. Use of public water system required.**

- A. The owner of any improved property abutting upon the water system, except any improved property which shall constitute an industrial establishment or a farm which has its own supply of water for uses other than human consumption, shall connect such improved property with and shall use such water system in such manner as the Authority may require,

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111. Editor's Note: See now 53 Pa.C.S.A. § 5601 et seq.

within 90 days after notice to such owner from the Township of Porter to make such connection; subject, nevertheless, to such limitations and restrictions as shall be established herein or otherwise shall be established by the Authority.

- B. The notice by the Township of Porter to make connection to a main referred to in Subsection A above shall consist of a copy of this article, including any amendments, and/or supplements at the time in effect, or a summary of each section thereof, and a written or printed document requiring the connection in accordance with the provisions of this article and specifying that such connection shall be made within 90 days after the date such notice is given or served. Such notice may be given or served at any time after a main is in place which can deliver water to the particular improved property. Such notice shall be given or served upon the owner in accordance with law.

**§ 466-3. Building mains and connections.**

- A. No person shall uncover, connect with, make any opening into, use, alter or disturb in any manner, any main or any part of the water system without first obtaining a permit, in writing, from the Authority.
- B. Application for a permit required under Subsection A of this section shall be made by the owner of the improved property served or to be served with notice as provided in § 466-2A, or by the duly authorized agent of such owner.
- C. No person shall make or cause to be made a connection of any improved property to a main until such person fulfills all of the following conditions:
- (1) Notify the Authority of the desire and intention to connect such improved property to a main;
  - (2) Apply for and obtain a permit as required by Subsection A of this section;
  - (3) Give the Authority at least 72 hours' notice before such connection will be made in order that the Authority may supervise and inspect or may cause to be supervised and inspected the work of connection and necessary testing; and
  - (4) If applicable, furnish satisfactory evidence to the Authority that any tapping (or connection) fee which may be charged and imposed by the Authority against the owner of each improved property who connects such improved property to a main has been paid.
- D. Except as otherwise provided in this Subsection D, each improved property shall be connected separately and independently with a main through a building main. Grouping of more than one improved property on one building main shall not be permitted, except under special circumstances and for good cause shown, but then only after special permission of the Authority, in writing, shall have been secured and only subject to such rules, regulations and conditions as may be prescribed by the Authority.
- E. All costs and expenses of construction of a building main and all costs and expenses of connection of a building main to a main shall be borne by the owner of the improved property to be connected, such cost to include, but not be limited to, appropriate supervision and inspection of the work of connection and necessary testing; and such owner shall indemnify and shall save harmless the Authority and the Township of Porter from all loss

or damage that may be occasioned directly or indirectly as a result of construction of a building main or of connection of a building main to a main.

- F. A building main shall be connected to a main at the place designated by the Authority and where, if applicable, the lateral is provided. A smooth, neat joint shall be made and the connection of a building main to the lateral shall be made secure and watertight.
- G. If the owner of any improved property located within the Township of Porter, Clinton County, Pennsylvania, and abutting upon the water system, subject to the exception provided for in § 466-2A after 90 days' notice from the Township of Porter, in accordance with § 466-2A, shall fail to connect such improved property, the Township of Porter and/or its agents may construct such connection and collect from such owner the cost and expenses thereof in any manner permitted by law.

**§ 466-4. Regulations governing building mains and connections to mains.**

- A. No building main shall be covered until it has been inspected and approved by the Authority. If any part of a building main is covered before so being inspected and approved, it shall be uncovered for inspection, at the cost and expense of the owner of the improved property to be connected to a main.
- B. Every building main of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.
- C. Every excavation for a building main shall be guarded adequately with barricades and lights so as to protect all persons from damage and injury. Any streets, sidewalks or other public property disturbed in the course of installation of a building main shall be restored, at the cost and expense of the owner of the improved property being connected, in a manner satisfactory to the Authority.
- D. If any person shall fail or shall refuse, upon receipt of a notice, in writing, of the Authority to remedy any unsatisfactory condition with respect to a building main within 10 days of receipt of such notice, the Authority may refuse to permit such person to be served by the water system until such unsatisfactory condition shall have been remedied to the satisfaction of the Authority.
- E. The Authority reserves the right to adopt, from time-to-time, additional rules and regulations it shall deem necessary and proper relating to connections with a main and with the water system, which additional rules and regulations, to the extent appropriate, shall be construed as part of this article.

**§ 466-5. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who shall violate any provisions of this article shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

**§ 466-6. Repealer.**

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

**§ 466-7. Severability.**

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

**§ 466-8. When effective.**

This article shall become effective as provided by law.

**Chapter 490**

**ZONING**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Porter 6-2-2003 by Ord. No. 48-6/03. Amendments noted where applicable.]**

ARTICLE I  
**General Provisions**

**§ 490-1.01. Repeal provision; short title; effective date; purpose; interpretation; conflict; validity.**

- A. Repeal provisions. The Porter Township Zoning Ordinance of 1964 and all amendments thereto are hereby repealed.
- B. Short title. This chapter shall be known and may be cited as the "Porter Township Zoning Ordinance of 2003." [**Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)**]
- C. Amendments for 1998.
- D. Purpose. This chapter is enacted to promote, protect and facilitate the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, the provision 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 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. This chapter is enacted in accordance with an overall program, and with consideration for the character of the Township, its various parts and the suitability of the various parts for particular uses and structures.
- E. Scope. From and after the effective date of this chapter, the use of all land and every building or portion of a building erected, altered with respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in the Township of Porter shall be in conformity with the provisions of this chapter. Any existing building or land not in conformity with the regulations herein prescribed shall be regarded as nonconforming but may be continued, extended, or changed subject to the special regulations herein provided with respect to nonconforming buildings or uses.
- F. Interpretation.
- (1) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the health, safety and general welfare of the residents of the Township.
- (a) Whenever any regulations made under authority of this chapter require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or smaller number of stories, the greater or higher standards shall govern.
- (b) Whenever the provisions of any other statute require greater width or size of yards, courts or other spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards that are required by any regulations made under authority of this chapter, the provisions of such statute shall govern.
- (c) Whenever any regulations pertaining to a specific use or activity under authority of this chapter require a greater width or size of yards, courts or other open

spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required for the zoning district or generally required under this chapter, the greater or higher standards shall govern.

- (d) Uses not provided for. Whenever, in any district established under this Chapter 490, a use is neither specifically permitted nor denied and an application is made by a property owner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Zoning Hearing Board. The Board has the authority to permit or deny the use. However, the use shall be permitted if it is similar to and compatible with permitted uses in the district and in no way is in conflict with the general purpose and intent of this chapter.
- (2) The Porter Township Supervisors state the following legislative finding with respect to land use, density of population, location and function of roads, and other community facilities and utilities, which the Board believes relevant in establishing community development objectives.
  - (3) Maintain the agricultural productivity of prime soils and assure the continuance of farming as an important commercial operation and lifestyle. Minimize the impact of residential development on agriculture and ensure that normal farm practices will not be affected by such development.
    - (a) Guide community development to encourage the retention of agricultural activity while permitting residential construction in rural-suburban residential character, with sufficient commercial enterprise to satisfy community needs and enough industrial employment to assure fiscal health.
    - (b) Bring about and maintain standards of construction which protect the health, safety, and welfare of Township citizens singly and collectively.
    - (c) Encourage the design of new residential construction in a wide range of housing for people of all income levels and ages, large or small families, and all races or creeds.
    - (d) Extend sewer and water services whenever practicable to existing population centers that are experiencing water or septic problems, and to where growth is both anticipated and recommended based on the most appropriate land use.
    - (e) Encourage variety and efficient land use in residential development through provision by ordinance for flexibility in design, density, and building type. Particularly desirable are plans of superior quality because of better layout, better streets, lighting and other facilities; more efficient use of land with a corresponding greater allocation of open space; and a more comprehensive design in terms of serving people's needs.
    - (f) Encourage the retention in open space or low density use of those land areas such as stream sides, mountain areas and steep slopes, and floodplains less suitable or unsuitable for building. The overall objective of this goal is to maintain for public welfare the natural watershed and drainage system in the Township. Benefits which may accrue are environmental, tending to protect the rural character in spite of residential growth, and financial, in that storm

drainage systems would be greatly reduced in scope and cost, and flood damage problems would not occur.

- (g) Provide for the addition of industry in the Township under high standards of design and construction.
  - (h) Limit growth of extensive commercial enterprise to the central area of Township where adequate access can be provided and public facilities are available. Promote greater efficiency and improved appearance in commercial uses through careful application of the design standards. Remote neighborhoods and planned residential development should have available neighborhood shops for staple items.
  - (i) Develop a recreational program by acquiring and improving additional parkland.
  - (j) Aid in bringing about the most beneficial relationship between land use and the circulation of traffic throughout the Township, having particular regard to traffic and to the avoidance of congestion in the streets and provision of safe and convenient access appropriate to the various land uses.
  - (k) Bring about, through proper timing, the gradual conformity of land use to Comprehensive Plan and minimize conflicts among users of land in business.
- G. Conflict. It is not intended by this chapter to repeal, abrogate, annual or interfere with any existing ordinances or enactments, or with any rule, regulation or permit adopted or issued thereunder, except insofar as the same may be inconsistent or in conflict with any of the provisions of this chapter, provided that where this chapter imposes greater restrictions upon the use of buildings or land, or upon the height and bulk of buildings, or prescribes larger open spaces than are required by the provisions of such ordinance, enactment, rule, regulation or permit, then the provisions of this chapter shall control.
- H. Severability. The provisions of this chapter shall be severable, and if any of the provisions shall be held or declared illegal, invalid, or unconstitutional by a court of competent jurisdiction, the validity of the remaining provisions of the chapter shall not be affected. It is hereby declared as the legislative intention that this chapter would have been adopted had such illegal, invalid, or unconstitutional provisions not been included herein.

#### **§ 490-1.02. Establishment of districts.**

- A. Classes of districts. For the purpose of this chapter, the Township of Porter is hereby divided into districts which shall be designated as follows:

Agricultural District

Conservation District

Residential District

Village Residential District

Neighborhood Commercial District

Commercial Industrial

- B. Zoning Map. The areas within the Township of Porter, as assigned to each district, and the locations of the districts established by this chapter are shown upon the Zoning Map which, together with all explanatory matter thereon, is attached to and is declared to be a part of this chapter.<sup>112</sup>
- C. District boundary lines. The district boundary lines shall be as shown on the Zoning Map. District boundary lines are intended to coincide with lot lines, center lines of streets and alleys, railroad rights-of-way, beds of streams existing at time of passage of this chapter, the corporate boundary of the Township or as dimensioned on the map. In the event of dispute about the location of the boundary of any district, the Zoning Officer shall investigate and render a decision on the location of the line. Appeals from this decision shall be made to the Zoning Hearing Board.

### § 490-1.03. Definitions.

Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this chapter, and words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the words "used" or "occupied" shall include "arranged, designed, constructed, altered, converted, rented, leased, or intended to be used"; and the word "shall" is mandatory and not optional; the word "abut" shall include the words "directly across from."

**100-YEAR FLOOD** — A flood that has one chance in 100, or a 1% chance, of being equaled or exceeded in any year. For the purposes of this chapter, the 100-year flood (base flood) as defined by the Federal Insurance Administration,<sup>113</sup> Federal Emergency Management Agency, in the Flood Insurance Study, Porter Township, Clinton County, Pennsylvania.

**ABANDONMENT** — To cease or discontinue a use or activity, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

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

**ACCESSORY USE** — A use subordinate to the principal use of land or of a building on a lot and customarily incidental thereto.

**ACCESSORY BUILDING** — A building subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building.

**ACT 247** — The Pennsylvania Municipalities Planning Code, as amended.<sup>114</sup> The law, passed July 31, 1968, is the enabling legislation which permits municipalities in Pennsylvania to prepare and enact comprehensive development plans, zoning ordinances and other land use controls.

**ADULT BUSINESS OR ENTERTAINMENT** — An adult business or entertainment is any establishment which:

- A. In whole or in part sells, leases, dispenses or displays publications, photographs, drawings, posters, films, videos, or reproductions of any type depicting explicit or implicit sex acts or

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**112.Editor's Note: A copy of the Zoning Map is included as an attachment to this chapter.**

**113.Editor's Note: See now the Federal Insurance and Mitigation Administration.**

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

lewdness; or

- B. Exhibits or permits the exhibition of live sexual acts or implied sexual acts, or solicits or permits solicitation, of persons and/or animals for purposes of indulging in sexual relations or implied sexual relations.

**AGRIBUSINESS** — For the purposes of this chapter, an agribusiness shall be defined as an independent commercial use, related to agriculture or an agricultural activity, which may or may not be associated with an agricultural operation located on the same tract of ground.

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

**AGRICULTURAL PROTECTION AREAS** — Farmland preserved through the use of Pennsylvania Act 43, known as the "Agricultural Area Security Law," as signed into law.<sup>115</sup> In effect, this Act provides a means by which agricultural land may be protected and enhanced as a viable segment of the county's economy, and an economic and environmental resource of major importance.

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

**AMENDMENT** — Revisions to the zoning text and/or the Official Zoning Map; the authority for any amendment lies solely with the Porter Township Supervisors and is pursuant to the Pennsylvania Municipalities Planning Code.<sup>116</sup>

**ANIMAL EQUIVALENT UNIT (AEU)** — One thousand pounds live weight of livestock or poultry animals, regardless of the actual number of individual animals comprising the unit. (See PA nutrient management regulations for a listing of standard animal weights.)

**APARTMENT BUILDING** — A dwelling structure containing three or more independent dwelling units, with or without separate outside access, excluding single-family attached dwelling structures as defined herein.

**AQUIFER** — A geological unit in which porous and permeable conditions exist and thus are capable of yielding usable amounts of water.

**AQUIFER RECHARGE AREA** — An area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into groundwater.

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

**BASE FLOOD** — The flood which has been selected to serve as the basis upon which the floodplain management provisions of this chapter and other ordinances have been prepared; for purposes of this chapter, the 100-year flood.

**BASE FLOOD ELEVATION** — The 100-year flood elevation. Within the approximated

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**115.Editor's Note:** See 3 P.S. § 901 et seq.

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

floodplain, the base flood elevation shall be established as a point on the boundary of the approximated floodplain which is necessary to the construction site in question.

**BASEMENT** — An enclosed area partly or completely below grade. It shall be considered a building story if more than 33 1/3% of the perimeter walls are five feet or more above grade and if the net area of the door or window openings in the exterior is at least equal to 10% of the enclosed area.

**BED-AND-BREAKFAST ESTABLISHMENT** — An establishment, dwelling, or part thereof, in which individual rooms are offered for temporary lodging purposes by the owner or operator for limited periods of time. Breakfast or other meals may also be offered for overnight guests as a part of the lodging fee.

**BILLBOARD or ADVERTISING SIGN BOARD** — A sign which attracts the attention of motorists or pedestrians to a business, product or activity which exists or occurs at a location other than the premises upon which the sign is situated; i.e., an off-premises sign.

**BLOCK** — A block is an area of land bounded by streets.

**BOARD** — The Board of Supervisors of Porter Township.

**BOARDINGHOUSE** — Any structure in which more than four persons, either individually or as a family, are housing or lodge for hire with or without meals but without separate cooking or sanitary facilities. A rooming house, furnished room house, tourist home, or fraternity/sorority house shall be deemed a boardinghouse for the purpose of this chapter. Any dwelling containing one or more units with an occupancy of more than four unrelated people in such unit shall also be deemed a boardinghouse.

**BUILDING** — A structure which has enclosing walls and a roof, including all buildings on-lot.

**BUILDING AREA** — The area of a horizontal section of a building taken at its greatest outside dimensions on the ground floor, including all buildings on the lot.

**BUILDING SETBACK LINE** — An established line within a property defining the minimum required distance between any building to be erected and an adjacent right-of-way or street line.

**BUILDING, PRINCIPAL** — A building in which is conducted the principal use of the building site on which it is situated. In any residential district, any dwelling shall be deemed to be a principal building on the lot on which the same is located.

**BULK** — A term used to describe the size of buildings or other structures and their relationships to each other, to open areas, such as yards, and to lot lines, and is used in conjunction with such expressions as:

- A. The size, including height and floor area, of buildings and other structures.
- B. The relation of the number of dwelling units in a residential building to the area of the lot.
- C. All open areas in yard space relating to buildings or other structures.

**BUSINESS OFFICE** — The office of a commercial or industrial enterprise providing administrative support for the operation and/or business services to the general public.<sup>117</sup>

**CAMP, CABIN or VACATION HOME** — A permanent building or structure intended for occupancy only occasionally during the year. For the purpose of this chapter, no camp, cabin or

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**117. Editor's Note: The original definition of "business sign," which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**

vacation home may be occupied for more than six months in any calendar year.

**CAMPGROUND or RECREATIONAL VEHICLE PARK** — A tract or tracts of ground, or portion thereof, used for the purpose of providing space for two or more recreational vehicles, camps, or tents for camping purposes, with or without a fee charged for the leasing, renting or occupancy of such space.

**CEMETERY** — Property used for interring the dead.

**CHURCH** — A building or structure, or group of buildings or structures, which by design and construction are primarily intended for conducting organized religious or worship services, and uses customarily accessory and incidental thereto. For the purposes of this chapter, uses such as schools, child day care or nursery facilities, social halls or similar places of assembly associated with the church shall require separate consideration and approval by Township officials.

**CLINTON COUNTY NATURAL HERITAGE INVENTORY** — Adopted February 9, 1994, by the Clinton County Board of Commissioners.

**CLUB and/or LODGE** — Building utilized as a private club offering restaurant and/or bar privileges.

**COMMON OPEN SPACE** — Common open space as required in a Planned Residential Development shall be defined as that area of land to be maintained for the use and enjoyment of residents and/or the general public. It shall consist of landscaped or natural terrain including lakes and streams and may include such buildings as are necessary to fulfill its permitted functions, but the area of common open space shall not include street rights-of-way or yard or off-street parking areas required for residential or other uses permitted by this chapter.

**COMMUNICATIONS ANTENNA** — Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitation omnidirectional or whip antennas and directional or panel antennas, owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment including without limitation ham or citizen band radio antennas.

**COMMUNICATIONS EQUIPMENT BUILDING** — An unmanned building or cabinet containing communications equipment required for the operation of communications antennas and covering an area on the ground not greater than 250 square feet.

**COMMUNICATIONS TOWER** — A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support communications antennas.

**CONCENTRATED ANIMAL FEEDING OPERATION (CAFO)** — Agricultural operations where the animal density exceeds two animal equivalent units (AEU) per acre on an annualized basis.

**CONDITIONAL USE** — A use that, owing to some special characteristics attendant to its operation or installation (for example, potential danger, smoke, or noise), is permitted in a district subject to approval by the Porter Township Board of Supervisors, and subject to special requirements, different from those usual requirements for the district in which the conditional use may be located.

**CONSERVATION EASEMENT** — An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominately in the natural, scenic, open, or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife; or

maintaining existing land uses.

**COTTAGE INDUSTRY** — An accessory commercial or industrial use of a residential or agricultural tract of ground which is clearly secondary to the use of the premises as a residence or farm (see§ 490-8.23, Cottage industries).[Added 6-4-2007 by Ord. No. 54-6-2007]

**CREMATORIUM** — A building or structure containing a furnace used for cremation.

**DAY-CARE CENTER** — A private facility enrolling more than 12 young children where tuition, fees, or other forms of compensation are charged for the care of the children, and which is licensed, inspected, and approved to operate as a child day-care center by the PA Department of Human Services. (See also "nursery school.") For the purposes of this chapter, such facilities may also provide care for adult, elderly, or handicapped persons.

**DENSITY** — A term used to express the amount of land allocated for a single usage within a lot.

**DETACHED DWELLING** — A detached dwelling is one which has yards on all four sides of the building.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavations or drilling operations.

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

**DOMESTIC ANIMAL** — Any animal normally or ordinarily domesticated or raised in this area and climate as livestock or for work or breeding purposes, or normally or ordinarily kept as a household pet.

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

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

**DWELLING, SINGLE-FAMILY ATTACHED** — See "townhouse" and "single-family attached dwelling structure."

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

**EATING ESTABLISHMENT** — Any form of restaurant and/or tavern open to the public and dispensing food and drink.

**ENLARGEMENT** — An addition to the floor area of an existing building, an increase of size of another structure, or an increase in that portion of a lot occupied by an existing use.

**ENTERTAINMENT ESTABLISHMENT, PUBLIC** — An indoor facility operated as a business for profit, open to the public, for the purpose of providing entertainment, including but not limited to bowling alleys, roller skating rinks, amusement arcades, motion-picture theaters, health clubs, and similar types of establishments, but excluding adult entertainment facilities as described herein.

**ESSENTIAL SERVICES** — The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of buildings or other structures for

operations of gas, electrical, steam or water transmission or distribution systems, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies for the public health or safety or general welfare excluding communications towers and communications antennas, as defined herein.

**EXTRACTIVE OPERATION** — The commercial extraction of sand, gravel, clay, shale, rock or other natural mineral deposits from the earth, but excluding the extraction of oil or gas reserves.

**FAMILY** —

A. A family is:

- (1) A single person occupying a dwelling unit; or
- (2) Two or more persons related by blood, marriage, adoption or as foster children occupying a dwelling unit, including not more than two boarders, roomers, or lodgers; or
- (3) Not more than three unrelated persons occupying a dwelling unit, living together.

B. Notwithstanding the definition in Subsection A of this definition, a family shall be deemed to include four or more persons not related by blood or marriage occupying a dwelling unit and living as a single, nonprofit housekeeping units if said occupants are handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988. Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in Subsection A of this definition.

**FARM** — A lot upon which residences and agricultural accessory buildings are permitted and which is used for agricultural purposes for livelihood.

**FARM ANIMALS** — For the purposes of this chapter, farm animals shall be defined to include cows, pigs, horses, sheep, llamas, goats, poultry or fowl, and other similar animals.

**FARM PRODUCE STAND** — A temporary or permanent booth, stand or shelter from which farm, nursery or greenhouse products raised or grown on the premises are offered for sale to the general public.

**FARM-RELATED BUSINESS** — For the purposes of this chapter, a farm-related business shall be defined as a commercial enterprise conducted on a farm parcel which is related to or supportive of the an ongoing agricultural operation located on the same tract.

**FISHING CREEK STORMWATER MANAGEMENT ORDINANCE** — Ordinance No. 53-5-2007, adopted by the Porter Township Supervisors May 7, 2007; Chapter 400, Part 1, of this Code. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

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

**FLOOD FRINGE** — That portion of the 100-year floodplain outside the floodway.

**FLOODPLAIN** — A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation and an area subject to the unusual and rapid accumulation or runoff of surface waters from any source. For the purpose of this chapter,

the 100-year floodplain is as defined by the Federal Emergency Management Agency and the Federal Insurance Administration.<sup>118</sup>

**FLOODPROOFING** — Any combination of structural and nonstructural additions, changes or adjustments of properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

**FLOODWAY** — The channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood of a 100-year frequency without cumulatively increasing the water surface elevation more than one foot at any point.

**FLOOR AREA** — Floor area is the sum of the area of the several floors of a building or buildings measured from the face of the exterior walls or from center lines of walls separating two buildings. In particular, floor area includes but is not limited to the following:

- A. Basement space if it meets the requirement of a building story.
- B. Elevator shafts, stairwells, and attic space (whether or not a floor has been laid) providing structural headroom of eight feet or more.
- C. Roofed terraces, exterior balconies, breezeways or porches, provided that over 50% of the perimeter of these is enclosed.
- D. Any other floor space used for dwelling purposes, no matter where located within the building.
- E. The area of accessory buildings.

**FOREST INDUSTRIES** — The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development. (See also "logging" and "sawmill.")

**GARAGE AND YARD SALES** — A sale to the public at a residential property of items not originally acquired for resale; provided, however, that the sale of farm products and sales by home occupations are excluded.

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

**GASOLINE SERVICE STATION** — A building and accompanying structures in which the sale of motor fuels constitutes 25% or more of gross income.

**GREENHOUSE or NURSERY** — Buildings and/or land used to raise flowers, shrubs, trees and plants for subsequent sale.

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

**HEIGHT OF A COMMUNICATIONS TOWER** — The vertical distance measured from the ground level to the highest point on a communications tower, including antennas mounted on the tower.

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**118.Editor's Note: See now the Federal Insurance and Mitigation Administration.**

**HEIGHT OF BUILDING** — A building's vertical measurement from the mean level of the ground abutting the building to a point midway between the highest and lowest points of the roof. (See § 490-8.01E for exceptions.)

**HEIGHT OF SIGN** — The vertical distance measured from the ground level to the highest point on the sign itself and/or its supporting structure.

**HOME OCCUPATION** — See § 490-8.09, Home occupations regulations.

**HOMEOWNERS ASSOCIATION** — A formally constituted nonprofit association or corporation made up of the property owners and/or residents of a fixed area; may take permanent responsibility for costs and upkeep of semiprivate community facilities.

**HOUSEHOLD PET** — Any dog, cat, or other domesticated animal which is normally and generally housed within the dwelling of its owner.

**IMPROVEMENT** — The construction of any type of structure or pavement excluding driveway.

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

**INSTITUTION** — A building and grounds, a portion of which is used for the residence of more than three unrelated persons who occupy the buildings for a common purpose; to include hospitals, convents, school dormitories, nursing homes, reformatories, and the like.

**INSTITUTIONAL RESIDENCE** — An establishment primarily engaged in the provision of residential, social and personal care for children, the elderly, and other special categories of persons with some limits on their ability for self-care, but where medical care is not a major element. Residents of these facilities are treated by staff in an institutional setting, rather than living independently. Such facilities may also require licensing by the PA Department of Public Health or other agencies. For the purposes of this chapter, such facilities shall not include halfway houses for delinquents, offenders and other adjudicated individuals, nor training schools for delinquents and other adjudicated individuals.

**INSTITUTIONAL USE** — A private, nonprofit or public use or facility such as a church, school, library, hospital, nursing home, personal care home, cemetery, government or public service building, or municipally owned land used for public purposes.

**JUNK** — Any worn, cast-off or discarded article or material which is ready for destruction or which has been collected or stored for sale, resale, salvage or conversion to some other use. Any such article or material which, unaltered, not needed to be disassembled or unfastened from, or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall not be considered junk.

**JUNK, AUTOMOBILE** — Motor vehicle not in running condition, stored in the open, not being restored to operation, unlicensed and without a current Pennsylvania State inspection sticker.

**JUNKYARD** — The use of more than 100 square feet of the area of any lot for the storage, keeping or abandonment of junk, including scrap material from the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereto. "Junkyard" shall include an automobile graveyard or motor vehicle graveyard.

**KENNEL** — Any structure pen or area set aside for the breeding, boarding, showing, grooming or keeping of dogs, cats or similar domestic animals. For purposes of this chapter, the keeping

of four or more such animals shall be deemed a kennel.

LAND DEVELOPMENT — Any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
  - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
  - (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- B. A subdivision of land.
- C. Development in accordance with Section 503(1.1), Article V, of Act 247, as amended.<sup>119</sup>

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

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

LOT — A parcel of land separately described by metes and bounds. The description of which is recorded in the office of the Recorder of Deeds of Clinton County by deed description or is described by an approved subdivision plan recorded in the office of the Recorder of Deeds of Clinton County.

LOT AREA — The area of land included within the title lines of a lot except the area within the title lines set aside as right-of-way for a street.

LOT COVERAGE — The ration of the total ground floor area of all buildings on a lot to the total area of the lot on which they are located.

LOT LINE, FRONT — The front lot line is the line separating the lot from the street right-of-way.

LOT LINE, REAR — Any line, except the front lot line, which is parallel to or within 45° of being parallel to and does not intersect any street line.

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

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

LOT WIDTH — The horizontal distance between side lot lines measured at right angles to the lot depth.

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<sup>119</sup>.Editor's Note: See 53 P.S. § 10503(1.1).

LOT, CORNER — One bounded on at least two sides by streets, whenever the lines of such streets extended form an interior angle of 135° or less. Both yards adjacent to streets shall be considered front yards. The remaining two yards shall be side yards.

MEASUREMENTS, DE MINIMIS — Any measurement required by this chapter which falls within two feet of the requirement. Such de minimis measurements shall be considered unenforceable.

MECHANICAL OR ELECTRONIC AMUSEMENT MACHINE OR APPARATUS — Any mechanical or electronic gaming device, machine, or apparatus whatsoever for the playing of games, amusement or entertainment, which are played through the insertion thereof of a coin, metal disc, slug, token, monetary bills, or credit card, including electronic gaming devices existing as and controlled by software sometimes run by a video game console, computer or played on a video terminal or television screen by a touch, pedal, joystick, joypad, mouse or keyboard. Electronic gaming devices shall not include any devices or machines the primary purpose of which is to dispense purchased merchandise, such as candy, cigarettes or other tangible personal property, and shall not include any video gaming terminals, internet gaming, airport gaming, sports wagering, casino simulcasting and/or any other gaming regulated by Act 42 of 2017, codified at 4 Pa.C.S.A. § 301 et seq., and which are licensed/regulated through the Pennsylvania Gaming Control Board. **[Added 10-1-2018 by Ord. No. 10-2018-1]**

MINING or QUARRYING — See "extractive operation."

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

MOBILE HOME LOT — A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, which is leased by the park owner to the occupants of the mobile home erected on the lot.

MOBILE HOME PARK — A parcel of land under single ownership which has been planned and improved for the placement of mobile homes for nontransient use, consisting of two or more mobile home lots.

MULTISERVICE CONVENIENCE PLAZA — For the purposes of this chapter, a multiservice convenience plaza shall be defined as group of three or more commercial establishments which have been planned, developed and managed as a unit, whether contained in one building or multiple buildings on the same tract of ground.

NEW CONSTRUCTION — Structures for which the start of construction, as herein defined, commenced on or after the effective date of this chapter. This term does not apply to any work on a structure existing before the effective date of this chapter.

NO-IMPACT HOME-BASED BUSINESS — A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements: **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.

- B. The business shall employ no employees other than family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
- E. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- F. The business activity may not generate any solid waste or sewage discharge in volume or type which is not normally associated with residential use in the neighborhood.
- G. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- H. The business may not involve any illegal activity.

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

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

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

**NURSERY SCHOOL** — A school for children primarily between the ages of three and five, providing preparation for kindergarten or elementary school; i.e., preschool. For the purposes of this chapter, a nursery school may also provide day care services.

**NURSING HOME** — A state-licensed institutional facility which provides full-time convalescent or chronic nursing and/or medical care. Such facilities shall not provide surgical, obstetrical, or other services generally provided by a hospital.

**OFF-SITE SEWER SERVICE** — The disposal of sewage by the use of a sanitary sewer system approved by the Pennsylvania Department of Environmental Protection, which system is located primarily off of the lot.

**OFF-SITE WATER SERVICE** — Off-site water service is a safe, adequate and healthful supply of water to more than one user from a common source approved by the Pennsylvania Department of Environmental Protection.

**ON-SITE SEWER SERVICE** — On-site sewer service is the disposal of sewage by use of cesspools, septic tanks, or other safe and healthful means within the confines of the lot on which the use is located.

**ON-SITE SEWER SERVICE** — On-site water service is a safe, adequate and healthful supply of water to a single user from a private well.

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

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

**OUTDOOR RECREATION, PUBLIC OR PRIVATE** — A park or park-type facility providing outdoor recreational enjoyment or activities, either for free or on a fee basis. Such facilities may include, but need not be limited to, tennis or basketball courts, baseball or other athletic fields, swimming, hiking or picnic areas, and playgrounds. Such facilities may also include buildings and accessory structures.

**PARKING LOT** — Five or more contiguous off-street parking spaces.

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

**PAVED AREA** — When required under this chapter, that amount of land required for the location of adequate parking space, driveways, or other access roads. In the computation of such, the actual building area shall be excluded.

**PERSON** — Included an individual, corporation, partnership, incorporator's association, or any other similar entity.

**PERSONAL CARE HOME** — A state-licensed institutional facility providing supervised care services, including meals and less than full-time skilled or intermediate nursing care, for individuals, usually the elderly.

**PERSONAL SERVICE ESTABLISHMENT** — A building or a portion of a building in which personal services are offered to the general public. Examples of such uses include agents, barbers, beauticians, cleaners, doctors, laundromats, lawyers, optometrists, photographers, post offices, repairing, tailors, undertakers, and utility collections offices.

**PERSONAL STORAGE WAREHOUSE** — A warehouse facility where separate storage spaces of varying sizes are available for lease or rental to the general public. For the purposes of this chapter, there shall be no residential occupancy of nor commercial sales from such storage areas.

**PLANNED RESIDENTIAL DEVELOPMENT** — An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, the development plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in anyone residential district created, from time to time, under the provisions of this Zoning Chapter.

**PLANNING COMMISSION** — The Planning Commission of Porter Township.

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

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

accessory use.

**PRINCIPALLY ABOVE GROUND** — Where a least 51% of the actual cash value of a structure, less land value, is above ground.

**PRIVATE** — Any activity limited to members of an organization or to persons specifically invited where no advertisement or inducement has been made to the general public.

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

**PRODUCTION** — A function involved in the manufacture of materials, goods, or products in which they are physically changed.

**PROFESSIONAL OFFICE** — The office of a member of a recognized profession, including but not limited to, a real estate or insurance agent, a physician or dentist, an attorney, accountant, architect, or engineer. A professional office may be considered a home occupation when conducted from a residence, by a member of the resident family, and when the office is clearly secondary to the residential use of the dwelling.

**PUBLIC** — Any use in which the general public is involved.

**PUBLIC HEARING** — A formal meeting held pursuant to public notice by the governing body or planning agency, intended to form and obtain public comment prior to taking action in accordance with Act 170.

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

**PUBLIC UTILITY TRANSMISSION TOWER** — A structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines.

**RECREATIONAL VEHICLE** — A portable or mobile vehicle used for temporary living or sleeping accommodation, without a permanent foundation. For the purposes of this chapter, recreational vehicles shall include travel trailers, house trailers, truck campers, motor homes, and other similar types of vehicles used for recreational, camping or travel purposes.

**RESIDENTIAL CLUSTER DEVELOPMENT** — A large-scale residential development in which individual dwelling units or buildings are grouped together rather than spread out on conventional lots. Modification or reduction of the minimum lot and yard requirements are permitted in exchange for an equivalent amount of land in open space to be preserved for scenic, recreation, or conservation purposes.

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

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

**SAWMILL** — A business establishment equipped with machinery for cutting timber into lumber

or boards.

**SCHOOL** — An institutional establishment or facility, or part thereof, which is designed, constructed, or used for public or private education or instruction in any branch of knowledge. For the purposes of this chapter, such facilities shall not include halfway homes or training facilities for delinquents, offenders, and other adjudicated individuals, nor other detention facilities providing residential or "live-in" services.

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

**SHOPPING CENTER** — The multiple use of a single property for the retail sale of such things as dry goods, variety and general merchandise, clothing, food, flowers, drugs, household supplies or furnishings, sale or repair of jewelry, watches and clocks, optical goods, or musical, professional or scientific instruments; the provision of personal services, such as barbershops, banks cosmetology salons, laundry or laundromats, and cleaning and pressing shops, and for such purposes as theaters or bowling alleys.

**SIGN** — A sign is any letter, word, model, device, symbol, or representation intended as an announcement, direction or advertisement and may be 1) either freestanding or attached to another structure, or 2) painted on the exterior wall of a building or other structure.

**SIGN AREA** — The entire face of a single side of a sign, including all advertising surface and any framing, trim, molding, or border area, but excluding any supporting framework or bracing.

**SINGLE-FAMILY ATTACHED DWELLING STRUCTURE** — A residential dwelling structure which contains a minimum of three and a maximum of six townhouse units.

**SINGLE-FAMILY DETACHED DWELLING** — A dwelling structure containing one dwelling unit from ground to roof, having independent outside access and open space on all sides, including a mobile home as defined below.

**START OF CONSTRUCTION** — The occurrence of any of the following, whichever first occurs:

- A. Placement of any permanent construction of a structure or a mobile home upon a site such as pouring of slabs of footings;
- B. Land preparation such as clearing, grading and filling;
- C. The installation of walkways;
- D. Excavation of a basement, footings, piers or foundations or the erection of temporary forms;
- E. Installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not as part of the main structures.

**STORAGE** — An activity involving the depositing of materials, goods, or products for safekeeping.

**STORY** — That portion of a building located between the surface of any floor and the ceiling or roof next above it.

**STREET** — A way intended for general public use to provide means of approach for vehicles and pedestrians. The word "street" includes the words "road," "highway," "thoroughfare" and "way."

**STREET GRADE** — The officially established grade of the road upon which a lot fronts, or in its absence the established grade of roads upon which the lot abuts, at the midpoint of the frontage of the lot thereon. If there is no officially established grade, the existing grade of the road at such midpoint shall be taken as the road grade.

**STREET LINE** — The right-of-way of a street.

**STREET, CENTER LINE OF** — A line which is an equal distance from both street lines.

**STRUCTURE** — Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**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, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels or more than 10 acres, and not involving any new street or easement of access or residential dwellings, shall be exempted.

**SUBSTANTIAL IMPROVEMENT** —

- A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:
  - (1) Before the improvement or repair is started; or
  - (2) If the structure has been damaged and is being restored, before the damage occurred.
- B. For purposes of this definition "substantial improvement" is considered to occur when the first alteration of any well, ceiling, floor, or other structural part of the building commences, whether or not that 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 a state inventory of historic places.

**SWIMMING POOL** — A body of water in an artificial container, whether located in or on the ground, having a depth at any point of more than two feet or a surface area of 250 square feet, used or intended to be used for swimming by children and/or adults, excluding "kiddy" or wading pools. Swimming pools may be permitted as accessory uses in all zoning districts.

**TEMPORARY** — Lasting for a limited time.

**TEMPORARY SIGN** — Signs which are placed in the public view for a period of no more than six months. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**TOWNHOUSE** — A single dwelling unit from ground to roof with independent outside access and a portion of one or more walls in common with an adjoining dwelling unit(s).

**TOWNSHIP** — The Township of Porter.

**TRACT** — One or more lots assembled for the purpose of development under the planned

residential development provisions of this chapter.

**TWO-FAMILY DWELLING** — A dwelling structure containing two independent dwelling units which are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or a common basement or cellar; i.e., a duplex.

**VARIANCE** — A modification of the literal provisions of this chapter which the Zoning Hearing Board is permitted to grant when strict enforcement would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought.

**WETLANDS** — Land that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does or would support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The term includes, but is not limited to, swamps, bogs, marshes, and marine meadows.

**YARD** — A yard is that portion of a lot which is unoccupied and open to the sky and extends from the lot line to the building setback line.

**YARD, FRONT** — A yard extending along the full length of the front lot line to the nearest point of the building setback line.

**YARD, REAR** — A yard extending the full width of the lot along the rear lot line and extending in depth from the rear a lot line to the nearest point of the building setback line.

**YARD, SIDE** — A yard extending the full length of the lot along a side lot line and extending in width from such side lot line to the nearest point of the building setback line.

**ZONING HEARING BOARD** — The Zoning Hearing Board of Porter Township.

**ZONING MAP** — The Official Zoning Map of Porter Township, together with all notations, references and amendments which may subsequently be adopted. The Zoning Map shall be considered a part of this chapter.

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

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

ARTICLE II  
**Agricultural District**

**§ 490-2.01. Intent.**

It is the purpose of this district to provide for continued agricultural activity in all of the areas of the Township where such use is suitable. While residential subdivision and construction is permitted, it is not encouraged by the provision of increased densities or by the planned provision of public facilities. The encouragement and preservation of agricultural activity wherever possible is in the best interests of the people of the Township and the population in general.

**§ 490-2.02. Use regulations.**

A. A building may be erected, altered or used and a lot may be used or occupied for any of the following purposes, and no other, as a permitted use:

- (1) Agriculture.
- (2) Farm residence and accessory buildings.
- (3) Single-family detached dwelling.
- (4) Fish hatcheries.
- (5) Forest industries.
- (6) Processing agricultural products produced on the premises.
- (7) Creameries, milk-bottling plants.
- (8) Restaurants and farm produce stands where incidental to permitted use.
- (9) Commercial stables.
- (10) Cemeteries or mausoleums.
- (11) Outdoor recreation, public or private.
- (12) Airports and landing fields.
- (13) Essential services.
- (14) Home occupations.
- (15) Kennels.
- (16) Any accessory use or structure customarily appurtenant to a permitted use.
- (17) Communications antennas mounted on existing public utility transmission towers, buildings or other structures, and communications equipment buildings.
- (18) Bed-and-breakfast establishments.
- (19) Group homes.
- (20) Greenhouses or nurseries.

- (21) Sawmills.
  - (22) Camp, cabin or vacation homes.
  - (23) Farm-related businesses.
- B. Conditional uses. The following uses may be approved as conditional uses when authorized by the procedure outlined in § 490-11.06.
- (1) School.
  - (2) Church.
  - (3) Billboards.
  - (4) Communication towers and communications equipment buildings.
  - (5) Mobile home parks.
  - (6) Residential cluster developments.
  - (7) Day-care centers or nursery schools.
  - (8) Personal care or nursing homes.
  - (9) Institutional residences.
  - (10) Concentrated animal feeding operations.
  - (11) Agribusinesses.
  - (12) Crematoriums.
  - (13) Cottage industries. [Added 6-4-2007 by Ord. No. 54-6-2007]
  - (14) Solar energy systems. [Added 2-21-2022 by Ord. No. 03-21-2022]

**§ 490-2.03. Area and bulk regulations.**

- A. The following regulation shall apply to permitted uses:
- (1) Lot area (minimum): 30,000 square feet.
  - (2) Building setback line (minimum): 50 feet.
  - (3) Lot width at street line (minimum): 75 feet.
  - (4) Rear yard (minimum): 20 feet.
  - (5) Side yard (minimum): 10 feet.
  - (6) Side yard for agricultural buildings (minimum): 50 feet.
  - (7) Lot coverage (maximum): 15%.
- B. The following regulations shall apply to conditional uses:
- (1) All commercial uses permitted under § 490-2.02B shall comply with the area and

bulk regulations as specified in § 490-7.03.

(2) All other conditional uses in this district shall be subject to the following regulations:

(a) Lot coverage (maximum): 15%.

[1] Lot area (minimum).

[a] Church: three acres.

[b] Concentrated animal feeding operations: 25 acres.

[c] Institution: two acres.

[d] Residential cluster development: 25 acres.

[e] School: five acres.

[f] Building setback line (minimum): 50 feet.

[g] Lot width at street (minimum): 50 feet.

[h] All yards (minimum): 50 feet.

**§ 490-2.04. Standards.**

- A. All permitted uses and conditional uses shall be subject to applicable regulations in Article VIII, Use Regulations.
- B. All mobile homes intended for permanent occupancy must, within 30 days after being placed on a permanent foundation, have skirting installed completely around said mobile home.

ARTICLE III  
**Conservation District**

**§ 490-3.01. Intent.**

- A. The mountainous areas of Big Mountain on the south and Bald Eagle on the north are not suited for extensive development because of the very steep slopes and because the shallow soils in many areas prevent the proper construction of on-site sewage disposal systems.
- B. Insofar as possible, it is the intent of the Conservation District to preserve this extensively wooded area in uses devoted to forestry and recreation.

**§ 490-3.02. Use regulations.**

- A. A building may be erected, altered or used and a lot may be used or occupied for any of the following purposes, and no other, as a permitted use:
  - (1) Agriculture.
  - (2) Farm residential and accessory buildings.
  - (3) Single family detached dwellings.
  - (4) Forest industries.
  - (5) Fish hatcheries.
  - (6) Outdoor recreation, public or private.
  - (7) Essential services.
  - (8) Home occupations.
  - (9) Kennels.
  - (10) Communications antennas mounted on existing public utility transmission towers, buildings, or other structures, and communications equipment buildings.
  - (11) Communications towers and communications equipment buildings.
  - (12) Any accessory use or structure customarily appurtenant to a permitted use.
  - (13) Greenhouses or nurseries.
  - (14) Sawmills.
  - (15) Camps, cabins or vacation homes.
  - (16) Campgrounds or recreational vehicle parks.
- B. The following may be approved as a conditional use when authorized by the procedures outlined in § 490-11.06. [**Amended 2-5-2007 by Ord. No. 52-2-2007;2-21-2022 by Ord. No. 03-21-2022**]
  - (1) Junkyard.

- (2) Adult business or entertainment.
- (3) Mining, quarrying, and extractive operations.
- (4) Institutions.
- (5) Solar energy systems.

**§ 490-3.03. Area and bulk regulations.**

A. The following regulation shall apply to permitted uses:

- (1) Lot area (minimum): five acres.
- (2) Building setback line (minimum): 75 feet.
- (3) Lot width at street line (minimum): 50 feet.
- (4) Rear yard (minimum): 50 feet.
- (5) Side yard (minimum): 50 feet.
- (6) Building height (maximum): 40 feet.
- (7) Lot coverage (maximum): 5%.
- (8) Paved area (maximum): 10%.

**§ 490-3.04. Standards.**

- A. All permitted uses and conditional uses shall be subject to applicable regulations in Article VIII, Use Regulations.
- B. All mobile homes intended for permanent occupancy must, within 30 days after being placed on a permanent foundation, have skirting installed completely around said mobile home.

ARTICLE IV  
**Residential District**

**§ 490-4.01. Intent.**

It is the purpose of this district to encourage residential development in an area of the Township where public water and sewer services are planned. Lots of sufficient size are provided for on-site disposal and water until public facilities become available. If public sewers are not provided, capped sewers will be required in anticipation of future public sewer service. The planned residential development concept is included to provide for improved design of residential development along with preservation of open space.

**§ 490-4.02. Use regulations.**

- A. A building may be erected, altered or used and a lot maybe used or occupied for any of the following purposes and no other, as a permitted use:
- (1) Single-family detached dwellings.
  - (2) Outdoor recreation, public or private.
  - (3) Essential services.
  - (4) Home occupations.
  - (5) Any accessory use or structure customarily appurtenant to a permitted use, including a no-impact home-based business as defined in § 490-1.03 in this chapter. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. The following uses may be approved as conditional uses when authorized by the procedures outlined in § 490-11.06.
- (1) School.
  - (2) Church.
  - (3) Communications antennas mounted on existing public utility transmission towers, buildings, or other structures, and communications equipment buildings.
  - (4) Planned residential developments, subject to the further regulation in Article IX of this chapter.
  - (5) Two-family dwellings; i.e., duplexes.
  - (6) Municipal, state, and federal offices and service facilities. **[Added 12-6-2004 by Ord. No. 50-12/2004]**

**§ 490-4.03. Area and bulk regulations.**

- A. Single-family detached and two-family dwellings with on-site sewer service.
- (1) Lot area: 30,000 square feet.
- B. Single-family detached dwellings with off-site sewer service and on-site water service:

- (1) Lot area (minimum): 22,000 square feet.
- C. Two-family dwellings with off-site sewer service and on-site water service:
  - (1) Lot area (minimum): 14,000 square feet per dwelling unit.
- D. Single-family detached dwellings with off-site sewer service and off-site water service:
  - (1) Lot area (minimum): 18,000 square feet.
- E. Two-family dwellings with off-site sewer service and off-site water service:
  - (1) Lot area (minimum): 12,000 square feet per dwelling unit.
- F. All single-family detached and two-family dwellings:
  - (1) Lot width at street line (minimum): 75 feet.
  - (2) Lot coverage (maximum): 20%.
  - (3) Building setback line (minimum): 40 feet.
  - (4) Side yards (minimum): 15 feet.
  - (5) Rear yards (minimum): 25 feet.
  - (6) Side yards for agricultural: 50 feet.
  - (7) Building height (minimum): 40 feet.
- G. Recreation and conditional uses:
  - (1) Lot area (minimum):
    - (a) Recreation: three acres.
    - (b) Church: three acres.
    - (c) Institution: two acres.
    - (d) School: five acres.
  - (2) Lot width at street line (minimum): 75 feet.
  - (3) Lot coverage (maximum): 15%.
  - (4) Building setback line (minimum): 40 feet.
  - (5) Side yards (minimum): 25 feet.
  - (6) Rear yards (minimum): 50 feet.

**§ 490-4.04. Standards.**

- A. All permitted uses and conditional uses shall be subject to applicable regulations in Article VIII, Use Regulations.
- B. All mobile homes intended for permanent occupancy must, within 30 days after being

placed on a permanent foundation, have skirting installed completely around said mobile home.

ARTICLE V  
**Village Residential District**

**§ 490-5.01. Intent.**

The purpose of this district is to provide for continuation and orderly growth of the village areas of Lamar and Clintondale. Until public sewer facilities are available, the existing single-family pattern in these villages is continued. Limited density apartment and townhouse zoning is provided for the future when public sewer is completed. Until such a time, larger lots than currently existing are called for to minimize the problems with on-site disposal systems in this area.

**§ 490-5.02. Use regulations.**

- A. A building may be erected, altered or used and a lot may be used or occupied for any of the following purposes, and no other, as a permitted use.
- (1) Single-family detached dwellings.
  - (2) Funeral homes.
  - (3) Outdoor recreation, public or private.
  - (4) Conversion of dwellings to provide for not more than two dwelling units in a single structure, but no commercial or manufacturing structure, originally designed for other than residential use shall be converted to a dwelling structure, nor shall any such structure which was so converted prior to the adoption of this chapter be further converted to provide for additional dwelling units.
  - (5) Essential services.
  - (6) Home occupations.
  - (7) Any accessory use or structure customarily appurtenant to a permitted use, including a no-impact home-based business as defined in § 490-1.03. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
  - (8) Two-family dwellings; i.e., duplexes.
  - (9) Clubs and/or lodges.
  - (10) Group homes.
  - (11) Drugstores. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. The following uses may be approved as conditional uses when authorized by the procedures outlined in § 490-11.06.
- (1) School.
  - (2) Church.
  - (3) Apartments and townhouses.

- (4) Post office.
- (5) Municipal, state and federal offices and service facilities.
- (6) Communications antennas mounted on existing public utility transmission towers, buildings, or other structures, and communications equipment buildings.
- (7) Bed-and-breakfast establishments.
- (8) Day-care centers or nursery schools.
- (9) Personal care or nursing homes.
- (10) Boardinghouses.

**§ 490-5.03. Area and bulk regulations.**

The following regulations shall be observed:

- A. Single-family detached and two-family dwellings with on-site sewer service and off-site water service:
  - (1) Lot area: 30,000 square feet
- B. Single-family detached dwellings with off-site sewer service and off-site water service:
  - (1) Lot area (minimum): 14,000 square feet.
- C. Two-family dwellings with off-site sewer service and off-site water service:
  - (1) Lot area: 10,000 square feet per dwelling unit.
- D. All single-family detached and two-family dwellings:
  - (1) Lot width at street line (minimum): 75 feet.
  - (2) Lot coverage (maximum): 20%.
  - (3) Building setback line (minimum): 40 feet.
  - (4) Side yards (minimum): 15 feet.
  - (5) Rear yards (minimum): 25 feet.
- E. Recreation and conditional uses:
  - (1) Lot area (minimum):
    - (a) Recreation: three acres.
    - (b) Church: three acres.
    - (c) Institution: two acres.
    - (d) School: five acres.
    - (e) Apartment or townhouse complex: three acres.

- (f) Maximum number of dwelling units for each acre of land: six.
- (2) Lot width at street line (minimum): 75 feet.
- (3) Lot coverage (maximum): 15%.
- (4) Building setback line (minimum): 40 feet.
- (5) Side yards (minimum): 25 feet.
- (6) Rear yards (minimum): 50 feet.

**§ 490-5.04. Standards.**

- A. All permitted used and conditional uses shall be subject to applicable regulations in Article VIII, Use Regulations.
- B. Where townhouses are permitted by conditional use, townhouses shall be arranged in groups or clusters and not in long rows parallel to street lines. No more than six such buildings can be attached in any one group.
- C. All mobile homes intended for permanent occupancy must, within 30 days after placed on a permanent foundation, have skirting installed completely around said mobile home.

ARTICLE VI  
**Neighborhood Commercial District**

**§ 490-6.01. Intent.**

This commercial district is intended as a neighborhood service activity. At present, it is provided in Lamar Village at the commercial center of the town and to supplement the commercial-industrial frontage near the Interstate 80 intersection on Pennsylvania Route 64. In the future, it may be necessary to extend this use to other areas of the Township as concentrations of populations develop, requiring local commercial activities.

**§ 490-6.02. Use regulations.**

- A. A building may be erected, altered or used and a lot may be used or occupied for any of the following purposes, and no other, as a permitted use.
- (1) Retail outlets and service establishments in which outdoor storage is not a primary activity which uses shall include but are not limited to grocery stores, fruit stores, super markets, drugstores, and similar retail establishments, barbershops, beauty parlors, dry cleaning and laundromat establishments and other similar services, offices, banks, restaurants, automobile service stations, automobile repair shops, second floor apartments, and similar uses, and also residences which shall be limited to occupancy by the owner-operator of such retail or service establishments.
  - (2) Job printing establishments.
  - (3) Essential services.
  - (4) Other accessory uses customarily appurtenant to a permitted use.
  - (5) Single-family detached dwellings.
  - (6) Home occupations.
  - (7) Personal storage warehouses.
  - (8) Public entertainment establishments (excluding adult entertainment).
- B. Multiple use of a single property as a shopping center may be approved as a conditional use when authorized by the procedures outlined in § 490-11.06, provided, that the uses therein shall be limited to those provided for as permitted uses in § 490-6.02A hereof, and further provided that no wholesale sales shall be permitted.
- C. Communications antennas mounted to existing public utility transmission towers, buildings, or other structures, and communications equipment buildings may be approved as a conditional use when authorized by the procedures outlined in § 490-11.06.

**§ 490-6.03. Area and bulk regulations.**

The following regulations shall be observed:

- A. Lot area (minimum): 30,000 square feet.
- B. Building setback line (minimum): 40 feet.

- C. Lot width at street line (minimum): 100 feet.
- D. Rear yard (minimum): 50 feet.
- E. Side yard (minimum): 20 feet.
- F. Building height (maximum): 40 feet.
- G. Lot coverage (maximum): 30%.
- H. Shopping centers (minimum building size): 5,000 square feet.
- I. Paved area (maximum): 60%.
- J. Open area (minimum): 20%.

**§ 490-6.04. Standards.**

The following regulations shall be observed.

- A. All permitted uses and conditional uses shall be subject to applicable regulations in Article VIII, Use Regulations.
- B. All required parking shall be located within 200 feet of a customarily used entrance.
- C. No use shall emit any odor or produce any noise perceptible at the lot line.

ARTICLE VII  
**Commercial - Industrial District**

**§ 490-7.01. Intent.**

The combination of a commercial and industrial district is established as a response to the requirement for highway services and the improved accessibility of the areas surrounding the interchange between Pennsylvania Route 64 and Interstate 80. The mix of uses is appropriate when accompanied by stringent requirements for off-street parking, adequate building setbacks and landscaping of sites. Public water and sewer services are anticipated in this area.

**§ 490-7.02. Use regulations.**

- A. A building may be erected, altered or used and a lot may be used or occupied for any of the following purposes, and no other, as a permitted use.
- (1) Highway-oriented retail and service establishments such as motels, restaurants, automobile service stations, automobile repair shops.
  - (2) Trucking terminals for the transfer, receipt, or delivery of freight, or for the storage or repair of trucks or tractor trailers engaged in truck operations.
  - (3) Animal hospitals and veterinary clinics.
  - (4) Business and professional offices.
  - (5) Medical clinics and research or testing laboratory facilities.
  - (6) Wholesale, storage, or distribution uses.
  - (7) Outdoor recreation, public or private.
  - (8) Essential services.
  - (9) Agriculture.
  - (10) Farm residence and accessory buildings.
  - (11) Any accessory use or structure customarily appurtenant to a permitted use.
  - (12) Communications antennas mounted on existing public utility transmission towers, buildings, or other structures, and communications equipment buildings.
  - (13) Personal storage warehouses.
  - (14) Public entertainment establishments (excluding adult entertainment).
  - (15) Premises which have as one of its primary purposes to make available mechanical or electronic amusement machines/apparatus, as defined in § 490-1.03 of this chapter, for use by the public. **[Added 10-1-2018 by Ord. No. 10-2018-1]**
- B. Light industrial use with particular consideration to limiting the discharge of industrial waste of any kind in strict accordance with the requirements of the standards expressed in § 490-7.04 may be approved as a conditional use when authorized by the procedures outlined in § 490-11.06. Multiple use of a single industrial tract may be permitted subject

to the further requirements of this district.

- (1) Public entertainment establishments (excluding adult entertainment).
  - (2) Crematoriums.
  - (3) Multiservice convenience plazas.
  - (4) Solar energy systems. **[Added 2-21-2022 by Ord. No. 03-21-2022]**
- C. Communications towers and communications equipment buildings may be approved as conditional uses when authorized by the procedures outlined in § 490-11.06.

**§ 490-7.03. Area and bulk regulations.**

- A. Lot area (minimum): two acres.
- B. Building setback line: 100 feet.
- C. Lot width at street line (minimum): 150 feet.
- D. Rear yard (minimum): 50 feet.
- E. Side yard (minimum): 50 feet.
- F. Building height (maximum): 40 feet.
- G. Building coverage (maximum): 40%.
- H. Paved area (maximum): 60%.
- I. Open area (maximum): 20%.

**§ 490-7.04. Standards.**

The following regulations shall be observed:

- A. All permanent uses shall be conducted within a building.
- B. No more than 5% of the open or paved area may be used for the display of goods.
- C. No residential use shall be permitted, except farm residences.
- D. No use shall emit obnoxious, toxic, or corrosive fumes or gases.
- E. No use shall emit odors which are perceptible at lot lines.
- F. No use shall emit smoke from the primary activities of plant operations.
- G. No use shall discharge into the air dust or other particulate matter.
- H. No use shall produce any heat or glare perceptible at or beyond the lot boundaries.
- I. No use shall utilize lighting in a manner which produces a glare at or beyond the lot boundaries.
- J. No use shall permit physical vibrations perceptible at or beyond the lot boundaries.

- K. No use shall produce electromagnetic radiation or injurious radioactive emissions.
- L. No use shall engage in the production or storage of any material designed for use as an explosive.
- M. No use shall engage in the storage of waste materials on the lot for any period beyond 30 days.
- N. No use shall discharge any untreated and/or potentially dangerous effluent from plant operations.
- O. No use shall be conducted so that regular production noise shall exceed the level of ordinary conversation at the boundaries of the lot.
- P. No use shall engage in the excavation of clay, sand, gravel, rock or other mineral, except in the construction of a building or street.
- Q. All permitted uses and conditional uses shall be subject to applicable regulations in Article VIII, Use Regulations.

ARTICLE VIII  
Use Regulations

**§ 490-8.01. Common regulations.**

For the purposes of this chapter, the following regulations shall apply to all districts.

- A. Reduction of lot area. No lot shall be so reduced that the area of the lot or the dimensions of the required open spaces shall be less than herein specified.
- B. Obstructions to vision. On any lot, no wall, fence, structure, or other obstruction shall be erected, altered, or maintained, or placed, and no hedge, tree, shrub or other growth shall be planted or maintained within a clear sight triangle at an intersection measured 12 feet along each intersecting road or drive from the origin of the angle of the intersecting roads or drives. Such measurement shall be along the right-of-way of the intersecting roads.
- C. Stripping of topsoil, excavation of clay, sand, gravel, or rock; such activities shall be permitted only under the following conditions:
  - (1) As part of the construction or alteration of a building or the grading incidental to such building.
  - (2) In connection with normal lawn preparation and maintenance.
  - (3) In connection with the construction or alteration of a street.
  - (4) In farming operations in those zoning districts where such use is permitted, provided sound soil conservation practices are observed.
- D. Projections into required yards. A projection from a building, utilizing such building for support but not being enclosed or part of the living area of such structure may extend into any required yard not more than five feet, provided that no projection shall extend closer than five feet to any lot line.
- E. Area and bulk exceptions.
  - (1) Building height limitations of this chapter shall not apply to spires, agricultural buildings, belfries, cupolas, domes, monuments, towers, poles, chimneys or antennas, provided that the height of an antenna above ground level shall not exceed the shortest distance from its base to any lot line.
  - (2) Lot coverage limitations of this chapter shall not apply to structures used for the storage of animals, silos, open porches, patios, or swimming pool, which are not located within the interior of any building.
- F. Essential services structures. The location of any structure, building or other installation for the purpose of servicing any public utility or municipal function except common or contract carriers may be located within any zoning district subject to the following regulations:
  - (1) The public utility or municipality shall file a plan indicating the location of all existing and proposed structures, buildings, or other installations within the municipality.
  - (2) Any building, structure, or other installations shall be subject to the following design standards (§ 490-8.03) of this chapter.

- (a) Section 490-8.03A, Screening.
  - (b) Section 490-8.03B, Storage.
  - (c) Section 490-8.03C, Landscaping.
  - (d) Section 490-8.03F, Lighting.
- G. Garage and yard sales. Garage and yard sales shall not be conducted at any residence for more than seven consecutive days or on more than three separate occasions in any one calendar year.
- H. Dwelling units.
- (1) Every principal building hereafter constructed shall be located on a lot as defined.
  - (2) There shall not be more than one principal residential building and its accessory structures on one lot, except in the case of apartment or townhouse developments or mobile home parks.

**§ 490-8.02. Nonconforming use regulations.**

- A. Continuation. Any lawful building or other structure, or any lawful use of building or other structure or land, legally existing on the effective date of this chapter or amendment hereto which does not conform with the provisions of this chapter shall be considered a lawful nonconforming building, structure or use, and may continued, except as otherwise herein provided.
- B. Extension and additional buildings. Any lawful nonconforming use of a portion of a building may be extended throughout the building. Any lawful nonconforming building or any building of which a lawful nonconforming use is made may be extended upon the lot occupied by such building and held in a single and separate ownership on the effective date of this chapter when permitted as a special exception by the Zoning Hearing Board subject to the provisions of Article X of this chapter. The area of such building or buildings shall not be increased by more than 50% of the area of such building or buildings existing on the date it first became a nonconforming building or a building of which lawful nonconforming use is made. Any structural alterations, extension or addition to existing buildings shall conform with all area, height, width, yard, and coverage requirements for the district in which it is located.
- C. Change. Any lawful nonconforming use of a building or land may be changed to another nonconforming use of substantially the same character, and for such purpose, a building may be extended on the same lot in accordance with § 490-8.02B. Whenever the nonconforming use of a building or land has been changed to a conforming use, such conforming use shall not thereafter be changed to a nonconforming use.
- D. Use of land. Any lawful nonconforming use of land exclusive of buildings and the use contained therein may be extended upon the lot upon which it exists at the time of the effective date of this chapter, but such extension shall conform to area and bulk regulations and to the design standards of this chapter. The extension of a nonconforming use on a lot shall be limited to the lot which was in existence on the effective date of this chapter.
- E. Restoration and reconstruction. Any lawful, nonconforming building or other structure

which has been involuntarily damaged or destroyed by fire, explosion, windstorm, or other similar act or cause, or any lawful, nonconforming building or other structure voluntarily demolished may be restored or, after demolition, be reconstructed in the same location, provided that: **[Amended 6-7-2010 by Ord. No. 60-6-2010]**

- (1) The reconstructed building or structure shall not exceed the height, area, or volume of the damaged, destroyed or demolished building or structure;
  - (2) Reconstruction shall begin within one year from the date of damage, destruction or demolition and shall be carried on without interruption;
  - (3) Before the demolition of a lawful, nonconforming building or other structure, the Zoning Officer must measure the square footage of the nonconforming building or structure, establish the setbacks from all property lines, and prepare a sketch showing the footprint of the building or other structure on the building lot. That sketch shall be attached to the required demolition permit and to the subsequent, required zoning and/or building permit; and
  - (4) Whenever possible, the reconstructed building or other structure shall conform to all area, height, width, yard and coverage requirements for the zoning district in which it is located.
- F. Discontinuance. If a nonconforming use of land or of a building ceases or is discontinued for a continuous period of one year, or more, subsequent use of such building or land shall be in conformity with the provisions of this chapter, unless the Zoning Hearing Board shall authorize as a special exception the resumption of the discontinued use.
- G. Lots nonconforming as to area and width regulations, and lots of unusual dimensions.
- (1) A building may be erected or altered on any lot held at the effective date of this chapter in single and separate ownership which is not of the required minimum area or width, or is of such unusual dimensions that the owner would have difficulty in providing the required open spaces for the district in which such lot is situated, provided a special exception is authorized by the Zoning Hearing Board, subject to the provisions of Article X, and provided further that the applicant does not own or control other adjoining property sufficient to enable him to comply with the provisions of this chapter, as amended. In considering a special exception to permit erection or alteration of a building on a lot nonconforming as to area and width regulations, the Zoning Hearing Board shall impose the following requirements:
    - (a) That the use of the lot be required to conform to the permitted uses in the district in which such lot lies.
    - (b) That the building height be restricted to that specified for other buildings within the district in which the lot lies.
    - (c) That the design standards imposed for uses within the district in which the lot lies be applied to the use of the lot.
    - (d) That adequate on- or off-site sewage disposal and water supply facilities are available for the use intended.
    - (e) Impose such conditions as are necessary to assure that the general purpose and

intent of this chapter are complied with.

- (2) In any district in which single-family dwellings are permitted, notwithstanding the area limitation imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record in existence at the effective date of adoption or amendment of this chapter, without Zoning Hearing Board action, provided that such lot must be in single and separate ownership and that adequate on-or off-site sewage disposal and water supply facilities are available for the use intended.
- H. Nonconforming signs.
- (1) Any sign, signboard, billboard, or advertising device legally existing at the time of the passage of this chapter that does not conform with the regulations of this chapter shall be considered a nonconforming sign and may be used in its existing location, provided it is maintained in good condition and repair at all times.
  - (2) Nonconforming signs once removed may be replaced only with conforming signs; however, legal nonconforming signs may be repainted or, after issue of a permit, repaired or modernized, provided that such repaired or modernized sign does not exceed the dimensions of the existing sign.
- I. Registration. In order to facilitate the administration of this chapter, the Zoning Officer shall maintain an accurate listing of those nonconforming uses which are not permitted as a use by right in the district in which they are located and for which no special exception or variance has been granted. Such listing shall be a matter of public record and shall constitute notice to any transferee acquiring any right to use or own such property.

#### **§ 490-8.03. Design standards.**

- A. Screening. A completely planted visual barrier or landscape screen shall be provided between any district and contiguous properties in a residentially zoned district.
- B. Storage. Outdoor storage areas may be operated in areas where permitted, provided that such operation shall be in accordance with the following provisions to protect the public health, safety, comfort, convenience, and general welfare, especially with regard to abutting properties and occupants thereof:
- (1) No highly inflammable or explosive liquids, solids, or gases shall be stored in bulk above ground except for agricultural purposes. Tanks or drums of fuel less than 1,000 gallons total directly connected with heating devices or appliances located on the same premises and used exclusively for providing fuel for such heating devices and appliances on the premises are excluded from this provision.
  - (2) All outdoor storage facilities shall be enclosed by a fence or wall adequate to ensure the safety of such facilities thereof from adjacent property or from the public right-of-way. Such walls and fences shall be not less than 20 feet from all property lines which abut a residential district, but in any other case shall not be less than three feet from any property line and shall not be less than 25 feet from any street.
  - (3) No materials or wastes shall be deposited on any premises in such form or manner that they may be moved from such premises by natural causes or forces.

- (4) All materials or waste which may cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise attractive to rodents or insects shall be stored outdoors only in closed containers.
  - (5) No radioactive substances of any kind shall be stored in the Township.
- C. Landscaping.
- (1) Any part or portion of a site which is not used for building, other structures, loading, or parking spaces and aisles, sidewalks and designated storage areas shall be planted with an all-season ground cover.
  - (2) No less than 5% of a parking area must be landscaped and continually maintained. Planting along the perimeter of a parking area, whether for required screening or general beautification, will not be considered as part of the 5% parking area landscaping. In complying with the 5% landscaping requirements, the planting beds must be distributed throughout the parking areas.
- D. Access and traffic control. All accessways to any street or highway shall be located at least 200 feet from the intersection of any street lines and shall be designed in a manner conducive to safe ingress and egress. Where possible, exits shall be located on minor rather than major streets or highways. The developer shall be responsible for the construction of any necessary traffic control devices or additional acceleration lanes required by the Pennsylvania Department of Transportation in the case of egress to major thoroughfares.
- E. Interior circulation.
- (1) Interior drives shall be designed so as to prevent blockage of vehicles entering or leaving the site.
  - (2) Areas provided for loading and unloading of delivery trucks and other vehicles, and for the servicing of shops by refuse collections, fuel and other service vehicles shall be adequate in size, and shall be so arranged that they may be used without blockage, or interference with the use of accessways or automobile parking facilities.
- F. Lighting. The parking, loading and ingress and egress areas of any commercial or industrial use shall be provided with a minimum of 0.75 footcandles at any point. All lighting shall be completely shielded from traffic on any public right-of-way and from any residential district.
- G. Shopping cart storage. Any establishment which furnishes carts or mobile baskets as an adjunct to shopping shall provide definite areas within the required parking space areas for storage of said carts. Each designated storage shall be clearly marked for storage of shopping carts. Such signs indicating storage shall not be considered as regulated by the sign controls, § 490-8.11.

**§ 490-8.04. Off-street loading regulations.**

- A. Standards.
- (1) Off-street loading and unloading space, or spaces, with proper and safe access from the street shall be provided on each lot, either within a structure or in the open, to serve the uses within the property adequately.

- (2) Loading and unloading spaces shall be at least 12 feet wide, 45 feet long, and shall have at least a fourteen-foot vertical clearance.
- (3) Loading and unloading spaces shall have all-weather dustless surfaces to provide safe and convenient access during all seasons.
- (4) Loading facilities shall not be constructed between the building setback line and a street line.
- (5) Required off-street parking space shall not be used for loading and unloading purposes except during hours when business operations are suspended.
- (6) See § 490-8.05B(4) for heavy truck regulations.

**§ 490-8.05. Off-street parking regulations.**

A. Standards.

- (1) Off-street parking space, or spaces, with proper and safe access from the street shall be provided on each lot, either within a structure or in the open, to serve the uses within the district adequately.
- (2) Parking space for one vehicle shall be equal to at least 350 square feet for purposes of computing car spaces, including stalls and driveways, and shall have a stall of at least 10 feet by 20 feet in size. Parking spaces shall have an approved all-weather dustless surface, and shall have a safe and convenient access in all seasons.
- (3) Parking lots shall be graded to a minimum slope of 1 1/2% to provide for drainage. Adequately sized inlets and storm sewers shall be provided to discharge stormwater in accordance with a plan to be approved by the Township.
- (4) Parking lots for over 20 vehicles shall be so divided by permanent raised curbing that access lanes and parking bays are clearly defined and that moving traffic will be confined to designated access lanes.

B. Commercial and industrial requirements.

- (1) One such off-street parking space shall be required per employee in all commercial and industrial districts. In computing the number of employees, the greatest number of employees working any shift shall be counted. Additional spaces shall be required as specified by the appropriate formula. In applying such, the following definitions shall be utilized:
  - (a) Employees serving the public. Those employees who, as part of their employment, are expected to meet the public in the ultimate transaction of business.
  - (b) Sales area. Space on the first floor on which goods are displayed and/or business transacted and such space or other floors on which one or more sales persons are regularly stationed.
- (2) Off-street parking shall be required for any new construction or change of use in commercial and industrial zoning districts imposing these regulations.

- (3) All commercial spaces shall be provided within 600 feet of the front access of the establishment along a route customarily used by pedestrian traffic. The number of required spaces in addition to those required for employees shall be determined by the application of the following formula to the contemplated use. In areas where several uses share parking spaces, the aggregate of all available spaces shall be compared to the sum required to serve all uses to determine whether there are sufficient spaces to permit the use.

Use	At least One Additional Parking Space for Each
Industry	1 employee serving the public
Eating and drinking places	2 seats
Driving range	1 tee
Golf course	1/4 tee
Personal service establishment	1 employee serving the public
Theater and churches	3 seats
Bowling alley	1/5 alley
Motel	1 guest room
Hospitals, nursing homes	750 square feet of floor area
Wholesale sales or storage	1,000 square feet of floor area
Gasoline service station	1/4 pump
Laundromat	1 machine
Elementary school	20 seats
All other schools	10 seats
Food stores and pharmacies	300 square feet of sales area
Department and variety	300 square feet of sales area
Gift, apparel, hardware and other housewares	300 square feet of sales area
Offices, clinics, financial institutions	1 employee serving the public
All others with a lot coverage in excess of 10%	500 square feet of floor area
All other retail uses	300 square feet of sales area

- (4) Commercial spaces in the Commercial Industrial District that are to be used for heavy truck (in excess of 40,000 pounds) parking shall use the following pavement design standard or an equivalent approved by the Township Engineer.
- (a) ID-2 wearing course: three inches.
  - (b) CABC base course: 10 inches.
  - (c) Subbase: nine inches.

C. Residential requirements.

- (1) Dwelling units in residential districts. Two off-street parking spaces per unit.
- (2) Dwelling units in nonresidential district. One off-street parking space per unit.

**§ 490-8.06. Accessory use regulations.**

- A. Unattached accessory structure. No accessory structure or building, except portable produce stands, shall be located within the required front yard area. No accessory structure or building shall be located in any side yard area nearer to the side lot line than 10 feet, or nearer to another principal or accessory structure or building than 10 feet. No unattached accessory structure or building when located within the rear yard area shall be closer than five feet to any side or rear property line.
- B. Attached accessory structures. An accessory structure or building attached to a principal building shall be considered to be a part of the principal building.

**§ 490-8.07. Sale of farm products.**

The display and sale of farm products in produce stands shall be permitted, provided that:

- A. At least 50% of such products shall have been produce on the property on which they are offered for sale.
- B. Parking space for at least three cars shall be provided behind the highway right-of-way line. A driveway must be provided for the entrance and exit to the off-street parking area, including turnaround space.
- C. Sale of farm products shall be conducted from a portable stand, dismantled at the end of the growing season, or from a permanent building located to meet the setback requirements for the district in which it is located.

**§ 490-8.08. Recreational development regulations.**

- A. Uses permitted.
  - (1) The types of recreational uses permitted in recreational development areas are:
    - (a) Boating and fishing.
    - (b) Golf course.
    - (c) Hiking and horseback riding.
    - (d) Parks and arboretums.
    - (e) Play fields.
    - (f) Playgrounds.
    - (g) Picnic areas.
    - (h) Skating rinks.

- (i) Swimming pools.
  - (j) Tennis courts.
  - (k) Woodlands.
  - (l) Lakes.
- (2) The following uses in addition to those permitted in residential districts shall be permitted in recreational development areas, but only sufficient to service the employees, members, or users of the facilities and their guests:
- (a) Restaurants and clubhouses.
  - (b) Residence facilities.
  - (c) Lockers.
  - (d) Retail sale of playing equipment.
  - (e) Signs, subject to further regulation in § 490-8.11 of this chapter.
- B. Design standards.
- (1) Any building shall be set back a minimum of 100 feet from any property line.
  - (2) No recreational development shall be permitted on any lot less than three acres.
  - (3) The following design standards set forth in § 490-8.03 of this chapter shall be applicable:
    - (a) Storage, as provided by § 490-8.03B.
    - (b) Landscaping, as provided by § 490-8.03C.
    - (c) Access and traffic controls, as provided by § 490-8.03D.
    - (d) Interior circulation, as provide by § 490-8.03E.
    - (e) Off-street parking, as provided by § 490-8.05.
  - (4) Illuminated signs and other lights shall be directed away or shielded from adjoining residential properties in such a way as not to disturb the occupants thereof.
  - (5) No public address system is permitted except where such system will not be audible at any property line.

**§ 490-8.09. Home occupations regulations.**

Home occupations may be permitted as accessory uses in all zoning districts, except the Commercial-Industrial Districts, unless such activities are prohibited by special deed restrictions. All such activities shall comply with the following requirements.

- A. All home occupations shall be clearly secondary to the use of the premises as a residence.
- B. The area devoted to the permitted occupation shall be located within the resident's dwelling

or a single building accessory thereto (including a garage, farm building, barn, shed, etc.). In the Residential and Village Residential Districts, no more than a total of 25% of the gross floor area of the dwelling, up to a maximum of 400 square feet, may be devoted to a home occupation. In the Agricultural and Conservation Districts, home occupations may occupy up to 35% of the gross floor area of the dwelling, up to a maximum of 600 square feet, and in the Neighborhood Commercial District, as much as 45% of the gross floor area of the dwelling, up to a maximum of 800 square feet, may be occupied by a home occupation.

- C. The home occupation must be owned and operated by the resident of the dwelling in which the activity is located. All applications for occupations to be operated by someone other than the owner of the structure shall include written consent of the landowner. There shall be no more than two nonresident employees engaged in the home occupation.
- D. The home occupation shall create no adverse impact on existing traffic or circulation patterns in the neighborhood.
- E. No offensive or objectionable noise (including public address systems), vibration, smoke, dust, odor, heat or glare shall be produced or detected at or beyond the property line of the lot containing the home occupation.
- F. There shall be no exterior display or sign, except as may be permitted in § 490-8.11 of this chapter, and no outdoor storage of materials on the premises associated with the occupation.
- G. The majority of all goods or products sold on the premises must be produced on the premises, or must be related to a service offered on the site.
- H. A minimum of three additional off-street parking spaces shall be provided for all home occupations.
- I. Permitted home occupations may include, but shall not be limited to, the following low-intensity, service-oriented activities:
  - (1) Professional offices for physicians, dentists, architects, engineers, real estate or insurance agents, lawyers, and accountants;
  - (2) Home offices for seamstresses, fine artists, tutors, and musicians giving lessons;
  - (3) Barbershops and beauty shops;
  - (4) Family day care homes;
  - (5) Custom baking and catering operations;
  - (6) House cleaning services; and
  - (7) Nonautomotive electronic equipment repair facilities.
- J. Requests for other home occupations not specified above may be submitted to the Zoning Hearing Board for consideration. Upon finding of the Board that such use complies with the criteria of this section, other applicable codes and ordinances in effect in the Township, and that the proposed use would not be detrimental to the health, safety and welfare of the residents of the neighborhood where it is to be located, such use may be approved.

- K. Zoning permits shall be required for all proposed home occupations. At the time of initial application, the Zoning Officer shall review the specifics of the proposed home occupation to determine its compliance with the requirements of this chapter, or shall rely on direction from the Township Zoning Hearing Board as outlined in Subsection J above. All such permits shall remain valid for two years from the date of their issuance after which they must be renewed by written request to the Zoning Officer. The Zoning Officer retains the right to inspect the site of the home occupation to determine its continued compliance with the terms of this chapter and any conditions of its original approval.

**§ 490-8.10. Floodplain overlay district.**

The identified floodplain area shall be any area of Porter Township, subject to the 100-year flood, which is identified as Zone A (Area of Special Flood Hazard) on the Flood Hazard Boundary Map (FHBM) dated July 15, 1988 (or the most recent revision thereof as issued by the Federal Emergency Management Agency (FEMA), or on the most recent Flood Insurance Rate Map (FIRM) issued by FEMA, if such a map has been prepared for the Township.)

- A. Determination of the 100-year flood elevation.
- (1) For the purposes of this chapter, the 100-year flood elevation shall be used as the basis for regulation. When available, information from other federal, state, and other acceptable sources shall be used to determine the 100-year elevation, as well as a floodway area, if possible. When no other information is available, the 100-year elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question.
  - (2) In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted to sufficient detail to allow a thorough technical review by the municipality.
- B. Changes in identification of area. The identified floodplain area may be revised or modified by the Township where studies or information provided by the qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).<sup>120</sup>
- C. Boundary disputes. Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Township and any party aggrieved by this decision may appeal to the Township Supervisors. The burden of proof shall be on the appellant.
- D. General technical requirements.
- (1) In the identified floodplain area, the development and/or use of any land shall be permitted, provided that the development and/or use complied with the restrictions and requirements of this chapter and all other applicable codes and ordinances in force in the municipality.

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**120. Editor's Note: See now the Federal Insurance and Mitigation Administration.**

- (2) Within any floodway area, no new construction or development shall be permitted that would cause any increase in the 100-year flood elevation.
  - (3) Within any identified floodplain area, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse.
  - (4) Within any identified floodplain area, the elevation of the lowest floor (including basement) of any new or substantially improved residential structure shall be 1 1/2 feet or more above the 100-year flood elevation.
  - (5) Any nonresidential structure, or part thereof, having a lowest floor (including basement) which is not elevated to at least 1 1/2 feet above the 100-year flood elevation shall be floodproofed 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), or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above-referenced standards.
  - (6) Enclosed areas below the lowest floor (including basement) are prohibited.
- E. 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 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, scoring, or settling;
    - (d) Be no steeper than one vertical foot to two horizontal feet, unless substantiated data justifying steeper slopes are submitted to and approved by the Zoning Officer; and
    - (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 stormwater runoff in a safe and efficient manner. The system shall ensure proper drainage along streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
  - (3) Streets. The finished elevation of all new streets shall be no more than one foot below the regulatory flood elevation.
  - (4) Storage. All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in § 490-8.10F,

Development which may endanger human life, shall be stored at or above the regulatory flood elevation and/or floodproofed to the maximum extent possible.

- (5) 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.
- (6) 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 regulatory flood elevation shall be securely anchored or affixed to prevent flotation.
- (7) Floors, walls and ceilings.
  - (a) Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
  - (b) Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
  - (c) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water resistant and will withstand inundation.
  - (d) Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other water-resistant materials.
- (8) Paints and adhesives.
  - (a) Paints or other finishes used at or below the regulatory flood elevation shall be of "marine" or water-resistant quality.
  - (b) Adhesives used at or below the regulatory flood elevation shall be of "marine" or water-resistant variety.
  - (c) All wooden components (doors, trim, cabinets, etc.) shall be finished with a "marine" or water-resistant paint of other finishing materials.
- (9) Electrical components.
  - (a) Electrical distribution panels shall be at least three feet above the 100-year flood elevation.
  - (b) Separate electrical circuits shall serve lower levels and shall be dropped from above.
- (10) Plumbing.

- (a) Water heaters, furnaces, and other mechanical equipment or apparatus shall not be located below the regulatory flood elevation.
  - (b) No part of any new on-site sewage disposal system shall be located within any identified floodplain area.
  - (c) Water supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters.
  - (d) All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwater. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.
- F. Development which may endanger human life.
- (1) In accordance with the Pennsylvania Flood Plain Management Act,<sup>121</sup> and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which will be used for the production or storage or any of the following materials or substances or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume or any amount of radioactive substances) of any of the following materials or substances on the premises shall be subject to the provisions of this section, in addition to all other applicable provisions:
    - (a) Acetone.
    - (b) Ammonia.
    - (c) Benzene.
    - (d) Calcium carbide.
    - (e) Carbon disulfide.
    - (f) Celluloid.
    - (g) Chlorine.
    - (h) Hydrochloric acid.
    - (i) Hydrocyanic acid.
    - (j) Magnesium.
    - (k) Nitric acid and oxides of nitrogen.
    - (l) Petroleum products (gasoline, fuel, oil, etc.).
    - (m) Phosphorus.
    - (n) Potassium.
    - (o) Sodium.

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**121.Editor's Note: See 32 P.S. § 680.1 et seq.**

- (p) Sulfur and sulfur products.
  - (q) Pesticides (including insecticides, fungicides, and rodenticides).
  - (r) Radioactive substances, insofar as such substances are not otherwise regulated.
- (2) Where permitted within any identified floodplain area, any new or substantially improved structure of the kind described in § 490-8.10D(5), above, shall be elevated or designed and constructed to remain completely dry up to at least 1 1/2 feet above the 100-year flood, and designed to prevent pollution from the structure or activity during the course of a 100-year flood. Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972) or with some other equivalent watertight standards.
- G. Existing structures.
- (1) Existing structures and/or uses located in the Floodplain Overlay District shall not be expanded or enlarged unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying stream improvements.
  - (2) Any modification, alteration, repair, construction, or improvement of any kind to a structure and/or use located in the Floodplain Overlay District to an extent or amount of less than 50% of its market value shall be elevated and/or floodproofed to the greatest extent possible.
  - (3) Any modification, alteration, repair, construction, or improvement of any kind to a structure and/or use, regardless of location, to an extent or amount of 50% or more of its market value shall be undertaken only in full compliance with the provisions of this chapter and any other applicable ordinance.
- H. Warning and disclaimer of liability.
- (1) The degree of flood protection sought by the provision of this chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside the identified floodplain districts, or that land uses permitted within such districts, will be free from flooding or flood damages.
  - (2) This chapter shall not create liability on the part of Porter Township or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

### § 490-8.11. Signs.

Any sign erected or maintained after the effective date of this chapter shall conform to the following regulations.

A. General. The following regulations shall be observed in all districts:

- (1) 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.

- (2) No moving or flashing signs which may have the effect of distracting motorists on adjacent highways shall be permitted.
  - (3) No sign which emits smoke, visible vapors of particles, sound or odor shall be permitted.
  - (4) No artificial light or reflecting device shall be used as a part of a sign where such light or device interferes with, competes for attention with, or may be mistaken for a traffic signal.
  - (5) Floodlighting shall be arranged so that the source of light is not visible from any point off the lot and that only the sign is directly illuminated thereby.
  - (6) No sign shall be erected containing information on it which states or implies that a property may be used for any purpose not permitted under the provisions of this chapter in the zoning district in which the property to which the sign related is located.
  - (7) Every sign permitted shall be constructed of durable material and kept in good condition and repair. Any sign which is allowed to become dilapidated shall be removed by the Township at the expense of the owner or lessee of the property on which it is located.
  - (8) All distances provided for in this section shall be measured along straight lines between signs and from the near edge to near edge of sign or sign structure. This subsection shall apply in all cases, including locating new signs, in relationship to currently existing nonconforming signs.
  - (9) A permit shall be obtained before erecting any sign under these regulations except as set forth in Subsection B hereof. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
  - (10) No sign, other than official street signs, shall be erected or maintained nearer to a street line than a distance equaling the height of the sign, unless attached to the building.
- B. Exempt signs. No permit shall be required before erecting any of the following signs. These signs, however, shall conform to all other regulations set forth § 490-8.11A.
- (1) Directional, information or public service signs, such as those advertising availability of restrooms, telephones or similar public conveniences, may be erected or maintained. Directional and information signs provided for the guidance and convenience of the public within commercial establishments may also be erected. Each such sign shall not exceed two square feet in area. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
  - (2) Trespassing signs, or signs indicating the private nature of a road, driveway, or premises, and signs prohibiting or otherwise controlling hunting or fishing upon particular premises may be erected and maintained, provided each sign area does not exceed two square feet in area.
  - (3) Temporary signs, provided that they conform to the regulations hereinafter set

forth.<sup>122</sup> [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

- C. Temporary sign regulations. The following shall be observed in all districts. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- (1) Temporary signs, which shall not exceed six square feet on a side, may be erected without a permit for a period of up to six months. No more than two temporary signs may be erected on any property without a permit at any time.
  - (2) Temporary signs which are larger than six square feet in area shall be permitted, provided that:
    - (a) A permit is obtained, which shall run for a period of up to six months, as applicant chooses.
    - (b) Signs shall not exceed 24 square feet in area.
    - (c) Any freestanding sign shall be located at least 10 feet distant from any lot lines.
    - (d) Signs shall be removed immediately upon expiration of permit.
    - (e) The site or building on which the sign was erected shall be restored to its original condition upon removal of sign.
    - (f) A permit must be obtained before erecting any temporary sign, except as provided in Subsection C(1).
- D. Business signs (on-premises signs). Business signs accessory to permitted commercial uses that are permitted, provided that:
- (1) Signs for home occupations permitted under § 490-8.09 of this chapter shall not exceed four square feet in area. Signs for recreational uses permitted under § 490-8.08 shall not be greater than eight square feet in size. No more than one such sign shall be permitted on any lot.
  - (2) Signs mounted on the front of a building shall not exceed 10 square feet in area for each five linear feet of front building wall and in no case shall exceed 30 feet in width or eight feet in height at the minimum allowable building setback. For each additional two feet of setback, the maximum height of the sign may be increased by one foot, provided that no sign shall exceed 20 feet in height or exceed 20% of face of building.
  - (3) Signs mounted on a side wall exposed to public view from either a street or parking area shall not exceed 10 square feet of area for each linear foot of such side building wall, and in no case shall exceed 30 feet in width.
  - (4) Mounted signs shall be installed parallel to the supporting wall and project not more than 10 inches from the face of such wall.
  - (5) Freestanding business signs shall not exceed 50 square feet in area, except that freestanding business signs located in the Commercial-Industrial District may be up

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122. Editor's Note: Original Subsections 2D, which regarded signs advertising garage and yard sales, and E, which regarded political signs, which immediately followed this subsection, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

to 100 square feet in size.

- (6) Freestanding business signs shall not exceed 35 feet in height above the average grade of the proposed site, except that freestanding business signs located in the Commercial-Industrial District extend to a maximum height of 70 feet above the average grade of the proposed site.
  - (7) Freestanding signs shall be erected only within the limits of the front yard of the properties to which they pertain.
  - (8) Signs shall not be placed closer to each other than a distance equal to 10 times the largest dimension (height or width) of the sign having the largest dimension.
- E. Billboards or advertising sign boards (off-premises signs).
- (1) Billboards or advertising sign boards may be situated within an area measuring 200 feet parallel to the right-of-way of I-80, in both directions, in a Commercial- Industrial District. Such uses shall be considered a permitted use in the Commercial-Industrial District.
  - (2) Billboards or advertising sign boards shall be located no closer than 1,000 feet (measured on the same side of the street) to any other advertising sign board, and no closer than 150 feet to any residence.
  - (3) Billboards or advertising sign boards shall not exceed 300 square feet in area.
  - (4) Billboards or advertising sign boards may have two parallel faces, but may not be vertically or horizontally doubled or multiplied further in any fashion.
  - (5) Billboards or advertising sign boards shall not exceed 50 feet in height above the average grade of the proposed site.
- F. Sign permit.
- (1) Applications for sign permits shall be filed with the Zoning Officer in duplicate and on forms furnished by the Township and shall be accompanied by detailed plans and specifications.
  - (2) Permit fees. No permit to erect shall be issued until a fee, as established from time to time by resolution of the Board, has been paid. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

#### § 490-8.12. Conversion of single-family dwellings.

Subject to the requirements of Article X of this chapter, the Zoning Hearing Board may allow as a special exception the conversion of a single-family dwelling into a dwelling for a greater number of families, subject to the following requirements:

- A. No dwelling unit shall have less than 600 square feet of floor area.
- B. The lot area per family must meet the requirements for the district in which the lot is located.
- C. There is no external alteration of the building except as may be necessary for reasons of

safety. Fire escapes and outside stairways shall, where practicable, be located to the rear of the building.

- D. The Zoning Hearing Board shall specify the maximum number of families permitted to occupy such building, and may prescribe such further conditions and restrictions as the Zoning Hearing Board may consider appropriate within the intent and purpose of this chapter.
- E. The off-street parking requirements of this chapter or any other arrangements as required appropriate by the Zoning Hearing are met.

**§ 490-8.13. Mobile homes.**

Unless otherwise provided by this chapter, all mobile homes shall be set upon a permanent foundation as provided herein; and any mobile home which has been or is to be set upon such a foundation shall be considered a dwelling and be subject to any and all sections of this chapter regulating and affecting dwellings.

- A. Mobile homes shall at a minimum be placed upon piers at each of the four corners of the frame of the mobile home, with two additional piers per side at intermediate locations. Mobile homes less than 50 feet long shall require only one additional pier per side.
- B. The piers upon which a mobile home is placed shall be mortared and shall be on concrete footers extending below the frost level.
- C. Mobile homes shall be securely anchored to each pier either by bolts or by over-the-top ties.
- D. Every mobile home placed upon piers shall, within 30 days of placement, be skirted with acceptable building material in a manner which will eliminate open access to the area underneath the mobile home.
- E. This section shall not be construed to prohibit the placement of mobile homes upon enclosed foundations.

**§ 490-8.14. Mobile home parks.**

- A. General.
  - (1) Mobile home parks are permitted only in those zoning districts as specified in this chapter. Every proposed mobile home park must meet the requirements of this article as well as all the requirements pertaining to major land development, unless otherwise excepted.
  - (2) Each mobile home placed in a mobile home park shall secure an occupancy permit prior to its use as living quarters.
- B. Site plan requirements and procedures. Application for a mobile home park shall require the submission of six copies of the preliminary and final plans to the Township Planning Commission in accordance with Article III, Plan Requirements, and Article IV, Plan Processing Procedures, of Chapter 415, Subdivision and Land Development, of the Code of the Township of Porter. In addition, all design standards as contained in Article V, Installation and Approval of Improvements, of Chapter 415, Subdivision and Land

Development, of the Code of the Township of Porter shall apply, unless delineated by this article.

C. Design standards.

- (1) Minimum park area. Each mobile home park shall have a gross area of at least two contiguous acres of land suitable for development.
- (2) Grading and ground cover requirements.
  - (a) The developer shall retain existing vegetation to the greatest extent possible in order to prevent soil erosion.
  - (b) A stormwater management plan shall be submitted in accordance with § 490-8.16 of this chapter.
- (3) Mobile home park lot requirements.
  - (a) Gross density. The maximum number of mobile home lots within park shall be no more than four lots per acre of the gross area.
  - (b) Minimum lot sizes. The minimum mobile home lot shall contain no less than 6,000 square feet. The minimum width of any mobile home lot shall not be less than 60 feet.
  - (c) Innovative site design. Variations in lot size may be permitted for innovative design deemed desirable by the Planning Commission.
- (4) Setbacks, buffer strips and screening requirements.
  - (a) Setbacks from public roads. All mobile homes and auxiliary structures shall be located at least 40 feet from the right-of-way of any abutting public road or street.
  - (b) Park perimeter buffer strips. All mobile homes and auxiliary structures shall be located at least 50 feet from the mobile home park boundary lines. If a suitable attractive, effective screening either man-made or of natural plantings is provided along the perimeter, this minimum buffer strip may be reduced to 25 feet.
  - (c) Existing hedgerows. Developers shall utilize existing hedgerows as buffers, wherever possible.
  - (d) Adjacent commercial or industrial zones. All mobile home parks located adjacent to industrial or commercial land uses or zoned districts shall have a buffer yard of 25 feet wide consisting of fencing, trees and shrubbery. Fencing may be waived by the Planning Commission where a sufficiently dense hedgerow is utilized as the buffer.
  - (e) Screening shall be in conformance with § 490-8.03 of this chapter. Repair, maintenance, and storage areas or buildings shall be effectively and attractively screened from the mobile home lots and streets by fencing or natural plant materials.

- (5) Recreation space requirements. A minimum of 10% of the gross park area or 1,000 square feet per unit, whichever is larger, shall be provided for recreational space. This recreational space shall be suitable for outdoor recreational activity and shall be easily accessible to all mobile home lots.
  - (6) Parking space requirements. A minimum of two stabilized vehicle parking spaces shall be provided for each mobile home lot within the mobile home park. These parking spaces shall be located within 200 feet of the mobile home lot which they are intended to serve.
  - (7) Mobile home park internal street and drainage system requirements. All mobile home lots within a mobile home park must have access to the mobile home park internal street system. Streets and drainage control systems shall be constructed in accordance with the road standards outlined in Chapter 415, Subdivision and Land Development, in effect for Porter Township, except that street widths shall be as follows:
    - (a) Where parking is permitted on both sides, a minimum cartway width of 30 feet shall be required.
    - (b) Where parking is limited to one side, a minimum cartway width of 28 feet shall be required.
    - (c) Where no parking is permitted on either side of the street, a minimum cartway width of 20 feet shall be required.
  - (8) Mobile home lot improvements. All mobile home lots within the mobile home park shall be improved for use by independent homes. This shall include necessary utility hookups. In addition, an all-weather patio area with a minimum area of 200 square feet shall be provided for each mobile home.
- D. Utilities and park facilities.
- (1) Water supply system. An adequate supply of water shall be provided for mobile homes, service buildings and other accessory facilities. Where a public water supply system of satisfactory quantity, quality and pressure is available, connection shall be made to it and its supply shall be used exclusively. Where a satisfactory public water supply system is not available, the applicant shall design, install, and maintain a private water supply system according to the standards of and with the approval of the Pennsylvania Department of Environmental Protection.
  - (2) Sewage disposal system. An adequate and safe sewage system shall be provided in all mobile home parks for conveying and disposing of sewage from mobile homes, service buildings and other accessory facilities. Mobile home parks shall be connected to public sewer systems, where possible. Where a satisfactory public sewage disposal system is not available, the applicant shall design, install and maintain an approved private sewage system according to the standards of the Department of Environmental Protection.
  - (3) Other utility systems. Telephone, electric, television cable, natural or bottled gas, fuel oil or other utilities shall be provided in accordance with plans approved by the Township Supervisors and the utility company. Underground installation of the utility distribution are required for approval of the mobile home park proposal.

- (4) Service and other auxiliary park buildings. Service, maintenance and management buildings, recreation or community buildings and commercial sales buildings required for the management, servicing and maintenance of the park and well-being of the park residents shall be allowed within the mobile home park boundaries. The entire area of these buildings shall be used exclusively for the management, servicing and maintenance requirements of the park.
  - (5) Solid waste collection and disposal. The developer shall present information to the Board of Supervisors explaining the proposed method of solid waste collection disposal. If such method is not deemed sufficient by the reviewing agencies, an alternate method shall be proposed by the applicant.
- E. Rules and regulations of the park. The developer shall submit to the Board of Supervisors a copy of the proposed rules and regulations to be followed by tenants of the mobile home park. At a minimum, regulations shall include the following:
- (1) Each mobile home shall be skirted with either a masonry wall or fabricated materials for this specific purpose. Bales of hay; straw, interior plywood, unfinished wood or like material shall not be allowed.
  - (2) Garbage and trash shall be placed in appropriate receptacles.
  - (3) Each mobile home shall be anchored to prevent the structure from being overturned or blown from its foundation or supports. This anchoring shall comply with the specifications outlined in the supplementary regulations of this chapter.

#### **§ 490-8.15. Junkyards.**

All junkyards existing at the effective date of this section, within one year thereafter, and all new junkyards, where permitted, shall comply with the following provisions:

- A. No junk material, appurtenant structure, or other enclosure shall be stored or placed within 100 feet of any adjoining property or public right-of-way, and such setback area shall be kept free of weeds and scrub growth unless the adjoining property is wooded.
- B. Any junkyard shall be completely enclosed with a fence six feet high and a visual screen of evergreen or evergreen-type hedge- or tree-row of a variety and size at the time of planting that such will attain a height of eight feet within three years thereafter and maintained in a sound and attractive manner.
- C. All junk shall be stored or arranged so as to permit access by firefighting equipment and to prevent the accumulation of water, and with no junk piled to a height of more than six feet.
- D. No oil, grease, tires, gasoline or other similar material shall be burned at any time, and all other burning shall be attended and controlled at all times.
- E. Any junkyards shall be maintained in such a manner as to cause no public or private nuisance, nor to cause any offensive or noxious sounds or odors, nor to cause the breeding or harboring of rats, flies or other vectors.

#### **§ 490-8.16. Erosion and sedimentation control and stormwater management plan requirements.**

- A. Porter Township has determined that a comprehensive program of stormwater management, including reasonable regulation of development activities causing accelerated erosion, is fundamental to the public health, safety, and welfare, and the protection of the citizens of Porter Township and all of the people of the commonwealth, their resources and the environment. The Porter Township supervisors adopted on May 7, 2007, a comprehensive stormwater management program for the Township of Porter to promote health, safety, and welfare within the Fishing Creek/Cedar Run Watershed. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. All activities that create impervious surfaces within the Fishing Creek Watershed in Porter Township shall comply with Chapter 400, Stormwater Management, Part I, Fishing Creek/Cedar Run Watershed, of this Code, except those activities specifically listed as exempt in that chapter. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. Given the community development objectives as outlined in Article I of this chapter, and the large number of biological diversity areas and streams with exceptional value and scenic river designations in Clinton County, the Township Zoning Officer may require an applicant for a zoning permit to submit an erosion and sedimentation control plan.
- (1) Stormwater management controls are intended to reduce the impact of storms, enhance groundwater recharge, prevent erosion, sedimentation and flooding and maintain natural drainageways. The specific intent of these controls is that stormwater runoff from any site during and after site disturbance be no greater than that which existed prior to development.
  - (2) The erosion and sedimentation control plan shall be designed to adequately control, collect and dispose of stormwater drainage from the site including, if necessary, storm sewers, culverts, ditched, swales, retention ponds or and other related stormwater control facilities.
- D. An erosion and sedimentation control plan consists of two parts: a) a narrative describing the project and giving the purpose and the engineering assumptions and calculations for control measures and facilities; and b) a map or maps describing the topography of the area and showing proposed alterations to the area and the erosion and sedimentation control measures and facilities.
- (1) The narrative must include the following:
    - (a) General description of the project.
    - (b) General description of stormwater handling.
    - (c) General description of accelerated erosion control.
    - (d) General description of sedimentation control.
    - (e) Date project is to begin and expected date final stabilization will be completed.
    - (f) Training and experience of person preparing the plan.
  - (2) A map of the project area must show the following topographic features:
    - (a) The location of the project relative to highways, municipalities or other

identifiable landmarks.

- (b) Contours at an interval that will adequately describe the topography.
  - (c) Boundary lines of the project area.
  - (d) Acreage of the project.
  - (e) Streams, lakes, ponds or other bodies of water within the project area and/or in the vicinity of the project.
  - (f) Types, depth, slope and aerial extent of soils must be shown. Type may be specified as in a soil survey.
  - (g) Other physical features, including scale of map and North arrow.
- (3) The proposed alterations to the area must be shown on an additional map.
- (a) Changes to land surfaces and vegetative cover.
  - (b) Areas of cut and fills.
  - (c) Structures, roads, paved areas, buildings.
  - (d) Stormwater control facilities.
  - (e) Contours of finished area at an interval that will adequately describe the final topography.
- (4) The amount of stormwater runoff from the project area and the upstream water shed area must be described in narrative form. Methods of calculation, factors considered and provisions for safe stormwater handling and disposal must be included.
- (5) Temporary control measures and facilities for use during earthmoving activities must be shown on a map and described in a narrative. Types, locations, and dimensions of control measures and facilities must be included along with design considerations and calculations. A schedule of staging, installation and operations of the measures and facilities must be outlined in the narrative.
- (6) Permanent control measures and facilities for site restoration and long-term protection must be shown on a map and described in a narrative.
- (7) A maintenance program for the control facilities must be described in a narrative. The methods, frequency and ultimate disposal site for solid waste material must be considered. The facilities must be maintained for their designated operations to insure adequate performance.
- E. In general, all of the above requirements are to be shown on an erosion and sedimentation control plan unless the activity is for minor earthmoving or on a small land are. In any case, sufficient detail must be shown to clearly indicate the plan's effectiveness.
- F. Submission of and erosion and sedimentation control plan to the County Zoning Officer does not alleviate the applicant's responsibility to obtain all other applicable federal, state and local permits.

**§ 490-8.17. Communications towers.**

## A. Communications towers and antennas.

- (1) Regulations governing communications antennas and communications equipment buildings.
- (2) Building-mounted communications antennas shall not be located on any single-family dwelling or two-family dwelling.
- (3) Building-mounted communications antennas shall be permitted to exceed the height limitations of the applicable zoning district by no more than 20 feet.
- (4) Omnidirectional or whip communications antennas shall not exceed 20 feet in height and seven inches in diameter.
- (5) Directional or panel communications antennas shall not exceed five feet in height and three feet in width.
- (6) Any applicant proposing communications antennas to be mounted on a building or other structure shall submit evidence from a Pennsylvania-registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location.
- (7) Any applicant proposing communications antennas to be mounted on a building or other structure shall submit detailed construction and elevation drawings indicating how the antennas will be mounted on the structure for review by the Porter Township Planning Commission for compliance with this chapter.
- (8) Any applicant proposing communications antennas to be mounted on a building or other structure shall submit evidence of agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the antennas and communications equipment building can be accomplished.
- (9) Communications antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- (10) Communications Antennas shall not cause radio frequency interference with other communications facilities located in the Township.
- (11) A communications equipment building shall be subject to the height and setback requirements of this chapter for an accessory structure.
- (12) The applicant shall demonstrate that it is licensed by the Federal Communications Commission to operate a communications tower, if applicable, and communications antennas.
- (13) The applicant shall demonstrate that the proposed communications tower and communications antennas proposed to be mounted thereon comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.

- (14) Communications towers shall comply with all applicable Federal Aviation Administration, commonwealth Bureau of Aviation and applicable airport zoning regulations.
- (15) Any applicant proposing construction of a new communications tower shall demonstrate that a good faith effort has been made to obtain permission to mount the communications antennas on an existing building, structure or communications tower. A good faith effort shall require that all owners of potentially suitable structures within a one-quarter-mile radius of the proposed communications tower site be contacted and that one or more of the following reasons for not selecting such structure apply:
  - (a) The proposed antennas and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.
  - (b) The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.
  - (c) Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
  - (d) Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
  - (e) A commercially reasonable agreement could not be reached with the owners of such structures.
- (16) Access shall be provided to the communications tower and communications equipment building by means of a public street or easement to a public street. The easement shall be a minimum of 20 feet in width and shall be improved to a width of at least 10 feet with a dust-free, all-weather surface for its entire length.
- (17) A communications tower may be located on a lot occupied by other principal structures and may occupy a leased parcel within a lot meeting the minimum lot size requirements for the zoning district.
- (18) Recording of a plat of subdivision or land development shall not be required for a lease parcel on which a communications tower is proposed to be constructed, provided the communications equipment building is unmanned.
- (19) The applicant shall demonstrate that the proposed height of the communications tower is the minimum height necessary to perform its function.
- (20) In all zoning districts except Commercial Industrial, the maximum height of any communications tower shall be 150 feet; provided, however, that such height may be increased to no more than 200 feet, provided the required setbacks from adjoining property lines (not lease lines) are increased by one foot for each one foot of height in excess of 150 feet. In the Commercial District, the maximum height of any

communications tower shall be 180 feet.

- (21) The base of a communications tower shall be landscaped so as to screen the foundation and base and communications equipment building from abutting properties.
- (22) The communications equipment building shall comply with the required yards and height requirements of the applicable zoning district for an accessory structure.
- (23) The applicant shall submit certification from a Pennsylvania-registered professional engineer that a proposed communications tower will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting structures, published by the Electrical Industrial Association/ Telecommunications Industry Association and applicable requirements of this chapter.
- (24) The applicant shall submit a copy of its current Federal Communications Commission license; the name, address and emergency telephone number for the operator of the communications tower; and a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the communications tower and communications antennas.
- (25) All guy wires associated with guyed communications towers shall be clearly marked so as to be visible at all times and shall be located within a fenced enclosure.
- (26) The site of a communications tower shall be secured by a fence with a maximum height of eight feet to limit accessibility by the general public.
- (27) No signs or lights shall be mounted on a communications tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency which has jurisdiction.
- (28) If a communications tower remains unused for a period of 12 consecutive months, the owner or operator shall dismantle and remove the communications tower within six months of expiration of such twelve-month period.
- (29) One off-street parking space shall be provided within the fenced area.

**§ 490-8.18. Keeping of animals.**

- A. The keeping of all animals, including household pets, shall be subject to the requirements of Chapter 117, Animals, Article I, Keeping of Animals, of the Township Code of Ordinances. In addition, the keeping of horses as pets shall meet the standards contained in § 490-8.18B below.
- B. The keeping of horses as pets is permitted in any district, provided:
  - (1) The lot contains at least one acre of pasture per horse.
  - (2) The manure is not stored within 150 feet of any property line.
  - (3) The pasture is completely enclosed with a fence at least four feet in height.

**§ 490-8.19. Adult entertainment establishments. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- A. Adult entertainment establishments or facilities as defined herein may only be permitted as a conditional use in those districts specified in the district regulations and in accordance with § 490-11.06, and shall meet the following standards.
- (1) For the further promotion and protection of the public health, safety, morals and general welfare of the Township, certain uses as hereinafter specified and recognized as having a detrimental and deleterious effect when allowed to concentrate in one area or when allowed to locate within close proximity to other uses shall be permitted as a conditional use in those districts specified in this chapter and in § 490-11.06. The regulations which follow are designed to prevent such adverse effects. Adult entertainment facilities shall not be located within:
    - (a) Five hundred feet of any rural district, residential structure, or rooming unit;
    - (b) One thousand feet of any church, school, theater, park, playground, public school, billiard hall, amusement arcade, club or lodge; or other area where minors congregate.
    - (c) One thousand feet of any establishment licensed by the PA Liquor Control Board to dispense alcoholic beverages;
    - (d) One thousand feet of restaurant, eating establishment or grocery store; nor within.
    - (e) One thousand feet of any other adult entertainment establishment;
    - (f) For the purposes of this section, spacing distances shall be measured from all property lines of any of the uses specified or mentioned in Subsection A(1) above.
  - (2) Advertisement, displays, or other promotional materials for adult entertainment facilities shall not be shown or exhibited so as to be visible to the public from any street, sidewalk or other public place.
  - (3) All building openings, entries, exits or windows for adult entertainment establishments shall be located, covered or screened in such a manner as to prevent a view into the interior from any street, sidewalk or other public place. In the case of an adult drive-in or motion-picture theater, viewing screens shall be situated so as to prevent observation from any street, sidewalk or other public area or nearby preexisting residential area.
  - (4) No person shall engage in business as an adult entertainment establishment without first obtaining a license from the Township Board of Supervisors. Such license shall be an annual license for the calendar year or the remaining part thereof. The license fee shall be established and reviewed annually by the Board of Supervisors as part of the zoning fee resolution. Such license shall be obtained annually on or before the February meeting of the Board of Supervisors of each calendar year.
  - (5) The license required herein shall be issued only after a complete application has been filed with the Township Zoning Officer. No person granted a license under this

chapter shall, by virtue of holding one license keep more than one place of business as an adult entertainment establishment in Porter Township. Such license shall be posted conspicuously upon the premises licensed thereunder. No license issued hereunder shall be transferable, except when the owner applies for a transfer and pays the required transfer fee.

- (6) An application for a license under this chapter shall be submitted to the Zoning Officer on the form supplied by the Zoning Officer setting forth the following:
    - (a) The name and address of the applicant;
    - (b) Premises from which licensed business, operation or activity is to be conducted;
    - (c) Nature of proposed business, operation or activity;
    - (d) Any previous criminal record of applicant, applicant's employees and applicant's employer, principal or agent;
    - (e) If applicable, names and addresses of person(s) by whom applicant is employed, organization on whose behalf applicant is engaging in business, operation or activity or principals or agents of applicant; and
    - (f) Names and addresses of employees.
  - (7) Upon receipt of a complete license application form and payment of the required fee, the Township may cause an investigation to be made of the nature of the proposed business, operation or activity, the condition of the premises, the character and reputation of the applicant, and any other factors which shall be deemed necessary for ascertaining whether the same can be conducted lawfully and without endangering the lives or health of prospective patrons.
  - (8) When, upon said investigation, the Township determines that the proposed business, operation or activity may be conducted lawfully and without endangering the health or safety of proposed patrons and if its found that the information set forth on the application is true and correct, the applicant to be of good character and reputation and that no license previously issued to the applicant hereunder was ever revoked and that the applicant is not indebted to the Township for taxes or for license fees of any kind or nature whatsoever, then a license shall issue no later than 30 days after application has been made. In the event the Zoning Officer denies said permit, the applicant may appeal said denial to the Zoning Hearing Board which appeal must be filed within 20 days of said denial. Every license issued hereunder shall be posted conspicuously upon the premises.
- B. It is hereby declared that the sale of adult entertainment materials, periodicals, devices or services by any person to any person under 18 years of age or the allowance of admission to such an establishment of any person under 18 years of age is a summary offense, and any person, firm or corporation who shall violate any provisions of this section shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be subject to a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days.

**§ 490-8.20. Mineral resource extraction and processing.**

Mineral extraction and processing operations, such as asphalt and cement plants, gas wells, quarries, strip mines, borrow pits or other commercial extraction or processing of sand, oil, gas, rock, gravel, earth, clay or similar materials, may be permitted only as outlined in this article. Such operations shall comply with Department of Environmental Protection's permit requirements and evidence of such compliance must be submitted with any application for an extractive operation. In addition, the following standards shall be met.

- A. Buffer. A buffer strip of at least 40 feet shall be provided along the perimeter of the excavation site. Such buffer area will include an effective natural or man-made screening.
- B. Access. The applicant shall indicate to the Zoning Officer the proposed means of accessing the property i.e., the roads that will be used to transport the excavated material to and from the site. The Zoning Officer shall review the suitability of the proposed routes and determine if any problems exist that could be rectified through such things as rerouting the trucks onto more satisfactory roads.
- C. No excavation, quarry wall, storage or area in which processing is conducted shall be located within 100 feet of any lot line or street line nor within 200 feet of any Village Residential District or Conservation District boundary line. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**
- D. All excavations, except stone quarries subject to Subsection G herein, shall be graded in such a way to provide an area which is harmonious with the surrounding terrain and not dangerous to human or animal life.
- E. Truck access to any excavation shall be arranged to minimize danger to traffic, nuisance to surrounding properties, and detrimental effects on local roads (if otherwise avoidable by alternative routes).
- F. A rockcrusher, cement plant or other crushing, grinding, polishing or cutting machinery or other physical or chemical process for treating such products shall be subject to such conditions and safeguards as deemed necessary by the Zoning Hearing Board.
- G. Quarries whose ultimate depth shall be more than 25 feet shall provide the following:
  - (1) A chain link (or equivalent) fence at least 10 feet high with a slanted section on top strung with barbed wire placed around the perimeter of active and inactive quarries; and
  - (2) Warning signs placed on the fence at intervals of not more than 100 feet, completely surrounding the area.

**§ 490-8.21. Campgrounds or recreational vehicle parks.**

Campgrounds or recreational vehicle parks may be permitted only as specified in the district regulations. Every proposed campground or recreational vehicle park must also meet the requirements set forth in Chapter 415, Subdivision and Land Development, in effect in Porter Township as well as the standards outlined below.

- A. General requirements. Campgrounds or recreational vehicle parks shall be designed for intermittent recreational use. No year-round residential occupancy of any unit in a

campground shall be permitted. (See § 490-8.21D below regarding campgrounds in flood-prone areas.)

B. Design standards.

- (1) Minimum campground area. A campground shall have a gross area equal to the minimum lot size required for the district in which it is to be located.
- (2) Campsite requirements.
  - (a) Gross density. The maximum number of campsites within each campground shall be no more than 15 per acre of gross area of the campground.
  - (b) Minimum campsite sizes. Each campsite shall contain a minimum of 2,000 square feet. The minimum width shall be not less than 40 feet.
  - (c) Campsite pads. Each campsite shall be provided with a stabilized pad of gravel, crushed stone or other suitable material to be used for the placement of the camping unit. (Tent sites shall not be governed by this requirement.)
  - (d) Camping units. No more than one camping unit (recreational vehicle, truck camper, or other similar unit) shall be located on each campsite. (Tents shall not be governed by this limitation.)
  - (e) Accessory structures. No accessory structures, including sheds, storage buildings, porches, privies, etc., shall be placed on campsites located in floodplain areas. (See also § 490-8.21D below.)
- (3) Setbacks, buffer yards and screening requirements.
  - (a) Park perimeter buffer yard. All campsites and auxiliary park structures shall be located at least 50 feet from the campground boundary lines, including public road rights-of-way. Where a screen of natural plantings is provided along the perimeter, this minimum buffer may be reduced to 25 feet.
  - (b) Minimum distance between structures and campsites. All campsites shall be located at least 30 feet from any auxiliary building.
  - (c) Minimum distance between camping units. No part of an individual camping unit shall be closer than 10 feet to a campsite boundary, including awnings and similar projections. (Tents shall not be governed by this limitation.)
- (4) Campsite access. All campsites shall abut and have frontage on a street of the campground internal street system. [See also Subsection B(5) below.] In addition, at the entrance intersection of the campground, a fifty-foot-wide cartway shall be provided for a distance of 100 feet to accommodate the safe movement of vehicles or units into and out of the facility.
- (5) Campground internal street system requirements. The internal street system shall be designed and constructed by the campground owner in accordance with the applicable street standards outlined in Chapter 415, Subdivision and Land Development, in effect in Porter Township, and shall be of sufficient length, width, and material to support the weight of all proposed camping units as well as emergency vehicles. It shall be the responsibility of the campground owner to maintain all such streets within

the campground.

- (6) Off-street parking requirements. A minimum of one vehicle off-street parking space shall be provided for each campsite, plus one additional off-street parking space for every five campsites shall be provided within the campground. A common parking area shall be provided for tent campers within 250 feet of campsites set aside for tent campers.
- (7) Grading and ground cover (soil erosion and sedimentation control plans). All grading, soil erosion and sedimentation control requirements set forth in Chapter 415, Subdivision and Land Development, in effect in Porter Township shall be met. In addition, the standards established in § 490-8.16 of this chapter shall be met for all campgrounds to be located in the Fishing Creek Watershed.
- (8) Drainage facilities. All drainage and/or stormwater management standards set forth in Chapter 415, Subdivision and Land Development, in effect in Porter Township shall be met. In addition, the standards established in § 490-8.16 of this chapter shall be met for all campgrounds to be located in the Fishing Creek Watershed.
- (9) Common open space requirements. A minimum of 20% of the gross area of the campground shall be reserved by the developer/owner as common open space for the use of all occupants of the park. Such open space may include areas of land and water, but shall exclude all roads, parking areas, structures or service lanes. At least a portion of the open space shall be set aside for recreational use. Such recreation area shall be suitable for outdoor recreation activities and shall be easily accessible to all campsites. Applications for campgrounds or recreational vehicle parks shall include a proposal indicating the ultimate ownership and maintenance responsibilities for such common open space and recreation areas. Copies of such arrangements shall be included in the lease for each campsite.

C. Utilities and park facilities.

- (1) Sewage and water facilities. The standards of the PA Department of Environmental Protection (DEP) for the provision of sewer and water facilities shall be met. Documents and approvals indicating that these standards have been met along with notations on the campground plan showing the location of water sources and rest rooms shall be presented to the Township by the applicant. (No zoning permit shall be issued for the campground until the sewage and water supply systems have been approved by DEP.) Where individual sewer hookups are not provided for each campsite, a DEP-approved community dump station must be provided by the developer for sewage disposal within the campground. It shall be the responsibility of the campground developer/owner to maintain all such facilities and comply with all local sewage regulations.
- (2) Other utility systems. Where electric or other utilities are to be provided, plans shall be provided by the developer/owner and approved by the Township and the utility company.
- (3) Solid waste collection, storage and disposal. Arrangements for the collection, storage, and disposal of solid wastes generated by the users of the proposed campground shall be made by the developer/owner and submitted to the Township for approval as a part of the development plan evaluation process.

- (4) Service and other campground buildings. Service, maintenance and management buildings and commercial sales buildings required for the management, servicing and maintenance of the campground may be allowed, provided that such buildings are used exclusively for said purposes. Structures may be located within a flood fringe or general floodplain area as long as they are adequately floodproofed, but no structures may be located within a designated floodway area. (See § 490-8.10 for floodproofing standards.)
  - (5) Campground management. During times of operation, each campground owner shall designate a resident manager who shall be responsible for maintaining the facility in accordance with the requirements of this chapter and the terms and conditions of the campground's approval.
- D. Campgrounds in flood-prone areas.
- (1) Permit requirements. Each campground proposed to be located within a designated floodplain area, shall be required to obtain an annual seasonal zoning permit. Such permits will only be valid from April 15 through October 15 of each year. All units must be removed from the floodplain during the remainder of the year.
  - (2) Evacuation plans. Where campgrounds are proposed to be located within any designated floodplain area, a workable evacuation plan must be submitted as a part of each application for a seasonal zoning permit. Said plan must insure that all units will be removed from the floodplain during flood events.
  - (3) Anchoring. Camping units being placed in campgrounds located within any designated floodplain area must remain on wheels and be capable of being towed or transported from the site at all times. Such units may not be placed on blocks or similar supports and no activity may take place on the site which would interfere with the prompt and safe evacuation of the units in times of flood danger.

#### **§ 490-8.22. Farm-related businesses.**

Farm-related businesses may be permitted as accessory uses in the Agricultural District, and shall be subject to the following requirements.

- A. For the purposes of this chapter, "farm-related business" shall be defined as an accessory commercial enterprise conducted on a farm parcel which is related to and/or supportive of an ongoing agricultural operation located on the same tract of ground. All such operations shall remain secondary to the principal agricultural use of the property.
- B. Farm-related businesses shall be conducted primarily within an enclosed building(s) typical of farm buildings, with the exception of approved storage, but may not be located within the farm residence. All buildings used for farm-related businesses shall be located in proximity to other farmstead buildings and must remain compatible with the character of the farm and the rural setting in which they are located.
- C. The farm-related business must be owned and operated by the individual who is the resident of the farm on which it is located. All applications for businesses to be operated by someone other than the owner of the farm shall include written consent of the landowner. There shall be no more than two nonresident employees engaged in the business.

- D. The area devoted to production, storage and sales associated with the farm-related business shall be limited to a total of 5,000 square feet of gross floor area.
- E. No outdoor, unenclosed storage associated with a farm-related business shall become a nuisance or create a safety hazard. All such storage shall meet the requirements set forth in § 490-8.03B of this chapter.
- F. All signs used to advertise such facilities shall meet the requirements of § 490-8.11 of this chapter.
- G. Off-street parking spaces shall be provided for each farm-related business as set forth in § 490-8.05 of this chapter.
- H. Farm-related businesses may include the following agricultural activities:
  - (1) Processing, storage, and/or sale of products raised or produced on the premises;
  - (2) Dairy stores;
  - (3) Custom butcher shops;
  - (4) Horticultural nurseries, greenhouses, and/or garden shops; and
  - (5) Livestock or animal grooming services.
- I. Requests for other farm-related businesses not specified above may be submitted to the Zoning Hearing Board for consideration. Upon finding of the Board that such use complies with the criteria of this section, other applicable codes and ordinances in effect in the Township, and that the proposed use would not be detrimental to the health, safety and welfare of the residents of the neighborhood where it is to be located, such use may be approved.

**§ 490-8.23. Cottage industries. [Added 6-4-2007 by Ord. No. 54-6-2007]**

Cottage industries may only be permitted in the Agricultural Zoning District of the Township and will require approval as a conditional use from the Board of Supervisors.

- A. A cottage industry shall be defined as an accessory commercial or industrial use of a residential or agricultural tract of ground which is clearly secondary to the use of the premises as a residence or farm. Cottage industries are intended to enhance the economy of the Township by producing an opportunity for landowners in the Agricultural District to establish accessory business activities, in addition to farm-related businesses, without requiring the subdivision or fragmentation of rural lands.
- B. Cottage industries shall be conducted within an enclosed building typical of farm buildings, exclusive of the resident's dwelling. All buildings used for cottage industries must remain compatible with the character of the farm and the rural setting in which they are located.
- C. The area devoted to production, storage and sales associated with the cottage industry shall be limited to a total of 5,000 square feet of gross floor area.
- D. No outdoor, unenclosed storage and/or displays associated with a cottage industry shall be permitted.

- E. The cottage industries must be owned and operated by the individual who is the owner and resident of the dwelling or farm on which it is located. There shall be no more than two nonresident individuals engaged in the cottage industry.
- F. There shall be no exterior display or sign to advertise the cottage industry, except as may be permitted for home occupations as provided in § 490-8.11 of this chapter.
- G. The cottage industry shall create no adverse impact on existing traffic or circulation patterns in the neighborhood and, unless specifically waived by the Board of Supervisors, shall utilize the existing means of access from any street to the residence or farm where the cottage industry is operated.
- H. Each cottage industry shall comply with § 490-8.04 of this chapter regulating off-street loading and § 490-8.05 of this chapter regulating off-street parking.
- I. Cottage industries may include the following low- or moderate-intensity service or industrial activities:
  - (1) Custom woodworking, furniture or cabinetry shops;
  - (2) Craftsmanship shops; and
  - (3) Small engine and/or lawn and garden equipment repair.
- J. Requests for other cottage industries not specified above may be submitted to the Board of Supervisors for consideration. Upon finding of the Board that such use complies with the criteria of this section, other applicable codes and ordinances in effect in the Township, and that the proposed use would not be detrimental to the health, safety and welfare of the residents of the neighborhood where it is to be located, such use may be approved.
- K. All cottage industries approved as a conditional use shall comply with the area and bulk regulations as specified in § 490-7.03 of this chapter, which includes a minimum lot size of two acres.

**§ 490-8.24. Solar energy systems. [Added 2-21-2022 by Ord. No. 03-21-2022]**

- A. Definitions.
  - (1) This chapter applies to solar energy systems to be installed and constructed after the effective date of this chapter, and all applications for solar energy systems on existing structures or property.
  - (2) Solar energy systems constructed prior to the effective date of this chapter shall not be required to meet the requirements of this chapter.
  - (3) Any upgrades, modifications or changes that materially alter the size or placement of an existing solar energy system shall comply with the provisions of this chapter.
  - (4) The following words, terms and phrases, when used in this chapter, unless the context indicates otherwise, shall have the following meanings ascribed to them:

ACCESSORY SOLAR ENERGY SYSTEM (ASES) — An area of land or other area used for a solar collection system used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for on-site

use. An accessory solar energy system consists of one or more freestanding ground- or roof-mounted solar arrays or modules or solar related equipment, and is intended to primarily reduce on-site consumption of utility power or fuels.

GLARE — The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility to a reasonable person of ordinary sensibilities.

PRINCIPAL SOLAR ENERGY SYSTEM (PSES) — An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one or more freestanding ground- or roof-mounted solar collector devices, solar related equipment and other accessory structures and buildings, including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

SOLAR ARRAY — A grouping of multiple solar modules with purpose of harvesting solar energy.

SOLAR CELL — The smallest basic solar electric device which generates electricity when exposed to light.

SOLAR EASEMENT — A right, expressed as an easement, restriction, covenant, or condition contained in any deed, contract, or other written instrument executed by or on behalf of any landowner for the purpose of assuring adequate access to direct sunlight for solar energy systems.

SOLAR ENERGY — Radiant energy (direct, diffuse and/or reflective) received from the sun.

SOLAR MODULE — A grouping of solar cells with the purpose of harvesting solar energy.

SOLAR PANEL — That part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

SOLAR RELATED EQUIPMENT — Items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy.

B. Regulations for accessory solar energy systems (ASESs).

(1) Exemptions.

(a) Except as provided herein, ASESs are exempt from this chapter.

(b) ASESs constructed prior to the effective date of this chapter shall not be required to meet the terms and conditions of this chapter. Any physical modification to an existing ASES whether or not existing prior to the effective date of this section that materially alters the size or placement of the ASES shall require compliance with the provisions of this chapter.

(2) Where permitted. ASESs shall be permitted as an accessory use in all zoning districts.

- (3) Maintain in good working order. Upon completion of installation, the ASESs shall be maintained in good working order in accordance with standards of Porter Township, Clinton County, Pennsylvania, and any other codes under which the ASES was constructed. Failure of the property owner to maintain the ASES in good working order is grounds for appropriate enforcement actions by Porter Township, Clinton County, Pennsylvania, in accordance with applicable ordinances.
- (4) Underground requirements. All on-site utilities, transmission lines, and plumbing shall be placed underground to the extent feasible.
- (5) Utility notification. The owner of an ASES shall provide Porter Township, Clinton County, Pennsylvania, written confirmation that the public utility company to which the ASES will be connected has been informed of the customer's intent to install a grid-connected system and approved of such connection. Off-grid systems shall be exempt from this requirement.
- (6) Signage. Signage is prohibited except for reasonable identification of the manufacturer of the system.
- (7) Glare.
  - (a) All ASESs shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.
  - (b) The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
- (8) Solar easements.
  - (a) Where a subdivision or land development involves the use of solar energy systems, solar easements may be provided. Said easements shall be in writing, and shall be subject to the same conveyance and instrument recording requirements as other easements. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating a solar easement shall include but not be limited to:
    - [1] A description of the dimensions of the easement, including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed;
    - [2] Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;
    - [3] Enumerate terms and conditions, if any, under which the easement may be revised or terminated;
    - [4] Explain the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference

with the easement.

- (b) If required, an ASES owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).
- (9) Decommissioning.
- (a) Each ASES and all solar related equipment shall be removed within 12 months of the date when the use has been discontinued or abandoned by system owner and/or operator, or upon termination of the useful life of same.
  - (b) The ASES shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of 12 continuous months.
  - (c) The ASES owner shall, at the request of Porter Township, Clinton County, Pennsylvania, provide information concerning the amount of energy generated by the ASES in the last 12 months.
- (10) Permit requirements.
- (a) Zoning/building permit applications shall document compliance with this chapter and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits shall be kept on the premises where the ASES is constructed, or where land is unimproved, at the principal office or residence of the landowner.
  - (b) The zoning/building permit shall be revoked if the ASES, whether new or preexisting, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the ASES not to be in conformity with this chapter.
  - (c) The ASES must be properly maintained and be kept free from all hazards, including but not limited to faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Zoning Officer shall give written notice specifying the violation to the owner of the ASES to conform or to remove the ASES.
  - (d) Prior to the issuance of a zoning/building permit, applicants must acknowledge in writing that the issuing of said permit for a solar energy system shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or b) the right to prohibit the development on or growth of any trees or vegetation on such property.
  - (e) Routine maintenance or like kind replacements do not require a permit.

C. Principal solar energy systems (PSESs).

- (1) Exemptions. PSESs constructed prior to the effective date of this section shall not be

required to meet the terms and conditions of this chapter. Any physical modification to an existing PSES, whether or not existing prior to the effective date of this section, that materially alters the PSES shall require approval under this chapter.

- (2) Where permitted. PSESs shall be permitted as a conditional use in the Agricultural and Commercial Industrial Districts.
- (3) Compliance with industry standards. The PSES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code as enforced by Porter Township, Clinton County, Pennsylvania, regulations adopted by the Pennsylvania Department of Labor and Industry, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the permit application.
- (4) Installers. PSES installers must demonstrate they are listed as a certified installer on the PA Department of Environmental Protection's (DEP) approved solar installer list or that they meet the criteria to be a DEP-approved installer by meeting or exceeding one of the following requirements:
  - (a) Is certified by the North American Board of Certified Energy Practitioners (NABCEP) for solar thermal installation.
  - (b) Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited solar thermal training program or a solar collector's manufacturer's training program, and successfully installed a minimum of three solar thermal systems.
- (5) Maintain in good working order. Upon completion of installation, the PSES shall be maintained in good working order in accordance with standards of Porter Township, Clinton County, Pennsylvania, and any other codes under which the PSES was constructed. Failure of the owner to maintain the PSES in good working order is grounds for appropriate enforcement actions by Porter Township, Clinton County, Pennsylvania, in accordance with applicable ordinances.
- (6) Underground requirements. All on-site transmission and plumbing lines shall be placed underground to the extent feasible.
- (7) Utility notification. The owner of a PSES shall provide Porter Township, Clinton County, Pennsylvania, written confirmation that the public utility company to which the PSES will be connected has been informed of the customer's intent to install a grid-connected system and approved of such connection.
- (8) Signage. No portion of the PSES shall contain or be used to display signage, except that the manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the PSES, provided they comply with the prevailing sign regulations.

- (9) Glare.
- (a) All PSESs shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.
  - (b) The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
- (10) Noise study. A noise study shall be performed and included in the zoning/building permit application. The noise study shall be performed by an independent noise study expert and paid for by the applicant. Noise from a PSES shall not:
- (a) Constitute an amount which disturbs a reasonable person of normal sensitivities and which serves as an unreasonable interference with a right common to the general public; or
  - (b) Constitute a danger or potential danger to the health, safety, or welfare of the citizens of Porter Township.
- (11) Silviculture study. A silviculture study shall be performed by a professional silviculturist to document the original condition, quality, and density of forest and woodland, including related elements such as wildlife habitat, timber, and water resources, which study shall be provided to the Township as part of the application for a conditional use.
- (12) Tree and landscaping removal. No trees or other landscaping otherwise required by the municipal ordinances or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of a PSES.
- (13) Contact information. The PSES owner and/or operator shall maintain a phone number and identify a person responsible for the public to contact with inquiries and complaints throughout the life of the project and provide this number and name to Porter Township, Clinton County, Pennsylvania. The PSES owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.
- (14) Solar easements.
- (a) Where a subdivision or land development proposes a PSES, solar easements may be provided. Said easements shall be in writing, and shall be subject to the same conveyance and instrument recording requirements as other easements. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating a solar easement shall include but not be limited to:
    - [1] A description of the dimensions of the easement, including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed;
    - [2] Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the

easement;

[3] Enumerate terms and conditions, if any, under which the easement may be revised or terminated;

[4] Explain the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

(b) If required, a PSES owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).

(15) Decommissioning.

(a) Each PSES and all solar related equipment shall be removed within 12 months of the date when the use has been discontinued or abandoned by system owner and/or operator, or upon termination of the useful life of same.

(b) The PSES owner is required to notify Porter Township, Clinton County, Pennsylvania, immediately upon cessation or abandonment of the operation. The PSES shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of 12 continuous months.

(c) The PSES owner shall then have 12 months in which to dismantle and remove the PSES including all solar-related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, roads, foundations and other associated facilities from the property. The owner shall also restore the land to its original condition, including forestry plantings of the same type/variety and density as the original, as set forth in the silviculture study mentioned above, without reintroduction of invasive species. If the owner fails to dismantle and/or remove the PSES and restore the land within the established time frames. Porter Township, Clinton County, Pennsylvania, may complete the decommissioning and land restoration at the owner's expense, to include court costs and reasonable attorney's fees.

(d) At the time of issuance of the permit for the construction of the PSES, the owner shall provide financial security in the form and amount acceptable to Porter Township, Clinton County, Pennsylvania, to secure the expense of dismantling and removing said PSES and restoration of the land to its original condition, including forestry plantings of the same type/variety and density as the original.

(e) The PSES owner shall, at the request of Porter Township, Clinton County, Pennsylvania, provide information concerning the amount of energy generated by the PSES in the last 12 months.

(16) Permit requirements.

(a) Zoning/building permit applications shall document compliance with this chapter and shall be accompanied by drawings showing the location of the PSES on the property, including property lines. Permits shall be kept on the premises where the PSES is constructed or, where land is unimproved, at the principal

office or residence of the landowner.

- (b) PSES shall comply with Porter Township, Clinton County, Pennsylvania, zoning and subdivision and land development requirements. The installation of PSES shall be in compliance with all applicable permit requirements, codes, and regulations.
  - (c) The PSES owner and/or operator shall repair, maintain and replace the PSES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the PSES in good repair and operating condition.
  - (d) Prior to the issuance of a zoning/building permit. PSES applicants must acknowledge in writing that the issuing of said permit shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself:
    - [1] The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or
    - [2] The right to prohibit the development on or growth of any trees or vegetation on such property.
  - (e) Routine maintenance or like-kind replacements do not require a permit.
- (17) Ground-mounted principal solar systems.
- (a) Lot size. The PSES shall meet the lot size requirements of the underlying zoning district.
  - (b) Setbacks. PSESs shall comply with the setbacks of the underlying zoning district for principal structures.
  - (c) Height. Ground-mounted PSESs shall comply with the building height restrictions for principal structures of the underlying zoning district.
  - (d) Coverage.
    - [1] The area beneath the ground-mounted PSES is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious surface limitations for the underlying zoning district.
    - [2] The PSES shall not exceed 25% of the total area of the lot in the Agricultural District.
    - [3] The applicant shall submit a stormwater management plan that demonstrates compliance with the municipal stormwater management regulations.
    - [4] PSES owners are encouraged to use low maintenance and low growing vegetative surfaces under the system as a best management practice for stormwater management.

- (e) Screening. Ground-mounted PSESs shall be screened from adjoining residential uses or zones by placement of a fence, at least eight feet in height, that is sufficiently opaque to prohibit a person at ground level from seeing through it.
  - (f) Location restrictions. Ground-mounted PSESs shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.
  - (g) Security.
    - [1] All ground-mounted PSESs shall be completely enclosed by a minimum eight-foot-high fence with a self-locking gate.
    - [2] A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the PSES, informing individuals of potential voltage hazards.
  - (h) Access.
    - [1] At a minimum, a twenty-five-foot-wide access road must be provided from a state or Township roadway into the site.
    - [2] At a minimum, a twenty-foot-wide cartway shall be provided between the solar arrays to allow access for maintenance vehicles and emergency management vehicles, including fire apparatus and emergency vehicles. Cartway width is the distance between the bottom edge of a solar panel to the top edge of the solar panel directly across from it.
    - [3] Access to the PSESs shall comply with the municipal access requirements in Chapter 415, Subdivision and Land Development.
  - (i) Lighting. Ground-mounted PSESs shall not be artificially lighted except to the extent required for safety or applicable federal, state, or local authority.
  - (j) Earth disturbance. If a ground-mounted PSES is removed, any earth disturbance resulting from the removal must be graded and reseeded. (See § 490-8.16, Erosion and sedimentation control and stormwater management plan requirements.) **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- (18) Roof- and wall-mounted principal solar energy systems.
- (a) For roof- and wall-mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and adopted Building Code of Porter Township, Clinton County, Pennsylvania, that the roof or wall is capable of holding the load imposed on the structure. Applications for roof-mounted PSESs shall be accompanied by engineer-stamped plans that demonstrate the structural sufficiency of the roof to hold the weight of the PSES.
  - (b) PSESs mounted on the roof or wall of any building shall be subject to the maximum height regulations of the underlying zoning district.

- (c) Fire safety. The provisions of the California Department of Forestry and Fire Protection, Office of the State Fire Marshall, Solar Photovoltaic Installation Guide, dated April 22, 2008, shall apply to PSEs.

ARTICLE IX  
**Planned Residential Development**

**§ 490-9.01. Purpose.**

The Board, acknowledging that the technology of land development and the demand for housing are undergoing substantial and rapid changes, and recognizing the applicability of the objectives set forth in Article 7 of the Pennsylvania Municipalities Planning Code,<sup>123</sup> adopts the principle of planned residential development and the requirements and procedures therefore for the purposes of:

- A. Providing increased flexibility in the laws governing the development of certain areas in the Township which are now substantially open land and encouraging both the changes in design and technology in the building industry and the new demands in the housing markets.
- B. Ensuring that the uniform regulations appropriate to previously developed residential neighborhoods do not operate to discourage efficient land and imaginative development of said substantially open areas consistent with the reasonable enjoyment of neighboring properties.
- C. Encouraging the more efficient allocation and maintenance by private initiative of common open space ancillary to new residential areas.
- D. Encouraging the more efficient use of those public facilities required in connection with new residential development.
- E. Permitting in the public interest a greater population density in those undeveloped areas set aside for this purpose than that reflected by the zoning of the individual districts, provided proposals for development are not inconsistent with Comprehensive Plan and the developer can demonstrate that any increment or public cost clearly attributable to increased densities will be justified by the private amenities and public benefits to be achieved by the plan.

**§ 490-9.02. Administration.**

- A. The administration of the procedures for application for an approval of planned residential developments shall be vested in the Board of Supervisors. The Board shall, however, refer all tentative and final development plans for such developments to Planning Commission and the Clinton County Planning Commission for their review and comment.
- B. The Planning Commission shall act as the principal agent for the Board in reviewing and commenting on proposals for planned residential development. As such, they shall receive and review the plans and documents, particularly with reference to the criteria for design as contained in §§ 490-9.03, 490-9.04, 490-9.05, 490-9.06 and 490-9.07 of this chapter. In addition, they shall be concerned with the effect of the proposed development on the Comprehensive Plan for Porter Township and on other matters required for consideration by the Board in § 490-9.10B of this chapter. The Planning Commission may, in reviewing a planned residential development, meet with the prospective developer and informally direct whatever changes are agreed upon to obtain compliance with the terms and spirit of this chapter. The Planning Commission shall report to the Board, in writing, its findings

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123.Editor's Note: See 53 P.S. § 10701 et seq.

and recommendations five days prior to the public hearing scheduled for consideration of the tentative plan.

- C. Final plans for planned residential development shall be reviewed by the Planning Commission in accordance with the requirements of Chapter 415, Subdivision and Land Development, of the Code of the Township of Porter.

**§ 490-9.03. Conditions for planned residential development.**

The following are prerequisite conditions for consideration of a planned residential development.

- A. Any tract of land so developed shall be in one ownership, or in case of multiple ownership of the tract, evidence shall be presented of a written agreement between the parties involved that development will be in accordance with a single plan with common authority and common responsibility.
- B. In order to qualify as a planned residential development, such development shall provide for a minimum of 50 dwelling units, provided that a mobile home park developed as a planned residential development under the terms of this article may be permitted in the Residential District on a lot not less than 25 acres in size.
- C. A planned residential development must be served by off-site water and off-site sewer systems.

**§ 490-9.04. Use regulations.**

The uses permitted in a planned residential development shall be limited to:

- A. Dwelling units in detached, semidetached or townhouse arrangements.
- B. A mobile home park may be permitted as a planned residential development.
- C. In planned residential developments on 200 acres or more, commercial or institutional facilities as are necessary to serve the residents of a planned residential development in their daily needs may be provided. Buildings designed or intended to be used, in part or in whole, for commercial or institutional purposes shall not be constructed prior to the construction and completion of at least 150 units.
- D. Open space set aside under the provisions of this chapter may be used in whole or in part in any of the following ways, or any manner similar there to:
  - (1) Boating and fishing.
  - (2) Golf course.
  - (3) Hiking and horseback riding.
  - (4) Parks.
  - (5) Play fields.
  - (6) Playgrounds.
  - (7) Picnic areas.

- (8) Skating rinks.
  - (9) Swimming pool.
  - (10) Tennis courts.
  - (11) Woodlands.
  - (12) Lakes.
- E. The design standards contained in § 490-8.03, loading regulations in § 490-8.04, and off-street parking regulations in § 490-8.05 of this chapter shall be used where applicable to provide guidelines for the control of access, parking, screening, noise, etc., associated with uses permitted in open space.

**§ 490-9.05. Density.**

The following standards shall govern the density of dwelling units on the land within a planned residential development:

- A. A plan may provide for a greater number of dwelling units per acre than would be permitted by the Township zoning regulations otherwise applicable to the site. The maximum density on dwelling units, including mobile homes, computed over the entire planned residential development shall be four dwelling units per acre, excluding areas of open space required by Subsection D of this section, and the net residential density of units in the remaining areas established by § 490-9.06B of this chapter shall also govern the number of mobile home spaces permitted in a planned residential development, but in no case shall the number of mobile homes be greater than set forth hereinbefore. The Board, in determining the reasonableness of the aforementioned increase in the authorized dwelling units justified by additional private amenities and by increased efficiency in public services to be achieved by the amount, location, design and type of dwelling units, shall, in its determination, also consider that the physical characteristics of the site may make the increased densities appropriate in the particular location. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. Where permitted, commercial activities shall occupy no more than 10% of the total land in the planned residential development.
- C. In all districts, at least 30% of the total land in the tract shall be set aside as open space for the use and benefit of the residents of the development or the Township as hereinafter provided.
- D. In the case of a planned residential development proposed to be developed over a period of years, a variation in each section to be developed from the density of use established for the entire planned residential development may be permitted. A greater concentration of density of land use within some section or sections of development may be allowed, whether it be earlier or later in the development than others. The approval of such greater concentration of density of land use for any section to be developed shall be offset by a smaller concentration in any completed prior stage or by an appropriate reservation of common open space on the remaining land by a grant of easement or by covenant in favor of the Township, provided that such reservation shall, as far as practicable, defer the precise location of such common open space until an application for final approval is filed, so that

flexibility of development which is a prime objective of this article can be maintained.

**§ 490-9.06. Standards for development.**

The following standards shall govern the design of planned residential development:

A. Site considerations.

- (1) The finished topography of site shall adequately facilitate the proposed development without excessive earthmoving, tree clearance, and destruction of natural amenities. Natural features, such as lakes, streams, and wooded slopes, shall be preserved and incorporated into the final landscaping of the development wherever possible and desirable. The applicant shall demonstrate the means whereby trees and other natural features shall be protected during construction. The location of such trees and other natural features must be considered when planning the open space, location of buildings, underground services, walks paved areas, and finished grade levels.
- (2) Seeding, sodding, and other planting shall be applied to stabilize topsoil on steep slopes and to enhance the appearance of open areas.
- (3) Where adequate surface drainage is not possible by grading alone, a supplementary drainage system approved by the Township Engineer will be required.

B. Housing sites.

- (1) Single-family houses, mobile homes, semidetached houses and townhouses may be arranged so as to provide for individual lots for each unit, or may be arranged as rental units or condominiums. Sufficient yard areas shall be set aside and designated on the plan for each type of housing so that on an average throughout the development:
  - (a) The maximum net residential density for townhouse use areas shall not exceed 7 1/2 dwelling units per acre.
  - (b) The maximum net residential density for semidetached housing areas shall not exceed six dwelling units per acre.
  - (c) The maximum net residential density single-family detached housing areas shall not exceed 3 1/2 units per acre. Mobile homes shall be considered as single-family dwellings in the computation of net residential densities.
- (2) It is the intention of this chapter that townhouses shall be arranged in groups or clusters and not in long rows parallel to street lines.
- (3) The developer shall make adequate provision for the maintenance of buildings and land within yard areas set aside for condominium corporation with the responsibility for collection of sufficient levies of fees to pay the cost of such maintenance.
- (4) All housing shall be designed with regard to topography and natural features of the site. The effects of prevailing winds, seasonal temperatures, and hours of sunlight on the physical layout and form of the proposed land use and buildings shall be taken into account.
- (5) To create architectural interest in the layout and character of housing fronting streets, variations in setbacks shall be encouraged.

- (6) All housing should be sited so as to provide privacy and to ensure natural light in all principal rooms.
  - (7) Routes for vehicular and pedestrian access and parking areas shall be convenient without creating nuisances or detracting privacy.
  - (8) The approximate locations and arrangement of buildings and open spaces must be shown to the Board on tentative plans so that it may review the intensity of land use and serve the public interest by protecting neighboring land uses.
  - (9) The following requirements shall apply:
    - (a) No structure shall be within 30 feet of the curb of access roads or parking areas.
    - (b) No structure shall be erected within 30 feet of any other structure.
    - (c) There shall be a minimum of 50 feet between any wall containing 10% or more of principal windows in living areas and any other such wall.
  - (10) All structures shall be a minimum of 50 feet from property lines of the development, or from zoning district boundaries within the limits of a property to be developed as a planned residential development.
  - (11) It is the intention of this subsection to encourage good quality development by taking into consideration the appearance of all elevations and layouts of buildings and external spaces and materials used therein.
- C. Common open space.
- (1) Consideration shall be given to the arrangement and location of open spaces to take advantage of physical characteristics of the site and to place open spaces within easy access and view of dwelling units, at the same time preserving and, where applicable, enhancing natural features.
  - (2) Areas set aside for open space shall be suitable for the designated purpose and in any event shall be consistent with the plan policy for future land use in the Township. Any such area shall contain no structure other than a structure related to the purpose of open spaces.
  - (3) Any land set aside as open space of such a size as may be capable of future subdivision under the regulations of this chapter must be made subject to a deed restriction of agreement in form acceptable to the Board and duly recorded in the office for the Recorder of Deeds in and for Clinton County eliminating the possibility of such further subdivision by transfer of development rights to the Township or by any method approved by the Board in approving the plan.
- D. Streets and parking.
- (1) Streets within a planned residential development shall be related to land uses and to adjacent street systems, and each street shall be designated as a major traffic street, collector street, or minor street, depending upon its service. Streets shall be designed in accordance with the terms of Chapter 415, Subdivision and Land Development, of the Code of the Township of Porter. Where private streets are proposed, provision for the maintenance of such private street shall be essential part of the plan for the

development.

- (2) Parking for all uses within the planned residential development shall be in accordance with the requirements for off-street parking as set forth in § 490-8.05 of this chapter. Parking lots shall be lighted and landscaped in accordance with the provisions of § 490-8.03.
- E. Landscaping. Landscaping shall be regarded as an essential feature of every planned residential development. In addition to the preservation of natural features, trees and slopes of the site, careful attention shall be given to landscaping of parking areas and provisions of street trees.
- F. Supplementary project facilities.
- (1) Commercial sites shall in all respects meet the area and bulk requirements of the Neighborhood Commercial District. Shopping areas within the planned residential development shall be located so as not to interfere with residential character of nearby dwelling units; parking and loading places must be carefully screened from view of adjacent residential development.
  - (2) Swimming pools, skating rinks and other recreation areas shall be located so as not to interfere with the residential character of adjacent dwelling units.
  - (3) Refuse stations must be designed with screening on all sides at least six feet high and without openings so as to make the refuse station invisible when the gate is closed. Such refuse stations shall be in locations convenient for the collection and removal of refuse and not offensive to the occupants of adjacent dwelling units.
  - (4) Adequate lighting must be provided to the outdoor areas used by residents after dark. Appropriate lighting fixtures must be provided for walkways and to identify streets, steps, ramps, directional changes and signs. Lighting shall be located to avoid shining directly into habitable room windows in the project, or into private yard areas associated with dwelling units. The requirements for lighting may be waived by the Board where density of development may not justify its use.
  - (5) All utilities shall be underground within a planned residential development.
- G. Mobile home parks.
- (1) In the development of a mobile home park, Chapter 415, Subdivision and Land Development, of the Code of the Township of Porter shall apply to the design of all water, sewers, storm drainage and street facilities. Each mobile home site shall be considered a single-family dwelling site under the provisions of this chapter and shall be sized accordingly, except that within a mobile home park, permanent foundations for mobile homes shall not be required. Each mobile home space shall be provided with water, sewer and electric connections and shall have a minimum of two parking places off-street.
  - (2) Each mobile home shall be skirted with acceptable building material in a manner which will eliminate open access to the area underneath the mobile home.
  - (3) Particular care shall be given to the design of recreational facilities, landscaping and drainage. All utilities shall be underground.

**§ 490-9.07. Ownership and maintenance of common open space.**

An essential element of the tentative plan is a written description and plan for the disposition of ownership of common open space land designating those areas to be offered for dedication or to be owned by the specific form of organization proposed.

- A. The Board may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance, but the Board need not require, as a condition of the approval of a planned residential development, that land proposed to be set aside for common open space be dedicated, or made available for public use.
- B. Private ownership of common open space.
  - (1) In the event that common open space is not dedicated or made available to public use, the landowner shall provide for and establish an organization for the ownership and maintenance of the common open space, and such organization shall not be dissolved nor shall it dispose of the common open space, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space), except by dedication of the same to the public. In any case, the organization provided for the ownership to open space land, not dedicated for public use, shall be constructed of the property owners within the planned residential development. The plan may provide that the property owner's association may lease back open space lands to the developer, his heirs or assigns, or to any other qualified person, or corporation, for operation and maintenance of open space lands, but such a lease agreement shall provide:
    - (a) That the residents of the planned development shall at all times have access to the open space lands contained therein.
    - (b) That the common open space to be leased shall be maintained for the purposes set forth in this chapter.
    - (c) That the operation of open space facilities may be for the benefit of the residents only, or may be open to the general public.
  - (2) The form of the lease shall be subject to the approval of the Board, and that any transfer or assignment of the lease shall be further subject to the approval of the Board. Lease agreements so entered upon shall be recorded with the Recorder of Deeds of Clinton County within 30 days of their execution and a copy of the recorded lease shall be filed with the Secretary of the Township.
- C. The plan to provide for the ownership and maintenance of common open space shall include:
  - (1) A complete description of the organization to be established for the ownership of open space, if any, and the methods by which this organization shall be established and maintained.
  - (2) A method reasonably designed to give adequate notice to property owners within the planned residential development in the event of the sale, or other disposition of common open space lands, and in the event of assumption of the maintenance of common open space lands by the Township as hereinafter provided.

## D. Deficiencies in maintenance.

- (1) In the event that the organization established to own and maintain Common Open Space, or any successor organization, shall at any time after establishment of the planned residential development fail to maintain the common open space in reasonable order and condition in accordance with the development, the Board may proceed as provided in the Act, Section 705(f)(2), 53 P.S. § 10705(f)(2), to demand that the deficiencies of maintenance be corrected or that the Township will enter upon and maintain common open space. Notice to affected property owners in accordance with the provisions of the master plan as required in § 490-9.07 of this chapter shall be deemed to be adequate notice by the Township. The cost of such maintenance by the Township, along with any court costs or attorneys' fees incurred by the Township pursuant to the same, shall be assessed ratably against the properties within the planned residential development that have a right of enjoyment of the common open space, and shall become a lien on said properties. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**
- (2) The Township at the time of entering upon said common open space for the purpose of maintenance shall file a notice of lien in the office of the Prothonotary of the County upon the properties affected by the lien within the planned residential development.

**§ 490-9.08. Application for tentative approval for planned residential development.**

- A. An application for tentative approval of a planned residential development shall be filed by or on behalf of the owner or owners of the land. Such application is to be filed, along with the necessary fee, with the Zoning Officer of the Township on a form approved by the Township. A copy of this application shall also be submitted to the Clinton County Planning Commission for their review. The fee for review of application for tentative approval shall be as hereinafter provided in § 490-11.04.
- B. Plans for tentative approval shall be prepared to show the following:
  - (1) The location, size, and topography of the site and the nature of the landowner's interest in the land proposed to be developed.
  - (2) The density of land use to be allocated to parts of the site to be developed.
  - (3) The locations, sizes and uses of the common open space and the form of organization proposed to own and maintain the common open space.
  - (4) The uses and the approximate heights, bulk and locations of buildings and other structures.
  - (5) The feasibility of proposals for the disposition of the sanitary waste and stormwater and provision of public water supply as determine by a professional engineer, registered in the State of Pennsylvania.
  - (6) The substance of covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures, including proposed easements or grants for public utilities.
  - (7) The provisions for parking of vehicles and the locations and widths of proposed

streets and public ways.

- (8) The required modifications in the land use regulations otherwise applicable to the subject property.
  - (9) In the case of development plans which call for development over a period of years, the landowner shall designate geographic sections for development under the plan and file a schedule showing the proposed times within which applications for final approval of all sections of the planned residential development are intended to be filed. This schedule must be updated annually, on the anniversary of its approval, until the development is completed and accepted.
- C. The application for tentative approval of a planned residential development shall include a written statement by the landowner setting forth the reasons why, in his opinion, a planned residential development would be in the public interest and would be consistent with the Comprehensive Plan for the development of the Township.

**§ 490-9.09. Public hearings.**

- A. Within 60 days after the filing of an application for tentative approval of a planned residential development pursuant to this article, a public hearing pursuant to public notice on said application shall be held by the Board, in a manner prescribed in § 490-11.05, for the enactment of an amendment to this chapter. The Chairman or, in his absence, the Acting Chairman of the Board may administer oaths and compel the attendance of witnesses. All testimony by witnesses at any hearing shall be given under oath, and every party of record at a hearing shall have the right to cross-examine adverse witnesses.
- B. A verbatim record of the hearing shall be caused to be made by the Board whenever such records are requested by any party to the proceedings; but the cost of making and transcribing such a record shall be borne by the party requesting it and the expense of copies of such record shall be borne by those who wish to obtain such copies. All exhibits accepted in evidence shall be identified and duly preserved, or, if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record.
- C. The Board may continue the hearing from time to time, and may refer the matter back to the Planning Commission for a further report; provided, however, that in any event, the public hearing or hearings shall be concluded within 60 days after the date of the first public hearing.

**§ 490-9.10. The findings.**

- A. Tentative approval.
- (1) The Board, within 60 days following the conclusion of the public hearing provided for in this article, shall, by official written communication to the landowner, either:
    - (a) Grant tentative approval of the development plan as submitted;
    - (b) Grant tentative approval subject to specified conditions not included in the development plan as submitted; or
    - (c) Deny tentative approval to the development plan.

- (2) Failure to so act within said period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event, however, that tentative approval is granted subject to conditions, the landowner may, within 30 days after receiving a copy of the official written communication of the Board, notify such governing body or agency of his refusal to accept all said conditions, in which case, the Board shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not, within said period, notify the Board of his refusal to accept all said conditions, tentative approval of the development plan, with all said conditions, shall stand as granted.
- B. The grant or denial of tentative approval by official written communication shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without conditions, or for the denial, and said communication shall set forth with particularity in what respects the development plan would or would not be in the public interest, including but not limited to findings of fact and conclusions on the following:
- (1) In what respects the development plan is or is not consistent with Comprehensive Plan for the development of the Township.
  - (2) The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest.
  - (3) The purpose, location and amount of the common open space in the planned residential development; the reliability of the proposals for maintenance and conservation of the common open space as related to the proposed density and type of residential development.
  - (4) The physical design of the development plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment.
  - (5) The relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood in which it is proposed to be established.
  - (6) In the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions of the planned residential development in the integrity of the development plan.
- C. In the event a development plan is granted tentative approval, with or without conditions, the Board may set forth in the official written communication the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides for development over a period of year, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than three months, and in the case of a development over a period of years, the time between applications for final approval of each part of a plan shall not be less than 12 months.

**§ 490-9.11. Status of plan after tentative approval.**

- A. The official written communication provided for in this article shall be certified by the Secretary of the Township and shall be filed in his office, and a certified copy shall be mailed to the landowner where tentative approval has been granted, and the same shall be noted on the Zoning Map.
- B. Tentative approval of a development plan shall not qualify a plan of the planned residential development for recording nor authorize development or the issuance of any building permits. A development plan which has been given tentative approval as submitted, or which has been given tentative approval with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by action of the Township pending an application or applications for final approval, without the consent of the landowner, provided an application for final approval is filed, or in the case of development over a period of years, provided applications are filed within the periods of time specified in the official written communication granting tentative approval.
- C. In the event that a development plan is given tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon said development plan and shall so notify the Board in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time or times, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development plan for which final approval has not been given shall be subject to those ordinances otherwise applicable thereto as they may be amended from time to time, and the same shall be noted on the Zoning Map and in the records of the Secretary of the Township.

**§ 490-9.12. Application for final approval.**

- A. An application for final approval may be for all the land included in a development plan or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be made to the Board and within the time or times specified by the official written communication granting tentative approval. The application shall include any drawings, specifications, covenant, easements, performance bond, and such other requirements as may be specified by this chapter, or by Chapter 415, Subdivision and Land Development, of the Code of the Township of Porter, as well as any conditions set forth in the official written communication at the time of tentative approval. A public hearing on an application for final approval of the development plan, or part thereof, shall not be required, provided the development plan, or the part thereof, submitted for final approval, is in compliance with the development plan therefore given tentative approval and with any specified conditions attached thereto.
- B. Plans submitted for final approval of all or a portion of a planned residential development shall be prepared in accordance with the requirements for final subdivision plans as specified in Chapter 415, Subdivision and Land Development, of the Code of the Township of Porter, as amended, and the procedures established by that chapter relating to the content, review and approval of final plans shall govern the acceptance of final plans.
- C. The design of streets, sewers, storm drainage, sidewalks, and all public improvements shall

- be in strict accordance with the design standards of the aforesaid chapter.
- D. Chapter 415, Subdivision and Land Development, of the Code of the Township of Porter, as amended, shall govern the construction and acceptance of all public improvements, including the provisions for requirement of performance and maintenance bonds.
- E. The fee for filing of final plans and for inspection, engineering, material tests, recording and legal matters shall be as provided by § 490-11.04 of this chapter.
- F. In the event the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, as required by this chapter and the official written communication of tentative approval, the Board shall, within 45 days of such filing, grant such development plan final approval.
- G. Refusal of final approval.
- (1) In the event the development plan as submitted contains variations from the development plan given tentative approval, the Board may refuse to grant final approval and shall, within 45 days from the filing of the application for final approval, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one or more of said variations are not in the public interest. In the event of such refusal, the landowner may either:
- (a) Re-file his/her application for final approval without the variations objected; or
- (b) File a written request with the Board that it hold a public hearing on his application for final approval.
- (2) If the landowner wished to take either such alternate action, he may do so at any time within which he shall be entitled to apply for final approval, or within 30 additional days if the time for applying for final approval shall have already passed at the time when the landowner was advised that the development plan was not in substantial compliance. In the event the landowner shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the development plan. Any such public hearing shall be held pursuant to public notice within 30 days after request for the hearing is made by the landowner, and the hearing shall be conducted in the manner prescribed in this article for public hearings on applications for tentative approval. Within 30 days after the conclusion of the hearing, the Board shall, by official written communication, either grant final approval to the development plan or deny final approval. The grant or denial of final approval of the development plan shall, in cases arising under this section, be in the form and contain the findings required for an application for tentative approval set forth in this article.
- H. A development plan, or any part thereof, which has been given final approval shall be so certified without delay by the Board, and shall be filed of record forthwith in the office of the Recorder of Deeds before any development shall take place in accordance therewith. Upon the filing of the record of the development plan, the zoning and subdivision regulations otherwise applicable to the land included in such plan, shall cease to apply thereto. Pending completion within a reasonable time of said planned residential development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of said development plan, or part thereof, as finally approved, shall be made except with the consent of the landowner.

- I. In the event that a development plan, or section thereof, is given final approval and thereafter the landowner shall abandon such plan or the section thereof that has been finally approved and shall so notify the Board in writing, or, the landowner shall fail to commence and carry out the planned residential development within 12 months after final approval has been granted, no development shall take place on the property included in the development plan until after the said property is resubdivided and is reclassified by enactment of an amendment to this chapter in the manner prescribed for such amendments in § 490-11.05.

**§ 490-9.13. Enforcement and modification of provisions of the plan.**

To further the mutual interest of the residents of the planned residential development and of the public in the preservation of the integrity of the development plan, as finally approved, and to ensure that modifications, if any, in the development plan shall not impair the reasonable reliance of the said residents under the provisions of the development plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the development plan as finally approved, whether those are recorded by plat, covenant, easement or otherwise shall be subject to the provisions of the law as contained in Section 706 of the Act.<sup>124</sup>

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**124. Editor's Note: See 53 P.S. § 10706.**

ARTICLE X  
**Zoning Hearing Board**

**§ 490-10.01. Establishment and membership.**

There shall be a Zoning Hearing Board which shall consist of three members who shall be appointed by the Board of Supervisors. The membership of the Zoning Hearing Board shall consist of residents of the Township. 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 Zoning Hearing Board shall promptly notify the Board of Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Zoning Hearing Board shall hold no other office in the Township except that no more than one member of the Zoning Hearing Board may also be a citizen member of the Planning Commission. Any member of the Zoning Hearing 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.

**§ 490-10.02. Organization of the Zoning Hearing Board.**

- A. The Zoning Hearing 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 be not less than a majority of all the members. The Zoning Hearing Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action as provided in § 490-10.04.
- B. The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedures, consistent with ordinances of the Township and laws of the commonwealth. The Zoning Hearing 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.

**§ 490-10.03. Expenditures for services; fees.**

- A. Within the limits of funds appropriated by the Board of Supervisors, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Zoning Hearing Board may receive compensation for the performance of their duties as may be fixed by the Board of Supervisors, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Board of Supervisors.
- B. The applicant before the Zoning Hearing Board shall deposit with the Treasurer of the Township such a sum of money as established by resolution of the Board of Supervisors to pay expenses for the hearing. These costs may include, but are not limited to, cost of providing notice, and cost of such compensation as the Zoning Hearing Board may receive. Funds deposited in excess of the actual cost of the requested hearing shall be returned to the applicant upon completion of the proceedings, and in the event that the costs of the hearing exceed the funds deposited, the applicant shall pay to the Treasurer of the Township funds equal to such excess cost.

**§ 490-10.04. Hearings.**

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements:

A. The Zoning Hearing Board shall fix a reasonable time and place for public hearings and shall give notice thereof as follows.

- (1) By giving public notice as defined in this chapter.
- (2) By mailing a notice thereof to the parties in interest.
- (3) By mailing a notice thereof to the Zoning Officer, the Township Secretary, each member of the Board of Supervisors, each member of the Planning Commission, and to every person or organization who shall have registered with the Zoning Hearing Board for the purposes of receiving such notices.
- (4) By conspicuously posting a notice on the affected tract of land no less than seven days prior to the date of the hearing.
- (5) The notice herein required shall state the location of the lot or building and the general nature of the questions involved.
- (6) The appellant shall, at least five days prior to the time appointed for said hearing, give personal notice to all owners of property within 200 feet of the affected property by either handing a copy thereof to the said property owner(s) or by leaving a copy at their usual place of abode or by sending written notification by certified mail/return receipt requested to the last-known address of the property owner(s). Where the owner(s) is a partnership, service upon any partner as above shall be sufficient, and where the owner(s) is a corporation, service upon any officer as above set forth shall be sufficient.
  - (a) The hearings shall be conducted by the Zoning Hearing Board or the Zoning Hearing Board may appoint any member as a hearing officer. The decision or, where no decision is called for, the findings shall be made by Zoning Hearing Board, but the parties may waive decision or findings by the Zoning Hearing Board and accept the decision or findings of the hearing officer as final.
  - (b) Order of hearing.
    - [1] Hearing called to order;
    - [2] Chairman's statement of reason for hearing;
    - [3] Chairman's statement of parties to hearing;
    - [4] Identification of other parties wishing to be heard;
    - [5] Outline of procedures to be followed during hearing;
    - [6] Applicant's presentation of their case:
      - [a] Objector cross-examines applicant's witnesses;
      - [b] Board cross-examines applicant's witnesses;

- [7] Statement of the Zoning Officer:
  - [a] Applicant's cross-examination;
  - [b] Objector's cross-examination;
  - [c] Board's cross-examination;
- [8] Objector's presentation of their case:
  - [a] Applicant cross-examines objector's witnesses;
- [9] Other testimony and evidence;
- [10] Rebuttal by applicant;
- [11] Rebuttal by objectors;
- [12] Concluding remarks and notice of when decision is expected to be made;
- [13] Adjournment of hearing.
  - [a] The parties to the hearing shall be the Township, and persons affected by the application who have made timely appearance of record before the Zoning Hearing Board, and any other person, including civic or community organizations, permitted to appear by the Zoning Hearing Board. The Zoning Hearing Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by Zoning Hearing Board for that purpose.
  - [b] The Chairman or Acting Chairman of the Zoning Hearing Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and documents requested by the parties.
  - [c] 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.
  - [d] Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
  - [e] The Zoning Hearing Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings, and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.
  - [f] The Zoning Hearing 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 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 the hearing with any party or his representative unless all parties are given an opportunity to be present.

[g] The Zoning Hearing Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Zoning Hearing Board or the 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 chapter or of any act, rule, or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by the hearing officer, and there has been no stipulation that his decision or findings are final, the Zoning Hearing Board shall make his report and recommendations available to the parties, and the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final decision or entry of findings, and the Zoning Hearing Board's decision shall be entered no later than 45 days after the decision of the hearing officer. Where the Zoning Hearing Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed, in writing, to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Zoning Hearing Board to meet or render a decision as hereinabove provided, the Township shall give public notice of said decision within 10 days in the same manner as provided in § 490-10.04A. Nothing in this subsection shall prejudice the right of any party opposing the application to urge that such decision is erroneous.

[h] A copy of the final decision or, where no decision is called for, the findings shall be delivered to the applicant personally or mailed to him by certified mail not later than the day following its date. To all other persons who have filed their name and address with the Zoning Hearing Board not later than the last day of the hearing, the Zoning Hearing Board shall provide, by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

#### **§ 490-10.05. Zoning Hearing Board functions.**

- A. Appeals from the Zoning Officer. The Zoning Hearing Board shall hear and decide appeals where it is alleged by the appellant that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of a valid ordinance or map or any valid rule or regulation governing the action of the Zoning Officer.
- B. Challenge to the validity of zoning ordinance or map. The Zoning Hearing Board shall hear

challenges to the validity of a zoning ordinance or map except as provided in the Act. In all such challenges, the Zoning Hearing Board shall take evidence and make a record thereon as provided in § 490-10.04. At the conclusion of the hearing, the Zoning Hearing Board shall decide all contested questions and shall make findings on all relevant issues of fact which shall become part of the record on appeal to the court.

- C. Variances. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Zoning Hearing Board may, by rule, prescribe the form of application and may require preliminary application to the Zoning Officer. The Zoning Hearing Board may grant a variance, provided the following findings are made where relevant in a given case:
- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located;
  - (2) That because of such physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provision of this chapter, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
  - (3) That such unnecessary hardship has not been created by the appellant;
  - (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, will not substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
  - (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation at issue. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter. The Zoning Hearing Board shall require that adequate on- or off-site water and sewage disposal facilities area available for the use intended.
- D. Unified appeals. Where the Zoning Hearing Board has jurisdiction over a zoning matter pursuant to § 490-10.05, the Zoning Hearing Board shall also hear all appeals which an applicant may elect to bring before it with respect to any Township ordinance or requirement pertaining to the same development plan or development. In any such case, the Zoning Hearing Board shall have no power to pass upon the nonzoning issues, but shall take evidence and make a record thereon as provided in § 490-10.04. At the conclusion of hearing, the Zoning Hearing Board shall make findings on all relevant issues of fact which shall become part of the record on appeal to the court.

#### **§ 490-10.06. Parties appellant before Zoning Hearing Board.**

Appeals under § 490-10.05A and proceeding to challenge any ordinance under § 490-10.05B may be filed with the Zoning Hearing Board, in writing, by the landowner affected by any officer or agency of the Township, or any person aggrieved. Request for a variance under § 490-10.05C

and for special exception may be filed with the Zoning Hearing Board by any landowner or any tenant with the permission of such landowner.

**§ 490-10.07. Time limitations.**

- A. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after any application for development, preliminary or final, has been approved by an appropriate Township officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he has no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.
- B. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative or preliminary plan pursuant to § 490-9.10 of this chapter or from an adverse decision by a Zoning Officer on a challenge to the validity of an ordinance or map pursuant to the act shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative or preliminary approval.

**§ 490-10.08. Stay of proceedings.**

Upon filing of any proceeding referred to in § 490-10.06 and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property, in which case, the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceeding designed to reverse or limit the approval the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Zoning Hearing Board. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court.

ARTICLE XI  
**Administration**

**§ 490-11.01. Administration and enforcement.**

A. Administration.

- (1) Zoning Officer. The provision of this chapter shall be enforced by an agent, to be appointed by the Board, who shall be known as the "Porter Township Zoning Officer." The Zoning Officer, who shall not hold any elective office in the Township, shall be appointed at the first meeting of the Board following the adoption of this chapter to serve until the first day of January next following, and shall thereafter be appointed annually to serve for a term of one year and/or until his successor is appointed. The Zoning Officer may succeed himself. He shall receive such fees or compensation as the Board may, by resolution, provide.
- (2) Duties. The duties of the Zoning Officer shall be:
  - (a) To examine all applications for permits.
  - (b) To issue permits only for construction and uses which are in accordance with the regulations of this chapter and as may be subsequently amended.
  - (c) To record and file all applications for permits and accompanying plans and documents and keep them for public record.
  - (d) To issue permits for uses by conditional use only after such use and buildings are approved by the Township Supervisors in accordance with the regulations of this chapter.
  - (e) To issue permits for a property which requires access to a PA state highway under the jurisdiction of the Department of Transportation only after a highway occupancy permit is obtained from the State of Pennsylvania.
  - (f) To identify, inspect and register nonconforming uses, buildings, and lots and to keep a filed record of such nonconforming uses and buildings as a public record and to examine them periodically, with the view of eliminating the nonconforming uses under the existing laws and regulations and to issue certificates of occupancy for them.
  - (g) Upon the request of the Zoning Hearing Board, present to such body facts, records, and any similar information on specific request to assist such body in reaching its decision.
  - (h) To be responsible for keeping up to date this chapter and the Zoning Map, filed with the Township Secretary and to include any amendments thereto.

B. Enforcement. This chapter shall be enforced by the Zoning Officer of the Township. No permit of any kind as provided in this chapter shall be granted by him for any purpose except in compliance with the provisions of this chapter.

C. Violations. Failure to secure a permit prior to the erection, construction, or alteration of a building or failure to secure a certificate of occupancy shall be a violation of this chapter.

It shall also be a violation of this chapter to undertake other deliberate actions which are contrary to the terms of this chapter.

D. Enforcement notice.

- (1) If it appears to the Zoning Officer that a violation of the zoning ordinance enacted under this act or prior enabling laws has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
- (2) The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
- (3) An enforcement notice shall state at least the following:
  - (a) The name of the owner of record and any other person against whom the municipality intends to take action.
  - (b) The location of the property in violation.
  - (c) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
  - (d) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
  - (e) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in the ordinance.
  - (f) That failure to comply with the notice within the time specified, unless extended by appeal to the zoning hearing board, constitutes a violation, with possible sanctions clearly described.
- (4) In any appeal of an enforcement notice to the Zoning Hearing Board, the Township shall have the responsibility of presenting its evidence first.
- (5) Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Township if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.

E. Enforcement penalties. Any person, partnership or corporation who or which shall violate the provisions of this chapter shall be, upon conviction thereof in a civil enforcement proceeding, sentenced to pay a fine of not more than \$500. In default of payment of the fine, such person, the members of such partnership, or the officers of such corporation shall be liable. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the Magisterial District Judge. 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. All fines collected for the violation of this chapter shall be paid over to the Township.

- F. Remedies. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used, or any hedge, tree, shrub, or other growth is maintained in violation of this chapter or of any regulations made pursuant hereto, in addition to other remedied provided by law, any appropriate action or proceedings may be instituted or taken to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said buildings, structure, or land, or to prevent any illegal act, conduct, business or use on or about such premises.

### § 490-11.02. Permits

#### A. General.

- (1) A permit shall be required prior to the opening of a business or a new owner of a business, a change in use of land or buildings, or the erection, construction or enlargement of any building, structure or any portion thereof.
- (2) Application for permits shall be made in writing to the Zoning Officer designated by the Board and shall contain all information necessary for such officer to ascertain whether the proposed erection, construction, reconstruction, enlargement or use complies with the provisions of this chapter.
- (3) Such permits shall be granted or refused within 30 days from the date of the completed application.
- (4) No permit shall be issued except in conformity with the regulations of this chapter, except after written order from the Zoning Hearing Board or the courts.
- (5) The Zoning Officer shall require all fees paid prior to the issuance of any permit that any and all other applicable permits or approvals of any governmental unit or regulatory body be obtained or, in the alternative, and for cause shown, the Zoning Officer may condition a permit upon the obtaining of such permits or approvals.
- (6) The parcel or parcels shall be in a single and full ownership or proof of option shall be furnished at the time of application.

#### B. Site plan review.

- (1) A site plan, as described below, shall accompany all applications for a zoning permit whenever such applications proposed the following:
  - (a) A proposed use or structure located in or within 50 feet of a floodplain;
  - (b) A proposed use or structure required to have a parking lot as stipulated in § 490-8.05.
  - (c) Whenever development is proposed involving the location of two or more primary uses or structures on a single lot, including, but not limited to, apartment complexes, mobile home parks, shopping centers, and industrial parks; and
  - (d) Any commercial or industrial uses.
- (2) Five copies of the site plan shall be submitted to the Zoning Officer along with the application for a zoning permit. The site plan shall be drawn to a scale of one inch

equals 50 feet or larger (one foot equals less than 50 feet) and contain the following written and graphic information:

- (a) The name of the proposed development, the identification by Clinton County Tax Map parcel number, and the name and address of the owner of the property and the individual or firm preparing the site plan;
- (b) Date of the application for a zoning permit;
- (c) Graphic scale;
- (d) North point;
- (e) Key map at a scale of one inch equals 400 feet showing streets and roads, buildings, and motor vehicle access within 500 feet from the exterior boundary of the lot;
- (f) Total size of the property, and each lot and/or area to be leased;
- (g) The proposed use of the property;
- (h) Topographic contour lines for existing and design finish grades drawn at vertical intervals of five feet including elevations of each ten-foot interval;
- (i) The total tract boundary with distances marked to at least the nearest foot;
- (j) Location of the front, side, and rear yard setback area as required by the applicable zoning district;
- (k) All existing and proposed structures, showing location and statement of the ground floor area, and retail and service floor area, and height of each;
- (l) All streams, springs, sinkholes, floodplain boundaries, and slopes of 25% or more;
- (m) Locations of all existing and proposed utilities and their easements, including those within 50 feet of the boundaries of the site plan;
- (n) All existing and proposed street right-of-way and cartways, including those abutting the property;
- (o) All existing and proposed points or motor vehicle access to the property;
- (p) All existing and proposed parking and loading spaces, parking lots, and a statement of the surfacing material to be used;
- (q) The locations of all outdoor lighting fixtures;
- (r) The locations and generic names of vegetation to be used for landscaping;
- (s) The locations of all buffer yards required by this chapter;
- (t) All stormwater management controls required by Chapter 415, Subdivision and Land Development, of the Code of the Township of Porter;
- (u) Soil erosion and sedimentation control plan in accordance with 25 Pa. Code

## Chapter 102, Erosion Control;

- (v) The locations of all sidewalks and curbing required by Chapter 415, Subdivision and Land Development, of the Code of the Township of Porter;
  - (w) The locations of all existing and proposed signs as regulated by this chapter;
  - (x) Engineering and architectural plans for treatment and disposal of sewage and industrial waste, tailings or unusable by-products;
  - (y) Engineering and architectural plans for the handling of any excess traffic congestion, noise, glare, air pollution, water pollution, vibration, fire hazards, or safety hazards, smoke, or emission of any potentially harmful or obnoxious matter or radiation;
  - (z) Designation of the manner by which sanitary sewage shall be disposed and water supply obtained;
  - (aa) A space labeled "recommended to the Supervisors for approval by" for the signatures of the Planning Commission, and a space labeled "approved by" for the signatures of the Board of Supervisors, and a space for the date of each such approval.
- (3) All applications for a zoning permit which include a site plan as herein required shall be reviewed in the following manner:
- (a) Upon receipt of the application, the Zoning Officer shall forward one copy each of the site plan to the staff of the Clinton County Planning Commission, the Township Planning Commission, and the Township Engineer for review and comment;
  - (b) The decision of the Board shall be made within 60 days following the date of the regular meeting of the Planning Commission next following the date the application is filed, provided that should the next regular meeting occur more than 30 days following the filing of the application, then approval shall be within 90 days of the date the application has been filed, instead of approval by the Zoning Officer within 30 days; and
  - (c) Upon approval of the application, the Zoning Officer shall sign two copies of the site plan, return one copy to the applicant along with the requested zoning permit and retain the other copy for his files.
- C. Permit applications where site plan review not required. Applications, When site plan review is not required, shall be accompanied by plans in duplicate, drawn to scale and showing the following:
- (1) Actual dimensions and shape of lot to be built upon.
  - (2) Exact sizes and locations on the lot of all buildings and other structures, if any, and the locations and dimensions of proposed buildings and other structures or alternatives.
  - (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 other sections of this chapter or other ordinances.
  - (5) Water and sewer system shall conform to the most recent applicable regulations adopted by the Pennsylvania Department of Environmental Protection.
- D. Temporary use permit. A temporary permit may be authorized as a special exception by the Zoning Hearing Board, subject to the requirements of Article X of this chapter, for the 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 year, and may be renewed annually for an aggregate period of not more than three years.
- E. Validity of permits. When the Zoning Officer issues any permit for buildings, signs or temporary uses, the applicant must commence the action for which the permit is issued within six months of the date of issuance of the permit; otherwise, said permit shall be null and void.
- F. Administration of Floodplain District. This section should apply to the administration of uses in the Township Floodplain Overlay District.
- (1) Zoning permits required. Zoning permits shall be required before any new development, construction substantial improvements, reconstruction, enlargement, alteration, or relocation of any building or structure is undertaken in a Floodplain District. All permit requirements shall be governed by §§ 490-11.01 and 490-11.02, except for additional provisions contained herein.
  - (2) Review by County Conservation District. A copy of all applications and plans for any proposed construction or development in any identified flood-prone areas to be considered for approval shall be submitted by the Zoning Officer to the County Conservation District for review and comment prior to the issuance of a building permit. The recommendations of the Conservation District shall be considered by the Zoning Officer for possible incorporation into the proposed plan.
  - (3) Review of application by others. A copy of all plans and applications for any proposed construction or development in any identified flood-prone area to be considered for approval shall be submitted by the Zoning Officer to the Township Engineer, Planning Commission, and to any other appropriate agencies and/or individuals for review and comment. Final approval shall be required from the Board of Supervisors prior to issuance of any permits.
  - (4) Other permit issuance requirements. Prior to the issuance of any Zoning permit, the Zoning Officer shall review the application for permit to determine if all other necessary governmental permits, such as those required by state and federal laws, have been obtained, including those required by Act 537, the Pennsylvania Sewage Facilities Act,<sup>125</sup> the Water Obstruction Act 1913; and the Federal Water Pollution Control Act Amendments of 1972, Section 404, 33 U.S.C. § 1334; no permit shall be issued until this determination has been made.

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

- (5) Notices, hearings, appeals. All provisions relative to notices, hearings and appeals are governed by Article X, Zoning Hearing Board.
- (6) Variance within Floodplain Districts. Requests for variances shall be considered by the Zoning Hearing Board in accordance with the following, in addition to the provisions of Article X.
  - (a) The Board shall, at least 30 days prior to holding a hearing on the variance, forward a copy of the variance request to the Township Supervisors and Township Planning Commission for review and comment. This review period may also be used to secure technical interpretations from the Federal Emergency Management Agency.
  - (b) Except for a possible modification of the freeboard requirements involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by special permit or to development which may endanger human life.
  - (c) If granted, a variance shall involve only the least modification necessary to provide relief.
  - (d) Whenever a variance is granted, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objective of this chapter.
  - (e) Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant, in writing, that:
    - [1] The granting of the variance may result in increased premium rates for flood insurance.
    - [2] Such variance may increase the risks to life and property.
  - (f) In reviewing any request for a variance, the Zoning Hearing Board shall consider, but not be limited to, the following:
    - [1] That there is good and sufficient cause.
    - [2] That failure to grant the variance would result in exceptional hardship to the applicant.
    - [3] That the granting of the variance will not result in an unacceptable or prohibited increase in flood heights, additional threats of public safety, extraordinary public expense, create nuisances, or cause fraud on or victimization of the public or conflict with any other applicable local or state ordinance and regulations.
  - (g) A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.<sup>126</sup>
  - (h) Notwithstanding any of the above, however, all structures shall be designed and

constructed so as to have the capability of resisting the 100-year flood.

- (i) Administration of the Fishing Creek Stormwater Management Ordinance. This section shall apply to the administration of uses in the Township that are located within Chapter 400, Stormwater Management, Part 1, Fishing Creek/Cedar Run Watershed. All proposed activities that require zoning permits shall be in compliance with Chapter 400, Fishing Creek/Cedar Run Watershed. In lieu of an adopted stormwater management ordinance, applicants shall comply with the stormwater management requirements in § 490-8.16. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

#### **§ 490-11.03. Certificate of occupancy.**

- A. Scope. A certificate of occupancy shall be required upon completion of the work contemplated in the permit. No building, structure, or freestanding sign shall be utilized in any manner until a certificate of occupancy is issued.
- B. Application procedures. Application shall be made in writing to the Zoning Officer on a form specified for such purposes.
- C. Issuance.
  - (1) Certificates of occupancy shall be granted or refused within 10 days from the date of application. No application shall be granted or refused until the Zoning Officer has inspected the premises. Issuance of this certificate shall be based on conformance of the work to the requirements of this chapter.
  - (2) In Commercial and Industrial Districts in which performance standards are imposed, no certificate of occupancy shall become permanent until 30 days after the facility is fully operating, when, upon registration by the Zoning Officer, it is determined that the facility is in compliance with all performance standards.

#### **§ 490-11.04. Fees.**

Determination. All fees shall be determined by the Board, and the schedule of such shall be made available to the general public. The Board shall be empowered to reevaluate the fee schedule and make necessary alterations to it. Such alterations shall not be considered an amendment to this chapter and may be adopted at any public meeting of the Board, by resolution.

#### **§ 490-11.05. Amendment.**

- A. Power of amendment. The Board may from time to time amend, supplement, change, modify or repeal this chapter, including the Zoning Map. The Board, by motion adopted at a stated or special meeting, shall fix the time and place of a public hearing on the proposed change, amendment, or repeal, and cause notice thereof to be given as follows:
  - (1) By giving public notice of the time and place of the hearing as defined herein.
  - (2) The notice shall also set forth the principal provisions of the proposed change, amendment, or repeal in reasonable detail and a reference to a place in the Township

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126.Editor's Note: See now the Federal Insurance and Mitigation Administration.

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where copies of the proposed change, amendment, or repeal may be examined or purchased at a charge not exceeding the cost thereof. Full opportunity to be heard will be given to any citizen and all parties in interest attending such hearing.

- B. Citizen's petition. Whenever the owners of 50% or more of the area in any district shall present to the Board a petition, duly signed and acknowledge, requesting an amendment, supplement, change, modification, or repeal of any of the regulations or restrictions prescribed by this chapter for their district, or a change or modification of the Zoning Map with reference to such district, it shall be the duty of the Board to hold a public hearing thereon and cause notice thereof to be given in the manner prescribe in § 490-11.05A above.
- C. Planning Commission referral. The Board shall refer each petition or proposal for change or amendment, whether under this article or under another article, to the Planning Commission which shall consider whether or not such proposed change or amendment would be, in view of the Commission, consistent with and desirable in furtherance of the Comprehensive Plan upon which this chapter is based, as the same may be modified from time to time. The Commission shall transmit its conclusion thereof, together with its reasons therefor, to the Board within 30 days. The Board shall take such conclusion and reasons into consideration in reaching its decision, but shall not be bound thereby.

**§ 490-11.06. Conditional uses.**

- A. Powers and duties. The Board shall hear and decide all requests for conditional uses in those cases where this chapter indicates a conditional use may be granted subject to compliance with the standards and criteria prescribed. In granting a conditional use, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purpose of this chapter.
- B. Procedures.
  - (1) The landowner shall file a request for the granting of a conditional use along with all maps, plans, and text which may be necessary to explain the development proposed and its compliance with the standards and criteria of this chapter with the Zoning Officer. Said request shall be accompanied by a fee specified by the Board and shall be filed in triplicate.
  - (2) The Board shall transmit one copy of the request as well as all documentation to the Planning Commission for recommendations at least 30 days prior to the scheduled public hearing.
  - (3) The Board shall schedule a public hearing with public notice within 60 days of said request.
  - (4) The Board shall render a written decision and inform the applicant of said decision within 30 days of the hearing date, unless, upon mutual consent of the Board and applicant, it is agreed to continue the proceedings.
- C. Standards and criteria.
  - (1) Conditions for granting conditional use.
    - (a) The Board, before granting a conditional use, must find as follows:

- [1] That the proposed use and operations and development in connection with the use have been specifically authorized as a conditional use in the district within such particular site is located;
  - [2] That the proposed use conforms to the lot and area requirements of that district;
  - [3] That the proposed use conforms to any and all applicable provisions of Article VIII.
- (b) The applicant shall have the duty of presenting evidence supporting the required findings. The burden of persuasion shall be upon the applicant as to the requirements herein.
- (2) Objections.
- (a) Parties before the Board who object to the conditional use application shall have the duty of presenting evidence on the general detrimental effect of a proposed conditional use if the objecting parties desire the Board to consider the following issues:
    - [1] That the grant of the conditional use shall not materially increase traffic congestion in roads and highways, nor cause or encourage commercial or industrial traffic to use residential streets, so as to pose a substantial threat to the health and safety of the community;
    - [2] That adequate water, sewage, storm drainage, fire and police protection and other public requirements are or can be provided for the use;
    - [3] That overcrowding of land or undue congestion of population will not result thereby;
    - [4] That the use of adjacent land and buildings will not be discouraged and the value of the adjacent land and buildings will not be impaired by the location, nature and height of buildings, walls and fences.
  - (b) Mere allegations by objecting parties of detrimental effect shall not be considered evidence. Objecting parties desiring findings to be made on any of the matters set forth in this subsection must present into evidence facts which support a finding of such detrimental effect. Upon the presentation of such evidence by objecting parties, the applicant shall have the opportunity to present rebutting evidence on these issues. In the event that objecting parties have properly raised any issue under this subsection, the burden of persuasion shall be upon the applicant.
- (3) \_\_\_\_\_
- (a) Parties before the Board who object to the conditional use application shall have the duty of presenting evidence on the general policy concerns arising from the proposed conditional use if the objecting parties desire the Zoning Hearing Board to consider the following issues:
    - [1] That location of the use, including location with respect to the existing or

future street giving access to it, is in harmony with the orderly and appropriate development of the zone in which the use is to be located;

- [2] That the nature and intensity of the operations involved are in harmony with the orderly and appropriate development of the zone in which the use is to be located;
  - [3] That the overall effect thereof shall be in harmony with the Comprehensive Plan for the Township of Porter.
- (b) Mere allegations by objecting parties of an adverse impact on general policy concerns shall not be considered evidence. Objecting parties desiring findings to be made on any of the matters set forth in this subsection must present into evidence facts which support a findings of an adverse impact on general policy concerns. Upon presentation of such evidence by objecting parties, the applicant shall have the opportunity to present rebutting evidence on these issues. The burden of persuasion as to the matters set forth in this subsection shall be upon the objecting parties.
- (4) The Board shall make findings in writing within the time period allowed hereunder on all matters under Subsection C(1) hereof and these matters at issue under Subsection C(2) and (3) hereof.

ARTICLE XII  
**Repealer and Effective Date**

**§ 490-12.01. Repealer.**

The existing Zoning Ordinance, enacted in 1964, and entitled "Porter Township Zoning Ordinance," and all supplements and amendments thereto are hereby repealed; provided, however, that if the present ordinance is held to be ineffective or invalid by reason of some irregularity in or impediment to its passage, this repealer shall also be ineffective as aforesaid. Then and in an event, the Zoning Ordinance of 1964, together with its supplements and amendments, would necessarily remain in full force and effect.

**§ 490-12.02. Effective date.**

The effective date of this chapter shall be 14 days after the date of enactment.

**§ 490-12.03. Enactment.**

Enacted and ordained into an ordinance this second day of June, 2003.<sup>127</sup>

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127. Editor's Note: Original Sec. 12.04, Recommendation for approval by Porter Township Planning Commission, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**Derivation Table****Chapter DT****DERIVATION TABLE**

**In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and parts of the 1989 Code of Ordinances of the Township of Porter have been included in the 2023 Code, or the reason for exclusion. § DT-1. Derivation Table of 1989 Code of Ordinances to 2023 Code.**

**KEY:**

- N/A = Not applicable; was reserved in prior publication.  
 REP = Repealed effective with adoption of Code; see Ch. 1, Art. I.  
 NI = Not included in Code but saved from repeal.  
 NLP = New legislation is pending.

<b>Chapter/Part From 1989 Code of Ordinances</b>	<b>Location in 2023 Code</b>
Ch. 1, Administration and Government	
Part 1, Township Officials	Ch. 79, Art. I
Part 2, Firemen's Relief Association	Ch. 18, Art. I
Part 3, Planning Commission	Ch. 52
Part 4, Zoning Hearing Board (Reserved)	N/A
Part 5, Zoning Officer (Reserved)	N/A
Ch. 2, Animals	
Part 1, Keeping of Animals	Ch. 117, Art. I
Ch. 3, Bicycles (Reserved)	N/A
Ch. 4, Buildings (Reserved)	N/A
Ch. 5, Code Enforcement (Reserved)	N/A
Ch. 6, Conduct	
Part 1, Curfew	Ch. 173
Ch. 7, Fire Prevention and Fire Protection	
Part 1, Smoke Detectors	Ch. 369
Ch. 8, Flood Plains (Reserved)	N/A
Ch. 9, Grading and Excavation (Reserved)	N/A
Ch. 10, Health and Safety	
Part 1, Motor Vehicle Storage	Ch. 444

<b>Chapter/Part From 1989 Code of Ordinances</b>	<b>Location in 2023 Code</b>
Part 2, Dangerous Structures	Ch. 182
Ch. 11, Housing (Reserved)	N/A
Ch. 12, Libraries (Reserved)	N/A
Ch. 13, Licenses, Permits and General Business Regulations	
Part 1, Peddler Licenses	Ch. 314, Art. I
Part 2, Cable Television Franchise	Ch. 148
Part 3, Mechanical Amusement Devices	Ch. 110
Ch. 14, Mobile Homes and Mobile Home Parks (Reserved)	N/A
Ch. 15, Motor Vehicles and Traffic	Ch. 450
Ch. 16, Parks and Recreation (Reserved)	N/A
Ch. 17, Planned Development (Reserved)	N/A
Ch. 18, Sewers and Sewage Disposal	
Part 1, Holding Tanks	Superseded by Ord. No. 26-7-92
Ch. 19, Signs and Billboards (Reserved)	N/A
Ch. 20, Solid Waste	
Part 1, Waste Collection and Disposal	Ch. 388, Art. I
Ch. 21, Streets and Sidewalks	
Part 1, Driveways	Ch. 410, Art. I
Part 2, Streets Openings / Excavations	Ch. 410, Art. II
Ch. 22, Subdivision and Land Development	Repealed 2-25-2005
Ch. 23, Swimming Pools	
Part 1, Private Pools	Ch. 424
Ch. 24, Taxation, Special	
Part 1, Occupation Privilege Tax	Ch. 432, Art. I
Part 2, Real Estate Transfer Tax	Superseded by Ord. No. 55-6-2007
Ch. 25, Trees (Reserved)	N/A
Ch. 26, Water (Reserved)	N/A
Ch. 27, Zoning	Repealed by Ord. No. 48-6/03
Appendix	
A. Annexation of Territory (Reserved)	N/A
B. Bond Issues and Loans (Reserved)	N/A

Chapter/Part From 1989 Code of Ordinances	Location in 2023 Code
C. Franchises and Services (Reserved)	N/A
D. Governmental and Intergovernmental Affairs (Reserved)	N/A
E. Plan Approval (Reserved)	N/A
F. Public Property (Reserved)	N/A
G. Sewers (Reserved)	N/A
H. Streets and Sidewalks (Reserved)	N/A
I. Water (Reserved)	N/A
J. Zoning, Prior Ordinances (Reserved)	N/A

### Disposition List

#### Chapter DL

#### DISPOSITION LIST

The following is a chronological listing of legislation of the Township of Porter reviewed for codification, indicating for each its inclusion in the Code or the reason for exclusion. The last legislation reviewed for the 2023 publication of the Code was Ord. No. 2-13-2023B, adopted February 13, 2023.

#### § DL-1. Disposition of legislation.

##### KEY:

- NCM = Not Code material (legislation is not general or permanent in nature).  
 REP = Repealed effective with adoption of Code; see Ch. 1, Art. I.  
 NLP = New legislation is pending.

Enactment	Adoption Date	Subject	Disposition
Ord. No. 5-5-72	7-6-1972	Sewers and Sewage Disposal: Holding Tanks	Superseded by Ord. No. 26-7-92
Ord. No. 6-12-73	3-12-1973	Disorderly Conduct	Repealed 5-1-1989 by Ord. No. 20 (1989 Code Adoption Ordinance)
Ord. No. 7-2-73	7-2-1973	Vehicles and Traffic Amendment: Parking on Route 64	Repealed 5-1-1989 by Ord. No. 20; included in Ch. 15 of 1989 Code of Ordinances

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
Ord. No. 11	3-3-1980	Zoning Amendment	Repealed by Ord. No. 48-6/03
Ord. No. 12	5-12-1980	Zoning Amendment	Repealed by Ord. No. 48-6/03
Ord. No. 13	5-12-1980	Zoning Amendment	Repealed by Ord. No. 48-6/03
Ord. No. 17	12-3-1984	Taxation: Mercantile Privilege Tax	Ch. 432, Art. II
Ord. No. 20	5-1-1989	General Provisions: Adoption of 1989 Code of Ordinances	NLP; see Ch. 1, Art. I
Ord. No. 19-4/91	4-15-1991	Intergovernmental Cooperation: Pennsylvania Intergovernmental Risk Management Association	NCM
Ord. No. 20-7-91	7-1-1991	Floodplain Management	Repealed by Ord. 57-8-2008
Ord. No. 21-1991	9-2-1991	Vehicles and Traffic Amendment	Ch. 450
Ord. No. 22-1991	9-2-1991	Vehicles and Traffic Amendment	Ch. 450
Ord. No. 23	9-2-1991	Cable Television Amendment	Ch. 148
Ord. No. 24	1-6-1992	Radioactive Waste	Ch. 333
Ord. No. 25-4-1992	4-8-1992	Street Vacation	NCM
Ord. No. 26-7-92	7-8-1992	Sewers and Sewage Disposal: Holding Tanks	Superseded by Ord. No. 42-2002
Ord. No. 27-11/93	11-1-1993	Zoning Amendment	Repealed by Ord. No. 48-6/03
Ord. No. 28-1-1994	1-3-1994	Alarm Systems: False Alarms	REP
Ord. No. 29-10-94	10-3-1994	Sewers and Sewage Disposal: On-Lot Sewage Disposal Systems	Ch. 355, Part 1
Ord. No. 29-8-95	8-7-1995	Dangerous Structures Amendment	Ch. 182
Ord. No. 30-11-95	11-6-1995	Sewers and Sewage Disposal: On-Lot Sewage Disposal Systems Amendment	Ch. 355, Part 1
Ord. No. 30 9-96	9-1996	Stormwater Management: Fishing Creek / Cedar Run Watershed	Superseded by Ord. No. 53-5-2007
Ord. No. 31	12-29-1997	General Obligation Note	NCM

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
Ord. No. 32-3-98	3-2-1998	Vehicles and Traffic Amendment	Ch. 450
Ord. No. 34-99	2-1-1999	Cable Television Amendment	Ch. 148
Ord. No. 35-1999	5-3-1999	Fire Company: Nittany Valley Volunteer Fire Company	Ch. 18, Art. II
Ord. No. 36-6-99	6-7-1999	Water: Water System Connections	Ch. 466, Art. I
Ord. No. 37-99	8-2-1999	Numbering of Buildings; Naming of Private Roads	Ch. 295
Ord. No. 38-1999	8-2-1999	Vehicles and Traffic Amendment	Ch. 450
Ord. No. 39/8-2000	8-7-2000	Sewers and Sewage Disposal: Mandatory Connections	Ch. 355, Part 2
Ord. No. 40/8-2000	8-7-2000	Sewer System Construction Rights to East Nittany Valley Joint Municipal Authority	NCM
Ord. No. 41/8-2000	8-7-2000	Intergovernmental Cooperation: East Nittany Valley Joint Municipal Authority	NCM
Ord. No. 42-2002	3-4-2002	Sewers and Sewage Disposal: Holding Tanks	Superseded by Ord. No. 46-9-2002
Ord. No. 43-4/02	4-22-2002	Lease Rental Debt	NCM
Ord. No. 44-7-2002	7-8-2002	Zoning Map Amendment	NCM
Ord. No. 45-7-2002	7-8-2002	Zoning Amendment	Repealed by Ord. No. 48-6/03
Ord. No. 46-9-2002	9-2-2002	Sewers and Sewage Disposal: Retaining Tanks	Ch. 355, Part 3
Ord. No. 48-6/03	6-2-2003	Zoning	Ch. 490
Ord. No. 49-7-2003	7-4-2003	Street Opening	NCM
Ord. No. 50-12/2004	12-6-2004	Zoning Amendment	Ch. 490
Ord. No.	2-28-2005	Subdivision and Land Development	Ch. 415
Ord. No. 50-3-2006	3-6-2006	Zoning Map Amendment	NCM
Ord. No. 5111-2006	11-6-2006	Sewers and Sewage Disposal: Industrial Pretreatment	Repealed by Ord. No. 61-7-2010

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
Ord. No. 52-2-2007	2-5-2007	Zoning Amendment	Ch. 490
Ord. No. 53-5-2007	5-7-2007	Stormwater Management: Fishing Creek / Cedar Run Watershed	Ch. 400, Part 1
Ord. No. 54-6-2007	6-4-2007	Zoning Amendment	Ch. 490
Ord. No. 55-6-2007	6-4-2007	Taxation: Real Estate Transfer Tax	Ch. 432, Art. III
Ord. No. 56-11/5-2007	11-5-2007	Vehicles and Traffic Amendment	Ch. 450
Ord. No. 57-8-2008	8-4-2008	Floodplain Management	Repealed by Ord. No. 6-2016-14
Ord. No. 58-10/6-2008	10-6-2008	PA Uniform Construction Code: Ceasing Local Administration and Enforcement	Repealer only
Ord. No. 60-2-2009	2-2-2009	Officers and Employees: Ordinance Enforcement Officer	Ch. 40, Art. I
Ord. No. 61-6-2009	6-1-2009	Subdivision and Land Development Amendment	Ch. 415
Ord. No. 60-6-2010	6-7-2010	Zoning Amendment	Ch. 490
Ord. No. 61-7-2010	7-7-2010	Sewers and Sewage Disposal: Industrial Pretreatment	Ch. 355, Part 4
Ord. No. 62-3/11	3-7-2011	Zoning Map Amendment	NCM
Ord. No. 63-9/11	9-12-2011	Zoning Map Amendment	NCM
Ord. No. 64-12/11	12-5-2011	Taxation: Earned Income Tax	Ch. 432, Art. IV
Ord. No. 65-12/11	12-5-2011	Salaries and Compensation: Compensation of Township Supervisors Amendment	Ch. 79, Art. I
Ord. No. 66-1/12	1-3-2012	Cable Television Amendment	Ch. 148
Ord. No. 67-3/12	3-5-2012	Construction Codes: Enforcement of Uniform Construction Code	Ch. 165, Art. I
Ord. No. 68-3/12	3-5-2012	Vehicles and Traffic Amendment	Ch. 450
Ord. No. 69-4/12	4-2-2012	Animals: Noise Disturbances by Animals and Birds	Ch. 117, Art. II
Ord. No. 70-4/12	4-2-2012	Animals: Dogs Running at Large; Pet Nuisances	Ch. 117, Art. III

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
Ord. No. 5-2-2016		Parks and Recreation Areas: Walking Trail	Ch. 306, Art. II
Ord. No. 8/12-71	8-6-2012	Zoning Map Amendment	NCM
Ord. No. 6-2013-1	6-3-2013	Emergency Response Cost Recovery	Ch. 204
Ord. No. 9-2013-1	9-16-2013	Zoning Map Amendment	NCM
Ord. No. 12-2014-1	12-1-2014	Furnaces, Outdoor Solid-Fuel- Burning	Ch. 238
Ord. No. 3-2015-1	3-2-2015	Intergovernmental Cooperation: PSATS Unemployment Compensation Group Trust	NCM
Ord. No. 11-2-2015	11-2-2015	Vehicles and Traffic Amendment	Ch. 450
Ord. No. 12-2015-7	12-7-2015	Amusement Devices Amendment	Ch. 110
Ord. No. 1-2016-1	1-4-2016	Parks and Recreation Areas: Parks and Recreational Facilities	Ch. 306, Art. I
Ord. No. 3-7-2016	3-7-2016	Recreation Board	Ch. 67
Ord. No. 6-2016-14	6-16-2016	Floodplain Management	Ch. 230
Ord. No. 9-2016-12	9-12-2016	Donation Boxes	Ch. 191
Ord. No. 7-02-2018	7-2018	Street Vacation	NCM
Ord. No. 8-2018-6	8-6-2018	Amusement Devices Amendment	Ch. 110
Ord. No. 10-2018-1	10-1-2018	Zoning Amendment	Ch. 490
Ord. No. 03-21-2022	2-21-2022	Zoning Amendment	Ch. 490
Ord. No. 7-11-2022	7-11-2022	Grass, Weeds and Vegetation	Not Adopted
Ord. No. 08-08-2022	8-8-2022	Grass, Weeds and Vegetation	Ch. 247
Ord. No. 10-10-2022	10-10-2022	Taxation: Waiver of Additional Charges for Real Estate Taxes	Ch. 432, Art. V

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
Ord. No. 12-12-22	12-12-2022	Zoning Map Amendment	NCM
Ord. No. 02-13-2023A	2-13-2023	Fire Company: Reporting Requirements for Fire Companies	Ch. 18, Art. III
Ord. No. 02-13-2023B	2-13-2023	Recreation Board Amendment	Ch. 67
Ord. No. 07-10-2023	7-10-2023	Vehicles, Off-Road: ATV and Snowmobile Roads	Ch. 454, Art. I