

## **Chapter C**

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[Adopted 5-20-1975 by ballot question. Amendments noted where applicable.]

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GENERAL REFERENCES

Administration of government — See Ch. 4.

ARTICLE I  
**Name and Powers**

**SECTION 101. Name.**

Middletown Township shall continue to be known as Middletown Township under this Home Rule Charter. The structure of government and the general authority of municipal officials shall be as set forth herein.

**SECTION 102. General powers.**

The Township shall have and may exercise any powers and perform any functions not specifically denied by or inconsistent with the Constitution of Pennsylvania, the Laws of the Commonwealth of Pennsylvania, or this Charter.

**SECTION 103. Continuation.**

All powers and functions contained in any or all ordinances and resolutions which are in force on the effective date of this Charter, and not inconsistent herewith, shall continue in force until amended or repealed.

**SECTION 104. Interpretation.**

The powers of the Township shall be liberally construed in favor of the Township in order to provide the Township with the greatest possible power of self-government.

ARTICLE II  
**Township Council**

**SECTION 201. General powers and duties.**

All powers of the Township of Middletown shall be vested in the Township Council of Council Members (hereafter called "the Council"), except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the Township by law.

**SECTION 202. Composition.**

There shall be a Township Council consisting of seven members. Three shall be nominated and elected by the qualified electors of the Township at large, and four shall be nominated and elected by the qualified electors of the four voting districts as hereinafter provided.

**SECTION 203. Eligibility.**

- A. Only qualified electors of the Township of Middletown shall be eligible to be nominated and to hold the office of Council Member.
- B. For the position of Council Member to be elected from a district, as set forth in this Charter, only qualified electors residing in that election district shall be eligible to be nominated and to hold the office of Council Member from that district.

**SECTION 204. Election and term.**

The regular terms of Council Members shall be four years beginning at 8:00 p.m. on the first Monday of January, or the next day following which is a non-holiday, following the year in which they are elected, except for the first Council to serve under this Charter, the members of which will serve for staggered terms as provided hereinafter.

**SECTION 205. Districts.**

The Township shall consist of four districts which shall contain as nearly as possible equal numbers of residents as determined by the latest official census of the U.S. Bureau of Census. No district shall vary by more than 15% from the average of all of the districts at the time of reapportionment. A district shall be contiguous and shall follow natural geographic boundaries to the extent possible consistent with the principle of equal population.

**SECTION 206. Establishment of districts. [Amended 8-12-2002 by Ord. No. 630]**

The establishment of the first districts, to be known as the First, Second, Third, and Fourth Districts, shall be by this Charter. The boundaries of said districts shall be as follows:

VOTING DISTRICT NO. 1: BEGINNING at a point of intersection of the center line of Dutton Mill Road with the center line of Chester Creek; thence northeasterly along the southeastern border of Middletown Township to the center line of Ridley Creek; thence, northwesterly along the southeastern border of the Township to the point of intersection of the center line of Ridley Creek with the center line Bortondale Road; thence, southwesterly along the center line of Bortondale Road to its intersection with the center line of South Old Middletown Road; thence, south along the center line of South Old Middletown Road to its intersection with the common boundary line of the Commonwealth of Pennsylvania and property located

at 454 South Old Middletown Road; thence, southwesterly along that common boundary line extended to a point in the center line of South New Middletown Road; thence, south along the center line of South New Middletown Road to its point of intersection with the common property line of property of Indian Orchard Park and property located at 5 Copes Lane; thence, following the southern property line of Indian Orchard Park to its intersection with the rear property lines of lots on Cricket Lane thence southeasterly along the rear common boundary line of property at 490 and 500 Cricket Lane and property at 27 and 35 Copes Lane to the point of intersection of the common boundary line of properties on Cricket Lane and the Hidden Hollow Swim Club; thence, southwesterly along this common boundary line to a point representing the rear common boundary corner of a lot at 495 Cricket Lane and a lot at 441 Mount Alverno Road; thence, extending in a northwesterly direction along the common boundary line of the lot at 441 Mount Alverno Road and various properties located on Cricket Lane between 180 and 190 Hidden Hills Lane to the center line of Hidden Hills Lane; thence, westerly along the center line of Hidden Hills Lane to the center line of its intersection with Mount Alverno Road; thence, northwesterly along the center line of Mount Alverno Road until its intersection with the common property line of Alverno Valley Farms and properties located on Willowgate Lane; thence, generally southerly and westerly following the common boundary line of Alverno Valley Farms and properties on Willowgate Lane and Olde House Lane to the point of intersection of the common boundary line of grounds of Alverno Valley Farms with property at 350 Howarth Road; thence, northwesterly along the common boundary line of lots at 350 Howarth Road and 424 Olde House Lane to the point of intersection with the common boundary line of lots at 350 Howarth Road and 311 Howarth Road; thence, southwesterly along the northern property line of the lot at 350 Howarth Road to a point of intersection representing the common property corner at the rear of lots at 336 Howarth Road and 350 Howarth Road; thence, westerly from this point along a line 1,200 feet more or less to a point in the center of Chester Creek which constitutes the Township line adjoining Aston Township; thence, southeasterly along the center line of the Chester Creek which constitutes the Township line between Middletown Township and Aston Township to the first mentioned point and place of beginning.

VOTING DISTRICT NO. 2: BEGINNING at a point of intersection of the center line of Bortondale Road with the center line of Ridley Creek; thence, northwesterly along said creek forming the boundary line between Middletown Township and Upper Providence Township to the center line of U.S. Route 1; thence, southwesterly along the center line of U.S. Route 1 to a point of intersection with an extension of the common boundary line dividing properties located on South Heilbron Drive and property now or late of the Elwyn Institute located to the north of the Media By-Pass; thence, southwesterly along this common property line to a point of intersection of the common property lines of 592 South Heilbron Drive and 24 Penn Charter Drive; thence, northwesterly along the common property lines of 592 and 585 South Heilbron Drive and properties at 24 and 26 Penn Charter Drive and 113 Blackhorse Lane to the point of intersection of the rear of lots at 585 South Heilbron Drive and 113 Blackhorse Lane with property at 740 West Rose Tree Road; thence, southwesterly along the common property line of 740 West Rose Tree Road and properties on Blackhorse Drive extended to its intersection with the center line of North Middletown Road; thence, southeasterly along the center line of North Middletown Road to its intersection with the center line of Baltimore Pike; thence, westerly along the center line of Baltimore Pike to its intersection with the common property line of Riddle Glen Condominiums and Riddle Memorial Hospital; thence, southeasterly along the common property line of Riddle Memorial Hospital with the Riddle Glen Condominiums and properties on South Middletown Road to the common boundary line at the rear of Riddle Memorial Hospital with Williamson Trade School; thence, southwesterly along the common boundary line of Williamson Trade School with Riddle Memorial Hospital and Granite Run Townhouses extending to the intersection with the center line of the Chrome Run; thence, southeasterly along the Chrome Run to the center line of the right-of-way of the SEPTA Rail Lines; thence, along the center line of the SEPTA right-of-way in a southwesterly direction to a point of intersection in the center line of South Pennell Road; thence, southeasterly along the center line of South Pennell Road to the center line of Chester Creek; thence, in a southerly direction along the center line of the Chester Creek 1,600 feet

more or less to a point in the Chester Creek due west of a point of intersection representing the common property corner at the rear of lots at 336 Howarth Road and 350 Howarth Road; thence, easterly along this line 1,200 feet more or less to the common property corner at the rear of lots at 336 Howarth Road and 350 Howarth Road; thence, northeasterly along the northern property line of the lot at 350 and 340 Howarth Road to its point of intersection with the rear boundary of a lot at 424 Olde House Lane; thence, southeasterly along the common boundary line of lots at 350 Howarth Road and 424 and 425 Olde House Lane to the point of intersection with the boundary of property of Alverno Valley Farms; thence, generally in a northerly and easterly direction along the common boundary line of Alverno Valley Farms with properties on Olde House Lane and Willowgate Lane to the center line of Mount Alverno Road; thence, southeasterly along the center line of Mount Alverno Road to the center line of its intersection with Hidden Hills Lane; thence, easterly along the center line of Hidden Hills Lane to the common boundary line between property at 190 and 180 Hidden Hills Lane; thence, southeasterly along this common boundary line extending to a point representing the common rear lot corner of 441 Mount Alverno Road and 495 Cricket Lane; thence, northeasterly along the common boundary line of properties on Cricket Lane and the Hidden Hollow Swim Club to the point of intersection of property at 27 and 35 Copes Lane and property at 500 Cricket Lane; thence, northwest along the property at 500 and 490 Cricket Lane to the point of intersection of the southeastern property line of Indian Orchard Park; thence, following the southeastern property line of Indian Orchard Park north and east to its intersection with the common property line of Indian Orchard Park and South New Middletown Road; thence, north from a point in the center line of South New Middletown Road to the common boundary line of Commonwealth of Pennsylvania and 425 South New Middletown Road; thence, northeasterly along the common boundary line of Commonwealth of Pennsylvania and properties at 464 and 452 South Old Middletown Road to the center line of South Old Middletown Road; thence, north along the center line of South Old Middletown Road to its intersection with the center line of Bortondale Road; thence, northeasterly along the center line of Bortondale Road to its intersection with the first mentioned point and place of beginning.

VOTING DISTRICT NO. 3: BEGINNING at a point of intersection of the center line of West Baltimore Pike at its point of intersection with the common property line of Riddle Glen Condominiums and Riddle Memorial Hospital; thence, southeasterly along the common property line of Riddle Memorial Hospital with the Riddle Glen Condominiums and properties on South Middletown Road to the common boundary line at the rear of Riddle Memorial Hospital with Williamson Trade School; thence, southwesterly along the common boundary line of Williamson Trade School with Riddle Memorial Hospital and Granite Run Townhouses extending to the intersection with the center line of the Chrome Run; thence, southeasterly along the Chrome Run to the center line of the right-of-way of the SEPTA Rail Lines; thence, along the center line of the SEPTA right-of-way in a southwesterly direction to a point of intersection in the center line of South Pennell Road; thence, southeasterly along the center line of South Pennell Road to the center line of Chester Creek; thence, in a generally northwesterly direction along the center line of Chester Creek, being the Township line dividing Middletown Township, Aston Township, the Borough of Chester Heights, and Thornbury Township to a point of intersection with the northwestern property line of the Middletown Township Darlington Tract; thence, northeasterly along this common property line with the Darlington Tract and the Darlington Valley PRD to its point of intersection with the rear property line of 275 New Darlington Road; thence northwesterly and northeasterly along the common property line of 275 New Darlington Road and the Darlington Valley PRD to its point of intersection with the common property line dividing properties on Paul Lane from properties on New Darlington Road; thence, extending northeasterly along this common boundary line to its point of intersection with the southern property line of 351 New Darlington Road; thence, continuing northeasterly along this property line to its intersection with the center line of New Darlington Road; thence, northerly along the center line of New Darlington Road to its intersection with the center line of Valley Road; thence southeasterly along the center line of Valley Road to its intersection with the center line of Darlington Road; thence, northeasterly along the center line of Darlington Road to its intersection with the common property line separating property at

300 Darlington Road and property of Delaware County at Fair Acres; thence, generally south and east following the property line of property of Delaware County at Fair Acres to its point of intersection with the southernmost property line of the Middletown Crossing Townhouses; thence, southeasterly along the common property line separating the Middletown Crossing Townhouses and the rear of property at 1263 West Baltimore Pike to its intersection with the common property line dividing the Middletown Crossing Townhouses and the Pennell Place Townhouses; thence, northeasterly along the common boundary line separating the Middletown Crossing Townhouses and the Pennell Place Townhouses to its point of intersection with the rear property line of 60 North Pennell Road; thence, southerly and easterly following this common property line dividing the Pennell Place Townhouses from property at 60 and 56 North Pennell Road to the center line of North Pennell Road; thence, northerly along the center line of North Pennell Road approximately 150 feet to its point of intersection with the common property line dividing properties at 57, 55, and 59 North Pennell Road from properties at 61 North Middletown Road and the rear of lots on North Middletown Road; thence, easterly along this common property line to its point of intersection with the common property line of property at 218 North Middletown Road and the rear of property at 34 Oriole Avenue; thence, north along the common property line of 218 North Middletown Road and the rear of lots on Oriole Avenue to the intersection with the property line at the rear of 52 Oriole Avenue and 206 North Middletown Road; thence, east along the common property line of 52 Oriole Avenue and 206 North Middletown Road to the center line of Oriole Avenue; thence, north along the center line of Oriole Avenue to its intersection with the northern property line of a lot at 57 Oriole Avenue; thence, southeasterly along this property line to the rear of properties located on Oriole Avenue; thence, southerly along the rear of lots on Oriole Avenue and property 1067 West Baltimore Pike (Granite Run Mall) to the southern property line of a lot at 29 Oriole Avenue; thence, along this southern property line to its intersection with the center line of Oriole Avenue; thence, south along the center line of Oriole Avenue to its intersection with the center line of West Baltimore Pike; thence, easterly along the center line of West Baltimore Pike to the first mentioned point and place of beginning.

VOTING DISTRICT NO. 4: BEGINNING at a point of intersection of the center line of U.S. Route 1 with the center line of the Ridley Creek; thence, in a northwesterly direction along the center line of Ridley Creek, being the Township dividing line dividing Middletown Township and Upper Providence Township to its intersection with the Township line dividing Middletown Township and the Townships of Edgmont and Thornbury; thence, along said Township line in a southwesterly direction to the center line of the Chester Creek; thence, southeasterly along the center line of the Chester Creek being the Township line dividing Middletown Township and Thornbury Township to its intersection with the northwestern property line of the Middletown Township Darlington Tract; thence, northeasterly along this common property line with the Darlington Tract and the Darlington Valley PRD to its point of intersection with the rear property line of 275 New Darlington Road; thence, northwesterly and northeasterly along the common property line of 275 New Darlington Road and the Darlington Valley PRD to its point of intersection with the common property line dividing properties on Paul Lane from properties on New Darlington Road; thence, extending northeasterly along this common boundary line to its point of intersection with the southern property line of 351 New Darlington Road; thence, continuing northeasterly along this property line to its intersection with the center line of New Darlington Road; thence, northerly along the center line of New Darlington Road to its intersection with the center line of Valley Road; thence, southeasterly along the center line of Valley Road to its intersection with the center line of Darlington Road; thence, northeasterly along the center line of Darlington Road to its intersection with the common property line separating property at 300 Darlington Road and property of Delaware County at Fair Acres; thence, generally south and east following the property line of property of Delaware County at Fair Acres to its point of intersection with the southernmost property line of the Middletown Crossing Townhouses; thence, southeasterly along the common property line separating the Middletown Crossing Townhouses and the rear of property at 1263 West Baltimore Pike to its intersection with the common property line dividing the Middletown Crossing Townhouses and the Pennell Place Townhouses; thence, northeasterly

along the common boundary line separating the Middletown Crossing Townhouses and the Pennell Place Townhouses to its point of intersection with the rear property line of 60 North Pennell Road; thence, southerly and easterly following this common property line dividing the Pennell Place Townhouses from property at 60 and 56 North Pennell Road to the center line of North Pennell Road; thence, northerly along the center line of North Pennell Road approximately 150 feet to its point of intersection with the common property line dividing properties at 57, 55, and 59 North Pennell Road from properties at 61 North Middletown Road and the rear of lots on North Middletown Road; thence, easterly along this common property line to its point of intersection with the common property line of property at 218 North Middletown Road and the rear of property at 34 Oriole Avenue; thence, north along the common property line of 218 North Middletown Road and the rear of lots on Oriole Avenue to the intersection with the property line at the rear of 52 Oriole Avenue and 206 North Middletown Road; thence, east along the common property line of 52 Oriole Avenue and 206 North Middletown Road to the center line of Oriole Avenue; thence, north along the center line of Oriole Avenue to its intersection with the northern property line of a lot at 57 Oriole Avenue; thence, southeasterly along this property line to the rear of properties located on Oriole Avenue; thence, southerly along the rear of lots on Oriole Avenue and property 1067 West Baltimore Pike (Granite Run Mall) to the southern property line of a lot at 29 Oriole Avenue; thence, along this southern property line to its intersection with the center line of Oriole Avenue; thence, south along the center line of Oriole Avenue to its intersection with the center line of West Baltimore Pike; thence, easterly along the center line of West Baltimore Pike to its intersection with the center line of North Middletown Road; thence, northwesterly along the center line of North Middletown Road to its intersection with the northern property line of 17 North Middletown Road; thence, northeasterly along the common property line of properties at 25 North Middletown Road and 240 West Rose Tree Road and properties on Blackhorse Drive to the point of intersection of the rear of lots at 585 South Heilbron Drive and 113 Blackhorse Lane; thence, southeasterly along the common property lines of 585 and 592 South Heilbron Drive and properties at 113 Blackhorse Lane and 26 and 24 Penn Charter Drive to its intersection with common boundary line between properties located on South Heilbron Drive and property now or late of the Elwyn Institute; thence, northeasterly along this common property line extended to a point in the center line of U.S. Route 1; thence, northeasterly along the center line of U.S. Route 1 to the first mentioned point and place of beginning.

Reapportionment of Council Members to Districts thereafter shall be by ordinance and shall occur only in the following circumstances:

- A. Within the year following the year in which the Decennial U.S. Census Reports are officially certified, the Council shall reapportion the districts in accordance with this Charter.
- B. At such other times as may be necessary after the effective date of this Charter, upon showing that a district varies in population by more than 15% from the average of all the districts, the Council shall reapportion the districts in accordance with this Charter.

If an existing Council Member is removed from his district by any such reapportionment, he shall continue to represent said district until the end of his term.

#### **SECTION 207. Compensation.**

- A. Council Members shall receive compensation at the rate of \$1,000 per annum for the performance of their duties. At a time no less than two years after the effective date of this Charter, and at any subsequent time, the rate and basis of compensation for Council Members may be changed by Ordinance of Council, provided such Ordinance be approved by the Township electors at a referendum.



- B. Council Members shall receive no other compensation, direct or indirect, for the performance of their duties. They shall, however, be entitled to actual reasonable and necessary expenses incurred in the performance of their duties.

**SECTION 208. Prohibitions.**

- A. Holding other office. No Council Member shall hold any other Township office or Township employment during the term for which he was elected or appointed to the Council. No former Council Member shall hold within two years after leaving office any compensated appointive Township office created during his term as Council Member, nor shall any Council Member benefit from any increase in the compensation for an existing office other than Council Member, which increase was voted during his term as Council Member.
- B. Appointments and removals. The Council may express its views, and fully and freely discuss with the Manager anything pertaining to appointment and removal of administrative personnel and employees of the Township; but neither the Council nor any of its members shall in any manner dictate the appointment or removal of any administrative personnel or employees whom the Manager or any of his subordinates are empowered to appoint.
- C. Administrative offices. All Township personnel who are subject to the direction and supervision of the Manager shall be answerable to the Manager, and neither the Council nor any of its members shall, either publicly or privately, give orders to any such personnel, but to the contrary shall deal with said personnel solely through the Manager or his designate.

**SECTION 209. Vacancies: forfeiture of office; filling of vacancies.**

- A. Vacancies. The office of Council Member shall become vacant upon his death, resignation, legal certification of mental incapacity, removal from office in any manner authorized by law, or forfeiture of this office.
- B. Forfeiture of office. A Council Member shall forfeit his office if he:
- (1) Lacks at any time during his term of office any qualifications for the office prescribed by this Charter or by law.
  - (2) Violates any express prohibition of this Charter.
  - (3) Is convicted of a felony, or convicted of theft as described by the Pennsylvania Penal Code or is convicted of a crime constituting *crimen falsi*, or
  - (4) Fails to attend four consecutive regular monthly meetings of the Council unless such absences are excused by a vote of 2/3 membership of the Council.
- C. Filling of vacancies. Whenever a vacancy exists in the office of Council Member, the vacancy shall be filled under the following procedures:
- (1) A special election to fill the vacancy for the balance of the unexpired term will be held at the next election, general, municipal, or primary, which takes place 60 days or more after such vacancy occurs. The special election shall be conducted in accordance with the election laws of this Commonwealth. The person elected to fill the vacancy shall assume the office at the first meeting of the Council following certification of the election results.
  - (2) The Council shall, at its first regular or special public meeting after the vacancy occurs, give

notice that a vacancy exists and shall state that it will make an interim appointment to fill the vacancy at its next public meeting which occurs not less than 30 days from the meeting at which the vacancy is announced. Following such notice, the Council, by a majority of its remaining membership, shall appoint a qualified elector of the Township, and in the case of a vacancy in the office of a Council Member elected from a district, a qualified elector of the district in which the vacancy exists, to fill the vacancy until a duly elected successor is sworn into office.

- (3) If the Council shall fail to fill the vacancy within 60 days after the vacancy occurs, the Court of Common Pleas of Delaware County, upon petition of any individual Council Member, or upon petition of five or more qualified electors of the Township, shall make an interim appointment to fill the vacancy until a duly elected successor is sworn into office.
- (4) In the event that sufficient vacancies exist so that the Council lacks a quorum necessary to do business, the remaining members of the Council shall immediately make an interim appointment or appointments to fill sufficient vacancies in the position of Council Member to form a quorum. Thereafter, the remaining vacancies shall be filled as otherwise provided herein.
- (5) In the event that all the positions on the Council shall become vacant, the Court of Common Pleas of Delaware County shall immediately, upon petition of the Township Manager or five or more registered voters of the Township, make interim appointments of as many Council Members as is necessary in order to form a quorum to do business. Thereafter, the remaining vacancies shall be filled as otherwise provided herein.

#### **SECTION 210. Organization; procedures.**

##### **A. Organization.**

- (1) The Council shall organize at 8:00 p.m. the first Monday of January of each year by electing one of their members as Chairman and one of their members as Vice-Chairman, who shall hold such office at the pleasure of the Council. If the first Monday is a legal holiday, the organization meeting shall be held on the first day following which is not a legal holiday.
- (2) The Chairman, or in the Chairman's absence, the Vice-Chairman, shall preside at Council Meetings, shall provide notice of all Council meetings to its members and the public, and shall carry out such duties as prescribed elsewhere in this Charter, Administrative Code,<sup>1</sup> or other ordinance.

##### **B. Procedures.**

- (1) The Council shall meet regularly at least once every month at such time and place as the Council may prescribe by resolution. Special meetings may be held on the call of the Chairman or a majority of Council Members with at least 12 hours notice to each Council Member.
- (2) All meetings shall be open to the public with notice to the public of such meetings to be posted at the Township Building at least 12 hours in advance.
- (3) (a) The Council shall establish rules for procedure for the conduct of business at its meetings and shall provide for a public record of its proceedings.  
(b) The Council shall cause to be prepared in advance of each meeting an agenda of matters to be considered by the Council at the meeting and shall include in the agenda all items to

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1. Editor's Note: See Ch. 4, Administration of Government.

receive final action by the Council at that meeting. The agenda shall be available at least eight hours prior to the start of the meeting and shall be distributed to the public at the start of the meeting.

**SECTION 211. Form of action by the Council.**

Except as provided in Section 209C(4), the Council may take no official action except at an open meeting in the presence of a quorum, consisting of a majority of the total membership. All actions of the Council shall be taken by the adoption of an ordinance, resolution, or motion. All legislation shall be enacted by the adoption of ordinance. All ordinances and resolutions must be in written form. Voting, except on procedural matters, shall be by roll call vote, and the vote of each member of the Council shall be entered in the record of the meeting. A majority vote of all members of the Council shall be required to adopt an ordinance. Resolutions or motions shall be adopted by a majority vote of all the members of the Council present, except as otherwise provided herein.

**SECTION 212. Actions requiring ordinances.**

In addition to legislation or other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the Council shall be by ordinance which:

- A. Adopt or amend an Administrative Code;
- B. Establish, alter or abolish any Township department, office or agency;
- C. Establish, levy and collect taxes, and increase or decrease the rate of existing taxes;
- D. Authorize the borrowing of money except for revenue anticipation or emergency loans;
- E. Exercise the power of eminent domain;
- F. Provide for a fine or other penalty, or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- G. Grant, renew, or extend a franchise;
- H. Purchase, convey, lease, or authorize the purchase, conveyance, or lease of any real property;
- I. Establish, alter, or amend any zoning ordinance, subdivision procedure, land development, land use, or building regulation;
- J. Amend or repeal any ordinance previously adopted.

**SECTION 213. Ordinances in general.**

- A. Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. Any ordinance which repeals or amends an existing ordinance shall clearly indicate the matter to be omitted or added.
- B. Procedure. An ordinance may be introduced by any Council Member at any regular or special public meeting of the Council. Except where specifically provided otherwise in this Charter, an ordinance shall be processed in the following manner:
  - (1) The proposed ordinance shall be given to the Manager and placed on the agenda of the Council

for introduction and initial consideration at the next meeting of the Council.

- (2) If approved initially by the Council, the Manager shall cause said proposed ordinance to be posted in the Township Building in the place set aside for the posting of ordinances, and an abstract of the ordinance shall be published in a newspaper of general circulation, at least seven days before the meeting at which the ordinance will receive further action by the Council. Copies of any ordinance shall be made available to the public at cost.
  - (3) The Council may thereafter adopt the proposed ordinance or it may postpone action until a later meeting. The Council may amend a proposed ordinance before final adoption, but any amended ordinance must be again posted as set forth above and no final action may be taken until the amended ordinance has been posted in accordance with this section.
  - (4) An ordinance finally adopted by the Council shall become effective upon the 31st day following its enactment, except as otherwise provided by this Charter, unless a referendum petition has been filed during this period. During this period the ordinance shall be posted in full in the Township Building in the place set aside for the posting of ordinances.
- C. Emergency ordinances. Notwithstanding the provisions of the foregoing section, the Council may, in the event of a substantial public emergency affecting the life, health, property and peace of the citizens of the Township, adopt one or more emergency ordinances, but said ordinances shall not levy taxes or authorize the borrowing of money except as provided elsewhere in this Charter. An emergency ordinance shall be introduced in the form required and shall be so designated and shall clearly state the nature of the emergency in specific terms. No prior posting of an emergency ordinance shall be required and the Council may adopt an emergency ordinance at any public meeting in which it is introduced. An emergency ordinance shall become effective immediately, shall automatically stand repealed as of the 31st day following the date of its adoption, but may be reenacted as provided herein if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances. An emergency ordinance shall be posted as soon as possible after the date at which it is enacted as shall any ordinance repealing an emergency ordinance.

ARTICLE III  
**Township Manager**

**SECTION 301. Appointment: qualifications; compensation.**

The Council shall by a majority of its membership appoint a Township Manager for an indefinite term and fix his compensation. The Manager shall be selected on the basis of his administrative training, professional qualifications, and experience. Council shall review the performance of the Manager annually.

**SECTION 302. Removal.**

The Council may remove the Manager from office in accordance with the following procedures:

- A. The Council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Manager.
- B. Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than 15 days nor later than 30 days after the request is filed. The Manager may file with the Council a written reply not later than five days before the hearing.
- C. The council may adopt a final resolution of removal which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one. The Manager shall continue to receive his salary until the effective date of a final resolution of removal.

**SECTION 303. Powers and duties of the Township Manager.**

The Manager shall be the chief administrative officer of the Township. He shall be responsible to the Council for the administration of all Township affairs placed in his charge by or under this Charter. He shall have the following powers and duties:

- A. He shall appoint and for cause suspend or discharge all Township employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law or this Charter.
- B. He shall direct and supervise the administration of all departments and offices of the Township, except as otherwise provided by this Charter or by law.
- C. He shall attend all Council meetings and shall have the right to take part in discussion but may not vote.
- D. He shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.
- E. He shall be responsible for the preparation of the annual budget and submit it to the Council.
- F. He shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the Township as of the end of each fiscal year.
- G. He shall make such other reports as the Council may require concerning the operations of the

Township departments and offices subject to his direction and supervision.

- H. He shall keep the Council fully advised as to the financial condition and future needs of the Township and make recommendations to the Council concerning the affairs of the Township.
- I. He shall perform such other duties as are specified in this Charter or may be required by the Council.

**SECTION 304. Acting manager.**

The Manager shall designate in writing, subject to approval of the Council, an employee of the Township to exercise the powers and duties of the Manager during his absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another employee of the Township to serve until the Manager shall return or his disability shall cease. In the event of a vacancy, the Council shall appoint an employee of the Township to serve as Acting Manager until the vacancy is filled.

ARTICLE IV  
**Financial Procedures**

**SECTION 401. Fiscal year.**

The fiscal year of the Township shall begin on the first day of January and end on the last day of December unless otherwise provided by law.

**SECTION 402. Fiscal organization.**

The Manager shall be responsible for the administration of the Township finances including the collection of taxes and payment of obligations. The Council may provide for the appointment by the Manager, with the approval by the Council, of a Finance Director who shall be directly responsible to the Manager, who shall exercise the control functions in the management of the Township finances.

**SECTION 403. Submission of budget and budget message.**

On or before the 45th day before the end of each fiscal year, the Manager shall submit to the Council a budget for the ensuing year with an accompanying message.

**SECTION 404. Budget message.**

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the Township for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the Township's debt position and include such other material as the Manager deems desirable.

**SECTION 405. Budget.**

The budget shall provide a complete financial plan of all Township funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget, the Manager shall utilize the most feasible combination of expenditure classifications by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating any proposed tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- A. Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies as outlined in the Administrative Code<sup>2</sup> in terms of their respective work programs, and the method of financing such expenditures;
- B. Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure. The total of proposed expenditures shall not exceed the total estimated income and available surplus.

**SECTION 406. Capital program.**

The Manager shall prepare and submit to the Council Members a minimum of a three-year capital program

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2. Editor's Note: See Ch. 4, Administration of Government.

at least two months prior to the final date for the submission of the budget. The capital program shall include at least the following:

- A. A clear summary of its contents.
- B. A list of all capital improvements which are proposed to be undertaken during the three fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
- C. Cost estimates, method of financing and recommended time schedules for each such improvement; and
- D. The estimated annual cost of operating and maintaining the facilities or equipment to be constructed or acquired. The above information may be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

**SECTION 407. Council members' action on budget.**

- A. Notice and hearing. The Council shall cause to be posted the budget and budget message in the Township Building in the place set aside for the posting of ordinances, at least two weeks prior to the scheduled public presentation of the budget. Notice of the availability of the proposed budget and time and location of its public presentation shall be placed in a newspaper of general Township circulation at the time of its posting. Copies of the budget and budget message shall be open for inspection and available at cost to the public during this time.
- B. Amendment before adoption. At a meeting no less than one week after the public presentation, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts except expenditures required by law or for debt service or for estimated cash deficit, provided no amendment to the budget shall increase the authorized expenditures to an amount greater than the total estimated income.
- C. Adoption. The Council shall adopt the budget on or before the last day of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operations for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items prorated accordingly, until such time as the Council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the taxes therein proposed.

**SECTION 408. Public records.**

Copies of the budget and capital program as adopted shall be public records and shall be made available to the public at the Township Building during normal business hours.

**SECTION 409. Amendments after adoption.**

- A. Supplemental appropriations. If during the fiscal year the Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.
- B. Emergency appropriations. In the event of a genuine emergency, unanticipated at the time the operating budget was adopted, the Council may make supplemental appropriations to meet the emergency. To the extent that there are no available unappropriated revenues to meet the emergency,



the Council may authorize the issuance of temporary notes which shall constitute unfunded debt to be funded and repaid in accordance with the Local Government Unit Debt Act (Act 185 of 1972)<sup>3</sup>. It is the intent of this Charter that operating expenses shall neither be appropriated nor paid out of loan funds except to meet genuine emergencies.

- C. Reduction of appropriations. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may, by ordinance, reduce one or more appropriations.
- D. Transfer of appropriations. At any time during the fiscal year the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may by ordinance transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.
- E. Limitations: effective date. No appropriation for existing debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

#### **SECTION 410. Lapse of appropriations.**

Every appropriation shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered.

#### **SECTION 411. Administration of budget.**

At such times as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments of its appropriations by periods with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made pursuant to Section 409.

#### **SECTION 412. Limitations of tax rates.**

Rates of taxation may not be increased by the Council beyond the maximum rate that may be levied by Second Class Townships in the Commonwealth of Pennsylvania as that rate is from time to time established by the General Assembly, except by referendum.

#### **SECTION 413. Debt limit.**

The Township shall continue to be limited by the Local Unit Debt Act (Act 185).<sup>4</sup>

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3. Editor's Note: Said Act was repealed 12-19-1996 by P.L. 1158, No. 177. See now 53 Pa.C.S.A. § 8001 et seq.

4. Editor's Note: Said Act was repealed 12-19-1996 by P.L. 1158, No. 177. See now 53 Pa.C.S.A. § 8001 et seq.

**SECTION 414. Contracts.**

The Manager may make contracts for lawful purposes, subject to general law or this Charter. No contract shall be made or obligation incurred unless there is a sufficient unencumbered balance in an appropriation and that sufficient monies therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any officer authorizing or permitting any contract to be made in violation of this provision shall be subject to removal from office and liable to the Township for any loss incurred as a result of such action. The Council shall provide in the Administrative Code<sup>5</sup> the procedures for letting contracts which shall not be inconsistent with general law or this Charter, and shall include as a minimum the following provisions:

- A. All contracts of the Township involving sums in excess of an amount specified by Council by ordinance shall be in writing. The Manager shall execute all contracts on behalf of the Township. Authorization for contracts for the purchase, sale, lease or use of real estate, or for the construction of public capital improvements shall be given by ordinance and such contracts shall be signed by the presiding officer of Council as well as the Manager. Any officer authorized to execute a written contract shall submit the form of contract to the Township Solicitor for approval before executing the contract.
- B. The Council shall, by ordinance, establish a procedure for competitive bidding to include definitions of amounts, publication and notice requirements, deposit and bond requirements, conditions, terms, rules, regulations, waiver and exceptions, as it shall from time to time deem advisable and in accordance with general law and this Charter. Competitive bidding shall not be required for:
  - (1) Labor or services rendered by any Township officer or employee;
  - (2) Contracts for labor, materials, supplies or services aggregating less than the amount specified by the Council;
  - (3) Contracts relating to the acquisition or use of real property;
  - (4) Contracts for professional or unique services or supplies;
  - (5) Contracts for insurance and surety company bonds, except that the use of competitive bidding for such items shall be encouraged where practicable;
  - (6) Contracts for emergency repairs; and
  - (7) Contracts with other governmental entities, authorities, agencies or political subdivisions.
- C. Except as otherwise provided in this Charter, no contract for materials, supplies, labor, franchise or other valuable consideration, to be furnished to or by the Township, shall be authorized on behalf of the Township except with the lowest responsible bidder after competitive bidding.
- D. No person shall evade the provisions of this section of the Charter by purchasing or contracting for materials, supplies, or services piecemeal which transactions would, in the exercise of reasonable discretion and prudence, be considered as one transaction amounting to more than the amount as specified by the Council.
- E. The terms of contracts for the purchase of materials and supplies shall not exceed two years.

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5. Editor's Note: See Ch. 4, Administration of Government.

ARTICLE V  
**Township Administration**

**SECTION 501. General provisions.**

The Council may by ordinance create Township departments, offices, boards, and commissions and prescribe their organization and function. The Council shall, by a majority vote of all Council Members, appoint members of such boards and commissions that it creates.

**SECTION 502. Administrative Code.**

The Council shall adopt by ordinance an Administrative Code which shall provide for administrative procedures not specifically enumerated in this Charter or general law. This Code shall include, but not be limited to, the following topics:

- A. Purchasing procedures.
- B. Borrowing procedures.
- C. Classification of accounts.
- D. Tax collection procedures.
- E. Personnel practices.

**SECTION 503. Personnel practices.**

The personnel practices section of the Administrative Code shall specify that all appointments and promotions of Township officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence. The Township Manager shall be responsible for the administration of the personnel practices of the Township. The personnel practices section, as a minimum, shall provide for:

- A. The classification of all Township positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances.
- B. Methods for determining the merit and fitness of candidates for appointment or promotion.
- C. Policies regulating disciplinary action, grievance procedures, reduction in force, and removal of employees.

**SECTION 504. Township Solicitor.**

- A. The Council shall appoint to serve at its pleasure a Township Solicitor on the first meeting in January or as soon thereafter as practicable and fix the compensation. He shall be a member of the Bar of the Supreme Court of Pennsylvania and experienced in municipal law.
- B. It shall be the duty of the Township Solicitor to:
  - (1) Serve as the legal advisor to the Council, the Manager, and other Township officers, departments, and agencies. It is the intent of this Charter that only one person shall be the legal adviser of the Township, but the Council may authorize temporary assistants for special

purposes from time to time.

- (2) Represent the Township in legal proceedings or hearings.
- (3) Perform any other duties prescribed by this Charter or by ordinance or general law, or as directed by the Council.

**SECTION 505. Township Engineer.**

- A. The Manager shall appoint a Pennsylvania registered professional engineer, or engineering firm, to carry out the duties of Township Engineer as needed. The compensation is to be fixed by the Council.
- B. The Township Engineer, under the direction and supervision of the Manager, shall supervise all engineering and other matters of the Township as specified in this Charter or by ordinance.

## ARTICLE VI

**Auditors****SECTION 601. Elected auditors.**

- A. Composition. There shall be a Township committee of elected Auditors consisting of three members who shall be nominated and elected by the qualified electors of the Township at large.
- B. Election and term. The terms of Auditors shall be four years beginning at 8:00 p.m. on the first Monday of January following the year in which they are elected, except for the first Auditors to serve under this Charter who will serve for terms as provided hereinafter.
- C. Eligibility. Only qualified voters of the Township of Middletown shall be eligible to be nominated and to hold the office of Auditor. No Auditor shall hold any other Township office or Township employment during the term for which he was elected or appointed as Auditor.
- D. Vacancies. Vacancies in the position of elected Auditor shall be filled by the remaining members of the Committee of Auditors who shall appoint an eligible person to serve for the balance of the unexpired term. If no appointment is made within 30 days after the vacancy occurs, the Council shall fill the vacancy.

**SECTION 602. Powers and duties.**

- A. The Auditors shall meet on the first Tuesday following the first Monday of January of each year and organize by the election of a Chairman and a secretary.
- B. The Auditors shall audit, adjust, and settle the accounts of all offices of the Township and may also audit, adjust, and settle the accounts of any person, corporation, association or other entity receiving or expending Township funds. They shall then prepare a report thereof, which shall contain an audit of the accounts of the last fiscal year, and shall show a complete statement of the financial condition of the Township showing in detail the actual indebtedness of the Township, the evaluation of Taxable property therein, the assets of the Township with the character and value thereof, and the date of maturity of the respective forms of funded debt thereof. This report shall be prepared within 90 days after the close of the fiscal year and a copy filed with the Manager for presentation to the Council at its next regular meeting, and shall be made available to the public by request.
- C. Any auditor refusing or willfully neglecting to aid in preparing and filing the aforesaid report shall be subject to removal by the majority of the entire membership of the Council.

**SECTION 603. Quorum.**

A majority of the committee shall constitute a quorum necessary to carry out the duties required herein.

**SECTION 604. Irregularities.**

The amount of any balance or shortage or of any prohibited or otherwise unlawful expenditure which causes a financial loss to the Township shall constitute a surcharge against any officer against whom such balance or shortage shall appear, or who by vote, act, or neglect, has permitted or approved such expenditure, to the extent of the actual financial loss sustained by the Township. Any such surcharge shall, if no appeal is taken, or after an appeal is finally determined, be entered by the Prothonotary of Delaware County as a judgment against such officer and in favor of the Township.

**SECTION 605. Appeals from audit.**

It shall be lawful for the Township or any taxpayer thereof, on its behalf, or any officer whose account is settled or audited to appeal from the settlement or audit as shown in the Auditor's report, to the Court of Common Pleas of Delaware County, not later than 40 days from the date of the presentation of the Report to the Council.

**SECTION 606. Compensation.**

An elected Auditor shall be compensated for work actually performed at a rate of \$4 per hour subject to an annual maximum of \$800; provided that the Council may, after the effective date of this Charter, provide by ordinance for a different rate to apply to elected Auditors elected after the expiration of the term of office of those in office at the time the ordinance is enacted, and provided that the maximum annual amount may be exceeded if authorized by 2/3 of the Council in the event that the Council desires to have the Committee conduct any special detailed audits or investigations beyond the normal duties of the position enumerated in this Article.

**SECTION 607. Attendance of witness.**

The Auditors of the Township, or a majority of them, shall have power to issue subpoenas to obtain the attendance of the officers whose accounts they are required to adjust, their executors, and administrators, and of any person whom it may be necessary to examine as witnesses and to compel their attendance. If any person shall refuse or neglect to appear or testify, the Auditors shall petition the Court of Common Pleas of Delaware County to issue a subpoena to such a person and to require him to appear and to testify before the auditors.

**SECTION 608. Auditors may administer oaths.**

The Auditors, or a majority of them, shall have power to administer oaths and affirmations to all persons brought or appearing before them; and all persons guilty of swearing or affirming falsely shall be liable to indictment and punishment for perjury as provided by law.

**SECTION 609. Attorney to auditors.**

The Auditors may employ an attorney whenever the same is deemed advisable by a majority of the Auditors. The compensation of such attorney shall be fixed by the Auditors and shall not exceed the sum payable to one Auditor for the annual undertaking of his duties as set forth herein; unless a larger compensation shall be allowed by the Council or shall be specially allowed by a Court in connection with any proceedings before such Court, and said compensation shall be payable by the Township out of its general funds.

**SECTION 610. Independent audit.**

The Council may, if it deems necessary, provide for an independent audit of all Township accounts by a certified public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the Township or of its elected or appointed officers. The Council may provide for more frequent audits as it deems necessary. Copies of any such audits or financial report shall be available for inspection by the public.

ARTICLE VII  
**Initiative and Referendum**

**SECTION 701. General authority.**

- A. Initiative. The qualified voters of the Township shall have power to propose ordinances to the Council. If the Council fails to adopt without any change in substance an ordinance so proposed, the electorate shall have the opportunity to adopt or reject it at an election. Such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of Township officers or employees.
- B. Referendum. The qualified voters of the Township shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at an election, provided that such power shall not extend to the budget or capital program or ordinances relating to appropriation of money or levy of taxes.

**SECTION 702. Commencement of proceedings, petitioners' committee: affidavit.**

Any five qualified voters may commence initiative or referendum proceedings by filing with the Manager an affidavit stating they will constitute the Petitioners' Committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the Committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the Petitioner's Committee is filed, the Manager shall have issued the appropriate petition blanks to the Petitioners' Committee.

**SECTION 703. Petitions.**

- A. Number of signatures. Initiative and referendum petitions must be signed by qualified voters of the Township in number to at least 10% of the total number of qualified voters registered to vote at the last regular Township election.
- B. Form and content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the ordinance proposed or the title and a summary of the ordinance sought to be reconsidered.
- C. Affidavit of circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all signatures were affixed in his presence, that he believes them to be genuine signatures of the persons whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- D. Time for filing referendum petitions. Referendum petitions must be filed within 30 days after adoption by Council of the ordinance sought to be reconsidered.

**SECTION 704. Procedure after filing.**

Within 25 days after the petition is filed, the Manager shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the Petitioners' Committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the Petitioners' Committee files a notice of

intention to amend it with the Manager within two days after receiving the copy of his certificate and files a supplementary petition upon additional papers within 10 days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of Subsections B and C of Section 703, and within five days after it is filed, the Manager shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the Petitioners' Committee by registered mail as in the case of an original petition. If a petition or amended petition is certified insufficient and the Petitioners' Committee does not elect to amend it in the time required, the Manager shall promptly present his certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

**SECTION 705. Referendum petitions: suspension of effect of ordinance.**

When a referendum petition is received by the Manager, he shall so notify the Council and the ordinance specified in the petition shall not become effective until the sufficiency of the petition has been determined. If the petition is finally determined to be insufficient under Section 704, the ordinance shall become effective upon certification to the Council of this insufficiency or 31 days after enactment of the ordinance, whichever is later. If the petition is certified sufficient, the ordinance shall be placed in suspension and shall not become effective unless or until the suspension is removed. Such suspension shall terminate when the results of the election on the ordinance in question are certified, or the Council repeals the ordinance.

**SECTION 706. Action on petitions.**

When an initiative or referendum petition has been certified, the Council shall promptly consider the proposed initiative ordinance in the manner provided in this Charter or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within 30 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, the Manager shall file the ordinance with the County Election Board to be submitted to the voters of the Township at the next election, primary, municipal or general, occurring not less than 90 days after the petition is certified. If the Council adopts the initiative ordinance without change in substance further proceedings may, be halted by filing with the Manager a concurrence signed by at least four members of the Petitioners' Committee.

- A. Initiative. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greater number of affirmative votes shall prevail to the extent of such conflict.
- B. Referendum. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.



ARTICLE VIII  
**General Provisions**

**SECTION 801. Personal financial interest.**

- A. Any Township officer or employee shall, within 30 days of taking office and by March First each year of service, file with the Manager, as a public record, a notarized full disclosure statement setting forth all real estate located within the Township owned at the present time or within the past two years, by himself or by any member of his immediate family, or any ownership of, interest in, or employment by any business interest located within the Township by himself or any members of his immediate family at present or within the past two years; or ownership of, interest in or employment by any business interest or corporation which has done business to any appreciable degree with the Township within the past five years.
- B. In any case where a Township officer or official, elected or appointed, knows or by the exercise of reasonable diligence could know that he is interested to any appreciable degree, either directly or indirectly, in any contract for the sale or furnishing of any personal property for the use of the Township of more than \$300 in any year, he shall notify the Council thereof, and any such contract shall not be passed and approved by the Council except by an affirmative vote of at least 3/4 of the members thereof. The provisions of this section shall not apply to cases where such officer or official is an employee of the person, firm or corporation to which money is to be paid in a capacity with no possible influence on the transaction and in which he cannot possibly be benefited thereby, either financially or in any other material manner. Any officer or officials who shall knowingly violate the provisions of this section shall be liable to the Township upon his bond, if any, or personally, to the extent of the damage shown to be sustained thereby by the Township, to ouster from office, and shall be guilty of a misdemeanor; and upon conviction thereof, shall be sentenced to pay a fine not exceeding \$500, or imprisonment not exceeding one year, or both.

**SECTION 802. Conduct of officers.**

No candidate for office, appointment, or employment and no officer, appointee or employee of the Township shall, directly or indirectly, give or promise any person any office, position, employment, benefit or anything of value for the purpose of influencing or obtaining the political support, aid or vote of any person, under the penalty of being disqualified to hold the office or employment to which he may be or may have been elected or appointed.

**SECTION 803. Severability.**

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of this Charter or any of its provisions to any person or circumstances is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

**SECTION 804. Gender.**

At all places in this Charter words used in a masculine gender shall include the feminine.

**SECTION 805. Bonding officers and employees.**

The Council shall provide in the Administrative Code for the bonding of all officers and employees who are responsible for the handling and/or authorization of receipts, disbursements, goods and supplies. The

premiums for such bonds shall be paid by the Township.

**SECTION 806. Effective date.**

This Charter shall become effective on the second day of January 1978, except as otherwise stated herein, and except for the transitional provisions of Article IX which shall become effective upon certification of the adoption of this Charter.

**ARTICLE IX**  
**Transitional Provisions**

**SECTION 901. Council members.**

- A. Those two present Supervisors whose terms extend past 1977, and those two Supervisors to be elected in 1975, whose terms will extend past 1977, will remain in office as Council Members at Large until the expiration of the terms for which they were elected. The first vacancy to occur in the office of Council Member at Large after January 1, 1978, shall not be filled and shall result in that office being extinguished. Any vacancy occurring thereafter shall be filled as provided for by this Charter. If by January 1, 1981, a vacancy has not occurred in the office of Council Member at Large thereby causing that office to be extinguished as set forth herein, then only one Council Member at Large shall be elected in the municipal elections of 1981.
- B. At the municipal election in 1977, a Council Member shall be elected from each of the four districts established by this Charter. The Council Members from odd-numbered districts shall be elected for terms of two years. The Council Members from even-numbered districts shall be elected for terms of four years. At the expiration of the terms of office of the first Council Members from districts under this Charter, then their successors shall serve for four-year terms.

**SECTION 902. Officers and employees.**

- A. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are Township officers or employees at the time of the adoption of this Charter. An employee holding Township position at the time this Charter takes full effect, who was serving in the same or comparable position at the time of adoption, shall not be subject to competitive tests as a condition of continuance in the same position, but in all other respects shall be subject to those personnel requirements in this Charter or as may be required by the Administrative Code.<sup>6</sup>

**SECTION 903. Auditors.**

The two Auditors in office whose terms extend past 1977 will continue in office until the expiration of the terms for which they were elected, in which case the remaining terms under this Charter shall be four years for one Auditor and two years for the other Auditor. At the municipal elections in 1977, one Auditor shall be elected for a four-year term. At the expiration of the terms of office of the Auditors under this Charter, their successors shall serve for four-year terms.

**SECTION 904. Departments, offices, boards and commissions.**

- A. At the effective date of this Charter, January 2, 1978, all appointive offices previously existing, except those listed in Subsection B hereof, shall be abolished and the terms of all appointed officers shall immediately cease and terminate. However, nothing in this section shall be construed to abolish the office or terminate the terms of office of any official or employee protected by a tenure of office law, and it is the intent of this Charter that qualified officers and employees be reappointed to the same or similar positions in the organization to be set forth in the Administrative Code.
- B. All appointed members of Boards, Commissions, Authorities and Committees shall continue in office with the same or similar bodies for the balance of the term of their original appointment. However, nothing in this section shall be construed to limit the right of the Council to create, modify, or abolish

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6. Editor's Note: See Ch. 4, Administration of Government.

Boards, Commissions, Authorities, or other Agencies and special Committees as provided in this Charter.

**SECTION 905. Continuance.**

All actions and proceedings of a legislative, executive, or judicial character which are pending upon the effective date of this Charter shall be maintained, carried on, or dealt with by the Township department or office appropriate under this Charter.

**SECTION 906. Transition committee.**

- A. Within 40 days after certification of the adoption of this Charter, the Township Board of Supervisors shall appoint a Committee to draft the Administrative Code. The Administrative Code shall be adopted by ordinance within 12 months after the certification of the adoption of this Charter. It shall become effective upon the effective date of this Charter as set forth in Section 806. Thereafter, it may be amended by the normal procedures for the enactment of ordinance.
- B. The said Committee shall consist of no less than seven or more than 11 members; and shall include the Township Manager, at least two members of the Board of Supervisors, and at least three members of the Government Study Commission. The Committee may also include other electors of the Township.

**SECTION 907. Budget for calendar year 1978.**

The Committee as provided for in Section 906 may assist the 1977 Board of Supervisors in preparing the budget for the year 1978 in accordance with the organizational structure and the uniform classification of accounts and accounting codes to be provided in accordance with Section 502.

**Part I: Administrative Legislation**

**Chapter 1****GENERAL PROVISIONS**

	<b>ARTICLE I</b>	<b>§ 1-12.</b>	<b>Effect of Code on previous provisions.</b>
	<b>Enforcement</b>	<b>§ 1-13.</b>	<b>Repeal of legislation not contained in Code.</b>
<b>§ 1-1.</b>	<b>Prosecution of ordinance violators; disposition of fines, penalties and costs.</b>	<b>§ 1-14.</b>	<b>Legislation saved from repeal; matters not affected by repeal.</b>
<b>§ 1-2.</b>	<b>Arrests for violations of ordinances.</b>	<b>§ 1-15.</b>	<b>Inclusion of new legislation prior to adoption of Code.</b>
<b>§ 1-3.</b>	<b>Commencement of proceedings.</b>	<b>§ 1-16.</b>	<b>Changes and revisions in previously adopted legislation; new provisions.</b>
<b>§ 1-4.</b>	<b>Enforcement officers.</b>	<b>§ 1-17.</b>	<b>Interpretation of provisions.</b>
<b>§ 1-5.</b>	<b>Arrests on view; complaints.</b>	<b>§ 1-18.</b>	<b>Titles and headings; editor's notes.</b>
<b>§ 1-6.</b>	<b>Commitments pending hearings.</b>	<b>§ 1-19.</b>	<b>Filing of copy of Code.</b>
<b>§ 1-7.</b>	<b>Commitments after hearing.</b>	<b>§ 1-20.</b>	<b>Amendments to Code.</b>
<b>§ 1-8.</b>	<b>General penalty.</b>	<b>§ 1-21.</b>	<b>Code books to be kept up-to-date.</b>
<b>§ 1-9.</b>	<b>Collection of penalties.</b>	<b>§ 1-22.</b>	<b>Publication of notices.</b>
<b>§ 1-10.</b>	<b>Payment of costs by Township.</b>	<b>§ 1-23.</b>	<b>Altering or tampering with Code; penalties for violation.</b>
	<b>ARTICLE II</b>	<b>§ 1-24.</b>	<b>Severability.</b>
	<b>Adoption of Code</b>	<b>§ 1-25.</b>	<b>Effective date.</b>
<b>§ 1-11.</b>	<b>Approval, adoption and enactment of Code.</b>		

**[HISTORY: Adopted by the Town Council of the Township of Middletown as indicated in article histories. Amendments noted where applicable.]**

## ARTICLE I

**Enforcement****[Adopted as Ch. X, Art. 1, of the 1976 Ordinance Book]****§ 1-1. Prosecution of ordinance violators; disposition of fines, penalties and costs. [Amended 12-10-1984 by Ord. No. 362]**

Any violation or failure to comply with any provision of any Township ordinance shall constitute a summary offense and the prosecution for every such offense shall be according to Chapter 50 of the Pennsylvania Rules of Criminal Procedure. All fines, penalties and costs imposed when collected shall forthwith be payable to the Treasurer of the Township.

**§ 1-2. Arrests for violations of ordinances. [Amended 12-10-1984 by Ord. No. 362]**

Any person arrested for a violation of any ordinance of the Township shall be entitled to give bail for his appearance, according to Chapter 50 and Chapter 4000 of the Pennsylvania Rules of Criminal Procedure.

**§ 1-3. Commencement of proceedings. [Amended 12-10-1984 by Ord. No. 362]**

All proceedings for the violations of Township ordinances and for the collection of fines and penalties imposed thereby may be commenced by citation in accordance with Rule 51 of the Pennsylvania Rules of Criminal Procedure.

**§ 1-4. Enforcement officers. [Amended 12-10-1984 by Ord. No. 362]**

Summary prosecution for the violation of any ordinance of the Township may be commenced by any member of a regularly constituted police department or by any enforcement agent of the Township, including but not limited to a dog officer, a dog catcher, a building officer, a zoning officer and fire marshal.

**§ 1-5. Arrests on view; complaints.**

When any person is arrested on view, a complaint, on oath or affirmation, shall be made immediately, whereupon like proceedings shall be had as provided in the preceding section.

**§ 1-6. Commitments pending hearings.**

Any person arrested for the violation of a Township ordinance may be committed to a lockup specified by the Township Supervisors, pending a hearing or trial, but in case there is no suitable lockup in which to detain prisoners, the person arrested may be committed to the County Jail.

**§ 1-7. Commitments after hearing.**

Upon judgement against any person by summary conviction, or by proceedings by summons, on default of the payment of the fine or penalty imposed and the costs, the defendant may be sentenced and committed to a suitable lockup for a period not exceeding 10 days, or to the County Jail or workhouse for a period not exceeding 30 days.

**§ 1-8. General penalty.**

If the fine or penalty for violation of a Township ordinance is not specified in the ordinance or by the Laws

of the Commonwealth, the fine shall be \$10 for each offense.

**§ 1-9. Collection of penalties.**

In case the defendant has goods or property of any kind whatsoever out of which the judgement and costs can be collected by execution or other process, the Township may elect to collect the judgement and costs by such proceedings.

**§ 1-10. Payment of costs by Township.**

When a prisoner shall be committed to any County Jail or workhouse either for the nonpayment of a fine or penalty imposed for the violation of any Township ordinance, the costs of the proceedings and the expense of maintaining such prisoner during his confinement shall be paid by the Township and the county shall not be liable for any such maintenance or to any person for any costs in such proceedings.



## ARTICLE II

**Adoption of Code****[Adopted 9-28-2009 by Ord. No. 708]****§ 1-11. Approval, adoption and enactment of Code.**

Pursuant to Section 213 of the Township of Middletown Home Rule Charter, the codification of a complete body of legislation for the Township of Middletown, County of Delaware, Commonwealth of Pennsylvania, as revised, codified and consolidated into chapters, articles and sections, and consisting of Chapters 1 through 275, together with an Appendix, are hereby approved, adopted, ordained and enacted as a single ordinance of the Township of Middletown, which shall be known and is hereby designated as the "Code of the Township of Middletown," hereinafter referred to as the "Code."

**§ 1-12. Effect of Code on previous provisions.**

The provisions of this Code, insofar as they are substantively the same as those of ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinance. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Township Council of the Township of Middletown, and it is the intention of said Township Council that each such provision contained within the Code is hereby reenacted and reaffirmed as it appears in said Code. Only such provisions of former ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-13 below, and only new or changed provisions, as described in § 1-16 below, shall be deemed to be enacted from the effective date of this Code, as provided in § 1-25 below.

**§ 1-13. Repeal of legislation not contained in Code.**

All ordinances or parts of ordinances of a general and permanent nature adopted by the Township of Middletown and in force on the date of the adoption of this Code and not contained in the Code are hereby repealed as of the effective date given in § 1-25 below, except as hereinafter provided.

**§ 1-14. Legislation saved from repeal; matters not affected by repeal.**

The adoption of this Code and the repeal of ordinances provided for in § 1-13 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal; provided, however, that the repeal of ordinances pursuant to § 1-13 or the saving from repeal of ordinances pursuant to this section shall not be construed so as to revive any ordinance previously repealed, superseded or no longer of any effect:

- A. Any ordinance adopted subsequent to 6-23-2008.
- B. Any right or liability established, accrued or incurred under any legislative provision of the Township prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability or any cause of action acquired or existing.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the Township or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior

to the effective date of this ordinance, brought pursuant to any legislative provision of the Township.

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

#### **§ 1-15. Inclusion of new legislation prior to adoption of Code.**

All ordinances of a general and permanent nature adopted subsequent to the date given in § 1-14A and/or prior to the date of adoption of this ordinance are hereby deemed to be a part of the Code and shall, upon being printed, be included therein. Attested copies of all such ordinances shall be temporarily placed in the Code until printed supplements are included.

#### **§ 1-16. Changes and revisions in previously adopted legislation; new provisions.**

- A. Nonsubstantive grammatical changes. In compiling and preparing the ordinances of the Township for

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

- B. Substantive changes and revisions. In addition to the changes and revisions described above, changes and revisions of a substantive nature, as set forth in Schedule A attached hereto and made a part hereof, are hereby made to various ordinances included in the Code. These changes are enacted to bring provisions into conformity with the desired policies of the Township Council, and it is the intent of the Township Council that all such changes be adopted as part of the Code as if the legislation so changed had previously formally amended to read as such. All such changes and revisions shall be deemed to be in effect as of the effective date of the Code specified in § 1-25.<sup>7</sup>
- C. Nomenclature. Throughout the Code, references to the following agencies or officials are updated as indicated:
  - (1) "Department of Environmental Resources" or "DER" to "Department of Environmental Protection" or "DEP."
  - (2) "Department of Community Affairs" or "DCA" to "Department of Community and Economic Development" or "DCED."
  - (3) "Justice of the Peace," "District Magistrate" and "District Justice" to "Magisterial District Judge."
  - (4) "Soil Conservation Service" or "SCS" to "Natural Resources Conservation Service" or "NRCS."

#### **§ 1-17. Interpretation of provisions.**

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

#### **§ 1-18. Titles and headings; editor's notes.**

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

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7. Editor's Note: In accordance with § 1-16B, the chapters, parts and sections which were added, amended, adopted or deleted by this ordinance are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 9-28-2009 by Ord. No. 708." Schedule A, which contains a complete description of all changes, is on file in the Township offices.

**§ 1-19. Filing of copy of Code.**

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

**§ 1-20. Amendments to Code.**

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

**§ 1-21. Code books to be kept up-to-date.**

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

**§ 1-22. Publication of notices.**

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

**§ 1-23. Altering or tampering with Code; penalties for violation.**

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

**§ 1-24. Severability.**

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

**§ 1-25. Effective date.**

All provisions of this ordinance and of the Code shall be in force and effect 31 days after September 28, 2009.



# ADMINISTRATION OF GOVERNMENT

## Chapter 4

### ADMINISTRATION OF GOVERNMENT

ARTICLE I Township Organization		ARTICLE IV Boards, Commissions and Similar Agencies	
§ 4-1.	General framework.	§ 4-21.	Establishment by Council.
§ 4-2.	Self-executing provisions of Charter incorporated.	§ 4-22.	Temporary boards, commissions or committees.
§ 4-3.	Discretionary powers implemented.	§ 4-23.	Limitations on membership.
§ 4-4.	Compensation of elected officials.	§ 4-24.	Solicitors for Township boards, committees or similar agencies.
ARTICLE II Meetings of Council		§ 4-25.	Township Planning Commission.
§ 4-5.	Organization meeting.	§ 4-26.	Zoning Hearing Board.
§ 4-6.	Failure to organize.	§ 4-27.	Park and Recreation Committee.
§ 4-7.	Regular meetings.	§ 4-28.	Library representatives.
§ 4-8.	Special meetings.	§ 4-29.	Sewer Authority.
§ 4-9.	Rules of procedure.	§ 4-30.	Civil Defense Director.
§ 4-10.	Official action of Council.	§ 4-31.	Environmental Advisory Committee.
§ 4-11.	Agenda for meetings.	§ 4-32.	Senior Citizens' Advisory Committee.
ARTICLE III Executive Organization		§ 4-33.	Fire Apparatus Committee.
§ 4-12.	Township Manager.	§ 4-34.	Board of Health.
§ 4-13.	Township departments.	§ 4-35.	Cable Television Advisory Committee; community TV workshops.
§ 4-14.	Departmental organization.	ARTICLE V Financial Management	
§ 4-15.	Duties of department heads.	§ 4-36.	Responsibility of Director of Finance.
§ 4-16.	Department of Administration and Finance.	§ 4-37.	Duties of Director of Finance.
§ 4-17.	Department of Engineering.	§ 4-38.	Operational procedures provided in departmental regulations.
§ 4-18.	Department of Health.	§ 4-39.	Fiscal year.
§ 4-19.	Department of Recreation.	§ 4-40.	Classification of accounts.
§ 4-20.	Administration of functions other than by Township departments.	§ 4-41.	Appropriations.
		§ 4-42.	Annual budget and capital program.

## MIDDLETOWN CODE

§ 4-43.	Encumbrance accounting.	§ 4-65.	Other forms of leave.
§ 4-44.	Accounting for receipts.	§ 4-66.	Holidays and personal days.
§ 4-45.	Contracts.	§ 4-67.	Overtime and compensatory time off.
§ 4-46.	Competitive bidding.		
§ 4-47.	Sale of Township property.	§ 4-68.	(Reserved)
§ 4-48.	Gifts to Township.	§ 4-69.	Political activity.
§ 4-49.	Disbursements.	§ 4-70.	through § 4-71. (Reserved)
§ 4-50.	Annual audit by elected auditors.	§ 4-72.	Layoffs.
§ 4-51.	Independent audit.	§ 4-73.	Resignations and reinstatement.
§ 4-52.	Bonding of officers and employees.	§ 4-74.	Discipline.
§ 4-53.	Limitations on tax rates and debt.	§ 4-75.	Appeals and grievances.
		§ 4-76.	Sexual harassment.
		§ 4-77.	Drug and alcohol policy.

ARTICLE VI  
Personnel Regulations

§ 4-54.	Purpose; applicability; administration.
§ 4-55.	Employment process.
§ 4-56.	Organization chart.
§ 4-57.	Classification Plan.
§ 4-58.	Pay Plan.
§ 4-59.	Performance ratings.
§ 4-60.	Promotion, demotion and transfer.
§ 4-61.	Hours of work.
§ 4-62.	Vacation leave.
§ 4-63.	Sick leave.
§ 4-64.	Injury leave.

ARTICLE VII  
Ethical Practices

§ 4-78.	Ethical practices enumerated.
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ARTICLE VIII  
Insurance and Related Matters

§ 4-79.	Township insurance.
§ 4-80.	Township responsibilities for claims.
§ 4-81.	Agencies excluded.

ARTICLE IX  
Driver Safety Policy

§ 4-82.	Policy included.
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[HISTORY: Adopted by the Board of Supervisors (now Township Council<sup>8</sup>) of the Township of Middletown 12-29-1977 by Ord. No. 221.<sup>9</sup> Amendments noted where applicable.]

8. Editor's Note: The name of the Township's governing body became the Township Council as of 1-1-1978, the effective date of the Home Rule Charter.

9. Editor's Note: This ordinance provided an effective date of 1-2-1978 and also provided that any ordinances or resolutions inconsistent or in conflict with this Administrative Code be repealed as of 1-2-1978.



ARTICLE I  
**Township Organization<sup>10</sup>**

**§ 4-1. General framework.**

The general framework of the Township government shall be as specified in the Home Rule Charter of Middletown Township, hereinafter referred to as the "Charter." This is summarized as follows:

- A. The Township Council, consisting of seven members, four elected from representative districts and three elected from the Township at large for four-year terms.
- B. The elected auditors, consisting of three members elected from the Township at large for four-year terms.
- C. The Township Manager, appointed by majority vote of the members of Township Council for an indefinite term.
- D. The Township Solicitor, appointed annually by a majority vote of the Township Council for an indefinite term.
- E. The Township Engineer, appointed by the Township Manager, after consultation with the Council, for an indefinite term. An engineering firm or a qualified individual may be appointed Township Engineer.
- F. Other officers, boards, and commissions may be established by the Council, at its discretion, by ordinance and provided for in the Administrative Code. Such positions are provided for in Articles III and IV below.

**§ 4-2. Self-executing provisions of Charter incorporated.**

The self-executing provisions of the Charter are incorporated in this chapter by reference with the same effect as if they were written herein.

**§ 4-3. Discretionary powers implemented.**

The discretionary powers of Council under the Charter with respect to organization and procedures are implemented in the sections of this chapter to follow.

**§ 4-4. Compensation of elected officials.**

The compensation of future elected officials (Council members and Auditors) shall be set as provided in the Charter, Sections 207 and 606, subject to the following supplemental provisions:

- A. Reimbursement of expenses. Council members desiring reimbursement for expenses shall submit an expense statement in the form required by Council, itemizing each item for which reimbursement is requested, and, except for mileage allowances for authorized travel, shall attach to such statement an itemized receipt or receipts for the items for which reimbursement is requested. All expense reimbursements shall be within the appropriations made by Council for such purposes and shall be subject to audit in accordance with the Charter, Section 604.

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**10. Editor's Note: See also the Organizational Chart at the end of this chapter.**

ARTICLE II  
**Meetings of Council**

**§ 4-5. Organization meeting.**

In accordance with the Charter, Section 210A, the Council shall organize at 8:00 p.m. the first Monday of January of each year, except that if the first Monday is a legal holiday, the organization meeting shall be held on the first day following which is not a legal holiday. The Chairman or the Vice Chairman of the previous year's Council, if still in office, shall preside at the organization meeting until new officers are elected as provided in the Charter. Should neither the Chairman nor the Vice Chairman of the previous year continue as a Council member, or not attend the organizational meeting, the Township Manager shall serve as temporary Chairman for the election of officers. The order of business shall be as follows:

- A. An oath of office shall be required by newly elected officials and the swearing in of new Council members should be the first order of business.
- B. The Chairman for the current year shall be elected by a majority vote of Council members present, provided that a quorum is in attendance. In the event that a Chairman cannot be elected due to a tie vote, the Chairman or Vice Chairman from the previous year shall continue as Chairman, at the pleasure of Council.
- C. A Vice Chairman shall likewise be elected.
- D. The Township Manager shall serve as Secretary of the Council and keep its minutes and other records, provided that the Manager may select a member of the administrative staff to serve as Assistant Secretary of the Council and perform the clerical functions of the office.
- E. The Council shall adopt, by resolution, a schedule of regular meetings for the year, which schedule shall be posted prominently at the Township Building. Any changes in the schedule of meetings shall be posted at the Township Building at least 12 hours in advance of any meeting date changed in accordance with the Charter, Section 210B(2).
- F. When the organizational matters enumerated above have been completed, Council shall proceed with the regular business of the meeting which shall be set forth in the agenda in accordance with the Charter, Section 210B(3)(b).

**§ 4-6. Failure to organize.**

Should the Council be unable to organize at the annual organization meeting for lack of a quorum, only essential business shall be conducted until Council has been organized in accordance with the Charter.

**§ 4-7. Regular meetings.**

Council shall meet regularly, at least monthly, according to the schedule of regular meetings adopted at the annual organization meeting as provided in § 4-5D above.

**§ 4-8. Special meetings.**

Special meetings may be held on the call of the Chairman or petition of a majority of the Council members, with at least 12 hours' notice in advance of such meeting delivered to the home address of each Council member. In addition, attempts should be made by telephone to contact Council members. An agenda of the matters to be considered at such special meeting will be included in the meeting notice, and the business

of the special meeting will be limited to the matters stated in the notice and agenda. Should any member of Council, other than the Chairman, desire to call a special meeting against the wishes of, or in the absence of, the Chairman, such member shall obtain the signatures of a majority of the Council members to petition for such special meeting, stating the subject of the meeting, which petition shall be delivered to the Township Manager. Upon receipt of such petition, the Manager shall cause a notice of the meeting, with agenda, to be delivered to the home address of each Council member and a copy of same to be duly posted at the Township Building. If the purpose of the meeting is to adopt an emergency ordinance as set forth in the Charter, Section 213C, the requirement of at least 12 hours' advance notice may be waived, provided that advance notice is provided as quickly as possible consistent with the nature of the emergency.

#### **§ 4-9. Rules of procedure.**

Council's rules of procedure shall be in such detail as the Council chooses to provide but will include the following provisions consistent with the Charter and normal good practice to expedite the conduct of business:

##### **A. Open public meetings.**

- (1) All meetings of Council, except executive sessions for purposes authorized by general law, shall be open to the public and reasonable opportunity shall be given for the public to speak on any matter on the agenda for official action before official action is taken. Unless specifically provided in the rules of procedure, the Chairman may limit the time each person may speak, announcing in advance the rule to be followed on this point, and giving equal time to all who want to be heard, except that when a group of persons desires to address Council on the same subject matter, the Chairman shall request that one spokesman be chosen by the group to address the Council, and may limit the number of persons addressing the Council on the same matter so as to avoid unnecessary repetition, so long as all opposing points of view have had opportunity to present their position.
- (2) Any citizen desiring to speak formally to the Council on any matter shall be given an opportunity to be heard by notifying the Township Manager in writing at least 24 hours in advance of the time of the meeting of the subject on which such citizen desires to be heard, and the Township Manager shall make provision early in the meeting for including such item in the agenda for the meeting. The Council may limit in the rules of procedure the amount of time granted for such expression of views, but a reasonable amount of time shall be granted for such citizen to present the point desired to be expressed.
- (3) Citizens attending meetings of Council will be expected to follow reasonable rules of decorum. Any person making insulting, threatening or other offensive remarks against any person or against public order and security while at Council meetings shall be denied by the presiding officer further audience at the meeting, and should such disruption continue, shall be denied attendance at the meeting. Any ruling of the presiding officer in this regard may be reversed by a majority vote of the Council members present on motion of any Council member.

##### **B. Council member participation.**

- (1) The Chairman shall be responsible for the orderly conduct of business at each Council meeting and shall preserve order and decorum at such meetings. The Chairman shall announce all decisions of Council and shall decide all questions of order without debate, subject to an appeal by any Council member. Any ruling by the Chairman may be overruled by a majority of the Council members present.

- (2) Every member of Council desiring to speak shall address the Chair and, upon recognition by the presiding officer, shall confine remarks to the question under debate, avoiding all indecorous language or reference to personalities. When two or more members request the floor at the same time, the Chairman shall name the one entitled to speak. A member of the Council, once recognized by the Chairman, shall not be interrupted when speaking unless it is for the purpose of calling such person to order. If a member of the Council, while speaking, is called to order, that person shall cease speaking until the question of order is determined.
- (3) The roll of members shall be called alphabetically, except that the Chairman shall be called last.

#### **§ 4-10. Official action of Council.**

All official actions of Council shall be by the adoption of an ordinance, resolution, or motion at an open public meeting in the presence of a quorum, in accordance with the Charter, Section 211. The self-executing provisions of the Charter, Section 213, shall govern the consideration and adoption of ordinances.

#### **§ 4-11. Agenda for meetings.**

- A. In accordance with the Charter, Section 210B(3)(a), every public meeting of Council, except a meeting to enact an emergency ordinance, shall be conducted in the order of an agenda prepared in advance of the meeting and which is available to the public at least eight hours prior to the start of the meeting, and copies of which shall be distributed to the public in attendance at the meeting. The Chairman, with consent of a majority of the Council members present, may change the order of business upon request or by his own initiative in order to expedite the meeting or accommodate any parties participating in the meeting.
- B. The Chairman of Council, or his designee, shall be responsible for preparing the agenda for meetings. Council members desiring to have items included in the agenda shall advise the Township Manager of such desire at least two working days in advance of the time of the meeting. No items shall be added to the announced agenda for the meeting except by an affirmative vote of a majority of the total Council members. The order of business for each regular meeting shall be as follows:
  - (1) If no quorum is present, the Chairman shall declare a recess for a period no longer than one hour, and if a quorum has not developed by that time, the Chairman shall declare the meeting adjourned.
  - (2) Approval of the minutes of the previous meeting.
  - (3) Hearing from the public on any matters not included in the agenda for the meeting on which any citizen has expressed a desire to be heard.
  - (4) Reports of municipal officials, committees or advisory groups, the order to be specified in the agenda.
  - (5) Unfinished business, with each item specified in order in the agenda.
  - (6) New business, with each item specified in order in the agenda.
  - (7) Adjournment.

ARTICLE III  
**Executive Organization**

**§ 4-12. Township Manager.**

The Township Manager shall be the chief executive officer of the Township and shall be responsible to the Council for the administration of all Township affairs placed in his charge. The Manager shall appoint and, for cause, suspend or discharge all Township employees and appointive officers provided by or under the Charter, except as otherwise provided by law or the Charter, and shall direct and supervise the administration of all departments and offices of the Township, except as otherwise provided by the Charter or by law. The Manager shall also carry out all duties specified in the Charter, this chapter or other ordinance, and as Council may direct.

**§ 4-13. Township departments. [Amended 7-27-1981 by Ord. No. 285; 1-25-1982 by Ord. No. 305; 2-11-1991 by Ord. No. 484]**

The following Township departments and department heads are hereby established, with the functions and duties described in subsequent sections below:

- A. Department of Administration and Finance: Director of Finance.
- B. Department of Engineering: Township Engineer.
- C. Department of Health: Health Officer.
- D. Department of Recreation: Director of Recreation.
- E. Department of Planning and Development: Director of Planning and Development. **[Added 2-11-2019 by Ord. No. 800]**

**§ 4-14. Departmental organization.**

- A. Department heads shall be appointed by the Township Manager on a basis of their qualifications to administer the functions and duties of their respective departments. The Manager, after consultation with Council, shall appoint such assistants and employees as are authorized by formal action of Council of a formal Manning Table of authorized positions.
- B. Personnel actions. The appointment, training, promotion, conditions of employment, disciplinary actions and other action dealing with personnel administration shall be provided in Article VI of this chapter and the Township of Middletown Personnel Manual (the "Personnel Manual"). Adoption and subsequent updates of the Personnel Manual shall be approved by resolution of Township Council. **[Amended 2-11-2019 by Ord. No. 800]**
- C. Code of Departmental Regulations. The departmental regulations shall be consistent with the Charter, this chapter and other ordinances of Council, and general law. These regulations are subject to approval by Council and detailed in the Personnel Manual. **[Amended 2-11-2019 by Ord. No. 800]**

**§ 4-15. Duties of department heads. [Amended 2-11-2019 by Ord. No. 800]**

Department heads, under the direction of the Township Manager, shall perform all necessary tasks relevant to their position; reasonable assigned tasks by the Township Manager to fulfill Township goals and/or mission; and provide all reports, documents and materials required to support the completion of daily services.

**§ 4-16. Department of Administration and Finance.**

- A. The Director of Finance shall be appointed by the Township Manager on the basis of qualifications for performing the duties of the office.
- B. The duties of the Department Director shall include:
  - (1) Serving as purchasing officer according to the Charter, Section 414, and as provided in Article V of this chapter.
  - (2) Serving as budget officer and finance officer according to the Charter, Article IV, and provided in Article V of this chapter.
  - (3) Serving as Tax Collector for the Township according to the Charter, Section 402.
- C. In performing the functions of Tax Collector, the Director of Finance shall negotiate with the County Council of Delaware County, the Board of School Directors of the Rose Tree-Media School District, banking and other private agencies, as appropriate, the most efficient and least costly method of handling the billing, collecting, and accounting for taxes levied on the citizens and properties in the Township. The procedural requirements of the Local Tax Collection Law for real estate taxes<sup>11</sup> and of Act 511, the Local Tax Enabling Act of 1965,<sup>12</sup> or of other general laws of Pennsylvania will be followed to the extent that they are not in conflict with the organizational arrangements established by the Charter, Section 402, and this chapter.

**§ 4-17. Department of Engineering. [Amended 7-27-1981 by Ord. No. 285; 1-25-1982 by Ord. No. 305; 2-11-2019 by Ord. No. 800]**

- A. The Township Engineer shall be appointed by the Township Manager, or Township Council if the position is not filled by a merit, in-house staff employee, on the basis of qualifications for performing the duties of the office in accordance with Section 505 of the Home Rule Charter.
- B. Within the Department of Engineering shall be a position designated as "Fire Marshal," who shall be selected by the Township Manager. The duties of the Fire Marshal shall include:
  - (1) Investigate and determine the cause of all fires in the Township.
  - (2) Initiate, with the appropriate law enforcement officials, investigation and action on any suspicious fire with which criminal activity may reasonably be suspected.
  - (3) Maintain records of all fire alarms and fire calls, organized by classifications of types and location.
  - (4) Prepare and submit to the Township Manager, on a standardized reporting form, a monthly report on all fires, investigations, inspections and other activities of the office, which report shall contain such data as required by the Township Engineer and Manager.
  - (5) Completion of other fire safety projects and studies assigned through the Engineer.
  - (6) The person designated to serve as the Fire Marshal shall also be assigned to building and code enforcement duties as directed by the Director of Planning and Development.

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11. Editor's Note: See 72 P.S. § 5511.1 et seq.

12. Editor's Note: See 53 P.S. § 6901 et seq.

- (7) Conduct fire prevention programs for community groups and public education programs, including the publication and dissemination of informational pamphlets, news releases and articles within the appropriations available for such purposes.
  - (8) Maintain liaison with the officers of the Township volunteer fire companies and encourage cooperative programs for the prevention of fires and protective actions to be taken in the event fires should occur.
  - (9) Such other duties as may be assigned to the Department by Township ordinances or other laws, or as may be directed by the Township Manager.
- C. Within the Department of Engineering shall be a position designated as "Road Superintendent," who shall be appointed by the Township Manager on the basis of qualifications. The duties of the Road Superintendent shall be defined by the Township Manager and reviewed, assessed and established annually through the performance review process.

**§ 4-18. Department of Health. [Amended 2-11-1991 by Ord. No. 484]**

- A. The head of the Department of Health (the Department) shall be the Health Officer, who shall be appointed by the Township Manager, or Township Council if the position is not filled by a merit, in-house staff employee, on the basis of his or her qualifications for the duties of the office as set forth in this chapter and/or in requirements adopted in accordance with this chapter. The Health Officer shall be certified by the Pennsylvania Department of Health. **[Amended 2-11-2019 by Ord. No. 800]**
- B. The duties of the Department shall include:
- (1) Enforcing the health and sanitation ordinances and regulations of the Township and general health and sanitation laws which are applicable in the Township.
  - (2) Issuing, suspending and/or revoking permits and licenses pursuant to such ordinances, regulations or other laws.
  - (3) Making such inspections of properties and places as are necessary to enforce the health and sanitation ordinances and regulations of the Township and other applicable health and sanitation laws, for which purposes authorized Department employees are hereby empowered to enter upon all property in accordance with applicable law as may be necessary.
  - (4) Initiating such notices and legal actions which are authorized by Township ordinances, regulations and/or other laws and which are necessary to carry out the duties of the Department.
  - (5) Making recommendations and providing advice on formulating and modifying Township ordinances and regulations relating to health and sanitation matters either independently or when requested by the Township Manager, the Township Council or the Township Board of Health.
  - (6) Coordinating planning and enforcement activities with other municipal jurisdictions and with related Township, county and commonwealth agencies, including but not limited to the Pennsylvania Department of Health and the Pennsylvania Department of Environmental Protection, and providing such reports and information as may be required from time to time by such agencies.
  - (7) Maintaining files and records of all enforcement and regulatory activities of the Department, and maintaining such other recordkeeping as may be required for proper management and

direction of the Department.

- (8) Preparing and submitting to the Township Manager and Township Board of Health a monthly report on all investigations, inspections and other activities of the Department containing any such information and data as may be required by the Township Manager or Township Council, or requested by the Township Board of Health.
  - (9) Conducting public education programs for community groups and organizations, including but not limited to publishing and disseminating information pamphlets, news releases and articles, within the budgetary appropriation available for such purposes.
  - (10) Overseeing activities of the animal control officer and coordinating rabies control activities as required.
  - (11) Completing other such duties as may be assigned to the Department by Township ordinances or otherwise, or as may be directed by the Township Manager.
- C. The Department shall be organized into such subunits and shall consist of such supporting personnel as will provide for and permit the most efficient and effective performance of the duties of the Department, consistent with the personnel authorized by Council in the Township Manning Table and within the appropriations made by Council. The detailed organization of the Department and the assignment of specific functions and duties to employees of the Department shall be provided in the departmental regulations adopted in accordance with § 4-14 of this chapter.
- D. The expenses of the Department of Health shall be provided for in the annual budget of the Township in the same manner as appropriations for Township departments and subject to the financial regulations specified in Article V of this chapter.

**§ 4-19. Department of Recreation. [Amended 1-25-1982 by Ord. No. 305; 3-25-1996 by Ord. No. 565]**

- A. The head of the Department of Recreation shall be the Director of Recreation, who shall be appointed by the Township Manager on the basis of qualifications for the duties of the position.
- B. The duties of the Department of Recreation shall be defined by the Township Manager and reviewed, assessed and established annually through the performance review process. **[Amended 2-11-2019 by Ord. No. 800]**

**§ 4-20. Administration of functions other than by Township departments. [Amended 7-27-1981 by Ord. No. 285]**

- A. Township Engineer. The Township Engineer, appointed by the Manager, shall be responsible for the supervision of engineering and related matters of the Township and shall be responsible for general supervision of the Department of Engineering of the Township, including the review of development plans, road maintenance and construction plans, code enforcement fire prevention and such other matters as directed by the Township Manager or required by Township ordinances or other laws. The above shall only apply if the position of the Township Engineer is filled by an in-house, merit employee. **[Amended 2-11-2019 by Ord. No. 800]**
- B. Township Solicitor. The Township Solicitor, appointed by Council, shall serve as the legal advisor of Council, the Township Manager, all department heads and all boards, commissions and agencies except as may otherwise be required by law. It is the intent of Council that only one legal



representative shall serve as the legal officer of the Township and all of its officers and agencies, except as may otherwise be required by law and in cases where any individual officer or agency may be in a position of adverse interest to the interest of the Township. Council may authorize the employment of special counsel for special purposes from time to time as needed.

- C. Fire protection. The functions of fire protection in the Township shall be the responsibility of the following fire companies: Rocky Run Fire Company and Middletown Fire Company No. 1. Council may provide, in a separate fire protection ordinance, regulations pertaining to the operations of the volunteer fire companies which apply to the fire-fighting services in the Township. **[Amended 2-11-2019 by Ord. No. 800]**
- D. Boards and committees. The duties of Township boards, committees and similar agencies as they affect the administration of Township affairs are provided in Article IV below.
- E. Parking enforcement officers. Parking enforcement officers shall be appointed by the Township Manager pursuant to the provisions of § 4-12 and are hereby granted full law enforcement powers to enforce the provisions of any Township ordinances regulating the parking of vehicles, the institution of criminal proceedings through the filing of citations, and the participation in any summary proceedings or appeals involved in the enforcement of the provisions of any Township ordinances regulating the parking of vehicles. **[Added 11-10-2008 by Ord. No. 699]**

ARTICLE IV  
**Boards, Commissions and Similar Agencies**

**§ 4-21. Establishment by Council.**

In accordance with the Charter, Section 501, Council may, by ordinance, create Township boards and commissions and prescribe their organization and function, consistent with any general laws that may apply to such boards and commissions. The Council shall, by a majority vote of all members, appoint members of such boards and commissions as it creates. The establishment of boards and commissions required by general law, and any established to provide administrative services or administer functions of the Township government shall be provided in this chapter. Certain boards, commissions, and related agencies are established in separate sections of this article below.

**§ 4-22. Temporary boards, commissions or committees.**

Council, by resolution, may create, establish and appoint the membership of temporary boards, commissions or committees made up of members of Council and/or such other individuals as Council may choose to select, for the purpose of making an investigation or advising Council on any matter of concern. The resolution creating such temporary boards, commissions or committees shall state the purpose for which same was created and the anticipated date of termination. Members of such temporary boards, commissions or committees shall serve without compensation for such service and may authorize no expenditures except as may be specifically authorized by Council for the purpose of engaging technical assistance and publishing reports. Upon completion of the purpose for which established or at the date set for termination, whichever comes first, unless the date is specifically extended by resolution of Council, such temporary board, commission or committee shall automatically be terminated.

**§ 4-23. Limitations on membership. [Amended 9-24-1990 by Ord. No. 476]**

Except as may specifically be required by general law, no individual may serve on more than one Council, Board, Commission or Committee, except that two members of Council may be appointed to the Fire Apparatus Committee. No member serving as a member of these bodies shall also serve as solicitor for these bodies.

**§ 4-24. Solicitors for Township boards, committees or similar agencies.**

Unless specifically authorized by Council or required by general law, no commission or board may appoint an independent solicitor, but shall use the services of the Township Solicitor. Council may authorize and set the compensation of a separate solicitor for such agencies for special purposes from time to time as circumstances may require.

**§ 4-25. Township Planning Commission.**

- A. The Township Planning Commission shall consist of seven registered voters of the Township appointed by a majority vote of the Council members for overlapping four-year terms. The terms of the initial members to be appointed shall be arranged so that no more than two shall be reappointed or replaced during any future calendar year. A person appointed to fill a vacancy shall serve for the balance of the unexpired term of the member whose seat was vacated.
- B. The Township Planning Commission shall be responsible for the creation and modification of a long-range Comprehensive Plan for the development of the Township subject to and as such Comprehensive Plan may be amended and adopted by Council. The Commission shall review all

proposed changes in zoning and subdivision laws for conformance with the Comprehensive Plan and shall make recommendations concerning same to Council.

- C. The Planning Commission, with the assistance of the Township Manager, shall design administrative regulations for the conduct of its business, which regulations shall be reviewed by Council, and, if approved by Council, shall be included in the Code of Departmental Regulations described in § 4-14 above.
- D. The Township Manager, or an employee of his designation, shall serve as Secretary to the Planning Commission and shall keep minutes and other records of the Commission's proceedings, which shall be kept on file at the Township office and available for public inspection at any time during normal office hours.
- E. Members of the Commission shall serve without compensation but shall be entitled to reimbursement for expenses incurred in the performance of their official duties according to the schedule of reimbursed expenses authorized to Council in accordance with § 4-4A above.
- F. The Planning Commission may employ no personnel nor incur any expenses other than authorized by Council. Employees authorized for the Planning Commission shall be included in the authorized Manning Table of Township positions and subject to the rules of personnel administration contained in Article VI of this chapter. The expenses of the Planning Commission shall be provided for in the annual budget of the Township in the same manner as appropriations for Township departments and subject to the financial regulations specified in Article V below.

**§ 4-26. Zoning Hearing Board. [Amended 3-26-1990 by Ord. No. 464]**

- A. In accordance with the Pennsylvania Municipalities Code, Act 247 of 1968, as amended and reenacted, the Council, by a resolution, shall appoint a Zoning Hearing Board consisting of five residents of the Township, appointed to overlapping terms of five years in such a manner that the term of one member shall expire every year; provided, however, that if a three-member Board is changed to a five-member Board, the members of the existing three -member Board shall continue in office until their term of office would expire under their current appointment and Council shall appoint two additional members to the Board with terms scheduled to expire in accordance with the provisions of this section. A member appointed to fill a vacancy, which shall be done promptly whenever a vacancy occurs, shall serve for the unexpired portion of the member whose seat was vacated. Members of the Board shall hold no other office in the Township. **[Amended 3-25-2002 by Ord. No. 621]**
- B. Township Council may, by resolution, appoint at least one but no more than three residents of the Township to serve as alternate members of the Board in accordance with § 275-39B and D(5) of Chapter 275, Zoning, of the Code of the Township of Middletown, which are incorporated herein by reference.
- C. The Zoning Hearing Board shall be responsible for conducting hearings and making decisions on appeals in zoning matters and on challenges to the validity of any provisions of Chapter 275, Zoning, and on requests for variances and special exceptions from the requirements of Chapter 275, Zoning, in accordance with provisions of the Pennsylvania Municipalities Planning Code.<sup>13</sup>
- D. The Zoning Hearing Board, with the assistance of the Township Manager, shall design administrative regulations for the conduct of its business, which regulations shall not be inconsistent with the

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

Pennsylvania Municipalities Planning Code.<sup>14</sup>

- E. The Township Manager, or an employee of his designation, may serve as Secretary to the Zoning Hearing Board and keep minutes and other records of the Board's proceedings, which shall be kept on file at the Township office and available for public inspection at any time during normal office hours.
- F. Members and alternate members of the Board shall be compensated in accordance with the annual schedule of salaries and wages adopted each year by Township Council in the budget. In addition, members and alternate members of the Zoning Hearing Board shall be authorized reimbursement for expenses incurred in the performance of their official duties according to the schedule of reimbursed expenses authorized by Council.
- G. Council shall provide appropriations and authorize the employment of personnel in such amounts and numbers as Council deems sufficient to enable the Board to carry out its duties. To the extent possible, the administrative and clerical duties of the Board shall be conducted by regular employees of the Township government assigned to the Board by the Township Manager. Any full-time employees authorized by the Board shall be included in the official Manning Table of Township positions authorized by Council and shall be subject to the personnel administration policies set forth in Article VI. The Zoning Hearing Board shall, during its first meeting in January of each year, appoint a solicitor.

**§ 4-27. Park and Recreation Committee. [Amended 3-25-1996 by Ord. No. 565; 7-10-2000 by Ord. No. 604; 7-10-2000 by Ord. No. 604]**

- A. The Council, by a majority of the total members, shall annually appoint, for a term of one year, a Park and Recreation Committee consisting of seven members.
- B. The duties of the Committee shall be to provide advice and recommendations to the Township Council, Township Manager, and Director of Recreation on park locations, acquisitions, layouts, construction and operations, and on recreational programming services. In the event of a vacancy in the position of Director of Recreation, Council may authorize specific recreation programs and delegate to the Park and Recreation Committee the supervision of personnel and recreation programs within the appropriations authorized by Council, and pursuant to the overall direction of departmental staff and functions by the Township Manager. Any full-time employees authorized by the Council shall be included in the official Manning Table of Township positions authorized by Council. Any and all revenues derived from park and recreational activities of the Township shall be remitted promptly to the Township Finance Office and deposited in Township accounts as designated from time to time by Township Council. All expenditures shall be handled in the manner provided for general Township moneys in Article V below.
- C. Members of the Park and Recreation Committee shall serve without compensation but shall be entitled to reimbursement of reasonable expenses necessary in the conduct of their official duties according to the schedule of reimbursed expenses authorized to members of Council in accordance with § 4-4A above.
- D. The Park and Recreation Committee may assist the Township Manager and Director of Recreation in developing administrative regulations for the conduct of park and recreational activities of the Township and for the conduct of the business of the Committee, which regulations shall be approved

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

by Council and included in the Code of Departmental Regulations described in § 4-14 above. For purposes of conducting Committee business, a minimum of three members must be present, and, in the event that only three members are present, any formal recommendation of the Committee would require a unanimous vote. In the event that a quorum is present, any formal recommendation would require a majority vote of the quorum present.

**§ 4-28. Library representatives.**

- A. The Council, by a majority vote of the members, shall, on an annual basis, appoint two Township residents to serve a term of one year on the Board of Directors of the Middletown Free Library.
- B. The duties of the library representatives shall be to serve as liaison between the Council and the Middletown Free Library.
- C. Library representatives shall serve without compensation but may be authorized reimbursement of expenses necessary in the performance of their official duties in accordance with the schedule of reimbursed expenses authorized to members of Council in accordance with § 4-4A above.

**§ 4-29. Sewer Authority.**

- A. The Council, by a majority vote of the total members, shall, at the times provided by law, appoint the five Township residents to serve as members of the Middletown Township Sewer Authority, who are appointed for overlapping five-year terms.
- B. As an independent corporation, the Sewer Authority shall organize and conduct its affairs according to the Pennsylvania Municipalities Authority Act of 1945, as amended,<sup>15</sup> and, with respect to the operation of Middletown Township sewer facilities, in accordance with the lease agreement with the Township and such rules and regulations as Council may prescribe in connection with such lease agreement.
- C. Under the annual operating agreement between the Authority and the Township by which the sewerage facilities owned by the Authority have been leased back to the Township but continue to be operated by the Authority for the Township in accordance with the operating agreement, the Authority shall be responsible for managing the sewer system of the Township, including inspection and maintenance of the system, billing for charges, collecting moneys due from sewer fees, ensuring compliance with requirements for sewer connections, making periodic review of the financial status of the system, and making recommendations to Council for revisions of sewer rates, and capital improvements when necessary.
- D. The members of the Sewer Authority, as an independent corporation under state law, shall receive no compensation from the Township but may be compensated by the Authority in accordance with law.
- E. The Sewer Authority is requested to assist the Township Manager in developing administrative regulations pertaining to the operation and maintenance of the sewerage facilities of the Township, which regulations shall be approved by Council and included in the Code of Departmental Regulations described in § 4-14 above.
- F. The Sewer Authority is requested to maintain a Manning Table of full-time positions authorized to be employed in the administration, operation, and maintenance of the Township sewerage facilities. Such Manning Table, and all changes as they occur, shall be provided to the Township Manager and

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15. Editor's Note: See 53 P.S. § 301 et seq.

included as an annex to the official Manning Table of the Township government.

- G. The Sewer Authority is requested to maintain statistical data on all operations of the sewerage facilities of the Township which will be useful in the analysis and management of the sewerage facilities. The Authority shall provide monthly report to the Township Manager presenting in a standardized format pertinent statistical data for the month just ended, the year-to-date, and comparable data for the month and year-to-date of the previous year. Such monthly report shall be included with the monthly reports of Township departments in the monthly reports to Council.

**§ 4-30. Civil Defense Director.**

- A. The Township Council, by a majority vote of the total members, shall recommend to the State Council of Civil Defense a Township resident for appointment as Civil Defense Director.
- B. The appointment of a Civil Defense Director will remain in effect until such time as a vacancy in the position may occur.
- C. The Civil Defense Director shall be granted the powers to carry out the duties of this office, as provided in the regulations of the State Council of Civil Defense and the Defense Civil Preparedness Agency.
- D. The Civil Defense Director shall receive no compensation for his services but may be reimbursed for the expenses actually and necessarily incurred in the performance of his duties.
- E. The Township Council may, from time to time, appropriate funds for expenditures to support the civil defense activities.
- F. The Civil Defense Director shall prepare incident reports for Township Council as they occur.

**§ 4-31. Environmental Advisory Committee.**

- A. The Environmental Advisory Committee shall be composed of seven residents of the Township of Middletown and shall be appointed in accordance with the following procedure:
- (1) All Committee members shall be appointed by a majority vote of the total members of Council.
  - (2) Committee members' terms of office shall expire on the first Monday in January following the last year of their term of office.
  - (3) Duly appointed Committee members shall serve a term of three years, except that the initial appointment shall be so staggered that the terms of approximately 1/3 of the membership shall expire each year.<sup>16</sup>
- B. Committee members shall receive no compensation for their services, but may be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties.
- C. The Committee is to be advisory to and shall coordinate its activities with the state officials, Planning Commission and other similar local government agencies.
- D. The Committee shall elect a member to serve as Chairman and a member to serve as Secretary.
- E. The Committee shall have the following powers:

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16. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (1) Identify environmental problems.
  - (2) Recommend plans and programs to the appropriate agencies for the promotion and conservation of the natural resources and for the protection and improvement of the quality of the environment within the area of the Township.
  - (3) Make recommendations as to the possible use of open land areas of the Township.
  - (4) Promote a community environmental program.
  - (5) Maintain an index of all open areas, publicly or privately owned, including but not limited to flood-prone areas, swamps and other unique natural areas.
  - (6) Advise the Township Council and other Township agencies with regard to the acquisition of property, both real and personal.
  - (7) Undertake such environmental tasks as requested by the Township Council.
- F. The Committee shall keep and publish minutes of its meetings and activities and shall prepare an annual report to the Township Council.
- G. The Township Council may, from time to time, appropriate funds for expenditures to support the functions of the Committee.

**§ 4-32. Senior Citizens' Advisory Committee. [Amended 3-24-1980 by Ord. No. 244]**

- A. The Senior Citizens' Advisory Committee shall be composed of seven residents of the Township of Middletown and shall be appointed in accordance with the following procedure:
- (1) All Committee members shall be appointed by a majority vote of the total members of Council.
  - (2) Committee members shall be appointed annually, and their terms shall expire on the first Monday in January following the year they are appointed.
- B. Committee members shall receive no compensation for their services but may be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties.
- C. The Committee is to be advisory to and shall coordinate its activities with the Township Council, Delaware County Council, appropriate federal and state officials and other similar local government agencies.
- D. The Committee shall advise the Township Council on the needs and problems of the senior citizens in Middletown Township.
- E. The Committee shall submit an annual report on its activities to Township Council.
- F. The Township Council may, from time to time, appropriate funds for expenditures to support the activities of the Committee.

**§ 4-33. Fire Apparatus Committee. [Added 9-24-1990 by Ord. No. 476]**

- A. The Fire Apparatus Committee shall be composed of eight members and shall be appointed in accordance with the following procedure:
- (1) All committee members shall be appointed by a majority vote of the total members of Council.

- (2) Committee members shall be appointed annually, and their terms shall expire on the first Monday in January following the year they were appointed.
  - (3) Three members of the Committee shall be appointed from the public at large, two members of the Committee shall be appointed from the Township Council, and one member shall be appointed from each of the three fire companies serving Middletown Township, upon recommendation of their respective company.
- B. Committee members shall receive no compensation for their services but may be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties.
- C. The Committee is to be advisory to and shall coordinate its activities with the Middletown Township Council, the three Township fire companies and appropriate county and state emergency management organizations as may be necessary.
- D. The Committee shall elect a member to serve as Chairman and a member to serve as Secretary.
- E. The Committee shall have the following responsibilities:
- (1) Develop and recommend for Township Council adoption a long-range fire apparatus replacement schedule based on an equipment mix projected to meet the needs of the Township.
  - (2) Conduct an ongoing review of financial resources available for funding apparatus replacement and recommend a financing strategy to meet the adopted replacement schedule.
  - (3) Annually review the adopted replacement schedule and financing strategy and recommend adjustments where necessary.
  - (4) Review all proposed fire apparatus acquisitions to determine conformance with the adopted replacement schedule and financing plan.
  - (5) Serve as a formal liaison between the Township and its fire companies to promote discussion and review of significant issues concerning community fire protection services.
- F. The Committee shall prepare and keep for public review minutes of its meetings and activities and shall, through its Council members, provide an annual report on its activities to the Township Council.
- G. The Township Council may, from time to time, appropriate funds for expenditures to support the functions of the Committee.
- H. The Township Manager and Township Fire Marshal shall, ex officio, serve as nonvoting members of the Committee.

**§ 4-34. Board of Health. [Added 2-11-1991 by Ord. No. 484]**

- A. Appointment of Board. The Board of Health (the Board) shall be composed of seven members, at least one of whom shall be a reputable physician with not less than two years' experience in the practice of the profession. The members of the Board shall be appointed by a majority vote of the Township Council for overlapping three-year terms, except that at the first appointment, two members shall be appointed to serve for one year, two for two years and three for three years. A person appointed to fill a vacancy shall serve for the balance of the unexpired term of the member whose seat was vacated. The members of the Board of Health shall serve without compensation but shall be entitled to reimbursement for expenses incurred in the performance of their official duties



according to a schedule of reimbursed expenses authorized by Council. The Board shall annually organize by electing a Chairman and a Secretary from among the members of the Board.

B. Duties of Board.

- (1) The Board of Health shall monitor the enforcement in the Township of the laws of the commonwealth, the regulations of the State Department of Health, the ordinances of the Township and any other law, regulation or ordinance relating to health. The Board shall make recommendations to the Township Council concerning the adoption and enforcement of such additional ordinances, rules and regulations as it may deem necessary to prevent the introduction and spread of infectious or contagious diseases, to abate and remove all nuisances which it shall deem prejudicial to the public health and to preserve the public health. The Board may recommend rules for the construction and maintenance of house drains, wash pipes, soil pipes and on-site sewage systems and may recommend all such other rules and regulations as it may deem necessary for the preservation of the public health. The Board shall have such other powers relating to health as may be delegated to the Board by the Township Council.
- (2) The Board shall also monitor the performance of the Department of Health and shall provide recommendations and guidelines to the Township Council, the Township Manager, and the Health Officer with respect to the duties and functions of the Department of Health in order to ensure that the following points of a comprehensive public health program are being considered and addressed in the Township:
  - (a) Assessment of community health needs, involving the collection, review and interpretation of data to identify community health needs; and coordination of services to meet the identified health needs of the population in an effective and efficient manner.
  - (b) Conduct of a comprehensive food service program, including inspections of food establishments and training of and consultation with operators and personnel of food establishments, designed to prevent food-borne illness.
  - (c) Investigation and follow-up of public health complaints, involving responding to requests for services which have public health significance, providing consultation and taking actions to eliminate conditions found to be health hazards.
  - (d) Communicable disease investigation and reporting, involving serving as a liaison between the medical community and the public health system for reporting purposes; preventing disease transmission through timely, effective and efficient control measures; and participating in epidemiological investigations.
  - (e) Health information provision and referral, involving providing information to the community to have the residents assume a greater responsibility for disease prevention and health promotion; utilizing community health services and resources appropriately; and participating in community health decision-making.

- C. Administration. The Secretary of the Board shall keep minutes of the meetings of the Board. The Board may not employ any personnel or incur any expenses other than those authorized by Council. Employees authorized for the purpose of conducting a municipal health program shall be included in the authorized Manning Table of Township positions, and such employees and their appointment shall be subject to the rules of personnel administration contained within the Home Rule Charter and Article VI of this chapter. The expenses of the Board of Health shall be provided for in the annual budget of the Township in the same manner as appropriations for Township departments and subject

to the financial regulations specified in Article V of this chapter.

**§ 4-35. Cable Television Advisory Committee; community TV workshops.<sup>17</sup> [Added 9-28-2009 by Ord. No. 708]**

- A. The Township Council shall form a committee to be known as the Cable Television Advisory Committee (CTAC). The CTAC shall consist of seven members appointed by the majority vote of the Township Council. Members of the CTAC shall be appointed for terms of four years except at the time of the first appointments, at which time three shall be appointed to serve for a two-year term, two shall be appointed to serve for a three-year term, and two shall be appointed to serve for a four-year term.
- B. In an advisory capacity, the CTAC shall endeavor to promote and develop the best use by the community of the cable television and communications services offered by the franchisee under this chapter, and in particular the CTAC shall seek to stimulate the use of the public, governmental, and educational access channels.
- C. From time to time, on its own initiative or upon certification by the chairman of the CTAC that sufficient demand therefor exists, the franchisee shall, at its expense, organize community television workshops for the purpose of providing members of the community with training in the use of television equipment.
- D. The CTAC may, from time to time, appoint such temporary subcommittees as it deems advisable. Members of subcommittees need not be members of the CTAC.

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17. Editor's Note: This section, which was enacted 4-23-1981 by Ord. No. 273 and amended 2-22-1982 by Ord. No. 307, formerly appeared as Section 311 of Chapter III (see Ch. 81, Cable Television).

ARTICLE V  
**Financial Management**

**§ 4-36. Responsibility of Director of Finance. [Amended 2-11-2019 by Ord. No. 800]**

The Director of Finance shall be responsible for all functions of financial management in accordance with the Charter, Article IV, this chapter and other ordinances and resolutions of Council not inconsistent therewith, and as may be required by general law. Responsibilities and reasonable assignment of additional required tasks shall be established by the Township Manager annually through the performance review process.

**§ 4-37. Duties of Director of Finance. [Amended 2-11-2019 by Ord. No. 800]**

The duties of the Director of Finance shall include, but not be limited to, the following:

- A. Maintain accounting and related records in the form required by Council and general law.
- B. Prepare the annual budgets and financial programs of the Township in the form required by Council and general law.
- C. Provide for the proper recording of all financial transactions and related activities of the Township and be responsible for the preservation of financial records.
- D. Serve as purchasing officer of the Township and certify the availability of funds on all contracts, and approve no contract or expenditure which would exceed the unencumbered balance of appropriations in any account on which expenditure controls are maintained.
- E. Authorize disbursement of Township moneys only when it has been determined that goods and services to be paid for have been properly received or performed, and countersign all orders of disbursement.
- F. Receive, give receipt for, and deposit to the proper funds and accounts of the Township all moneys due and paid to the Township.
- G. Prepare periodic financial reports, at least monthly, which will show receipts by major sources and expenditures and encumbrances by major objects of expense for each department and operating unit of the Township government. Such reports still show such receipts, expenditures and encumbrances, in relation to the budgeted estimates and appropriations, as originally enacted and as amended to date, and in relation to a pro rata distribution for the year-to-date on a basis of estimated cash flow.
- H. Provide, in conjunction with monthly financial reports, a statement of cash flow on a monthly basis through the month currently ended and as projected for the succeeding three months.
- I. Monitor Township revenues and expenditures in relation to budget estimates and recommend to Council supplementary appropriations or reductions of appropriations when it appears that actual circumstances permit or require modifications of appropriations to maintain a balanced budget and adequate appropriations to the appropriate accounts to meet anticipated expenditures and changes in program.
- J. Perform such other duties as may be required by the Charter, this chapter or other ordinance, by law, or as may be directed by Council.

**§ 4-38. Operational procedures provided in departmental regulations.**

The Township Manager shall provide for the delegation of specific functions and duties to such subordinate personnel as are authorized by Council, in such manner as to make the most efficient use of personnel and other resources available and in a manner which delegates to different personnel or units functions of financial management which should be separated in maintaining sound financial controls and good principles of management. Detailed operating procedures, consistent with the Charter, this chapter or other ordinance, and general law, shall be provided in the departmental regulations.

**§ 4-39. Fiscal year.**

The fiscal year of the Township shall be the calendar year.

**§ 4-40. Classification of accounts.**

The classification of accounts used in the Township accounting system shall be in accordance with the principles and in reasonable conformity to the classification in the Accounting Manual prepared and provided by the Pennsylvania Department of Community and Economic Development in order to facilitate the preparation of annual budgets and financial reports in the form required by law. Such classification shall be followed in all monthly, quarterly and annual reports prepared for Council, with such supplemental details as Council may require.

**§ 4-41. Appropriations.**

- A. All appropriations in the annual budget as originally adopted and amended shall be made and controlled in lump sum amounts according to the following objects of expenditure for each department, major operating unit, office, board or commission of the Township:
  - (1) Personal services.
  - (2) Contractual services.
  - (3) Materials, supplies, and equipment.
  - (4) Debt service.
  - (5) Capital outlay.
- B. The annual budget and financial reports shall document the estimated and actual expenditures of the detailed items composing the major object classifications above, but appropriations shall be made and controlled by the major objects. The Township Manager and Director of Finance shall maintain administrative controls over the detailed items within the major objects but shall recommend to Council formal amendment of the budget when such is necessary to authorize an increase or decrease in any of the major objects for any department, major operating unit, office, board or commission of the Township.
- C. All appropriations shall lapse at the end of the fiscal year, but sufficient appropriation shall be provided in the budget for the following year to provide for the completion of or payment for projects and encumbrances carried over to the following fiscal year.

**§ 4-42. Annual budget and capital program.**

The annual budget and capital program of the Township shall be prepared, advertised, adopted and

executed in conformance with the Charter, Article IV, which is self-executing except for the supplemental details provided in §§ 4-40 and 4-41 above. The Township Manager shall provide, in the departmental regulations for the Department of Administration and Finance, the detailed procedures, assignments of duties and forms to be used in budget preparation and execution.

**§ 4-43. Encumbrance accounting.**

The Director of Finance shall establish and maintain a system for accounting for encumbrances. The monthly financial reports of the Township shall show the encumbrances as well as expenditures charged against appropriations, and the unencumbered as well as the unexpended balances. All encumbrances will be closed out at the end of the fiscal year, sufficient amounts appropriated to the proper accounts in the budget of the succeeding year to cover encumbrances carried over, and the encumbrances to the appropriate appropriations shall be set up when opening the books for the succeeding fiscal year.

**§ 4-44. Accounting for receipts.**

The Director of Finance shall be responsible, directly or through such subordinate employees as may be specified in the departmental regulations, for receipt of all moneys received by the Township. Such receipts shall be deposited promptly to the credit of the appropriate fund of the Township in such depositories as shall be designated by Council. Council shall by resolution designate the depositories to serve as custodian of Township funds. Receipts shall be prepared at least in duplicate and shall indicate the source and name of the party or agency from whom the moneys were received and the account code and title to which the receipt is to be credited in the accounting records of the Township.

**§ 4-45. Contracts. [Amended 4-24-1989 by Ord. No. 437]**

- A. In accordance with the Charter, Article IV, Section 414, the Township Manager shall execute all contracts on behalf of the Township.
- B. Contracts involving the purchase, sale, lease or use of real estate or for the construction of public capital improvements shall be authorized by ordinance of Council, and such contracts shall be signed by the Chairman of Council as well as the Manager.
- C. Contracts requiring competitive bidding shall be handled in accordance with the provisions of § 4-46 below.
- D. Administration of contracting, other than that requiring competitive bidding as provided in § 4-46 below, shall be handled in accordance with the following procedures:
  - (1) The Finance Director shall serve as purchasing officer for the Township, directly or through such subordinates as may be provided in the departmental regulations established for the Department of Administration and Finance.
  - (2) The Township Manager shall provide, in the departmental regulations, detailed procedures for the processing of purchases and the assignment of duties and forms relative thereto to appropriate personnel.
  - (3) No contract shall be made or obligation incurred unless there is a sufficient unencumbered balance in the appropriate appropriation to which the expenditure will be properly charged. The Director of Finance will certify on all contracts and purchase orders that sufficient unencumbered balance is available. If a contract and/or purchase order is submitted to the Finance Director for which sufficient unencumbered balance is not available, approval will be

withheld until Council has formally amended the budget to provide a sufficient appropriation.

- (4) All contracts for the employment of personnel shall be made by the Manager in accordance with the official Manning Table approved by the Township Council.
- (5) Contracts in writing.
  - (a) All contracts for the purchase of materials, equipment and supplies or for maintenance, repairs or construction shall be in writing and reflected in the issuance of a purchase order. Purchases for items or projects which do not exceed in total \$10,000 may be authorized by the Manager without formality other than provided herein, so long as the purchase is for lawful purposes and within the appropriations for such purposes provided by Council. Purchases in amounts in excess of \$10,000, and not requiring competitive bidding shall be made by the Township Manager only after solicitation of two or more written quotations, which quotations shall be retained in the records of the Township in relation to the purchase order for the contract which is eventually let, and after formal approval of Township Council at a public meeting, which approval shall be noted in the minutes of the meeting. **[Amended 4-9-2012 by Ord. No. 728]**
  - (b) All other contracts, including those contracts for professional or unique services, shall be in writing.
- (6) The terms of contracts for the purchase of materials and supplies shall not exceed two years.
- (7) Any officer authorized to execute a written contract shall submit the form of contract to the Township Solicitor for approval before executing the contract. For routine purchases for the normal services of the Township, approval of the form of purchase order shall be considered compliance with this requirement of the Charter, Section 414A.
- (8) No person shall evade the provisions of this section, nor the competitive bidding requirements in § 4-46 below, by purchasing or contracting for materials, supplies or services piecemeal, which transaction would, in the exercise of reasonable discretion and prudence, be considered one transaction amounting to more than the amount as specified by Township Council.

**§ 4-46. Competitive bidding. [Amended 1-25-1982 by Ord. No. 304; 4-24-1989 by Ord. No. 437; 4-9-2012 by Ord. No. 728; 2-11-2019 by Ord. No. 802]**

All contracts for the purchase of materials, equipment and supplies or for maintenance, repairs or construction, the total cost of which exceeds a base amount of \$18,500, subject to adjustment in accordance with adjustments authorized under the Second Class Township Code, 53 P.S. § 68102(b.1), except those for which competitive bidding shall not be required in accordance with the Charter, Article IV, Section 414B, shall be made only to the lowest responsible bidder after receipt of one or more sealed bids in accordance with the following procedures:

- A. Bidders list. The Township Manager shall establish and maintain, by categories of products or services, a bidders list containing those contractors who have expressed a potential desire to compete or who by past performance demonstrated such capability. The Manager shall include in the departmental regulations the procedure for maintaining the list current. A copy of bid solicitations as advertised shall be mailed to each contractor providing such products or services at the time advertisements for bids are placed.
- B. Filing of specifications. Specifications and, where applicable, plans required for execution of the

contract shall be complete and available in the Township Building preceding and during advertising for bids.

C. Advertising. Advertising for bids on all contracts for which competitive bidding is required shall be processed according to the following procedures:

- (1) Appropriate advertising shall be placed at least once in a regularly published newspaper in general circulation in the Township. Advertising may also be published in additional general circulation newspapers or trade journals as may be warranted by the nature of the contract. Advertising may also be placed more than once. The Township Manager shall determine the additional advertising as may be warranted by the contract.
- (2) Advertising shall appear no later than 15 days prior to the day of bid opening for contracts for supply of materials which are standard commercial or catalog items. For contracts which require the design, development, fabrication or installation of nonstandard items, the bid advertising shall appear at least 45 days prior to bid opening.
- (3) The advertisement shall specify as a minimum:
  - (a) Location of the available specifications.
  - (b) Bonding requirements for bidders.
  - (c) Location and timing for delivery of sealed bids.
  - (d) Location and timing for bid opening.

D. General requirements for bidders. The following general requirements will be established for bidders:

- (1) Familiarity with proposed work. Before submitting a proposal, the bidder shall carefully examine drawings and specifications, visit the site when applicable, be cognizant of all laws, ordinances and regulations, wage rates and labor conditions in the area of operation affecting the contract or the work and shall include in the proposal form a sum to cover the cost of all items, implied or required, to attain the completed conditions required by the contract.
- (2) Laws and ordinances. All regulations and ordinances of Middletown Township and laws of the Commonwealth of Pennsylvania or the United States of America shall be observed by the contractor as far as they apply to the contract. The contractor shall file for necessary Township permits, but the fee for required Township permits may be waived by the Township as a condition of the contract.
- (3) Preparation of proposals. All bids must be submitted on forms prepared by the Township and shall be subject to all requirements and specifications, drawings, where applicable, and the information and other instructions to bidders.
- (4) Bids in force for 60 days. All bids must remain in force for 60 days after the date of the opening of bids and may be accepted or rejected at any time prior to the expiration of this period.

E. Bonds required. The following bonds are required for a bidder and subsequently of the successful bidder:

- (1) Bid bond. Each sealed bid shall be accompanied by a certified check, bank cashier's or treasurer's check or a bid bond with corporate surety satisfactory to the Township, in an amount equal to not less than 10% of the bid. In the case of any materials, equipment or supplies to be

acquired by the Township by chattel mortgage, bailment lease, conditional sale contract or other security agreement, the total cost shall be the total amount payable pursuant thereto throughout the term thereof. No bid will be considered unless it is so guaranteed. The bid guarantee shall insure the execution of the contract by the bidder, and only bid bonds which are made on the regular bid bond form will be accepted, all as required by the specifications.

(2) Performance, maintenance and labor and material payment bonds.

(a) The successful bidder must deliver to Middletown Township, in exchange for the bid security, the following bonds:

[1] In the case of contracts for maintenance, repairs or construction, the total cost of which exceeds \$18,500, a performance bond executed by one or more surety companies satisfactory to the Council and authorized to do business in the Commonwealth of Pennsylvania, at 100% of the contract price for faithful performance of the contract, and 10% of the contract price for maintenance of the work performed under the contract for a period of one year from the date of completion and acceptance of the work performed under the contract.

(b) Such bonds shall be in the form of bonds included in the specifications and shall bear the same date as the date of the contract. The failure of any successful bidder to execute required bonds within 20 days after the prescribed forms are presented for signature, or within such extended period as the Township Council may grant, shall constitute a default, and the Township Council may either award the contract to the next responsible bidder or readvertise for bids and may charge against the bidder the difference between the amount of this bid and the amount for which a contract for the work is subsequently executed, irrespective of whether the amount thus due exceeds the amount of the bid guaranty.

F. Bid opening. The following procedures apply to the receipt, opening and acceptance or rejection of bids:

(1) Time for receiving bids. Bids received prior to the time of opening will be securely kept, unopened. Township officials whose duty it is to open them will decide when the specified time has arrived, and no bid received thereafter will be considered. No responsibility will attach to Township officials for the premature opening of a bid not properly addressed and identified.

(2) Receipt of bids. Sealed bids will be received by Middletown Township at the office of the Township Manager until the date and time specified for the contract. No bid may be considered if received after that time, nor may any bid be modified or withdrawn after that time except as provided below. The award of bids shall be made only by public announcement at the meeting at which bids are received, or at a subsequent meeting, the time and place of which shall be publicly announced when bids are received. If for any reason one or both of the above meetings shall not be held, the same business may be transacted at any subsequent meeting if at least five days' notice thereof shall be published in a newspaper published or circulating generally in the Township, the meeting date is properly posted at the Township office, and if each bidder has been notified by mail of the change of date.

(3) Rejection of bids.

(a) In accordance with the Charter, Section 414C, the award shall be made to the lowest responsible bidder. "Responsible" shall be interpreted to signify that the following conditions are met: the bonding requirements have been met; all imposed general



requirements have been met; the bidder has demonstrated competence for performing the work; and the submitted bid is compliant with the proposed statement of work.

- (b) If none of the bidders meet the above requirements, the Township may reject all bids and reinitiate the bidding process. The Township officials evaluating the bids shall interpret the above conditions and shall include the results of this evaluation in their recommendation to Council.

G. Withdrawal of bids. A bidder may withdraw his bid under the following conditions:

- (1) If the bidder or his authorized representative shall present a written request not later than the hour set for the opening of bids, the bid shall be withdrawn and, at the time of opening proposals, the bid will be returned to him unread.
- (2) If after opening of bids a low bidder submits credible evidence that the low bid was the result of an unintentional and substantial arithmetical error or unintentional omission of required work elements, the bidder may request permission to withdraw the bid, and such request will be processed by the Township in accordance with the Public Contracts, Bids, Withdrawal Law, Act No. 4 of 1974 as amended,<sup>18</sup> or other general law of the Commonwealth of Pennsylvania. The Township Manager shall include in the departmental regulations the procedures to be followed in processing a request for withdrawal of a bid under these conditions.

H. Discrimination in employment. All contracts executed by the Township, or officer thereof, which involve the construction or doing of any work involving the employment of labor, shall contain a provision that the contractor shall accept and adhere to the provisions of the Pennsylvania Human Relations Act.<sup>19</sup>

I. Workers' compensation. All contracts executed by the Township, or an officer thereof, which involve the construction or doing of any work involving the employment of labor shall contain a provision that the contractor shall accept, insofar as the work covered by any such contract is concerned, the provisions of the Pennsylvania Workers' Compensation Act,<sup>20</sup> and said contractor will insure his liability thereunder or file with the Township with which the contract is made a certificate of exemption from insurance from the Bureau of Workers' Compensation of the Department of Labor and Industry.

J. Interest of Township officials in contracts. In accordance with the Charter, Article VIII, Section 801B, in any case where a Township officer or official, elected or appointed, knows or by the exercise of reasonable diligence could know that he is interested to any appreciable degree, either directly or indirectly, in any contract for the sale or furnishing of any personal property for the use of the Township of more than \$300 in any year, he shall notify the Council thereof, and no such contract shall be passed and approved by Council except by an affirmative vote of at least 3/4 of the total number of members of Council.

**§ 4-47. Sale of Township property. [Amended 2-11-2019 by Ord. No. 801]**

A. The Township Manager is authorized to sell, on behalf of the Township, excess or unneeded personal property of the Township when the value of the personal property as estimated by the Township Manager is less than \$5,000. Sale of excess or unneeded personal property of the Township estimated

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18. Editor's Note: See 73 P.S. § 1601 et seq.

19. Editor's Note: See 43 P.S. § 951 et seq.

20. Editor's Note: See 77 P.S. § 1 et seq.

by the Township Manager to have a value equal to or exceeding \$5,000 shall receive prior authorization by the Council at a public meeting.

- B. All excess or unneeded personal property of the Township shall be sold by auction, including by and through online auction websites, made available to the public and awarded to the highest bidder. Payment shall be made in accordance to the rules and policies of the auctioneer or auction website. The Township shall at least once in January of each year, in a newspaper generally circulated in the Township, provide notice of the online auction website to be used for sales hereunder. For each auction held, the Township shall prominently post in the Township building and on its website notice of the auction and a summary of the items to be sold.
- C. All sales of real property shall be made only to the highest bidder after receipt of one or more sealed bids received after notice. Notice shall be published at least once in one or more newspapers generally circulated in the Township, between seven and 30 days before the date established for the opening of sealed offers. Each sealed offer shall be accompanied by a certified check or bank cashier's or treasurer's check in an amount equal to not less than 10% of the offer.
- D. The Council may sell or transfer real or personal property to a municipal authority, a school district, another municipality, the Commonwealth of Pennsylvania, or a nonprofit corporation engaged in community industrial development on such terms as may be negotiated. Competitive bidding will not be required for such sales or transfer of property.

#### **§ 4-48. Gifts to Township.**

No gift of real estate, or any interest in real estate, to the Township may be accepted without specific approval of a majority vote of the total members of Council.

#### **§ 4-49. Disbursements.**

All disbursements, except those from petty cash, shall be by check drawn on the proper account of the Township. Each check shall be signed by two officers, including the Township Manager or his designee and the Finance Director or his designee. The Finance Director shall authorize disbursement of Township moneys only after determining that all goods and services contracted for have actually been received or performed, and that a sufficient unexpended balance exists in the appropriation account to which the disbursement is to be charged.

#### **§ 4-50. Annual audit by elected auditors.**

The elected auditors of the Township shall make the annual audit of Township financial affairs and prepare the annual audit report as required by the Charter, Article VI, which is self-executing and incorporated in this chapter by reference.

#### **§ 4-51. Independent audit.**

The Council shall, as it deems necessary, provide for an independent audit of all Township accounts by a certified public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the Township or of its elected and appointed officers. Copies of any such audits or financial reports shall be available for inspection by the public.

#### **§ 4-52. Bonding of officers and employees.**

The Township Manager shall arrange for blanket bonds covering all officers and employees of the

Township who are responsible for the handling and/or authorization of receipts, disbursements, materials and supplies. Such bonds shall be subscribed by a surety company or companies authorized to do business in Pennsylvania and shall be designed to provide the Township the greatest protection at the least cost, under a blanket position bond or by a per-occurrence fidelity bond. The Council shall approve the bonding contracts on behalf of all Township officers and employees. The amount of the bond or bonds shall be determined annually by Council to ensure adequate protection of the Township interests. The costs of such bonding shall be paid by the Township.

**§ 4-53. Limitations on tax rates and debt.**

- A. Limitations on tax rates and debts shall be as provided in the Charter, Sections 412 and 413. The Township shall follow the provisions of the Local Government Unit Debt Act, as amended,<sup>21</sup> or other general law of the Commonwealth of Pennsylvania with respect to authorizing and incurring debt.
- B. Should the Council find it necessary or desirable to levy real estate taxes at higher rates than authorized to Second Class Townships in Pennsylvania, the Council shall by ordinance submit, for referendum of the registered voters of the Township, any proposed new rate limit to be established, which new rate limit shall continue until further changed by referendum unless superseded by higher rates authorized to Second Class Townships generally or by rates authorized by the General Assembly which apply to municipalities with home rule charters.

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21. Editor's Note: Said Act was repealed 12-19-1996 by P.L. 1158, No. 177. See now 53 Pa.C.S.A. § 8001 et seq.

ARTICLE VI  
**Personnel Regulations**  
**[Amended 8-25-1980 by Ord. No. 256]**

**§ 4-54. Purpose; applicability; administration. [Amended 2-11-2019 by Ord. No. 800]**

- A. Purpose. The purpose of the Personnel Manual, as adopted by Township Council, is to establish personnel principles and policies, which shall include, but not be limited to, the following:
- (1) Employment in the Township government, including appointments, promotions and other personnel actions, shall be based on merit.
  - (2) Just and equitable incentives and conditions of employment.
  - (3) Every effort shall be made to stimulate high morale by fair administration of these regulations consistent with the best interests of the public and the Township.
- B. Coverage. The Personnel Manual shall apply to all employees of the Township. The regulations shall not apply to elected officials, members of the citizen boards, commissions and authorities, Township Solicitor(s) and Township Engineer(s) who may serve on a consulting basis.
- C. Administration. The Township Manager shall have the responsibility for the administration of the Personnel Manual as provided for in Sections 303A and 503 of the Charter. This responsibility shall include appointing and disciplining all employees covered by these regulations and, upon approval of the Township Council, establishing whatever detailed rules as may be necessary to carry out the regulations or to implement personnel policies.

**§ 4-55. Employment process. [Amended 2-11-2019 by Ord. No. 800]**

- A. General. The Personnel Manual shall include, but not be limited to, defining fair and objective employment practices and its process, to include job postings, hirings, promotions, required examinations, probationary terms for new hires and promotion of all state and federal requirements for public employment.
- B. Examinations. The examination process for all employees shall be set forth in the Personnel Manual and shall consist of whatever written, oral, medical, performance or other examinations and evaluations that are necessary to determine an applicant's fitness or competency for Township employment.
- C. Introductory Period and permanent employment. Policies related to hires for Township employment shall be set forth in the Personnel Manual. In addition, the following shall apply:
- (1) Length of introductory period. A newly hired employee shall serve an introductory period of six months ("Introductory Period") during which time the Township will have the opportunity to monitor the quality and value of the employee's performance and make any necessary adjustments in the employee's assigned job tasks based on their performance. The employee's Introductory Period may be adjusted as deemed appropriate by management and the Township Manager and supported by a written probationary review. Completion of the Introductory Period does not imply guaranteed or continued employment with the Township.
  - (2) Removal of Introductory Period employee. An employee serving the Introductory Period of employment may be removed from his or her position at any time during the Introductory Period

at the discretion of the Township Manager and having reviewed the employee's performance with the department head, if applicable. Introductory Period employees shall not have recourse to appeal.

- (3) Conditions of permanent employment. An Introductory Period employee may, at the discretion of the management of the Township, become a permanent employee upon the successful completion of the Introductory Period, the favorable written recommendation of the department head and the approval of the Township Manager.

#### **§ 4-56. Organization chart.**

The Township Manager shall prepare and the Township Council shall adopt, as part of the annual budget, an organization chart which shall show the class titles and number of all permanent and temporary positions in each department or unit of the Township. Any proposed change in this organization chart which would cause the appropriation for personal services in any department or unit to be exceeded shall be accompanied by a budget amendment or transfer.

#### **§ 4-57. Classification Plan.**

- A. General. The class titles and class specifications which are approved by the Township Council shall constitute the Classification Plan.
- B. Administration. The Classification Plan shall be administered and maintained by the Township Manager, and employees shall be allocated by the Manager to classes which best describe their duties.
- C. Reclassification. A request for reclassification to a different classification may be originated by an employee or by a supervisor. Such requests may be initiated if it is felt that the existing classification does not reasonably describe the duties and responsibilities of work actually being performed. Such requests must be in writing and detail the reasons why the reclassification is considered to be justified. Requests of this nature are to be submitted to the Township Manager through the employee's department head.

#### **§ 4-58. Pay Plan. [Amended 2-11-2019 by Ord. No. 800]**

The Township Council shall establish the Pay Plan covering all employees and may amend the plan from time to time after receiving recommendations from the Township Manager. The Pay Plan will be reexamined periodically with consideration given to the changes in living costs. Any change in the plan from this type of a review shall be known as an "economic adjustment" and shall become effective when designated by the enabling legislation, and effective for all employees. Pay Plan changes made based on position assessment, reclassifications and noneconomic adjustment shall not cause an immediate adjustment to an employee's wage. The Personnel Manual shall include policies and procedures related to, among other things, pay ranges, merit step growth, salary minimum and maximum ranges and promotional wage growth.

#### **§ 4-59. Performance ratings. [Amended 2-11-2019 by Ord. No. 800]**

The Township Manager shall implement a performance rating system for all employees as outlined in the Personnel Manual.

#### **§ 4-60. Promotion, demotion and transfer. [Amended 2-11-2019 by Ord. No. 800]**

The specific policies and procedures relating to the promotion, demotion and transfer of Township

employees shall be set forth in the Personnel Manual.

- A. Promotion policy. Promotions will be made from within the Township only when the most qualified candidate is available. Promotions are made on an equal opportunity basis according to employees possessing the needed skills, education, experience and other qualifications that are required for the job.
- B. Promotional Introductory Period. All employees promoted into a new job position will be subject to an Introductory Period as set forth in Article VI of this chapter. After the Introductory Period, an employee may be transferred back to his/her original position at the discretion of the management of the Township upon consideration of the employee's performance and suitability for the position.
- C. Transfers. Township employees may be transferred to a new position within the Township so as to best meet the business needs of the Township, as determined by the management of the Township. All transfers must be approved by the Township Manager.

**§ 4-61. Hours of work. [Amended 2-11-2019 by Ord. No. 800]**

The Personnel Manual shall include policies and procedures for defined scope of hours worked among the employee groups.

**§ 4-62. Vacation leave. [Amended 2-11-2019 by Ord. No. 800]**

The Personnel Manual shall include policies and procedures for vacation leave time for eligible employees.

**§ 4-63. Sick leave. [Amended 6-11-2001 by Ord. No. 611; 4-8-2002 by Ord. No. 625; 6-23-2008 by Ord. No. 695; 2-11-2019 by Ord. No. 800]**

The Personnel Manual shall include policies and procedures for sick leave for eligible employees.

**§ 4-64. Injury leave. [Amended 6-23-2008 by Ord. No. 695; 2-11-2019 by Ord. No. 800]**

The Personnel Manual shall include policies and procedures for, injury leave for eligible employees.

**§ 4-65. Other forms of leave. [Amended 6-23-2008 by Ord. No. 694; 2-11-2019 by Ord. No. 800]**

The Personnel Manual shall include policies and procedures of other forms of leave, including, but not limited to leave of absence with and without pay, bereavement leave, military leave, leave under the federal and Maternity Leave Act<sup>22</sup> and other applicable state and federal law, and jury duty.

**§ 4-66. Holidays and personal days. [Amended 2-11-2019 by Ord. No. 800]**

The Personnel Manual shall include policies and procedures for designated Township holidays and personal days.

**§ 4-67. Overtime and compensatory time off. [Amended 2-11-2019 by Ord. No. 800]**

The Personnel Manual shall include policies and procedures regarding eligibility for overtime and compensatory time pay for exempt and nonexempt employees.

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22. Editor's Note: See the Family and Medical Leave Act, 29 U.S.C. § 2601 et seq.

**§ 4-68. (Reserved)<sup>23</sup>****§ 4-69. Political activity.**

Employees shall have the right to be members of and support a political party, to vote as they choose, to express opinions privately on all political subjects and candidates, to maintain political neutrality, and to attend political meetings. However, employees may not be an officer of a political party, hold political office while employed, or solicit political contributions or services from another Township employee.

**§ 4-70. through § 4-71. (Reserved)<sup>24</sup>****§ 4-72. Layoffs. [Amended 7-27-1981 by Ord. No. 287]**

At such times as it may be necessary to reduce the number of employees, the criteria to be followed shall be length of service and quality of job performance. The last employee laid off within a class will be the first to be offered reemployment, should a position within the class subsequently become available. Any employee laid off within a class title shall be permitted the option of acquiring the position of a less-senior employee in a related class title with the same pay grade if able to meet the job qualification requirements of the related class title; or, in the alternative, the employee shall be permitted to acquire the position of a less senior employee in a related class title in a lower pay grade. These employee options shall be permitted only should such related class titles and positions exist at the time of the layoff.

**§ 4-73. Resignations and reinstatement. [Amended 2-11-2019 by Ord. No. 800]**

The Personnel Manual shall include policies and procedures regarding employee resignations and reinstatements.

**§ 4-74. Discipline. [Amended 2-11-2019 by Ord. No. 800]**

The specific policies and procedures relating to discipline, labor relations and grievance process practices of the Township shall be set forth in the Personnel Manual and shall be compliant with applicable State and Federal law related to public employment.

- A. General. Violation of Township policies and procedures may result in disciplinary action, including, but not limited to, demotion, transfer, leave without pay or termination of employment. The Township encourages, but is not bound to, a system of progressive discipline as the situation may require; however, the Township is not required to engage in progressive discipline and may discipline or terminate employees who violate Township policies, procedures and other rules of conduct, or who fail to meet the expectations of their employment. The Township policies and practices related to discipline, and application thereof, shall not modify the at-will employment status of Township employees.
- B. Warnings. Under appropriate circumstances and based upon performance and facts, an employee shall be provided a verbal or written warning prior to suspension. A copy of either notice shall be made a part of the employee's personnel record. The policy regarding issuance of warnings shall be set forth in the Personnel Manual.
- C. Suspensions, demotions and dismissal. The Township may, for disciplinary reasons, suspend, demote

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23. Editor's Note: Former § 4-68, Suggestion system, was repealed 2-11-2019 by Ord. No. 800.

24. Editor's Note: Former § 4-70, Outside employment, and § 4-71, Training, were repealed 2-11-2019 by Ord. No. 800.

or dismiss an employee at any time. When an employee is suspended, they shall be given a written statement of the reasons for the action, and a copy of such notice shall be made a part of the employee's personnel record. The policy regarding suspensions and demotions shall be set forth in the Personnel Manual.

- D. Right to hearing. Whenever the Township Manager determines that it is appropriate to suspend without pay, demote or dismiss an employee, the employee shall, when required under state or federal law, be afforded the right to a hearing or other opportunity to be heard. The hearing process shall be set forth in the Personnel Manual. The Township policies and practices related to hearings shall not modify the at-will employment status of Township employees and is not intended to create any personal or property interest related to employment status.

**§ 4-75. Appeals and grievances. [Amended 2-11-2019 by Ord. No. 800]**

The specific policies and procedures relating to public sector employment appeals and grievances shall be set forth in the Personnel Manual.

**§ 4-76. Sexual harassment. [Added 9-25-1995 by Ord. No. 557; amended 2-11-2019 by Ord. No. 800]**

The Personnel Manual shall include policies and procedures regarding harassment of all kinds, including, but not limited to, the procedures for reporting such claims to management of the Township.

**§ 4-77. Drug and alcohol policy. [Added 6-10-1996 by Ord. No. 568; amended 2-11-2019 by Ord. No. 800]**

The Personnel Manual shall include a comprehensive drug and alcohol policy for all employees, including, but not limited to, CDL and non-CDL drivers.



ARTICLE VII  
**Ethical Practices**  
**[Added 8-25-1980 by Ord. No. 256]**

**§ 4-78. Ethical practices enumerated.**

- A. All employees, appointed officials and elected officials, when providing service to the public, shall do so without special favor or privilege to anyone and shall not accept remuneration, favors or benefit other than that provided by the Township.
- B. No employee, appointed official or elected official shall engage in business with the Township either directly or indirectly. Information obtained confidentially in the performance of official duties shall not be used for private gain.
- C. All employees shall report corruption or dishonesty of which they become aware and shall enter into no private agreement adverse to the public interest.
- D. No employee or appointed official shall be required to resign his or her position should a member of his or her immediate family be elected to a Township office.

ARTICLE VIII  
**Insurance and Related Matters**  
**[Added 6-10-1985 by Ord. No. 372]**

**§ 4-79. Township insurance.**

- A. The Township Manager shall be responsible for, in connection with advice from the Township Solicitor, recommending insurance coverage to Township Council for all Township employees, elected officials, Township boards, committees and agencies, including the fire companies, to provide insurance coverage for liability claims, property damage claims, personal injury claims, worker's compensation and any other coverage deemed appropriate. The Personnel Manual shall maintain policies and procedures for all applicable insurance coverages. **[Amended 2-11-2019 by Ord. No. 800]**
- (1) Emergency/Fire Services shall comply with Township policies regarding insurance; any references to 'employee' shall be viewed as any eligible member of a fire company. So long as the Township provides insurance coverage each company shall comply with all required insurance terms, policies and regulations.
- B. The Township Manager shall present to the Township Solicitor all insurance coverage which the Township Manager deems appropriate and shall obtain from the Township Solicitor a written opinion with regard to the appropriateness and amount of the coverage.
- C. The Township Manager shall present to the Finance and Administration Committee a recommendation and the written opinion of the Solicitor with regard to insurance coverage or changes thereof prior to presenting said recommendation or recommendations to Township Council.

**§ 4-80. Township responsibilities for claims.**

- A. The Township shall pay the deductible or uninsured portion of any claim, including legal fees, as a result of any claim against the Township, a Township elected official or officials, Township employees, members of Township boards, commissions or agencies, or members of the fire company where insurance coverage is applicable and the Township insurance company has assumed the defense of the claim.
- B. In all claims where insurance coverage is not available or applicable and a Township elected official, a Township employee, a member of a Township board, agency or commission or a fire company member is sued and where such official, employee, member of a board, commission or agency or fire company member was acting on Township business or in a Township capacity at the time of the incident giving rise to the claim, the Township shall pay the cost of defense and any and all judgments rendered against such official, employee, etc., subject to Subsection D hereof.
- C. The Township Council shall retain the right to designate counsel for the defense of a claim against a Township official, employee, etc., where no insurance coverage exists.
- D. Township Council shall not be responsible to provide a defense or pay any judgment arising out of any action on the part of any Township elected official, employee, etc., which involves willful or wanton negligence or a deliberate act clearly outside of the official or employee's responsibility as a Township official or employee or member of a board or commission or member of the fire company.

**§ 4-81. Agencies excluded.**

The Middletown Township, Delaware County, Sewer Authority shall not be covered by this Article VIII of the Administrative Code.

ARTICLE IX

**Driver Safety Policy**

**[Added 2-26-2007 by Ord. No. 682; amended 11-10-2010 by Ord. No. 717; 2-11-2019 by Ord. No. 800]**

**§ 4-82. Policy included.**

The Personnel Manual shall include policies and procedures regarding the Driver Safety Policy for employees and persons operating Township vehicles.



MIDDLETOWN CODE

**Chapter 8**

**AUTHORITIES, MUNICIPAL**

	ARTICLE I	§ 8-3.	Appointed members.
	Sewer Authority	§ 8-4.	Purpose and powers.
		§ 8-5.	Authorization.
§ 8-1.	Creation.		
§ 8-2.	Title and Articles of Incorporation.		

**[HISTORY: Adopted by the Board of Supervisors (now Township Council<sup>25</sup>) of the Township of Middletown as indicated in article histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Sewers — See Ch. 180.

Water — See Ch. 242.

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**25. Editor's Note: The name of the Township's governing body became the Township Council as of 1-1-1978, the effective date of the Home Rule Charter.**

## ARTICLE I

**Sewer Authority**

**[Adopted 7-6-1966 by Ord. No. 96 (Ch. I, Art. 2, Sec. 202, of the 1976 Ordinance Book); amended 8-9-1967 by Ord. No. 102]**

**§ 8-1. Creation.**

The Board of Supervisors of the Township of Middletown, Delaware County, Pennsylvania, constituting the "Municipal Authority" of said Township as defined in the Municipal Authorities Act of 1945 (the act of May 2, 1945, P.L. 382, as amended and supplemented<sup>26</sup>), hereby signifies its intention to organize an Authority under the provisions of said Act.

**§ 8-2. Title and Articles of Incorporation.<sup>27</sup>**

To the Secretary of the Commonwealth of Pennsylvania: In compliance with the Municipality Authorities Act of 1945 (the Act of May 2, 1945, P.L. 382, as amended and supplemented) the Township of Middletown, Delaware County, Pennsylvania, pursuant to an ordinance duly enacted by the Board of Supervisors of said Township authorizing and directing the formation of an Authority under said Act, does hereby certify:

- A. The name of the Authority shall be "Middletown Township, Delaware County, Sewer Authority."
- B. Said Authority is formed under the Municipality Authorities Act of 1945.
- C. No other Authority has been organized under the Municipality Authorities Act of 1945 or under the Act approved June 28, 1935, P. L. 463, or is in existence in and for the said Township of Middletown.
- D. The name of the incorporating municipality is the Township of Middletown, Delaware County, Pennsylvania, and the names and addresses of its municipal authorities are as follows:

<b>Names</b>	<b>Titles</b>	<b>Addresses</b>
Wallace E. Arters	Chairman	1163 W. Baltimore Pike, Lima, Pennsylvania
William D. March	Vice-Chairman	363 Mt. Alverno Road, Media, Pennsylvania
John W. Kriebel	Supervisor	224 S. Middletown Road, Media, Pennsylvania
Clair R. Kephart	Supervisor	21 Arrowhead Trail, Media, Pennsylvania
David Van Ness	Supervisor	121 Meadowburn Lane, Media, Pennsylvania

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

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26. Editor's Note: Said Act was repealed 6-19-2001 by P.L. 287; see now 53 Pa.C.S.A. § 5601 et seq.

27. Ordinance No. 748, adopted 7-14-2014, amended the Sewer Authority Articles of Incorporation to state that its term of existence will be for a period of 50 years from the date of approval of the amendment to the Articles of Incorporation. The full texts of this and future amendments to the Articles of Incorporation are on file in the Township offices.

<b>Name</b>	<b>Address</b>	<b>Term of Office (years)</b>
James T. Fifer	11 Arrowhead Trail, Media	1
Harvey Froehlich	27 Chipmunk Lane, Media	2
Stephen P. Pahides	13 Spring House Lane, Media	3
Lawrence T. Ramaika	79 Glen Riddle Road, Media	4
Paul Restall	347 Mt. Alverno Road, Elwyn	5

The term of office of the first members of the Board of said Authority shall commence on the date of appointment and shall be computed from the first Monday of January 1967.

- F. Said Authority is organized for the purpose only to acquire, hold, construct, improve, maintain, operate, own and lease, either in the capacity of lessor or lessee, sewers, sewer systems or parts thereof, sewerage treatment works, including works for treating and disposing of industrial waste, in and for the Township of Middletown, and such other territory as it may be authorized to serve, and shall exercise all of the powers granted to an Authority organized for such purpose by the Municipality Authorities Act of 1945 under which it is organized.

### **§ 8-3. Appointed members.**

The first members of the Board of the Township of Middletown, Delaware County, Sewer Authority, named in the aforesaid Articles of Incorporation, hereby are specifically appointed members of said Board for the terms of office set after their respective names, which terms shall commence on the date of appointment and shall be computed from the sixth day of July 1966.

### **§ 8-4. Purpose and powers.**

Middletown Township, Delaware County, Sewer Authority shall be organized for the purpose only to acquire, hold, construct, improve, maintain, operate, own and lease, either in the capacity of lessor or lessee, sewers, sewer systems or parts thereof, sewerage treatment works, including works for the treating and disposing of industrial waste, in and for the Township of Middletown, Delaware County, and such other territory as it may be authorized to serve, and shall exercise all of the powers granted to an authority organized for such purpose by the Municipality Authorities Act of 1945 under which it is organized.

### **§ 8-5. Authorization.**

The proper officers of the Township of Middletown, Delaware County, hereby are authorized and directed to execute said Articles of Incorporation on behalf of said Township, and the Secretary is authorized and directed to affix thereto the seal of the Township and to attest the same, cause a notice of intention to file said Articles of Incorporation to be published as required by law, and to file said Articles of Incorporation, together with a certified copy of this ordinance and required proofs of publication, with the Secretary of the Commonwealth of Pennsylvania, and to do, execute and perform any and all acts and things necessary or appropriate to effect and establish said Middletown Township, Delaware County, Sewer Authority.



**Part II: General Legislation**

**Chapter 60****ALARMS AND ALARM DEVICES**

<b>§ 60-1.</b>	<b>Definitions.</b>	<b>§ 60-5.</b>	<b>Fire Department's authority to enter.</b>
<b>§ 60-2.</b>	<b>Device permit required.</b>		
<b>§ 60-3.</b>	<b>Penalty for failing to obtain permit.</b>	<b>§ 60-6.</b>	<b>Automatic protection device operation.</b>
<b>§ 60-4.</b>	<b>Penalties for false alarms.</b>	<b>§ 60-7.</b>	<b>Licensing of installers.</b>

**[HISTORY: Adopted by the Township Council of the Township of Middletown 11-26-1984 by Ord. No. 358 (Ch. VII, Art. 7, of the 1976 Ordinance Book). Amendments noted where applicable.]**

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**§ 60-1. Definitions.**

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

**AUTOMATIC PROTECTION DEVICE** — An electronically powered or battery-powered instrument(s), device(s) or system(s), composed of sensory apparatus, related hardware and circuitry designed or used for detection of fire, heat or smoke, or other emergency service incident, which automatically transmits an alarm, signal or message which is used or intended to result in an emergency response by the Fire Department. **[Amended 12-11-2023 by Ord. No. 857]**

**FALSE ALARM** — Any alarm, signal or message activated by an automatic protection device which causes the Fire Department to respond, but which is not the result of a fire emergency or other incident triggering an emergency response by the Fire Department, and which is caused by a condition within the control of the person(s) in possession of the premises where the automatic protection device is located. Any alarm, signal or message received during the first two weeks after the installation of a new automatic protection device system, or during a period of repair, shall not constitute a false alarm hereunder so long as prior written notice of such circumstance has been provided to the Township prior to such false alarm. **[Amended 12-11-2023 by Ord. No. 857]**

**FIRE DEPARTMENT** — The Rocky Run Fire Company, Middletown Fire Company No. 1, and the Township Fire Chief, or his or her designee, individually and collectively. **[Amended 12-11-2023 by Ord. No. 857]**

**PERMIT** — The annual permit, required by this chapter, for automatic protection devices.

**PERSON** — A natural person, corporation, firm, partnership, association, organization, any other group acting as a unit, or an executor, administrator, trustee, receiver or other representative appointed according to law. In any section of this chapter which prescribes a penalty, fine or service charge, whenever the word "person" is used, as to partnerships or associations, the word shall mean the partners or members thereof, and as to corporations, shall mean the officer, agents or members thereof who are responsible for any violation of such section.

**TOWNSHIP** — Middletown Township, Delaware County, Pennsylvania.

**§ 60-2. Device permit required.**

A. The person in possession of the premises where an automatic protection device is in use must, each

§ 60-2

ALARMS AND ALARM DEVICES

year, apply for and receive a permit to operate the device.

- B. The person in possession of the premises where an automatic protection device is operated must apply for the annual permit no later than January 30 of the year during which the device is to be operated.
- C. Township Council shall, from time to time, set the permit and/or application fee by resolution.

**§ 60-3. Penalty for failing to obtain permit. [Amended 12-11-2023 by Ord. No. 857]**

Any person(s) in possession of a premises where any automatic protection device is operated who intentionally does not apply for the annual permit required by § 60-2 hereof and in violation of this section commits a summary offense and, upon conviction thereof, shall be subject to a maximum fine of \$500, payable to the Township, for each such violation thereof, plus costs of enforcement thereof, including reasonable attorney's fees.

**§ 60-4. Penalties for false alarms. [Amended 8-28-2000 by Ord. No. 606; 12-11-2023 by Ord. No. 857]**

Any person(s) that owns, uses, or possesses an automatic protection device shall not, after causing or permitting three false alarms to occur in a consecutive twelve-month period, cause or permit a subsequent false alarm to occur within the same twelve-month period. Any person(s) in violation of the terms of this section commits a summary offense and, upon conviction thereof, shall be subject to a maximum fine of \$300, payable to the Township, for each such violation thereof, plus costs of enforcement thereof, including reasonable attorney's fees.

**§ 60-5. Fire Department's authority to enter.**

When the Fire Department responds to an alarm transmitted by an automatic protection device, which alarm indicates a fire in a building or premises where no one is available to provide access, the Fire Department is hereby authorized to enter said building or premises by any means reasonably necessary to conduct an investigation as to the cause of the alarm.

**§ 60-6. Automatic protection device operation.**

- A. The sensory mechanism of an automatic protection device shall be equipped and adjusted so as to suppress false indications of fire and so that the device will not be activated by impulses due to normal pressure changes in water pipes, variations in voltage due to electrical storms and power failures or any other forces not related to actual fire conditions.
- B. False alarms transmitted from automatic protection devices are unlawful.
- C. No person shall conduct any test or demonstration of an automatic protection device without first notifying the Township Fire Chief, or his designee, in writing. [Added 12-11-2023 by Ord. No. 857]

**§ 60-7. Licensing of installers. [Amended 8-28-2000 by Ord. No. 606]**

No permit required by § 60-2 hereof will be issued unless the automatic protection device is installed by a licensed electrical contractor who has passed an examination in the National Electrical Code and any further electrical code as may be established by the Township Council. Upon discovery that a permit has been issued to a person whose automatic protection device was not installed by a licensed electrical contractor as herein required, the Township may revoke or suspend the permit by written notice to such person.

**Chapter 63****ANIMALS**

§ 63-1.	<b>Definitions.</b>	§ 63-4.	<b>Dogs.</b>
§ 63-2.	<b>Conditions for keeping animals.</b>	§ 63-5.	<b>Cats.</b>
§ 63-3.	<b>Removal and disposal of dead animals.</b>	§ 63-6.	<b>Rabies.</b>
		§ 63-7.	<b>Violations and penalties.</b>

**[HISTORY: Adopted by the Township Council of the Township of Middletown 12-10-1984 by Ord. No. 361; amended in its entirety 10-25-2004 by Ord. No. 657. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Parks and recreation areas — See Ch. 161.**

**Zoning — See Ch. 275.**

**§ 63-1. Definitions.**

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

**ANIMAL** — Any dog, cat, or domestic farm animal.

**DANGEROUS ANIMAL** — Any wild mammal, reptile or fowl which is not naturally tame or gentle but is of a wild nature or disposition and which, because of its size, vicious nature or other characteristics would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters. The term shall also mean and include any domestic mammal, reptile or fowl which, because of its size or vicious propensity or other characteristic, would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters.

**EXPIRATION DATE** — The date designated or indicated in the vaccination certificate as marking the end of the period of immunity from rabies afforded by the vaccination.

**OWNER** — Any person owning an animal, having possession of an animal, or who allows an animal to remain on his or her premises in Middletown Township.

**RABIES** — A fatal, infectious disease of the brain caused by a specific virus which occurs in saliva and is transmitted to new victims by the bite of the afflicted animal.

**VACCINATION** — The practice of inoculations with a vaccine to afford protection from rabies.

**VACCINATION CERTIFICATE** — A document signed by a qualified veterinarian, indicating that the animal therein described has been vaccinated against rabies, and containing the additional facts called for by this chapter.

**VACCINATION TAG** — Metal or durable plastic tag stating the dates of vaccination, the tag number and veterinarian's name. Such tag must be affixed to the collar or harness and be worn by the animal at all times.

**VETERINARIAN** — A graduate of an accredited school of veterinary medicine, licensed to practice in the Commonwealth of Pennsylvania.

**§ 63-2. Conditions for keeping animals.**

No animal shall be kept, raised, maintained, pastured or sheltered in the Township unless the conditions set forth below are met:

- A. All animals in the Township shall be kept, maintained or sheltered in such a manner so that their health or well being is not endangered. No person shall treat an animal in the Township in a cruel or inhumane manner. Beating, underfeeding, overloading and abandoning animals shall be considered cruel and inhumane treatment within the meaning of this section.
- B. Where an enclosed shelter is provided for an animal, such shelter shall be maintained in a clean, safe and sanitary condition and shall meet all the front, side and rear yard setback requirements of the applicable zoning district.
- C. All areas where farm animals, including but not limited to, horses, cattle, pigs, sheep, goats and chickens are permitted to move about, including all grazing and pasture areas, shall be fenced so as to prevent escape. Such areas shall be maintained in a clean, safe and sanitary condition. As an alternative to fencing, a farm animal may be restrained by other means, provided the owner of such animal remains on the premises and provides proper supervision during the period of time the animal is restrained by such other means. No farm animal shall be left tethered overnight.
- D. All animals shall be kept, raised, maintained, pastured and sheltered in such a manner so as not to:
  - (1) Emit noxious odors which are perceptible at lot boundaries;
  - (2) Emit unreasonable noise from the lot where such animal is kept, raised, maintained, pastured or sheltered which causes inconvenience or annoyance to the residents in the surrounding neighborhood; or
  - (3) Constitute a danger to the public health, safety and welfare.
- E. Dangerous animals shall be kept or maintained in a safe manner and confined securely at all times so that the keeping of such animals will not constitute a danger to human life or the property of others.

**§ 63-3. Removal and disposal of dead animals.**

- A. It shall be the duty and obligation of the owner to provide for the removal and disposal of any and all dead cats, dogs, and other animals located on the owner's property.
- B. It shall be the duty of the Township to remove and dispose of all dead cats, dogs and other animals from Township-owned streets, highways and other public ways.

**§ 63-4. Dogs.**

- A. Compliance required. It shall be the duty of every owner of every dog within the Township of Middletown to at all times comply with all of the requirements of this chapter and the laws of the Commonwealth of Pennsylvania regulating the licensing and running of dogs.
- B. Appointment of special officer. The Township Council shall have the authority to appoint a Special Police Officer for Dog Law Enforcement with full police powers to enforce the provisions of this chapter, issue citations, and commit for hearing all persons known to be in violation thereof. Such special officer or officers shall be under the jurisdiction of the Township Council and be compensated at a rate of pay as shall be set by resolution.

- C. License required. Any person owning, keeping, harboring or having custody of any dog over six months of age within the Township of Middletown must obtain a Pennsylvania state dog license for the current year from the proper licensing authority as follows:
- (1) Applications must be obtained and submitted by the owner to the licensing authority, which is: County Treasurer, Delaware County Court House, Media, PA 19063.
  - (2) The licensing authority will issue a durable tag, with identifying number, which is to be fastened to the animal's collar. It must be worn at all times.
  - (3) Persons who fail to obtain a license as required within the time period specified in this section will be subject to the penalty as provided in this chapter.
  - (4) It is not permitted to transfer a license or license tag issued for one dog to another dog.
- D. Restraint required. No owner shall permit any dog to go at large upon any street, public place or private property other than the property of the owner of the dog. All dogs using any street, public place or private property of anyone other than the owner of the dog shall be:
- (1) On a leash or such other device as to keep the dog under the reasonable control of the person then handling such dog;
  - (2) In an enclosure from which it cannot escape;
  - (3) Firmly secured by means of a collar and chain or other device so that it cannot stray beyond the premises on which it is secured; or
  - (4) Under the reasonable control of the owner or accompanied by the owner.
- E. Impounding. Any dog found in the Township either without a Delaware County license or running at large under conditions set forth in this chapter is hereby declared to be a nuisance and shall be impounded as hereinafter provided.
- F. Place of detention. The Township Council shall be authorized to designate a detention place for dogs seized under the terms hereof.
- G. Detention fee. The owner of any dog so detained shall pay to the Township the sum of the expenses incurred by the Township.
- H. Notification of owner. Such officer or employee shall cause any dog so seized and detained to be properly kept and fed and shall promptly notify the person in whose name the dog's license is registered (if such dog is licensed) either personally or by registered mail to claim such dog within 10 days from the date of its seizure.
- I. Unclaimed dogs. If, after 10 days from the giving of such notice, such dog shall not have been claimed by its owner and the Township reimbursed for expenses incurred in and about the detention of such dog, the Township may authorize the disposal of such dog by sale or by destruction in some humane manner; provided that no dog so caught and detained shall be sold for the purpose of vivisection. The proceeds of any such sale shall be turned over and paid to the Township.
- J. Interference with officer. It shall be unlawful for any person to interfere with any officer in the performance of their duties under this chapter, to attempt to prevent the officer from seizing or capturing, or to attempt to liberate the dog in the custody and possession of said animal control officer.

- K. Damage caused by dog. It shall be unlawful for the owner to permit such dog to run at large or to cause any damage to any buildings, lawns, shrubbery or any other real or personal property, or to cause any annoyance to persons in the Township of Middletown. Failure of any such owner to curb and restrain said dog shall subject the owner to penalties provided by this chapter.
- L. Noise disturbance. It shall be illegal within the Township of Middletown for any owner to allow a dog to make any noise continuously and/or incessantly for a period of 10 minutes, or to make such noise intermittently for 1/2 hour or more to the disturbance of any person any time of the day or night, regardless of whether the animal is physically situated in or upon private property. Said noise shall be considered a nuisance, provided that at the time the animal is making such noise no person is attempting to trespass upon private property in which the animal is situated.
- M. Animal defecation on public and private property and disposal of animal feces. The owner of a dog shall be required to immediately remove any feces from any surface upon which the dog may defecate, including but not limited to, any lawn, gutter, street, driveway, alley, curb or sidewalk in the Township of Middletown, upon the floors or stairways of any building or place frequented by the public or used in common by the tenants, or upon the outside walls, walkways, driveways, alleys, curbs or stairways of any building abutting on 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 of such animal. Any feces not immediately removed and placed in a nonleaking container for deposit in a trash receptacle, or disposed of in a toilet shall be considered a nuisance, and shall subject the owner to penalties provided by this chapter. The owner of the animal shall abate and clean his or her property of excrement so as not to present a public health hazard and/or nuisance.
- N. Exceptions. The provisions of Subsection M above shall not apply to a guide dog accompanying any blind persons, or to a dog used to assist any other physically handicapped person.

#### **§ 63-5. Cats.**

- A. It shall be unlawful for any owner to have any cat that becomes a nuisance in the Township. Acts of nuisance shall include, but are expressly not restricted to, the following:
  - (1) The frequent raising of any disturbance between the hours of 7:00 p.m. and 7:00 a.m., prevailing time, or at extended intervals at any other time of the day, or both.
  - (2) Viciousness.
  - (3) Frequent digging into flower beds, lawns, children's sandboxes, gardens or the depositing of feces or urine, and/or otherwise damaging shrubbery, trees or lawns, on premises, personal property or other property not belonging to the owner of the cat.
- B. Any owner of a cat shall comply with and be current with rabies vaccination requirements of the laws of the Commonwealth of Pennsylvania with regard to cats.
- C. All cats must be identified on the cat's collar with the owner's name and address.

#### **§ 63-6. Rabies.**

- A. Report on animal having bitten person. It shall be the duty of any person having knowledge that an animal has bitten or injured any person in Middletown Township to immediately report the facts, including (if known) the whereabouts of said animal, to the Health Officer. It shall be the duty of the owner of said animal to confine it immediately for 10 days and comply with the directions of the

Health Officer. The animal shall be examined within 48 hours by a veterinarian, and a written report of such examination shall be submitted by the owner to the Health Officer who, in his discretion, may order the owner to place it in a veterinary hospital or other approved location. Immediate report shall be made to the Health Officer if the animal becomes ill, escapes or dies. At the end of the ten-day confinement, the animal shall again be examined by a veterinarian, and a written report of findings shall be submitted to the Health Officer within 48 hours by the veterinarian or the owner. If such second report reveals no symptoms of rabies, the animal may then be released from confinement.

B. Report on animal having been bitten by rabid animal.

- (1) It shall be the duty of any person having knowledge that an animal in Middletown Township has been bitten by or otherwise exposed to an animal infected or suspected of being infected with rabies to immediately report the facts, including (if known) the whereabouts of the animal bitten, to the Health Officer. If such animal has not been vaccinated, it shall be placed immediately in a veterinary hospital or other approved location under the supervision of a veterinarian.
- (2) If the animal which was bitten or otherwise exposed to rabies had theretofore been vaccinated in accordance with the requirements of this chapter, disposition may be either:
  - (a) Immediate revaccination of the bitten animal and confinement for 30 days thereafter; or
  - (b) Confinement in strict isolation in an approved kennel for an amount of time approved by a veterinarian; or
  - (c) If either of the above is not fulfilled, such bitten animal shall be disposed of as directed by the Health Officer.

C. Report on animal infected with rabies. It shall be the duty of any person having knowledge that an animal in Middletown Township is infected or suspected of being infected with rabies to immediately report the facts, including (if known) the whereabouts of such animal. The Health Officer, after an investigation, may order the immediate confinement of such animal in a veterinary hospital or other approved location, and said animal shall not be released therefrom without the permission of the Health Officer. Any animal found to be infected with rabies shall be disposed of only as directed by the Health Officer.

D. Vaccination of animals against rabies.

- (1) It shall be the duty of each owner of an animal in Middletown Township, on or before the effective date of this chapter, to have his or her animal vaccinated against rabies or to establish, by a valid vaccination certificate, that such animal has heretofore been duly vaccinated and that the period of immunity from rabies afforded thereby has not expired. It shall be the duty of each such owner to have the animal revaccinated at the interval of time and with the specific vaccine licensed by the United States Department of Agriculture for the particular type of animal.
- (2) Unvaccinated animals acquired or moved into Middletown Township shall be vaccinated within 30 days after arrival or, if under five months of age, shall be vaccinated within 30 days after reaching that age.

E. Duties of veterinarians.

- (1) It shall be the duty of each veterinarian, at the time of vaccinating any animal against rabies, to complete in duplicate a vaccination certificate, the original for the owner and the duplicate to be



retained by the issuing veterinarian. Such certificate, over the signature of the veterinarian, shall include the following information:

- (a) Owner's name and address.
  - (b) Description of animal (breed, sex, markings, age).
  - (c) Date of vaccination.
  - (d) Rabies vaccination tag number.
  - (e) Type of vaccine administered and years of effective protection.
  - (f) Manufacturer's serial number of vaccine.
  - (g) Due date for booster.
- (2) In addition to said certificate, the veterinarian shall furnish to the owner, or affix to the animal's collar or harness, a metal or durable plastic tag stating the date of vaccination, tag number and veterinarian's name. The tag shall be worn by the animal at all times.

F. Duties of owners. All costs of examination, vaccination, and/or impoundment shall be paid by the owner.

**§ 63-7. Violations and penalties.**

Any person violating any of the provisions of this chapter, upon conviction in a summary proceeding before a Magisterial District Judge, shall be sentenced to pay a fine of \$25 plus costs, for the first violation; \$50 plus costs for the second violation committed within a period of one year; \$100 plus costs for the third violation committed within a period of one year; and \$200 plus costs for the fourth and subsequent violations committed within a period of one year, and/or to imprisonment for a term not to exceed 90 days.

**Chapter 65****BAMBOO**

<b>§ 65-1.</b>	<b>Purpose and intent.</b>	<b>§ 65-3.</b>	<b>Notice of violation.</b>
<b>§ 65-2.</b>	<b>General provisions.</b>	<b>§ 65-4.</b>	<b>Violations and penalties; costs of removal.</b>

**[HISTORY: Adopted by the Township Council of the Township of Middletown 12-13-2021 by Ord. No. 838. Amendments noted where applicable.]**

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**§ 65-1. Purpose and intent.**

The purpose of this chapter is to preserve and protect the private and public property from the damaging of certain bamboo grasses, protect indigenous plant materials from the invasive spread of bamboo and maintain the general welfare of the residents of Middletown Township.

**§ 65-2. General provisions.**

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

**BAMBOO** — Any monopodial (running) woody or arborescent grasses from the genera bambusa, arundinaria and dendrocalamus of the subfamily bambusoideae, from tropical or temperate regions having hollow stems and thick rhizomes, including, but not limited to, Acidosa, Arundinaria, Bashania, Brachystachyum, Chimonbambusa, Gelidocalamus, Indocalamus, Indosasa, Ochlandra, Phyllostachys, Pleioblastus, Pseudosasa, Sasa, Sasaella, Semiarundinaria, Shibataea, and Sinobambusa, as well as common bamboo, golden bamboo and arrow bamboo.

**BAMBOO OWNER** — Any owner, tenant, occupier and/or agent of property who has planted and/or grows bamboo, or who maintains bamboo on the property, or who permits bamboo to grow or remain on the property even if the bamboo has spread from an adjoining property.

**BUFFER ZONE** — A distance of at least 10 feet from the edge of any shared drive, street, road or sidewalk, whether public or private, or from any neighboring property line, public or private.

**NOTICE** — Any written notice by, from or on behalf of the Township, notifying the bamboo owner(s) that they are in violation of this chapter and directing them to cure or fix the violation.

**RECEIPT OF NOTICE** — Receipt of the notice required herein shall be the date of mailing said notice, or, if applicable, posting of the notice on the property in question, whichever is earlier.

**TOWNSHIP** — The Township of Middletown, Delaware County, Pennsylvania.

B. Regulation of existing and new bamboo.

- (1) Existing bamboo. Any bamboo that is already in existence on any property within the Township limits as of the effective date of this chapter may remain on such property, unless the Township Code Enforcement Officer or other qualified person(s) designated by the Township determines, upon complaint from any adjacent property owner, that any portion of such bamboo has been allowed to grow upon, extend roots across, or extend branches, stalks or leaves over any public way or another's private property. Prior to making any determination under this subsection, the

affected property line boundary location shall be provided to the Township by the complaining adjacent property owner. If the location of the boundary line is unknown or in dispute, sufficient evidence of the exact location of the relevant boundary lines of any affected property shall be provided to the Township by the complaining adjacent property owner at their sole cost and expense. In the event the Code Enforcement Officer or other qualified person(s) designated by the Township makes such a determination, the bamboo owner shall be subject to the following regulations:

- (a) Bamboo owner must take measures to ensure that any bamboo on their property does not exist within any buffer zone. Such measures shall include, but are not limited to:
  - [1] Managing, trimming, cutting, and removing all bamboo plants or roots existing in the buffer zone and maintain the buffer zone free and clear of bamboo, including the root system, as necessary to destroy the bamboo and root system within the buffer zone.
  - [2] Any bamboo remaining outside a buffer zone must be entirely contained within a barrier, constructed in accordance with the following specifications, or other specifications as field conditions may dictate as determined by the Township Code Enforcement Officer or other qualified person(s) designated by the Township:
    - [a] The barrier itself shall be composed of high density polypropylene or polyethylene, with a thickness of at least 40 mils;
    - [b] The barrier shall be installed at least 24 inches deep in the ground;
    - [c] At least four inches of the barrier must protrude above ground level around the entire perimeter of the buffer zone;
    - [d] The barrier shall be secured and joined together by stainless steel clamps or stainless steel closure strips designed to be used with such barriers;
    - [e] All bamboo plants shall be located, trimmed and maintained so that no part of the plant is within the buffer zone.
- (2) New bamboo. Any property owner who plants bamboo after the effective date of this chapter shall be required to take measures to ensure that no portion of any such bamboo is permitted to grow within a buffer zone. Such measures shall include, but are not limited to, installing barriers in accordance with the specifications set forth in this subsection.
- (3) The terms of this subsection shall not be deemed to alter any rights at common law or otherwise that any property owner may have to seek remedies and recover the cost of removal of bamboo on their own property from another person or entity that has allowed the spread of bamboo upon an adjacent property.

### **§ 65-3. Notice of violation.**

- A. If bamboo on any property has been planted or allowed to grow in violation of the terms of this chapter, the Township shall give written notice to the bamboo owner(s) as required by this chapter that said bamboo owner(s) are responsible for abatement of such violation within thirty days from the date of the receipt of notice ("abatement period"). In the event that it is determined by the Township Code Enforcement Officer or other qualified person(s) designated by the Township that the required abatement cannot reasonably be completed within the abatement period, the Township Code Enforcement Officer or other qualified person(s) designated by the Township may extend the

abatement period up to ninety days from the date of the receipt of notice upon written request by the bamboo owner.

- B. The notice issued under this subsection shall be served by certified mail, return receipt requested, addressed to: 1) the owner(s) listed on the current tax address on file with the Township; and 2) to the occupier of the property by either first-class mail or by posting a copy of the notice on the property in question, at the option of the Township.
- C. That failure to comply or abate the condition within the time and manner specified constitutes a violation of this chapter and the Township shall invoke one or both of § 65-4 of this chapter necessary to enforce the provisions hereof.

**§ 65-4. Violations and penalties; costs of removal.**

In the event that said notice of violation is not complied with as directed, the Township shall take any or all of the following actions as it may deem necessary to enforce the provisions of this chapter:

- A. Commence a summary enforcement proceeding before the Magisterial District Justice against the property owner(s), and upon conviction thereof, be punishable by a fine of up to \$500 for each violation thereof. Violators shall also be responsible for court costs and reasonable attorneys' fees of the Township, as permitted by law. Each and every day in which a person shall be in violation of this chapter shall constitute a separate offense.
- B. Commence a summary enforcement proceeding before the Magisterial District Justice against the property owner(s), and upon conviction thereof, cause the condition to be removed or abated by the Township or other qualified person(s) designated by the Township, the costs of such removal plus the filing fees and any other costs related to the abatement will be charged to the property owner(s). If such costs are not paid in full within 90 days, such costs may be filed as a lien against the property and collected in the same manner as other municipal liens or by personal action commenced in the Court of Common Pleas of Delaware County. Any voluntary action taken by the Township pursuant to this section shall not create any obligations on the part of the Township to continue such action, nor shall it limit, ameliorate, or change the obligation of the property owner(s).

**Chapter 67****BATHING PLACES, PUBLIC**

§ 67-1.	<b>Definitions.</b>	§ 67-8.	<b>Bather preparation facilities.</b>
§ 67-2.	<b>Construction requirements.</b>	§ 67-9.	<b>Unsafe conditions.</b>
§ 67-3.	<b>Licenses.</b>	§ 67-10.	<b>Electrical safety.</b>
§ 67-4.	<b>Violations and penalties.</b>	§ 67-11.	<b>Garbage and refuse.</b>
§ 67-5.	<b>Water supply.</b>	§ 67-12.	<b>General provisions.</b>
§ 67-6.	<b>General safety.</b>	§ 67-13.	<b>Water supply for spa pools.</b>
§ 67-7.	<b>Hygiene.</b>		

**[HISTORY: Adopted by the Township Council of the Township of Middletown 1-13-1992 by Ord. No. 500 (Ch. XI, Art 2, of the 1976 Ordinance Book). Amendments noted where applicable.]**

**GENERAL REFERENCES**

Construction codes — See Ch. 89.

Subdivision and land development — See Ch. 210.

Food establishments — See Ch. 127.

Water — See Ch. 242.

Sewers — See Ch. 180.

Zoning — See Ch. 275.

Solid waste — See Ch. 192.

**§ 67-1. Definitions. [Amended 1-22-1996 by Ord. No. 562]**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

**AIR GAP** — The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of the receptacle.

**BACKFLOW** — The flow of water or other liquids, mixtures or substances into the distributing pipes of a potable supply of water from any source or sources other than the approved source.

**CONTAMINATION** — Any physical, chemical or biological substance present in the pool water which may adversely affect the health or safety of the bather. Swimming pool or wading pool contamination shall exist when at least one of the conditions set forth in § 67-5G hereof exists. Spa pool contamination shall exist when at least one of the conditions set forth in § 67-13F hereof exists.

**CROSS-CONNECTION** — Any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other steam, gas, a chemical or water of unknown or questionable safety, whereby there may be a flow from one system to the other, the direction depending on the pressure differential between the two systems.

**DEPARTMENT** — Middletown Township, Delaware County, Pennsylvania, Department of Health.

**DEP** — The Pennsylvania Department of Environmental Protection.

**GARBAGE** — All putrescible wastes, except sewage and body waste, including animal and vegetable offal.

**LIFEGUARD** — A person appointed by the owner, operator or manager of a public bathing place to maintain surveillance over the bathers on the deck or in the pool at a public bathing place and to supervise bather safety. The lifeguard shall meet the training requirements of this chapter.

**OWNER** — Any person having a legal or equitable interest in a public bathing place and who or which is responsible for the continual operation and maintenance of such facility in accordance with the terms of this chapter.

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

**PUBLIC BATHING PLACE** —

- A. Any outdoor or indoor place open to the public used for amateur, professional or recreative swimming, bathing or relaxation, including a swimming pool, spa pool or wading pool, whether or not a fee is charged for admission or for the use of such place or any part thereof. A public bathing place shall not include a place used for swimming, bathing or relaxation at a private, single-family residence which is used solely by the owner of the residence, the owner's family and their personal guests. Except with respect to the regulation of water supply and content, hygiene, plumbing, electrical facilities and safety equipment, a public bathing place shall not include a swimming pool, spa pool, wading pool, lake or pond owned, operated and maintained for the exclusive use and enjoyment of residents of a condominium or cooperative, members of a property owners' association, the personal guests of such residents or members or the residents or guests of a lifecare retirement community, provided that, with respect to a lifecare retirement community, the following conditions are imposed upon the use of the swimming pool, spa pool, wading pool, lake or pond (collectively, the pool facilities) by the owners or operators thereof:
  - (1) Each user of the pool facilities must be in receipt of a physician's release prior to his or her first use of the pool facilities, which release shall be required at least annually.
  - (2) All residents must attend an orientation session to acquaint them with the pool facilities.
  - (3) No persons under the age of 18 shall be permitted to use the pool facilities.
  - (4) No person shall be permitted to use the pool facilities without at least one other person present.
  - (5) The pool facilities must be continuously monitored by competent personnel electronically or otherwise at two separate locations whenever the pool facilities are in use. One of the locations in which the monitoring will take place must be in reasonably close proximity to the pool facilities. Monitoring must be conducted in such a manner so as to permit activities within the pool facilities to be both visible and audible.
  - (6) All users of the pool facilities must register their use both before and after using the pool facilities and must inform the person manning at least one of the monitoring locations of the intended use of the pool facilities. The pool facilities may not be used unless the monitoring locations are manned.
  - (7) The pool facilities should be limited in terms of hours of operation.
  - (8) All guests using the pool facilities must be accompanied at all times by a resident.
  - (9) The pool facilities shall not contain more than four feet of water.

- (10) Individuals under the influence of alcohol or drugs shall not be permitted to use the pool facilities.
  - (11) Glass, pets, smoking and the consumption of alcoholic beverages shall be prohibited within the pool facilities.
  - (12) Diving shall be prohibited within the pool facilities.
  - (13) All personnel manning the monitoring locations must be trained and certified in cardiopulmonary resuscitation ("CPR") and trained in first aid.
- B. The Health Officer of the Township is hereby given the power and charged with the responsibility to monitor all of the foregoing, to wit: the method, means and operation of all of the foregoing.
- C. The standards set forth in this definition must be met in all lifecare retirement communities which do not have a lifeguard as required by § 67-6A of this chapter. Failure to comply with the standards set forth in this definition by such a community shall constitute a violation of this chapter by the owner or operator of the pool facilities, but not by any user thereof.

**REFUSE** — All nonputrescible wastes generally regarded and classified as rubbish, trash, junk and similar designations which have been rejected by the owner or possessor thereof as useless or worthless.

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

**SEWERAGE SYSTEM** — Any community or individual system, whether publicly or privately owned, for the collection and disposal of sewage or industrial wastes of a liquid nature, or both, including various devices for the treatment of such sewage or industrial wastes.

**SOURCE** — A well, spring, cistern, infiltration gallery, stream, reservoir, pond or lake from which, by any means, water is taken either intermittently or continuously for use by the public.

**SPA POOL** — Any whirlpool, hot tub or similar device other than a residential whirlpool, spa or hot tub, which is designed for relaxation or recreational use where the user is sitting, reclining or at rest and the pool is not drained, cleaned or refilled after each use. A spa pool may include, but not be limited to, hydrojet circulation, hot water, cold water, mineral baths or air induction bubbles in any combination. A spa pool may be an individual unit or may be integrated into a larger swimming pool or bathing pool. A spa pool may, depending on its size, accommodate one or more persons.

**SWIMMING POOL** — Any structure, basin, chamber or tank containing an artificial body of water for swimming, diving, relaxation or recreational bathing and having a depth of two feet or more at any point and including all associated facilities, but excluding spa pools.

**TURNOVER PERIOD** — The number of hours required to completely replenish the water in a pool or to recirculate a quantity of water equal to the capacity of the pool.

**WADING POOL** — Any artificial pool of water less than two feet deep and intended to be used for wading purposes.

**WATERS OF THE COMMONWEALTH** — All rivers, streams, creeks, rivulets, lakes, dammed water, ponds, springs and all other bodies of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of the Commonwealth of Pennsylvania.

**WATER SUPPLY** — A source or sources of water, as well as any and all water treatment, storage, transmission and distribution facilities.

**§ 67-2. Construction requirements.**

- A. Approval of plans. Any person who plans to construct, install or alter an existing public bathing place must submit plans to the DEP and the Department prior to such construction, installation or alteration. No construction, installation or alteration shall begin until approval of the proposed plans has been received in writing from the Department.
- B. Content of plans. Such plans shall include:
  - (1) Maps, drawings, specifications and descriptions of the public bathing place and its appurtenances and operations.
  - (2) Descriptions of the source or sources of water supply, amount of chemical content and quality of water available and intended to be used.
  - (3) Descriptions of the method and manner of water purification, treatment, disinfection, heating, regulation and cleaning.
  - (4) Descriptions of measures employed to ensure installation of necessary lavatories and dressing rooms and description of the method and manner of washing, disinfecting, drying and storing bathing apparel and towels.
  - (5) All other information required by DEP rules and regulations or by the Department.

**§ 67-3. Licenses.**

- A. Application for license. Every owner shall be required annually to file an application and secure a license from the Department to operate his, her or its public bathing place. Such application shall include the name, address and telephone number of the owner, the address of the public bathing place and any other information requested by the Department. The application shall also be accompanied by the required annual inspection fee and a copy of a valid, current permit issued by DEP for the operation of the public bathing place. Owners shall not operate a public bathing place or permit a public bathing place to be operated within Middletown Township except in compliance with the provisions of this chapter. The Department may refuse to issue a license or license renewal if the public bathing place or facilities and/or equipment therein do not meet the requirements of this chapter or any other applicable laws, ordinances or regulations.
- B. Change in ownership. When there is a change in ownership of a public bathing place, the new owner shall be required to file an application and secure a new license from the Department as required in Subsection A hereof. Licenses shall not be transferable.
- C. Posting. The license issued by the Department hereunder shall be posted in a conspicuous place accessible to patrons and approved by the Department.
- D. Inspection fee and license period. An annual inspection fee shall be paid by the owner by January 1 of each calendar year at the time of application. Any license issued hereunder shall be for a period of one year commencing on January 1 of each year and expiring on December 31 of the same year, subject, however, to the right of the Department to revoke or suspend any such license pursuant to Subsection E hereof. The license fee shall be as follows:



- (1) Swimming pools or wading pools (per complex): \$150.
  - (2) Spa pools (each): \$75.
- E. Revocation of license. If the owner fails to comply with any provision of this chapter and such failure in the opinion of the Township or the Department endangers the life, safety or health of the users of the public bathing place, the Department may suspend or revoke the owner's license.
- F. Applicable laws, ordinances and regulations. All provisions and requirements herein shall be in addition to any and all other provisions and requirements set forth in any and all other applicable federal, state or local laws, ordinances or regulations, including, but not limited to, Chapter 275, Zoning, Chapter 210, Subdivision and Land Development, the Middletown Township Building Code and Plumbing Code<sup>28</sup> and Chapter 127, Food Establishments, Chapter 192, Solid Waste, Chapter 180, Sewers, and Chapter 242, Water. Nothing herein shall be construed to limit, replace or obviate the need to comply with any other such applicable law, ordinance or regulation. To the extent that any provision herein is inconsistent with any other applicable Township ordinance or regulation, the provision herein shall control unless the other applicable Township ordinance or regulation is stricter than the provision herein, in which case the other ordinance or regulation shall control.
- G. Appeals. Any person aggrieved by the actions or determinations of the Department shall have the right to a hearing before the Township Council. The aggrieved party and/or his duly authorized attorney or agent may, within 10 days after such action or determination by the Department, take an appeal therefrom to the Township Council. Any such appeal shall be in writing, shall state the action or determination of the Department being appealed from and the reasons for the exception taken thereto, shall be verified by affidavit and shall be filed with the Township Manager. The person appealing shall have the right to appear and be heard if such a desire is stated in the written appeal. A prompt decision of such appeal shall be made by the Township Council and shall be duly recorded with the minutes of the Township.

#### **§ 67-4. Violations and penalties.**

- A. Violations. Failure by the owner to secure a license as required by this chapter, operation without a license, operation after suspension or revocation of a license or the failure to comply with any provision of this chapter or any other law or regulation applicable to such public bathing place, shall constitute a violation of this chapter. When written notice of a violation of this chapter has been served upon the owner, such violation shall be promptly corrected as required by such notice.
- B. Penalties. Any person who shall violate any provision of this chapter shall be guilty of a summary offense and upon conviction thereof shall pay a fine to Middletown Township of not less than \$25 nor more than \$500, plus costs of prosecution and/or shall be imprisoned in the Delaware County jail for a period not exceeding six months. Each day during which any violation of this chapter continues shall constitute a separate offense and shall be punishable as such.

#### **§ 67-5. Water supply.**

- A. Water quality generally. The water used in all public bathing places other than spa pools shall meet the bacteriological, chemical, physical and radiological standards of DEP and this chapter.
- B. Circulation. Water shall be introduced to and withdrawn from the pool so as to provide uniform circulation and uniform disinfectant residual throughout the entire pool.

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28. Editor's Note: See Ch. 89, Construction Codes, Art. II, Building Standards, and Art. III, Plumbing Standards.

- C. Recirculation and filtration. All pools shall be provided with a recirculation and filtration system except where there is a flow of water of the quality and quantity through the pool which at all times conforms to the provisions of this chapter.
- D. Turnover period. The turnover period for wading pools shall be no more than two hours, but in no case shall the turnover period for other types of pools be more than eight hours.
- E. Clarity of the pool. All water in the pool shall be sufficiently clear to permit a black disc, six inches in diameter on a white field, when placed on the bottom of the pool at the deepest point, to be clearly visible from the runway or deck around the deep area of the pool.
- F. Overflow facilities. Overflow facilities shall be provided and water levels in the pool maintained to effectively remove scum, debris or other floating matter.
- G. Swimming pool and wading pool contamination. The water in a swimming pool or wading pool shall be considered contaminated when one of the following conditions exists:
  - (1) More than one ten-milliliter portion of any sample shows a positive test for coliform organisms when multitube fermentation technique is used or more than one coliform per fifty-milliliter portion when the membrane filter test is used.
  - (2) Two consecutive samples show a positive test for coliform organisms in any ten-milliliter portion of any sample when the multitube fermentation technique is used or more than one coliform per fifty-milliliter portion when the membrane filter test is used.
  - (3) Two of any 10 consecutive samples show a positive test for coliform organisms in any of the ten-milliliter portions of any sample when the multitube fermentation technique is used or more than one coliform per fifty-milliliter portion when the membrane filter test is used.
- H. Disinfection of pool water. Where chlorine or a hypochlorite compound is used for disinfection, the free chlorine residual in the water in all parts of the pool when in use shall be not less than 1.0 parts per million and the pH value of the water shall be not less than 7.2 and not more than 8.0. Other disinfecting materials or methods may be used if approved by the Department.
- I. Testing kits and procedures. Testing of pool water shall be performed and records kept in accordance with the following regulations:
  - (1) Accurate testing kits for making readings of residual disinfection and pH shall be provided by the owner.
    - (a) Before opening for the day's activity and when the pool is in use, tests for disinfectant residuals and pH shall be made as follows:
      - [1] Outdoor pools: immediately before opening and every hour when open.
      - [2] Indoor pools: immediately before opening and every two hours when open.
    - (b) The results of these tests shall be recorded on forms satisfactory to the Department and shall be readily available at the pool side for inspection at any time.
  - (2) The owner or operator shall be responsible for the collection and examination of samples for the purity of the water used for swimming or bathing, and such samples shall be examined by a laboratory in compliance with Subsection J.

- (3) A total coliform bacteriological analysis shall be made at least once each week of a sample collected during the period of maximum use of the public bathing place. Additional analyses of additional samples shall be furnished by the licensee upon request by the Department.
  - (4) Copies of the reports of analyses described herein shall be maintained by the licensee for at least two years and made available to the Department upon request.
- J. Laboratory testing. Tests of pool water shall be performed by laboratories certified by DEP for microbiological examinations. Conformity of the laboratory and the pool water to DEP standards for laboratory certification and standards for safe and sanitary pool water, respectively, shall be evidenced by a statement from the laboratory to such effect. Upon notification by the laboratory that pool water does not meet the standards for safe and sanitary swimming pool water, the pool shall be immediately closed to the public until the problem has been corrected. The Department shall be notified by the owner or operator when this occurs. Notification of the Department shall be documented on the daily records described below indicating the corrective measures taken.
- K. Records of tests. Daily records of tests and of the operation of the public bathing place shall be kept on forms satisfactory to the Department and copies thereof shall be filed with the Department monthly or more often if required by the Department.

**§ 67-6. General safety. [Amended 1-22-1996 by Ord. No. 562]**

- A. Number of lifeguards. One or more competent, certified lifeguards in adequate number shall be on duty at the waterside at all times the public bathing place is open to use by bathers or swimmers, and such lifeguard(s) shall not be assigned other tasks that would divert their attention from the safety of the bather or swimmer. When there is no certified lifeguard present or when the pool is closed for the day, the pool shall be secured to prevent unauthorized access and use. The provisions of this subsection shall not apply to lifecare retirement communities when the standards set forth in the definition of "public bathing place" in § 67-1 have been satisfied.
- B. Qualifications of lifeguards. Lifeguards shall be capable swimmers, skilled in lifesaving methods and in methods of artificial resuscitation as evidenced by their possession of a currently valid certificate or other proof of proficiency from the American Red Cross, the YMCA, YWCA or other recognized training agency acceptable to the Department.
- C. Lifesaving equipment. The following emergency equipment shall be provided and shall be readily accessible for use at each public bathing place:
- (1) Telephone at pool side with a list of emergency medical and service response numbers prominently displayed.
  - (2) Standard, filled twenty-four-unit first-aid kit.
  - (3) Blankets.
  - (4) Backboard with means to secure victim to board and provide immobilization of head, neck and back.
  - (5) One or more reaching devices which may include but not be limited to poles, ropes and any reasonable means to extend a person's reach.
  - (6) One or more flotation devices which may include buoys, life jackets or any flotation device that can support an adult in water.

- D. Gas chlorination. Where gas chlorination equipment is installed at either outdoor or indoor pools, the equipment shall be housed in a separate room equipped with proper ventilation and all safety devices as required and approved by the Department. All facilities using chlorine gas as a disinfectant shall be required to have a gas mask approved for use in chlorine disinfection with at least one backup canister or an approved self-contained breathing apparatus unit. This equipment shall be stored in an area separate from the chlorine gas.

**§ 67-7. Hygiene.**

- A. General. The common use of drinking cups, towels, hair brushes or other toilet articles shall be prohibited.
- B. Employee health. No person having a disease in a stage which is communicable shall be employed at a public bathing place. No employee of a public bathing place who contracts a communicable disease may continue to work in a public bathing place.
- C. Bather health. Persons with signs of illness or disease or with skin rashes or sores or with bandages shall be excluded from public bathing places except where certified by a physician not to have a disease in a communicable stage.
- D. Bathing suits and towels. Bathing suits and towels furnished to bathers shall be thoroughly cleaned and dried each time they are used in such a manner as to preclude the transmission of disease and shall be stored in a clean and sanitary manner.
- E. Food. Where food service is provided, the food service facilities and operations shall comply with the provisions set forth Chapter 127, Food Establishments.
- F. Water. Each owner shall provide drinking water facilities at the owner's public bathing places and shall ensure that water used for drinking, food preparation, cleaning or personal hygiene at such public bathing places is provided from a supply approved by DEP.

**§ 67-8. Bather preparation facilities.**

- A. Requirement. Adequate bather preparation facilities shall be available to all users of the public bathing place.
- B. Dressing and toilet facilities. Bather preparation facilities shall be provided with separate dressing facilities, showers, lavatories, toilets and appurtenances for each sex.
- C. Construction and sanitation. Bather preparation facilities shall be designed and constructed so that good sanitation can be maintained throughout the building at all times and so that injury to the bather is reduced to a minimum.
- D. Walls and floors. Interior walls and floors shall be easily cleanable and the floors drained to prevent standing water.
- E. Lighting. Sufficient lighting shall be provided to promote cleanliness and safety.
- F. Ventilation and heating. Adequate ventilation and heating shall be provided for the comfort of the bather.

**§ 67-9. Unsafe conditions.**

- A. Plumbing. All plumbing connections and modifications to existing plumbing facilities at or to any public bathing place shall be performed in conformance with the provisions of Chapter 89, Construction Codes, Article III, Plumbing Standards. Plumbing shall be so sized, installed and maintained as to carry adequate quantities of water to required locations throughout the public bathing place, to prevent contamination of the water supply, to properly convey sewage and liquid wastes from the public bathing place to the sewerage or sewage disposal system and to prevent the creation of an unsanitary condition or nuisance.
- B. Cross-connections. Cross-connections shall not be permitted. A cross-connection shall be considered broken where a minimum air gap of at least twice the diameter of the water pipe is provided where potable water enters the pool and where pool water or water from the recirculation system is discharged to a sewer system.
- C. Backflow prevention. Backflow shall not be permitted. A potable water distributing pipe shall be considered as protected against backflow from any plumbing fixture or other piece of equipment or from any appliance capable of affecting the quality of the water in the potable water supply where an air gap of at least twice the diameter of the water supply pipe has been provided. Where it is not practical to provide such minimum air gap, the connection to the fixture, equipment or appliance shall be equipped with a backflow preventer assembly of a type and at a location approved by the Township.

#### **§ 67-10. Electrical safety.**

Electrical installations and modifications to existing electrical facilities at or to any public bathing place shall be performed in conformance with provisions of the Middletown Township Electrical Code.<sup>29</sup> Electrical installations at all public bathing places and any additions or modifications to such installations prior to being placed in service and every three years thereafter shall be inspected and approved by an electrical inspection agency approved by the Township. Evidence of such approval by the electrical inspection agency shall be filed with the Department by the owner.

#### **§ 67-11. Garbage and refuse.**

The owner of a public bathing place shall provide for the storage and collection of all garbage and refuse, which collection shall be conducted in a sanitary manner and as often as necessary in order to prevent a health hazard or public nuisance.

- A. Storage. All garbage and refuse containing food wastes shall, prior to disposal, be kept in leakproof, nonabsorbent, rust and corrosion-resistant containers of adequate number, which shall be kept covered with tight-fitting lids when filled or stored or not in continuous use. Any other manner of garbage and refuse storage may be used if approved by the Department. All other garbage and refuse shall be stored in containers, rooms or areas of sufficient numbers and size in a manner so as to prevent arthropod or rodent problems and other nuisances.
- B. Cleaning of area. Adequate cleaning facilities shall be provided, and each container, room or area shall be thoroughly cleaned after each emptying or removal of garbage and refuse.

#### **§ 67-12. General provisions.**

- A. Vector control. Adequate measures for the control of arthropods and rodents which the Department

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29. Editor's Note: See Ch. 89, Construction Codes, Art. I, Adoption of Standards.

deems a public health hazard shall be taken in a manner satisfactory to the Department.

- B. Sewage disposal. All sewerage systems serving public bathing places shall be subject to all applicable federal, state, Township and DEP laws and regulations. Any discharge of filter backwash and other pool wastewater into the waters of the commonwealth shall be approved in the DEP permit.
- C. Reporting death, injury or illness. Each owner or operator shall:
  - (1) Notify the Department within 24 hours of a drowning, near drowning, death or serious injury occurring at the public bathing place.
  - (2) Immediately notify the Department of any incident creating a potential problem of health or safety significance.
- D. Public bathing places not in use. The owners of all public bathing places not in use shall maintain one of the following conditions:
  - (1) Facilities shall be locked and secured at all times to prevent uncontrolled access.
  - (2) Facilities which are abandoned shall be filled with material, subject to the approval of Middletown Township.

**§ 67-13. Water supply for spa pools.**

- A. Operation. The owner or person responsible for the operation (operator) of a spa pool shall be knowledgeable in the operation of the equipment, procedures for performing the necessary water quality tests and safety checks required by this chapter and appropriate emergency procedures. The owner shall make available to each employee or person responsible for the operation of the spa pool a written manual on the operation of and normal maintenance procedures for the spa pool, and the operator shall be responsible for disinfectant and water treatment operations. Unauthorized persons shall not attempt disinfectant and water treatment.
- B. Water quality generally. The water used in all spa pools shall meet the bacteriological, chemical, physical and radiological standards of DEP and this chapter.
- C. Circulation. Water shall be introduced to and withdrawn from the pool so as to provide uniform circulation and uniform disinfectant residual throughout the entire spa pool.
- D. Recirculation and filtration. Spa pools shall be provided with a recirculation and filtration system except where there is a flow of water of the quality and quantity through the spa pool which at all times conforms to the provisions of this chapter.
- E. Clarity of the pool. All water in the spa pool shall be sufficiently clear to permit a black disc, six inches in diameter on a white field, when placed on the bottom of the pool at the deepest point, to be clearly visible.
- F. Spa pool contamination. The water in a spa pool shall be considered contaminated when one of the following conditions exists:
  - (1) More than one ten-milliliter portion of any sample shows a positive test for coliform organisms when multitube fermentation technique is used or more than one coliform per fifty-milliliter portion when the membrane filter test is used.
  - (2) Two consecutive samples show a positive test for coliform organisms in any ten-milliliter

portion of any sample when the multitube fermentation technique is used or more than one coliform per fifty-milliliter portion when the membrane filter test is used.

- (3) Two of any 10 consecutive samples show a positive test for coliform organisms in any of the ten-milliliter portions of any sample when the multitube fermentation technique is used or more than one coliform per fifty-milliliter portion when the membrane filter test is used.
- G. Laboratory testing. Tests of water shall be performed by a laboratory certified by DEP for microbiological testing. Conformity of the laboratory and the pool water to DEP standards for laboratory certification and standards for safe and sanitary pool water, respectively, shall be evidenced by a statement from the laboratory to such effect. Upon notification by the laboratory that water does not meet standards for safe and sanitary pool water, the spa pool shall be immediately closed to the public until the problem has been corrected and the owner or operator shall immediately notify the Department of the lab results and the spa pool closure. Notification of the Department shall be documented on the daily records described below indicating the corrective measures taken.
- H. Records of tests. Daily records of tests and of the operation of the public bathing place shall be kept on forms satisfactory to the Department, and copies thereof shall be filed with the Department monthly or more often if required by the Department.
- I. Turnover period. Spa pools must be capable of minimum turnover rates of 30 minutes.
- J. Cleaning and refilling. Spa pools shall be emptied and cleaned as often as necessary. The necessity of emptying and cleaning will be directly related to the length of time the pool is in operation and the number of people using it.
- K. Disinfection of pool water. When chlorine or a hypochlorite compound is used for disinfection, the free chlorine residual in the water of the spa pool shall not be less than 2.0 parts per million or more than 4.0 parts per million. When bromine is used, the minimum residual shall not be less than 2.0 parts per million or more than 4.0 parts per million. Additional procedures for disinfecting the water may include shocking daily to raise halogen levels to 5.0 parts per million and shocking weekly to levels of 10.0 parts per million. The pH value of the water shall be maintained between 7.2 and 8.0 depending on the amount of free available chlorine or bromine.
- L. Temperature. A pool thermometer shall be provided for the pool and the temperature of the spa water may not exceed 104° F. [40° C.]. This temperature shall be monitored and recorded every hour unless an automatic shutoff occurs when water reaches 104° F.
- M. Testing kits and procedures. Testing of water and keeping of records shall be consistent with § 67-5I, J and K of this chapter, with the exception that spa water shall be tested for temperature and chlorine residual immediately before using and every hour when in use.
- N. Warning sign.
- (1) A precaution sign shall be mounted adjacent to the entrance to the spa pool containing the following warnings and information:
    - (a) Prohibition of use by persons under the influence of alcohol or drugs.
    - (b) Caution that persons suffering from heart disease, diabetes or high blood pressure should contact a physician before use.
    - (c) Caution that women who are or who may be pregnant should seek the advice of a physician

regarding use and that such women should limit time in the pool.

- (d) Persons should limit the stay in the pool to 15 minutes at any one session.
  - (e) Prohibition of food or drink.
  - (f) Location of nearest telephone or emergency notification number.
  - (g) Location of audible emergency alarm to alert others in the area of a need to respond.
  - (h) Not to be operated at water temperatures greater than 104° F. [40° C.].
- (2) These requirements shall be conveyed by any combination of words, pictures or symbols.



**Chapter 81****CABLE TELEVISION**

§ 81-1.	<b>Findings; purpose.</b>	§ 81-10.	<b>Franchise fees; financial information.</b>
§ 81-2.	<b>Title; definitions.</b>		
§ 81-3.	<b>Franchise required; duration; nonexclusivity; other business activities.</b>	§ 81-11.	<b>Cancellation of franchise.</b>
		§ 81-12.	<b>Rights of Township upon termination or cancellation or proposed transfer.</b>
§ 81-4.	<b>Franchise territory.</b>		
§ 81-5.	<b>System construction.</b>	§ 81-13.	<b>Indemnity.</b>
§ 81-6.	<b>Services.</b>	§ 81-14.	<b>Insurance.</b>
§ 81-7.	<b>System specifications and state-of-the art equipment.</b>	§ 81-15.	<b>Violations.</b>
		§ 81-16.	<b>Penalties.</b>
§ 81-8.	<b>Rates; change in rate schedule.</b>	§ 81-17.	<b>Other laws applicable.</b>
§ 81-9.	<b>Local regulatory framework.</b>	§ 81-18.	<b>Amendments.</b>

**[HISTORY: Adopted by the Township Council of the Township of Middletown 3-23-1981 by Ord. No. 273 (Ch. III, Art. 3, of the 1976 Ordinance Book). Amendments noted where applicable.]**

**GENERAL REFERENCES**

Cable television franchise — See Ch. A281.

**§ 81-1. Findings; purpose.**

- A. Council finds and determines that the public convenience of the Township would be served by a cable television and communications system.
- B. The purposes of this chapter are:
  - (1) To regulate the erection, construction, reconstruction, operation, maintenance, and use of a cable television and communications system in, upon, along, across, above, over, under, or in any manner connected with the streets, public ways or public places within the corporate limits of the Township, as they now or in the future may exist.
  - (2) To provide for the payment of franchise fees to the Township for the construction and operation of cable communications systems.
  - (3) To provide remedies for violations of this chapter.
  - (4) To provide for the development of cable television as a community communications system and for other public purposes.

**§ 81-2. Title; definitions.**

- A. This chapter may be cited as the "Middletown Cable Television and Communications Ordinance."

B. As used herein, the following terms shall have the meanings indicated:

COUNCIL — That Town Council of the Township of Middletown.

CTAC — Cable Television Advisory Committee provided for in § 4-35.

FCC — The Federal Communications Commission.

FRANCHISEE — The person to whom a franchise under this chapter is awarded.

PERSON — The corporation, partnership, principle or other entities that have a legal existence.

TOWNSHIP — The Township of Middletown.

C. Technical terms.

- (1) Cable television. A service whereby television and other telecommunications signals are distributed within a specific geographical area by means of wires or coaxial cables.
- (2) Cable television system. The technical facilities and ownership or management thereof for distributing cable television service within a given franchise area.
- (3) Franchise area. For the purposes of this chapter, the Township of Middletown, Delaware County, Pennsylvania.
- (4) Channel. That band of contiguous frequencies within the electromagnetic spectrum assigned to and capable of carrying the signals of a given service. A "television channel" is a band 6 MHz wide, and carries video, audio, and synchronizing and other components of the signal.
- (5) Public access channel. A television channel carried by a cable television system that contains programs or other information supplied by members of the public on a nondiscriminatory basis. The cable television system operator (hereafter "operator") may not charge for use of this channel or channels (although a charge may be made for extensive use of studio facilities utilized for preparation of materials), may not supply programming for these channels himself, and may not exercise any power of censorship except as provided in Section 319 of this chapter.<sup>30</sup>
- (6) Dedicated channel. A television channel carried by a cable television system is restricted to one of the following uses: local government, educational institution, or public access.
- (7) Downstream. The direction of signal flow from a origination to the terminal of a subscriber.
- (8) Upstream. The direction of signal flow from a subscriber, or from a local origination point such as a school, to the cable television system's signal distribution center.
- (9) Subscriber. A resident of Middletown Township who contracts with a cable television system operator for cable television service.
- (10) Drop or service drop. The furthest downstream wiring connecting a subscriber to a cable television system's trunk line.
- (11) Trunk. The main line(s) of a cable television system, from the distribution center to the tap(s) from which subscriber drops are run. The term "trunk" includes all associated amplifiers and other equipment.

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30. Editor's Note: Original Section 319, Obscenity and lotteries, was repealed 4-14-2003 by Ord. No. 644.

- (12) Franchise. An agreement between a cable television system operator and a municipality or similar governmental body defining the rights and obligations of each with respect to a service to be provided the community involved. A cable television franchise is a nonexclusive license granted under terms of an appropriate ordinance.
- (13) Head end. That point which television broadcast signals are received off the air or by microwave and inserted into a cable television system. It is possible for signals to be received at a head end by coaxial cable from a nearby system under common ownership, but most cable television systems use appropriate antennas.
- (14) Distribution center. The location where necessary amplification, signal modification, and switching of signals received from the head end and other origination points, such as studios, is performed. The distribution center may be located at the head end or elsewhere, and has as its main purpose the insertion of the proper signals into the trunks of a cable television system.
- (15) Terminal. All equipment at the subscriber's location located between the service drop and the antenna terminals of the subscriber's television receiver. Additional equipment, such as that needed for two-way use of the cable television system by the subscriber, shall fall within this definition, whether supplied by the cable operator or by the subscriber or by others.
- (16) VHF television. Television broadcast on the Very High Frequency band between 30 and 300 MHz (channels numbered two through 13 by the Federal Communications Commission).
- (17) UHF television. Television broadcast on the Ultra High Frequency band between 300 and 3,000 MHz (channels numbered 14 through 83 by the Federal Communications Commission).
- (18) Interconnection. The physical or microwave connection of the franchisee's cable television system, cable television companies servicing adjoining townships. This includes broadcast capability to provide subscribers with educational and public interest programming originating from adjoining townships, upon request of Township or Rose Tree Media School District.

**§ 81-3. Franchise required; duration; nonexclusivity; other business activities.**

- A. Council may grant franchises for the construction, operation and maintenance of cable television and communications systems subject to the terms and conditions contained in this chapter.
- B. Any person proposing to commence or engage in the business of construction or operating a cable television and communications system in the Township must first have been awarded, and have duly executed an agreement awarding, a franchise pursuant to this chapter. **[Amended 4-14-2003 by Ord. No. 644]**
- C. Any person submitting a proposal to enter into an agreement for the award of a franchise under this chapter shall provide all information required by this chapter and such other information as may be required by Council. **[Amended 4-14-2003 by Ord. No. 644]**
- D. Each franchise shall be granted for a term of 10 years or such lesser period of time approved by Council. **[Amended 4-14-2003 by Ord. No. 644]**
- E. Franchises granted pursuant to this chapter shall be nonexclusive; by entering into an agreement awarding a franchise under this chapter, the franchisee acknowledges the right of the Township to grant additional franchises upon such terms and conditions as it deems appropriate.
- F. Franchises granted pursuant to this chapter shall not be voluntarily transferred or voluntarily

encumbered without the express approval of the Council after a public proceeding afforded due process, unless such approval is not required pursuant to controlling law. For the purpose of this subsection, the transfer of control of the franchisee shall be deemed to be a transfer of the franchise. **[Amended 4-14-2003 by Ord. No. 644<sup>31</sup>]**

- G. Copies of all petitions, applications and communications submitted by the franchisee to the FCC or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting cable television and communications operations authorized pursuant to this chapter shall also be submitted simultaneously to the Township.

**§ 81-4. Franchise territory.**

- A. Franchises granted pursuant to this chapter shall be for the present territorial limits of the Township and for any area henceforth added thereto during the term of this franchise or renewal thereof.
- B. The franchisee shall offer cable television and communications service to all residents of the Township. To the extent that the franchisee intends to impose additional installation charges for service to any specific area, street, building or other location, the franchisee shall clearly indicate in its proposal to enter in an agreement for the award of a franchise in accordance herewith the technical or economic reason for such additional charges in the enumerated locations. There will be no additional charges without express consent of the Council, and after a public proceeding affording due process. **[Amended 4-14-2003 by Ord. No. 644]**

**§ 81-5. System construction. [Amended 4-14-2003 by Ord. No. 644]**

- A. All installations shall be underground in those areas of the Township where telephone and electric utilities' facilities are or are required to be underground at the time of the installation of the franchisee's cable television system. In areas where both telephone and electric utilities' facilities are above ground at the time of the installation of the franchisee's cable television and communication system, the franchisee may install its service above ground only upon the condition, which shall be included in any agreement awarding a franchise in accordance herewith, that at such time as those facilities are placed underground by the telephone and electric utility companies or are required to be placed underground by the Township, the franchisee shall likewise place its facilities underground at its sole cost and expense.
- B. The franchisee at his expense shall restore all private property damaged or disturbed during the installation of poles, cables, wires or equipment to a condition at least equal to the kind and quality existing at the start of the work.
- C. All installations of equipment shall be durable, of a permanent nature, and installed in accordance with good engineering practice and shall comply with all existing Township regulations, ordinances, and state laws so as not to unduly interfere with the travel and use of public places by the public during the construction, repair, or removal thereof.
- D. In the construction, conduct, maintenance and operation of its business, the franchisee shall comply with all requirements of the Township ordinances, resolutions, local laws, requirements and specifications heretofore or hereafter enacted or established, including but not limited to those concerning street work, street excavation, use and removal and relocation of property within a street.

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31. Editor's Note: This ordinance also repealed former Subsection G, restricting franchisee from selling and repairing electronic equipment, which immediately followed this subsection. This ordinance also renumbered former Subsection H as Subsection G.

- E. The franchisee shall maintain all wires, conduits, cable and other real and personal property and facilities in good condition.
- F. The franchisee shall keep accurate and complete, as-built maps and records of its system and facilities and shall furnish to the Township as soon as they are available, complete copies of such maps and records. Said maps and records shall be available for inspection by the public during normal business hours.
- G. The franchisee shall comply with all federal, state and local codes and ordinances governing the construction, installation, operation, and maintenance of the cable television system.

**§ 81-6. Services. [Amended 4-14-2003 by Ord. No. 644]**

- A. The franchisee shall comply with current and future rules and regulations of the federal, state, and local agencies in connection with and relating to the operation of its system.
- B. Remote live telecasting. The franchisee shall provide upstream channel capability for live or taped telecasts from at least:
  - (1) Penncrest High School.
  - (2) Township Municipal Building or other public buildings.
- C. Service to community facilities. The franchisee shall provide each accredited college or university, and each public and licensed private or parochial educational institution (elementary or secondary, for educational purposes only), each public library, each fire company and each Township building and such other facilities as the Township and franchisee may mutually agree, with a single service drop and service without charge.
- D. Interconnection.
  - (1) Subject to applicable third-party agreements, the franchisee shall be required to interconnect its public, education and government access channels with those of any other cable television and communications facility operating in contiguous municipalities or such larger territory as may be feasible, such interconnection to be made within 30 days of a request by the Township. For good cause shown, the franchisee may request and the Township may grant reasonable extension of time to comply with this requirement.
  - (2) Franchisee will interconnect its cable television system with any and all companies serving the municipalities which comprise the Rose Tree Media School District. Franchisee will broadcast all local origination and educational broadcasts originating from such other townships on franchisee's cable television system, whether produced by franchisee or such other companies serving the municipalities which comprise the Rose Tree Media School District. Franchisee shall make available all local origination educational and public interest programming to any and all cable television companies servicing the municipalities which comprise the Rose Tree Media School District. Franchisee will waive any proprietary interests in live or taped programming so produced.

**§ 81-7. System specifications and state-of-the art equipment. [Amended 4-14-2003 by Ord. No. 644]**

- A. All performance and technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance and dismantling of the cable television system provided for herein shall be in accordance with all current applicable FCC and other federal, state, and local laws

and regulations; provided, however, that the Township may require higher or different standards unless specifically prevented from doing so by law.

- B. The franchisee shall maintain and operate a cable system covering the Township which utilizes fiber optic receiver nodes located throughout the plant which divide the distribution of cable system signals to subscribers in a manner which provides high-quality programming signals and reliable service. The cable system shall be built for digital television standards with a bandwidth of no less than 750 MHz with addressable technology with no less than 116 video channels received for digital or analog transmission and with sufficient portion of said bandwidth delivering reliable two-way cable services.
- C. In recognition of the fact that the technology of cable systems is an evolving field, the cable system in the Township shall be capable of offering cable services that are as good as or better than other cable systems operating in the Township and as good as or better than other cable systems operating in the counties of Bucks, Chester, Delaware and Montgomery ("comparable systems").
- D. The cable franchise agreements entered into between the Township and franchisees shall contain state-of-the-art provisions requiring franchisees to improve or upgrade their cable systems when the cable services they are offering in the Township are not as good as cable services in comparable systems.

**§ 81-8. Rates; change in rate schedule. [Amended 4-14-2003 by Ord. No. 644]**

- A. Each franchisee shall state in its proposal to enter into an agreement for the award of a franchise hereunder its initial monthly rates and installation and all other charges for service.
- B. The franchisee shall give notice of its intention to change monthly rates and installation charges for residential service by mailing notice thereof to each of its current subscribers to whom such charges shall apply in accordance with all FCC requirements.

**§ 81-9. Local regulatory framework. [Amended 1-25-1982 by Ord. No. 303; 4-14-2003 by Ord. No. 644]**

The Council shall have power to adopt, prescribe, make, alter and rescind such rules and regulations, procedures and forms, consistent with ordinances of the municipality and laws of the Commonwealth, from time to time, for carrying out its functions and responsibility.<sup>32</sup>

**§ 81-10. Franchise fees; financial information. [Amended 4-14-2003 by Ord. No. 644]**

- A. The Franchisee shall pay to the Township a franchise fee based upon an agreed percentage of the franchisee's gross revenues, as negotiated between the parties, in accordance with FCC regulations.
- B. "Gross revenues" shall mean all revenue received directly or indirectly by the franchisee or its affiliated entities from any source whatsoever arising from, attributable to, or in any way derived from the operation of franchisee's cable system in the Township to provide cable services. Gross revenues shall include, but are not limited to, the following: basic service fees; fees charged to subscribers for any optional, per-channel or per-program services; revenue from the provision of any other cable services; charges for installation, additional outlets, relocation, disconnection, reconnection and change-in-service fees for video or audio programming; fees for leasing of

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32. Editor's Note: Original Section 311, Cable Television Advisory Committee; community TV workshops, was moved to § 4-35 at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Original Section 312, Complaints, and Section 313, Cancellations of Service by Subscribers, which immediately followed said section, were repealed 4-14-2003 by Ord. No. 644.

channels; rental or sales of any and all equipment, including converters and remote control devices; studio rental, production equipment and personnel fees; any and all advertising revenues; fees charged for use of any equipment, including cable transmission wires, to any other entity; revenues or commissions from home shopping channels; fees for any and all music services, including DMX fees for video-on-demand; sales of program guides; late payment fees; NSF check charges; and franchise fees. Gross revenues shall not include: Internet access or cable modem service fees; installation, relocating, disconnection, reconnection and change-in-service fees for Internet access or cable modem service; bad debts or any taxes on services furnished by franchisee and imposed directly upon any subscriber or user by the municipality, state, federal or other governmental unit.

- C. The Franchisee shall file annually with the Township within 90 days after the expiration of each fiscal year of the franchisee a financial statement certified by an independent certified public accountant in accordance with generally accepted accounting principles. In addition to the normal audit procedures, the auditor shall perform such work as may be necessary to certify that gross revenues as defined above, as may then be applicable, are properly stated.
- D. On an annual basis, upon 30 days prior written notice, the Township shall have the right to conduct an independent audit of the franchisee's records reasonably related to the sources, amounts and computation of gross revenues in accordance with generally accepted accounting principles; provided, however, that any such audit shall take place within four years from the date the Township receives such payment, after which period any such payment shall be considered final. Such records shall be kept or made available to the Township at the notice location for franchisee specified in the cable franchise agreement between Township and franchisee. Any reproduction of such records for purposes of inspection shall be performed at franchisee's expense. If the audit shows that franchisee fees have been underpaid, then franchisee shall pay the underpaid amount and liquidated damages of 10% of the underpayment. If franchise fees have been underpaid by 5% or more, then franchisee shall also pay the total cost of the audit.
- E. The franchisee shall also supply to the Township such financial information relating to the franchisee as the Township may, from time to time, reasonably request in writing.<sup>33</sup>

**§ 81-11. Cancellation of franchise. [Amended 4-14-2003 by Ord. No. 644]**

In addition to all of the rights and powers accruing to the Township under this chapter or otherwise, Council reserves the right to terminate and cancel the franchise in accordance with applicable law.

**§ 81-12. Rights of Township upon termination or cancellation or proposed transfer. [Amended 4-14-2003 by Ord. No. 644]**

At the expiration of the term for which this franchise is granted, or upon its termination and cancellation as provided for herein, the Township shall have the right to require the franchisee to remove at its own expense all portions of the system from the Township.

**§ 81-13. Indemnity. [Amended 4-14-2003 by Ord. No. 644]**

Franchisee shall, at its sole cost and expense, indemnify and hold the Township, its elected and appointed officials, its officers, employees and agents, acting in their official capacities, harmless at all times during the term of the franchise agreement from and against any and all liability, losses or damages, including

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33. Editor's Note: Original Section 315, Renewal of franchise, which immediately followed this section, was repealed 4-14-2003 by Ord. No. 644.

attorneys' fees and costs of defense, the Township may suffer as a result of claims, demands, suits, actions or proceedings or any kind or nature arising out of the construction, upgrade, installation, removal, operation or maintenance of all or part of its cable system, including the actions of any contractor or subcontractors acting within the scope of its engagement. Upon timely receipt of notice in writing from the Township of the Township's receipt of a claim or action pursuant to this section, franchisee shall, at its own expense, defend any action or proceeding against the Township in which it is claimed that any injury or property damage was caused by the activities of franchisee, its officers, employees and/or agents, in the construction, upgrade, installation, removal, operation or maintenance of its cable system.

**§ 81-14. Insurance. [Amended 4-14-2003 by Ord. No. 644]**

- A. Franchisee shall maintain insurance through the term of this agreement with the Township as an additional insured, with an insurance company which is authorized to conduct business in Pennsylvania and which has an A.M. Best rating (or equivalent) no less than "A", indemnifying the Township from and against any and all claims for injury or damages to persons or property, both real and personal, caused by the construction, installation, reconstruction, operation, maintenance or removal of the cable system by franchisee or any of its contractors, subcontractors, agents or employees in the following amounts:
- (1) The amount of such insurance against liability for damage to property shall be no less than \$1,000,000 as to any one occurrence.
  - (2) The amount of such insurance against liability for injury or death to any person shall be no less than \$1,000,000.
  - (3) The amount of such insurance for excess liability shall be \$5,000,000 in umbrella form.
  - (4) Franchisee shall maintain workers' compensation insurance on all employees engaged in its installation or service of its equipment.
- B. All insurance coverage shall be maintained throughout the period of the agreement. All insurance policies shall contain a provision that the Township will receive 30 days' written notice prior to any changes or cancellation of the policy. All expenses incurred for said insurance shall be at the sole expense of franchisee.
- C. A certificate evidencing the insurance coverage required herein shall be provided by franchisee to the Township upon request.<sup>34</sup>

**§ 81-15. Violations.**

- A. It shall be unlawful for any person to commence or engage in the business of constructing or operating a cable television and communications system in the Township without having been awarded, and having duly executed an agreement awarding a franchise under this chapter.
- B. It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the franchised cable television and communications system within the Township for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the operator of said system in accordance with its then-current rate schedule.

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34. Editor's Note: Original Section 319, Obscenity and lotteries, and Section 320, Privacy, which immediately followed this section, were repealed 4-14-2003 by Ord. No. 644.



§ 81-15

CABLE TELEVISION

- C. It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires, or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

**§ 81-16. Penalties. [Amended 4-14-2003 by Ord. No. 644]**

Any person violating any term or condition or prohibition contained in this chapter shall be liable for a fine not to exceed \$1,000 per day for each day of violation. In the event that the violation is a violation of a specific provision contained in a cable franchise agreement between the Township and the franchisee, which provides for a specific penalty or sanction for the particular violation, the penalty provisions in said agreement, including but not limited to any amicable notice provisions and liquidated damages provisions, shall govern.

**§ 81-17. Other laws applicable.**

- A. A franchise granted pursuant to this chapter authorizes the franchisee only to install and operate a cable television and communications system and does not grant any other license, permit or franchise which may be required by law, ordinance or regulation.
- B. The franchisee shall comply with all applicable federal, state, and Township laws and regulations.

**§ 81-18. Amendments.**

- A. Subject to rights granted pursuant to an agreement awarding a franchisee hereunder, this chapter may be amended by Council at any time.
- B. Council shall have power to adopt by resolution any rules and regulations not inconsistent with the provisions of this chapter. **[Amended 4-14-2003 by Ord. No. 644]**

MIDDLETOWN CODE

**Chapter 89**

**CONSTRUCTION CODES**

**ARTICLE I  
Adoption of Standards**

- § 89-1. Adoption of codes by reference.  
§ 89-2. Election to administer and enforce.  
§ 89-3. Adoption of appendixes.  
§ 89-4. Administration and enforcement.  
§ 89-5. Board of Appeals.  
§ 89-6. Effect on other provisions.  
§ 89-7. Fees.

**ARTICLE II  
Building Standards**

- § 89-8. Special provisions for designated floodplain districts.  
§ 89-9. Fire suppression systems.  
§ 89-10. Smoke detectors in dwellings.

**ARTICLE III  
Plumbing Standards**

- § 89-11. Amendments to the BOCA National Plumbing Code, 1993 edition.

**ARTICLE IV  
Fire Prevention**

- § 89-12. Open burning.  
§ 89-13. Fire lanes.  
§ 89-14. Fine for parking in designated fire lane.

**ARTICLE V  
Electricians, Licensing of**

- § 89-15. Electrical license required.

**ARTICLE VI  
Natural Cut Trees in Certain Occupancies**

- § 89-16. Restricted occupancies.

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

**GENERAL REFERENCES**

Sewers — See Ch. 180.

Streets and sidewalks — See Ch. 204.

Soil erosion and sedimentation control — See Ch. 186.

Subdivision and land development — See Ch. 210.

Stormwater management — See Ch. 198.

Zoning — See Ch. 275.

ARTICLE I  
**Adoption of Standards**  
**[Adopted 5-24-2004 by Ord. No. 653]**

**§ 89-1. Adoption of codes by reference.**

The Uniform Construction Code contained in 34 Pa. Code, Chapters 401-405, as amended from time to time, including certain appendixes to the Uniform Construction Code and regulations to Act 45 of 1999 promulgated by the Pennsylvania Department of Labor and Industry is hereby adopted and incorporated herein by reference as the Building Code of the Township of Middletown.

**§ 89-2. Election to administer and enforce.**

The Township of Middletown hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. §§ 7210.101-7210.1103, as amended from time to time, and its regulations.

**§ 89-3. Adoption of appendixes.**

In addition to the Uniform Construction Code, the following appendixes contained within the Uniform Construction Code are hereby adopted and incorporated herein by reference and included as part of the Building Code of the Township of Middletown:

A. International Building Code:

- (1) Appendix E, relating to accessibility.
- (2) Appendix F, relating to requirements for rodent proofing.
- (3) Appendix H, relating to sign construction.
- (4) Appendix I, relating to patio covers.

B. International Residential Code:

- (1) Appendixes A through H.
- (2) Appendixes J through L.

C. International Fire Code:

- (1) Appendix B, relating to required fire flow as amended herein.
  - (a) Section B103, Modifications, is hereby amended by deleting the words "Fire Chief" and replacing same with the words "Fire Code Official."
- (2) Appendixes C through G.

D. International Plumbing Code:

- (1) Appendix B.
- (2) Appendixes D through G.

E. International Mechanical Code:

- (1) Appendix A.
- F. International Fuel Gas Code:
  - (1) Appendixes A through D.
- G. International Electrical Code. (The International Electrical Code contains no appendixes.)
- H. International Energy Conservation Code:
  - (1) Appendix A.
- I. International Existing Building Code:
  - (1) Appendixes A and B.
- J. International Urban-Wildland Interface Code:
  - (1) Appendixes A through H.

#### **§ 89-4. Administration and enforcement.**

Administration and enforcement of the Code within the Township of Middletown shall be undertaken in any of the following ways as determined by the Township Council of the Township of Middletown from time to time by resolution:

- A. By the designation of an employee of the Township of Middletown to serve as the municipal code official to act on behalf of the Township of Middletown;
- B. By the retention of one or more construction code officials or third-party agencies to act on behalf of the Township of Middletown;
- 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 the Township of Middletown;
- 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.

#### **§ 89-5. Board of Appeals. [Amended 5-24-2012 by Ord. No. 729]**

- A. Establishment. The Middletown Township Council does hereby establish a Board of Appeals (the "Board") as required by the Pennsylvania Construction Code Act, Act 45 of 1999, as amended, [35.P.S. § 7210.501(c)], the Pennsylvania Uniform Construction Code, (34 Pa.Code §§ 403.121 and 403.122) and the Building Code of the Township of Middletown [Ordinance Nos. 653 and 656 of 2004], subject to and in accordance with the provisions of this section.
- B. Membership.
  - (1) Composition of Board. **[Amended 10-22-2012 by Ord. No. 732]**
    - (a) The Board shall consist of five members and two alternate members who shall be

appointed and qualified to render decisions on matters pertaining to building construction as set forth in the Pennsylvania Construction Code, Act 45 of 1999, as amended.

- (b) The alternate members of the Board shall be called by the Chairperson or acting Chairperson of the Board to hear appeals in the event of the absence or disqualification of a member of the Board.
  - (2) The Middletown Township Council shall designate and appoint, by resolution, the membership of the Board.
  - (3) Members of the Board shall serve at the pleasure of the Middletown Township Council.
  - (4) No member of the Middletown Township Council or the Middletown Township Code administration may serve on the Board.
  - (5) Members of the Board shall reside in the Township of Middletown unless the Middletown Township Council cannot find persons to serve on the Board who meet the minimum requirements of the Pennsylvania Construction Code Act, Act 45 of 1999, as amended.
  - (6) No member of the Board may vote on a matter before the Board on which that member has a personal, professional or financial interest.
  - (7) The members of the Board shall meet on the second Monday of January of each year at 7:00 p.m. in the Middletown Township Administration Building and appoint a Board chairperson, vice chairperson and secretary, who shall serve until their respective replacements are duly appointed. The Board shall schedule all other meetings from time to time as may be necessary to hear applications to the Board filed with Middletown Township.
  - (8) The Middletown Township Council may appoint separate legal counsel to serve the Board. The Middletown Township Council shall determine the compensation to be paid. Legal counsel serving the Township or any other commission or board of the Township shall not be appointed to serve the Board.
  - (9) The Board shall cause the date, time and location of all meetings to be published in a newspaper of general circulation within Middletown Township in accordance with applicable law.
  - (10) The Board may make, alter and rescind rules and forms for its procedure, consistent with this section, ordinances of Middletown Township and the laws of the Commonwealth of Pennsylvania. The Board shall keep full public records of its business, which shall be the property of the Township. The Board shall submit reports of its activities to the Middletown Township Council as requested by the Middletown Township Council.
- C. Jurisdiction. The Board shall hear and rule on appeals, requests for variances and requests for extensions of time, from or under the Building Code of the Township of Middletown, which do not relate to accessibility or the validity of the Building Code of the Township of Middletown or provisions thereof.
- D. Appeals, variances and extensions of time.
- (1) An appellant may seek a variance or extension of time or appeal a building code official's decision by filing an application with Middletown Township on a form provided by Middletown Township and paying the required application fee established by the Middletown Township Council from time to time, by resolution, within 30 days of the date of the issuance of the

enforcement notice or decision under the Building Code of the Township of Middletown from Middletown Township.

- (2) All applications will be promptly reviewed by Middletown Township for completeness. Incomplete application forms or forms which are not accompanied by the correct application fee shall be returned to the applicant with written reasons therefor, for completion and resubmission by the applicant.
- (3) The postmark date of a properly completed application or the date of personal service of such application upon Middletown Township will establish the filing date of the application and request for variance or extension of time for purposes of computation of time.
- (4) An appeal or request for variance or extension of time to the Board will automatically suspend an action to enforce an order to correct until the matter is resolved, except that an action relating to unsafe building, structure or equipment may not be stayed or suspended by the filing of an appeal.
- (5) The Board shall only consider the following factors when deciding an appeal:
  - (a) The true intent of the Building Code of the Township of Middletown was incorrectly interpreted.
  - (b) The provisions of the Building Code of the Township of Middletown do not apply.
  - (c) If the form of construction to be used is equivalent to the Building Code of the Township of Middletown.
- (6) The Board may consider the following factors when ruling upon a request for extension of time or the request for variance:
  - (a) The reasonableness of the application of the Building Code of the Township of Middletown in a particular case.
  - (b) The extent to which the granting of a variance or an extension of time will pose a violation of the Building Code of the Township of Middletown or an unsafe condition.
  - (c) The availability of professional or technical personnel needed to bring the matter into compliance with the Building Code of the Township of Middletown.
  - (d) The availability of materials and equipment needed to bring the matter into compliance with the Building Code of the Township of Middletown.
  - (e) The efforts being made to bring the matter into compliance with the Building Code of the Township of Middletown as quickly as possible.
  - (f) Compensatory features that will provide an equivalent degree of protection to the Building Code of the Township of Middletown.
- (7) An applicant shall file an appeal, request for variance and request for extension of time relating to accessibility with the Accessibility Advisory Board under § 403.142 of the Uniform Construction Code.
- (8) A person aggrieved by the application or enforcement of any provision of the Building Code of the Township of Middletown shall challenge the validity of the Building Code of the Township

of Middletown in the Court of Common Pleas of Delaware County. In order to be aggrieved, a person must have a direct, immediate and substantial interest in the application or enforcement of the Building Code of the Township of Middletown.

E. Hearings and decisions.

- (1) The Board shall hold a hearing within 60 days from the date of a properly completed application unless the applicant agreed in writing to an extension of time, or the applicant did not request a hearing at the time of the filing of the properly completed application. In the case of an appeal or request for variance or extension of time involving the construction of a one- or two-family residential building, the hearing must be held within 30 days from the date of the application, unless the applicant has agreed to an extension or did not request a hearing at the time of the filing of the properly completed application.
- (2) If the applicant has requested a hearing, the Board of Appeals shall notify the applicant, building code official and any other person who has requested notice in writing, of the date, time and place of the hearing.
- (3) If the hearing is scheduled for a meeting other than a regularly scheduled meeting of the Board for which notice has already been advertised, notice of the hearing shall also be published once in a newspaper of general circulation within Middletown Township at least seven days, but in no event less than 24 hours, prior to the date and time of the scheduled hearing. Such notice shall at a minimum state the date, time and location of the meeting and a brief summary of the purpose of the hearing.
- (4) All hearings before the Board shall be open to the public. The applicant, the code official and any person whose interests are affected shall be given an opportunity to be heard.
- (5) The Board shall decide an appeal, variance request or request for extension of time by reviewing documents and written brief of the applicant and with argument if the applicant has requested a hearing at the time the application is filed.
- (6) The Board shall keep a stenographic record of all hearings. The appearance fee for the stenographer shall be the responsibility of the applicant. Copies of transcripts shall be the responsibility of the person requesting the transcript.
- (7) The Chairperson or acting Chairperson of the Board shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties, and shall make all rulings on the admissibility of evidence.
- (8) The applicant and any other party may be represented at a hearing by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- (9) Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- (10) The applicant shall bear the burden of proof on all matters in connection with the application.
- (11) The Board shall render a decision upon the application in which it may:
  - (a) Deny the relief in whole or in part.

- (b) Grant the relief in whole or in part.
  - (c) Grant the relief upon certain conditions being satisfied.
- (12) The Board shall mail the written decision to the applicant within 10 business days following the conclusion of the last hearing on the application. In the case of an application to the Board involving the construction of a one- or two-family residential building, the Board shall mail the written decision within five business days of the last hearing on the application. A copy of the decision shall also be sent to the building code official and to any other person who shall have filed a written request with the Board requesting the decision. When an application is denied or contested, the Board shall issue findings of fact.
- (13) Any party aggrieved by the Board's decision shall have the right to appeal to the Court of Common Pleas of Delaware County within 30 days of the entry of the Board's decision.

**§ 89-6. Effect on other provisions.**

Existing ordinances and regulations:

- A. All building code ordinances or portions of ordinances which were adopted by the Township of Middletown 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.

**§ 89-7. Fees.**

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



## ARTICLE II

**Building Standards**

**[Adopted 4-25-1994 by Ord. No. 535; amended in its entirety 5-24-2004 by Ord. No. 653 (Ch. VII, Art. 1, of the 1976 Ordinance Book)]**

**§ 89-8. Special provisions for designated floodplain districts.**

In order to prevent excessive damage to buildings and structures due to flooding conditions, the following provisions shall apply to all proposed construction or development occurring in any of the floodplain districts designated in Chapter 275, Zoning, as amended, and as delineated in the Flood Insurance Study (FIS) dated September 30, 1993, and Flood Insurance Rate Map (FIRM) prepared for the Township of Middletown by the National Flood Insurance Program, Federal Insurance Administration, including any future amendments or supplements thereto. Said study and maps are available for reference in the Middletown Township offices.

- A. Residential structures. Within any designated F-1, F-2 or F-3 Floodplain District, the lowest floor (including basement) of any new or improved residential structure shall be at least 1 1/2 feet above the one-hundred-year flood elevation. An elevation certificate shall be submitted, sealed by a licensed professional engineer, which identifies the elevation of the lowest floor of such structure.
- B. Nonresidential structures. Within any designated F-1, F-2 or F-3 Floodplain, the lowest floor (including basement) shall be at least 1 1/2 feet above the one-hundred-year flood elevation or be designed and constructed so that the space enclosed by such structure shall remain either completely or essentially dry during any flood up to that height. Any structure, or part thereof, which will not be completely or adequately elevated, shall be designed and constructed to be completely or essentially dry in accordance with the standards contained in the publication entitled "Flood-Proofing Regulations" (United States Army Corps of Engineers, June 1971) or some other equivalent standard for that type of construction. A floodproofing certificate shall be submitted, sealed by a licensed professional engineer, which verifies that the structure is floodproofed in accordance with accepted standard practices.
- C. New construction and substantial improvement to existing buildings and structures that fully enclose areas below the lowest floor that are used solely for parking of vehicles, building access or storage in an area other than a basement, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect to meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- D. Fill. If fill is used, it shall:
  - (1) Extend laterally at least 15 feet beyond the building line from all points.
  - (2) Consist of soil or small rock material only; sanitary landfill shall not be permitted.
  - (3) Be compacted to provide the necessary permeability and resistance to erosion, scouring or settling.
  - (4) Be no steeper than one vertical to two horizontal, unless substantiated data justifying steeper

slope is submitted to and approved by the Code Official.

- (5) Be used to the extent to which it does not adversely affect adjacent properties.
- E. Placement of buildings and structures. All buildings and structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water. In so doing, consideration shall be given to their effect upon the flow and height of floodwaters.
- F. Anchoring. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse or other movement, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse. All air ducts, large pipes and storage tanks located at or below the regulatory flood elevation shall be firmly anchored in accordance with accepted engineering practices to prevent flotation.
- G. Floor, walls and ceilings. Where located at or below the regulatory flood elevation:
- (1) Wood flooring shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain, without incurring structural damage to the building.
  - (2) Plywood shall be of an exterior or marine grade and of a water-resistant or waterproof variety.
  - (3) Walls and ceilings in nonresidential structures shall have sufficient wet strength and be so installed as to survive inundation.
  - (4) Window frames, door frames, door jambs and other components shall be made of metal or other water-resistant material.
- H. Electrical systems.
- (1) All electric water heaters, electric furnaces, electric air-conditioning and ventilating systems and other electrical equipment or apparatus shall be permitted only at elevations above the regulatory flood elevation.
  - (2) No electrical distribution panels shall be allowed at an elevation less than three feet above the level of the one-hundred-year flood elevation.
  - (3) Separate electrical circuits shall serve lower levels and shall be dropped from above.
- I. Plumbing systems.
- (1) Water heaters, furnaces and other mechanical equipment or apparatus shall be permitted only at elevations above the regulatory flood elevation.
  - (2) No part of any on-site sewage disposal system shall be constructed within any designated floodplain district.
  - (3) Water supply systems and sanitary sewage systems shall be designed to preclude infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
  - (4) All gas and oil supply systems shall be designed to preclude the infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.
- J. Paints and adhesives. Where located at or below the regulatory flood elevation:

- (1) Adhesives shall have a bonding strength that is unaffected by inundation (i.e., marine or water-resistant quality).
  - (2) All wooden components (doors, trim, cabinets, etc.) shall be sealed with a marine or water-resistant quality sealant or similar product.
  - (3) Paints or other finishes shall be capable of surviving inundation (i.e., marine or water-resistant quality).
- K. Storage. No materials that are buoyant, flammable, explosive or, in time of flooding, could be injurious to human, animal or plant life shall be stored below the regulatory flood elevation.
- L. Streets and utilities. Streets, drainage, sanitary sewer facilities, water supply facilities and other facilities shall be placed or constructed in accordance with the requirements of Chapter 210, Subdivision and Land Development, Article VIII, pertaining to streets and utilities within the floodplain districts.
- M. Existing structures in designated floodplain districts. Structures existing in any designated floodplain district prior to the enactment of this article which are not in compliance with these provisions may continue to remain, but shall not be expanded or enlarged, unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.
- (1) Any modification, alteration, reconstruction or improvement of any kind to an existing structure in a designated floodplain district to an extent or amount of less than 50% of its market value, shall be elevated and/or floodproofed in conformance with this article as well as Article XXIX of Chapter 275, Zoning.
  - (2) Any modification, alteration, reconstruction or improvement of any kind to an existing structure in a designated floodplain district, 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 article.
- N. Variances in floodplain districts.
- (1) If compliance with the elevation or floodproofing requirements stated above would result in an exceptional hardship for a prospective builder, developer or landowner, the Township Council may, upon appeal, grant relief from the strict application of the requirement in accordance with Section 105, Appeals, of this article.<sup>35</sup> Such relief may be granted in accordance with the following procedures and criteria:
    - (a) No variance shall be granted for any construction, development, use or activity within any floodplain area that would cause any increase in the one-hundred-year elevation.
    - (b) If granted, a variance shall involve only the least modification necessary to provide relief.
    - (c) In granting any variance, the Township Council may 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 article.
    - (d) Whenever a variance is granted, the Township Council shall notify the applicant, in writing, that the granting of the variance may result in increased premium rates for flood insurance and that such variance may increase risks to life and property.

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35. Editor's Note: Said Section 105 was repealed 5-24-2004 by Ord. No. 653.

- (e) In reviewing an appeal for a variance, the Township Council 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 any unacceptable or prohibited increase in flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with any other applicable local or state ordinance or regulation.
- (f) A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.
- (2) Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the hydrostatic and hydrodynamics loads and pressures and effects of buoyancy of the one-hundred-year flood.
- O. Other permit issuance requirements. Prior to the issuance of any building permits, the Township Engineer 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, the Pennsylvania Water Obstructions Act of 1913,<sup>36</sup> 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.
- P. Start of construction. For purposes of implementation of these provisions, construction shall be considered to have started with the first placement of permanent construction on the site, such as the pouring of slabs or footings or any work beyond the stage of excavation. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation or the affixing of any prefabricated structures or mobile home to its permanent site. Permanent construction does not include land preparation, land clearing, grading, filling, excavation for basement, footings, piers or foundations, erection of temporary forms, the installation of sewer, gas and water pipes or electric or other service lines from the street.
- Q. Supplemental definitions for designated floodplain district provisions. The following are special definitions which shall be used in making reasonable interpretations of the provisions contained in this article:
  - COMPLETELY DRY SPACE — A space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.
  - CONSTRUCTION — The construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure, including the placement of mobile homes.
  - DESIGNATED FLOODPLAIN DISTRICTS — Those floodplain districts specifically designated in Chapter 275, Zoning. Included would be areas identified as Floodway (F1), One-Hundred-Year Floodplain (F2), Five-Hundred-Year Floodplain (F3) and Soils Subject to Flooding Subdistrict (F4).

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36. Editor's Note: See 35 P.S. § 750.1 et seq. for the Pennsylvania Sewage Facilities Act. The Pennsylvania Water Obstructions Act of 1913 was repealed by Act No. 70 of 1978. See now 32 P.S. § 693.1 et seq.

**DESIGNATED FLOODWAY DISTRICT OR AREA** — The channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood of the one-hundred-year magnitude as specifically defined in Chapter 275, Zoning.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of mobile homes, streets and other paving, utilities, mining, dredging, filling, grading, excavation or drilling operations and the subdivision of land.

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

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

**OBSTRUCTIONS** — Any wall, dam, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or designated floodplain district, which may impede, retard or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water or is placed where the flow of water might carry the same downstream to the damage of life and property.

**ONE-HUNDRED-YEAR FLOOD** — A flood that on the average, is likely to occur once every 100 years; a flood having a 1% chance of being equaled or exceeded in a given year.

**REGULATORY FLOOD ELEVATION** — The one-hundred-year flood elevation plus a freeboard safety factor of 1 1/2 feet.

R. Supplementary administrative provisions for activities in designated floodplain districts.

- (1) Plan requirements. In addition to the permit application requirements normally required under the Township Building Code, as amended, the Township Code Official shall require the following specific information to be included as part of the application for a building permit:
  - (a) A plan which details the existing and proposed contours and elevations (in relation to the National Geodetic Vertical Datum of 1929) of the ground and the lowest floor of proposed construction, one-hundred-year flood elevations and other associated factors, such as pressures and impact forces, etc., storage elevations, size of the structure, location and elevation of streets, water supply, sanitary facilities, soil types and floodproofing measures, including specific reference to the level of the floodproofing in relation to the one-hundred-year flood.
  - (b) A document, certified by a registered professional engineer or architect, which states that the proposed construction has been adequately designed to withstand the flood depths, pressures, velocities, impact and uplift forces and other hydrostatic and hydrodynamics and buoyancy factors associated with the one-hundred-year 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.
- (2) Review by county conservation district. A copy of all applications and plans for construction or development in any designated floodplain district to be considered for approval shall be submitted by the Township Code Official to the County Conservation District for review prior

to issuance of a building permit. The recommendation of the Conservation District shall be considered by the Township Code Official for possible incorporation into the proposed plan.

**§ 89-9. Fire suppression systems.**

Where required, fire suppression systems shall be installed and maintained in full operating condition, as specified in the Building Code, in the following locations:

**A. Use Group A (assembly) occupancies.**

- (1) Use Group A-1 (theaters): in buildings or structures and all portions thereof of Use Group A-1, no exceptions.
- (2) Use Group A-2 (nightclubs, discos, etc.): in buildings or structures and all portions thereof of Use Group A-2:
  - (a) When of construction Type 1, 2, 3 or 4, and more than 5,000 square feet in area, or more than one story.
  - (b) When of construction Type 5.
- (3) Use Group A-3 (restaurants, museums, etc.): in buildings or structures and all portions thereof of Use Group A-3:
  - (a) When of construction Type 1, 2, 3 or 4, and more than 5,000 square feet in area, or more than one story.
  - (b) When of construction Type 5.
- (4) Use Group A-4 (churches): in buildings or structures and all portions thereof of Use Group A-4:
  - (a) When of construction Type 1, 2, 3 or 4, and more than 5,000 square feet in area, or more than one story.
  - (b) When of construction Type 5.
- (5) Use Group A-5 (outdoor assembly): in buildings or structures, except temporary structures, and all portions thereof of Use Group A-5:
  - (a) When of construction Type 3, 4 or 5, and more than 50% enclosed by exterior walls, and more than 10,000 square feet in area.

**B. Use Group B (business, office, etc.).**

- (1) Use Group B: in buildings or structures and all portions thereof of Use Group B:
  - (a) When of construction Type 1, 2, 3 or 4, and more than 5,000 square feet per floor, or more than 15,000 square feet in total area on all floors, or more than three stories or 35 feet in height above the lowest level of Fire Department access.
  - (b) When of construction Type 5.

**C. Use Group E: educational occupancies.**

- (1) Use Group E: in all buildings or structures and all portions thereof of Use Group E:

- (a) When of construction Type 1 and 2 and more than 10,000 square feet per floor, or more than 20,000 square feet in total area on all floors, or more than two stories or 25 feet in height above the lowest level of Fire Department access.
  - (b) When of construction Type 3 and 4 and more than 5,000 square feet per floor, or more than 10,000 square feet in total area on all floors, or more than two stories or 25 feet in height above the lowest level of Fire Department access.
  - (c) When of construction Type 5.
- D. Use Group F (factory, industrial, etc.) occupancies.
  - (1) Use Group F-1 and F-2: same as Use Group B above.
- E. Use Group H (high hazard) occupancies.
  - (1) Use Group H: in buildings or structures and all portions thereof of Use Group H, including H-1, H-2, H-3 and H-4 occupancies.
- F. Use Group I (institutional) occupancies.
  - (1) Use Group I: in buildings or structures and all portions thereof of Use Group I-1, I-2 and I-3, no exceptions.
- G. Use Group M (stores) occupancies.
  - (1) Use Group M: same as Use Group B above.
- H. Use Group R (residential) occupancies.
  - (1) Use Group R-1 (hotels, motels, etc.): in buildings or structures and all portions thereof of Use Group R-1 in accordance with Section 906.2.1 or 906.2.2., no exceptions.
  - (2) Use Group R-2 (apartments, dormitories, etc.): in buildings or structures and all portions thereof of Use Group R-2 in accordance with Section 906.2.1 or 906.2.2., no exceptions.
- I. Use Group S (storage) occupancies.
  - (1) Use Group S: in buildings or structures and all portions thereof of Use Group S-1 and S-2:
    - (a) When of construction Type 1, 2, 3 or 4, same as use Group B (above).
    - (b) When of construction Type 5.
- J. Public Garages (Group I and Group II): in all public garages:
  - (1) When more than 10,000 square feet in area.
  - (2) When more than 7,500 square feet in area and more than one story in height.
  - (3) When more than 5,000 square feet in area and more than two stories in height.
  - (4) When more than three stories in height.
  - (5) When located in a building(s) of mixed occupancy as defined in the BOCA National Building Code, 1993 Edition.

- (6) When located in a story that is more than 50% below grade.
  - (7) In an interior fuel-dispensing area(s).
- K. Bus garages: in all bus garages:
  - (1) When required by Subsection J above.
  - (2) When used as a passenger terminal for four or more buses.
  - (3) When used for the storage or loading of four or more buses.
- L. Unlimited area buildings: in unlimited area buildings as required by Section 507.0 of the BOCA National Building Code, 1993 Edition.
- M. Additional fire-suppression systems. The installation of a complete or partial fire suppression system is required as specified in Sections 904.10 and 904.11 and Table 904.11 of the BOCA National Building Code, 1993 Edition. Limited area sprinkler systems shall be designed, installed and maintained in accordance with Section 907.0 of the BOCA National Building Code, 1993 Edition.
- N. High-rise buildings: in high-rise buildings and all portions thereof:
  - (1) The provisions of this section shall apply to all buildings of any use group when such buildings are more than three stories or 35 feet in height above the lowest level of Fire Department access.
- O. Covered mall buildings: in all covered mall buildings and portions thereof:
  - (1) The provisions of this section shall apply to all covered mall buildings and portions thereof as defined in the BOCA National Building Code, 1993 Edition.

**§ 89-10. Smoke detectors in dwellings.**

Whenever substantial additions, alterations or repairs occur to the interior of a dwelling which require the issuance of a building permit, or when one or more sleeping rooms are added or created in existing dwellings, the entire building shall be provided with smoke detectors installed and located as required by the BOCA National Building Code, 1993 Edition, for new dwellings.



ARTICLE III  
Plumbing Standards

**[Adopted 4-25-1994 by Ord. No. 536; amended in its entirety 5-24-2004 by Ord. No. 653 (Ch. VII, Art. 2, of the 1976 Ordinance Book)]**

**§ 89-11. Amendments to the BOCA National Plumbing Code, 1993 edition.**

- A. Chapter 1, Section P-108.1 is amended by the addition of the following paragraph to the existing text: "No construction, alteration or work of any kind in connection with any water supply, sewage disposal or sanitary drainage system shall be commenced until the person, firm or corporation who is to perform the work covered by this code shall present to the Code Enforcement Officer satisfactory proof of qualifications. The applicant shall register his or its name and address on a form supplied by the Township and shall pay a registration fee for each calendar year or part thereof. A certificate of insurance, in an amount not less than \$100,000, must be submitted with the application for registration. A person performing any work covered by this code on his own home shall not be required to be registered, but must demonstrate to the Code Enforcement Officer qualifications to perform the work to be done. However, a plumbing permit shall be required, unless otherwise excepted by another section of this article.
- B. Chapter 3, Section P-303.1 is hereby amended by the addition of the following sentence: "Notwithstanding the above, no condensate line from air conditioners, dehumidifiers or similar appliances shall discharge into a sanitary sewage system unless specifically approved by the Township Sewage Enforcement Officer or the Middletown Township Sewer Authority.
- C. Chapter 3, Section P-304.1 is hereby amended by deletion of the printed text and substitution of the following: "The water distribution and drainage system of any building in which plumbing fixtures are installed shall be connected to a public water main and public sewer respectively, if available. Where a public water main or public sewer line is not available, an individual, private water supply and sewage disposal system shall be provided. Each individual water supply or sewage disposal system shall be constructed in accordance with all applicable regulations of the Pennsylvania Department of Environmental Protection (PaDEP) and the following:
- (1) Permits shall be required for the construction or alteration of all on-lot sewage disposal systems, regardless of lot size.
  - (2) Each percolation test (perc test) shall be observed by the Township Sewage Enforcement Officer (SEO). A minimum of three visits to the test site will occur with readings observed during the visits. After the conclusion of the test, the test data shall be submitted to the SEO and the results will be verified prior to the issuance of a permit.
  - (3) If a distribution box (D-BOX) is to be installed, the D-BOX shall be installed so the base of the D-BOX is 36 inches below grade on undisturbed soil or the D-BOX rests on a foundation that extends to 36 inches below grade.
- D. Chapter 3, Section P-304.3 is hereby amended by deletion of the printed text and the substitution of the following: "Every building with installed plumbing fixtures and intended for human habitation, occupancy or use and located within 150 feet of a street, alley or easement, or adjacent to or abutting property to which there is public water shall have a connection to the public water supply service."
- E. Chapter 3, Section P-309.5 is hereby amended by the deletion of the printed text and the substitution of the following: "Installation of building sewers which connect to public sewers shall conform to the

standards of the Middletown Township, Delaware County, Sewer Authority. A public sewer system shall be deemed available to premises used for human occupancy within the Township of Middletown as set forth in the Middletown Township, Delaware County, Sewer Authority's standards and requirements."

- F. Chapter 4, Section P-403.4 is hereby amended by the deletion of the printed text and the substitution of the following: "Water service pipe installed from the utility company's main to the meter shall be Type K copper or copper alloy pipe or tube, or ductile iron pipe. Water service pipe on the house side of the meter shall conform to one of the standards listed in Table P-402.4. All pipe or tubing when used underground for water service and when installed outside of a building wall shall have a minimum working pressure of 160 pounds per square inch 1,103 kilopascals at 73.4° F.) 23° C. Where the water pressure exceeds 160 pounds per square inch 1,103 kilopascals, piping material shall have a minimum rated pressure equal to the highest available pressure. Plastic water service piping, where entering a building, shall terminate within five feet inside the point of entry."
- G. Chapter 6, Section P-606.2 is hereby amended by the addition of a new Subsection A, as follows:
- A. Residential sewage pumping systems. A complete residential sewage pumping system shall include one sewage grinder pump or one solids handling sewage pump; level controls, fiberglass, polyethylene, PVC or concrete sump with removable cover and vent flange; inlet and discharge flange, discharge pipe and check valve. A weatherproof control box shall be supplied for mounting at the sump location or remote from the sump location as required.
1. Operating conditions.
    - a. Solids handling sewage pumps shall be capable of passing two-inch spherical solids with two-inch national pipe thread (NPT) discharge.
    - b. Sewage grinder pumps shall be capable of macerating all material in normal domestic sewage and pump it through a discharge of 1 1/2 inch.
    - c. The pump shall have a minimum capacity of eight gallons per minute at the operating conditions at the specific installation location. Maximum output per pumping cycle shall not exceed 120 gallons.
  2. Motor. The motor shall be capable of operating fully submerged and shall be provided with an automatic reset thermal overload protector.
  3. Level control. Sump level control shall be a sealed mercury switch in a float ball, pressure switch or float switch.
  4. Electrical control panel.
    - a. The control panel shall have a NEMA I enclosure for inside mounting or a NEMA III enclosure for outside mounting.
    - b. The panel shall have overload protection for one leg for single-phase power and three legs for three-phase power, manual reset button and a hands-off automatic switch. An electrical underwriter's inspection certificate is required for the complete electrical installation.

5. Check valve and piping. A non-clog flapper-type or ball check valve shall be provided in the discharge piping to prevent backflow. Discharge piping shall be PVC pressure pipe minimum Schedule 40. All pressure pipe joints shall be rigid. No flexible connectors will be permitted. A pipe union shall be installed to access pump or check valve, or both.
  6. Sump basin cover. A separate basin cover shall be supplied of the same material as the sump basin and shall be provided with a sealing gasket. The cover shall include mounting flanges, pipe discharge sealing flange, removable pump cover, electrical cord grips and sealing and vent flange. A concrete basin shall be provided with a raintight concrete cover.
  7. Sump basin. The sump basin shall be fiberglass, polyethylene, PVC or concrete and shall have a maximum storage capacity of 500 gallons. Septic tank and cesspools shall not be utilized as a sump basin.
  8. Piping. All piping external to the sump basin shall be PVC pipe conforming to ASTM specification D2241, SDR26 (Class 160).
  9. Alarm. The sump basin shall be equipped with a warning device to indicate when the basin is filled to 75% of its capacity. Such warning device shall create a visual or audible signal, or both, at a location frequented by the owner or other responsible individual.
- B. Deletions from the BOCA National Plumbing Code, 1993 Edition.
1. The BOCA National Plumbing Code, 1993 Edition, is further amended by deletion of the following sections: P-113.2, P-116.4, P-121.0 and P-805.4.
  2. The code is further amended by deletion of the following words from Section P-118.2; "shall be liable for a fine of not less than (designate) dollars or more than (designate) dollars."

ARTICLE IV  
Fire Prevention

[Adopted 4-25-1994 by Ord. No. 537; amended in its entirety 5-24-2004 by Ord. No. 653 (Ch. VII,  
Art. 3, of the 1976 Ordinance Book)]

**§ 89-12. Open burning. [Amended 7-27-2009 by Ord. No. 705]**

Amendments to the BOCA National Fire Prevention Code, 1993 Edition.

- A. Chapter 4, Section F-403.4. is hereby amended by the addition of the word "agriculture" after the word "silviculture" in the third sentence.
- B. Chapter 4, Section F-403.5 is hereby amended by the addition of a new Subsection F-403.5.1 as follows: "F-403.5.1. Open burning operations shall be prohibited on the surface of any street, dish gutter or curbing."
- C. Chapter 4, Section F-403.6 is hereby amended by the addition of a new Subsection F-403.6.1 as follows: "F-403.6.1. The open burning of leaves, grass clippings and all other vegetative matter is prohibited at all times."

**§ 89-13. Fire lanes.**

- A. Deletions from the BOCA National Fire Prevention Code, 1993 Edition.
- B. Chapter 3, Section F-311.0, Fire Lanes, is hereby deleted and the following provisions substituted in its place:

**SECTION F-311.0 FIRE LANES ON PRIVATE PROPERTY FOR PUBLIC USE**

**F-311.1 Designation of fire lanes.** The marking of fire lanes on private property devoted to public use shall be required on all parking areas and other similar places, so as to insure that firefighting and other lifesaving equipment shall have access to all portions of the property at all times. The plans for fire lanes shall be submitted to and approved by the Fire Marshal and a permanent record of the marking of said fire lanes shall be maintained by the Township of Middletown. The cost of marking said fire lanes and plan of same shall be borne by the owner of the property where said lanes are located.

**F311.2 Parking or otherwise obstructing fire lanes.** The parking of any vehicle or otherwise obstructing fire lanes shall be prohibited at all times.

**F311.3 Maintenance.** All designated fire lane signs or markings, or both, shall be maintained in a clear and legible condition at all times and replaced when necessary to ensure adequate visibility.

**§ 89-14. Fine for parking in designated fire lane.**

Any person, business or corporation who or which has been cited for parking in a fire lane or fire zone or obstructing an emergency exit or entrance, fire hydrant or fire department connection shall pay, within five days to the Township of Middletown, a fine of \$10 for each citation.

## ARTICLE V

**Electricians, Licensing of**

**[Adopted 4-25-1994 by Ord. No. 538; amended in its entirety 5-24-2004 by Ord. No. 653 (Ch. VII, Art. 4, of the 1976 Ordinance Book)]**

**§ 89-15. Electrical license required.**

- A. No electrical work of any kind shall be performed within the Township by any master electrical contractor, chief plant electrician or other qualified individual until the person, firm or corporation who is to perform such electrical work shall present satisfactory proof of his or her being a qualified electrician. The applicant shall register his, her or its name and address and other pertinent information on a form to be submitted with the electrical license application. A certificate of insurance, in an amount not less than \$100,000, shall be submitted with the application for registration.
- (1) Upon issuance, such license shall continue in full force and effect following its issuance to and including the 31st day of December in the year of issuance unless sooner revoked.
  - (2) Any applicant who is refused a license or whose license is revoked prior to expiration shall have the right to appeal such action pursuant to Section 409 of this article.<sup>37</sup> Failure to comply with the licensing requirements in Subsection A above or evidence of unsatisfactory knowledge or performance pursuant to the requirements of the National Electrical Code shall be cause for revocation or refusal to issue or renew an electrical license.
- B. A person performing electrical work, pursuant to this article and code on his own home or structure shall not be required to obtain an electrical license, but shall demonstrate to the Examining Board qualifications to perform the work to be done. An electrical permit, as required below, shall be required.

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37. Editor's Note: Said Section 409 was repealed 5-24-2004 by Ord. No. 653.

ARTICLE VI

**Natural Cut Trees in Certain Occupancies**  
**[Adopted 9-27-2004 by Ord. No. 655]**

**§ 89-16. Restricted occupancies.**

Middletown Township hereby adopts Section 804.1.1 of the International Fire Code, 2003 Edition, and any successor provisions as follows:

**Section 804.1.1. Restricted occupancies.** Natural cut trees shall be prohibited in Group A, E, I-1, I-2, I-3, I-4, M, R-1, R-2 and R-4 occupancies (as defined in the International Building Code and International Fire Code, 2003 and successor editions).

**Exception:** Trees located in areas protected by an approved automatic sprinkler system, installed in accordance with Section 903.1.1 or 903.3.1.2 (of the International Fire Code, 2003 or successor editions), shall not be prohibited in Group A, E, M, R-1 and R-2 (as defined in the International Building Code and International Fire Code, 2003 and successor editions).



**Chapter 108****EMERGENCY SERVICES REIMBURSEMENT**

<b>§ 108-1.</b>	<b>Findings; purpose.</b>	<b>§ 108-4.</b>	<b>Responsibility of Township.</b>
<b>§ 108-2.</b>	<b>Definitions.</b>	<b>§ 108-5.</b>	<b>Establishment of fund;</b>
<b>§ 108-3.</b>	<b>Recovery of costs.</b>		<b>allocation of funds.</b>

**[HISTORY: Adopted by the Township Council of the Township of Middletown 12-11-2023 by Ord. No. 858. Amendments noted where applicable.]**

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**§ 108-1. Findings; purpose.**

- A. Findings. The Township Council of Middletown Township recognizes that the duties of volunteer Fire Departments require specialized emergency rescue tools and equipment, emergency rescue materials, hazardous material abatement equipment and hazardous abatement materials during emergency responses. The Township Council recognizes that such tools and equipment place a financial burden on the Township and the Fire Departments and the replacement of such materials and specialized training add to the additional financial burden to the Township and the Fire Departments.
- B. Purpose. The purpose of this chapter is to grant the recognized Fire Departments administering fire protection, firefighting, emergency services and other emergency incidents, as herein described, within the Township under the authority set forth in § 4-20C of this Code to seek reimbursement and recovery of all reasonable costs of responding to such emergency incident(s) within the Township, as allowed by applicable law.

**§ 108-2. Definitions.**

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

**FIRE DEPARTMENTS** — Rocky Run Fire Company, Middletown Fire Company No. 1, and the Township Fire Chief, or his or her designee, individually or collectively, designated to provide fire protection and emergency service responses within the Township.

**RATE SCHEDULE** — The schedule of billing rates for use of certain equipment, apparatus and/or services rendered in response to emergency incident(s), as adopted by Township Council from time to time by resolution, which rates shall be established in accordance with rates which are usual, customary, and reasonable within the industry.

**REASONABLE COSTS** — The reasonable costs incurred by the Township and/or Fire Departments pursuant to the rate schedule for recovery of costs for the Fire Departments adopted by Township Council.

**§ 108-3. Recovery of costs.**

- A. The Township authorizes the Fire Departments to initiate use fees for the recovery of reasonable costs incurred by the Fire Departments for the delivery of fire services, personnel, supplies and equipment to the scene of motor vehicle accidents, structural fires, or other emergency incidents (each an "emergency incident" or, together, "emergency incidents"). It is the specific intent of Township



§ 108-3

EMERGENCY SERVICES REIMBURSEMENT

Council that the term "emergency incident" shall also include, among other types of recognized emergency incidents, the delivery of fire services, personnel, supplies and equipment at the scene of hazardous material spills as that term is generally recognized in fire services.

- B. The reasonable costs as set forth in the rate schedule may be recovered from any identified insurance carrier or person or persons, directly by the Fire Department, or its designee, including a third-party billing service acting as a contracted authorized agent for the collection of such reasonable costs (hereinafter the "designee"). In addition to the reasonable costs as set forth in the rate schedule, the Fire Department, or its designee, shall hereby be authorized to collect, in addition to reasonable costs, reasonable interest and administration fees, including reasonable attorney's fees, incurred in collection of said reasonable costs and other fees which may be authorized for recovery by any other statute or law.
- C. The Fire Department, or its designee, shall only have the authority to recover reasonable costs from the applicable insurance company/carrier up to the limit of the applicable insurance company's/carrier's policy limits, and not any individual, unless such individual volunteers or agrees to reimburse the said costs. The claim(s) shall be filed, charged or made with the insurance company/carrier of the owner of the vehicle(s), owner of property, lessee or party responsible for the emergency incident(s).
- D. In the event that any insurance company/carrier or person or persons should fail to pay any bill or invoice within 30 days of the mailing or delivery of such notice of charges, the Fire Department, or its designee, may enforce the provisions of this chapter by filing a civil action at law in a court of competent jurisdiction for the collection of any amounts due the Township, together with statutory interest, court costs, collection fees and associated reasonable attorney's fees.

**§ 108-4. Responsibility of Township.**

- A. The Township shall not be responsible for any aspect of the recovery of reasonable costs or other applicable fees under this chapter.
- B. The Township shall not be responsible to reimburse the Fire Departments for any services rendered to the Township or Township personnel or vehicles while on duty.

**§ 108-5. Establishment of fund; allocation of funds.**

- A. All amounts collected as a result of this chapter shall be held in a specifically designated fund established to be used exclusively for the personnel, supplies and equipment of each respective Fire Department.
- B. The amounts held in the fund established hereunder shall be distributed by the Township evenly to each Fire Department on a quarterly basis, less a 10% fee to be retained by the Township to offset administrative and other costs incurred in establishing and administering the fund.

MIDDLETOWN CODE

**Chapter 112**

**FIREARMS**

**§ 112-1. Unlawful discharge of firearms.**

**§ 112-2. Violations and penalties.**

**[HISTORY: Adopted by the Township Council of the Township of Middletown 2-23-1978 by Ord. No. 222; amended in its entirety 1-13-1992 by Ord. No. 499 (Ch. IV, Art. 5, of the 1976 Ordinance Book). Amendments noted where applicable.]**

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**§ 112-1. Unlawful discharge of firearms.**

- A. It shall be unlawful for any person to discharge any firearm anywhere within Middletown Township except in defense of person or property in accordance with Pennsylvania law; or except to the extent otherwise provided in the Pennsylvania Game and Wildlife Code, Act of July 8, 1986, P.L. 442, No. 93, 34 Pa.C.S.A. § 101 et seq., as the same may be amended from time to time, and/or in any regulations promulgated thereunder (the Game and Wildlife Code and regulations); or except by authorized persons on properly designated property used by a hunting or gun club as a shooting or target range; or except by law enforcement officials while on duty.
- B. The term "firearm" as used herein shall mean any gun, revolver, pistol, shotgun, rifle or other weapon capable of propelling a projectile by means of an explosive material or charge.
- C. The phrase "hunting club or gun club" as used herein shall mean the existing hunting and gun club in Middletown Township, more specifically the Delaware County Sportsmen's Association located on ± 59 acres at 168 Fox Road and the Delaware County Field and Stream located on ± 66 acres at 713-749 Creek Road.
- D. The phrase "shooting or target range" as used herein shall mean a properly constructed, properly safeguarded and properly designated area which is owned, leased or maintained by a military or police organization or by a hunting club or gun club as above defined and which is used for firearm target practice.

**§ 112-2. Violations and penalties.**

Except as otherwise provided in the Game and Wildlife Code and Regulations, any violation or failure to comply with the provisions of this chapter shall constitute a summary offense. Except as otherwise provided in the Game and Wildlife Code<sup>38</sup> and regulations, any person who violates any provision of this chapter shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine not exceeding \$300 for each offense, plus the costs of prosecution. In default of payment of such fine and costs, the violator shall be confined in the Delaware County Jail for a period of not more than 30 days.

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38. Editor's Note: See 34 Pa.C.S.A. § 101 et seq.

**Chapter 127****FOOD ESTABLISHMENTS**

§ 127-1.	General provisions.	§ 127-3.	Temporary eating and drinking
§ 127-2.	Public eating and drinking		places.
	places.	§ 127-4.	Retail food establishments.
		§ 127-5.	Licensing fee schedule.

**[HISTORY: Adopted by the Township Council of the Township of Middletown 8-26-1991 by Ord. No. 489 (Ch. XI, Art. 1, of the 1976 Ordinance Book). Amendments noted where applicable.]**

**GENERAL REFERENCES**

Construction codes — See Ch. 89.

Subdivision and land development — See Ch. 210.

Food establishments — See Ch. 127.

Water — See Ch. 242.

Sewers — See Ch. 180.

Zoning — See Ch. 275.

Solid waste — See Ch. 192.

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**§ 127-1. General provisions. [Amended 9-9-1991 by Ord. No. 490; 3-9-1992 by Ord. No. 504; 11-8-1993 by Ord. No. 530]**

A. Definitions. The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

**ADULTERATED FOOD** — Food which:

- (1) Bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health;
- (2) Bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance if one has been established;
- (3) Consists in whole or in part of any filthy, putrid or decomposed substance, or if it is otherwise unfit for human consumption;
- (4) Has been processed, prepared, packed or held under unsanitary conditions, whereby it may have become contaminated with filth or rendered injurious to health;
- (5) Is in whole or in part the product of a diseased animal, or an animal which had died otherwise than by slaughter; or
- (6) Is in a container composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

**CONSUMER, CUSTOMER AND/OR PATRON** — Any person to whom food and/or drink is served (whether or not for payment), sold or offered for sale.

**CORROSION-RESISTANT MATERIAL** — A material which maintains its original surface characteristics under prolonged influence of the food, cleaning compounds and sanitizing solutions which may be in contact with it.

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

**EASILY CLEANABLE** — Readily accessible and of such material and finish, and so fabricated that residue may be completely removed by normal cleaning methods.

**EMPLOYEE** — Any cook, waiter, kitchen help or other employee of any kind in a food establishment who, in any manner whatever, handles or comes in contact with any food or drink served to or provided for the public, and the proprietor or any member of the proprietor's family who handles said food or drink.

**EQUIPMENT** — All stoves, ranges, hoods, meatblocks, tables, counters, refrigerators, sinks, dish-washing machines, steam tables and similar items, other than utensils, used in the operation of a food-service establishment.

**FOOD** — Any raw, cooked or processed edible substance, beverage or ingredient intended in whole or in part for human consumption.

**FOOD-CONTACT SURFACES** — Surfaces of equipment and utensils which normally come in contact with food, directly or indirectly.

**FOOD ESTABLISHMENT** — A public eating and drinking place, as defined herein, a retail food establishment, as defined herein, a temporary public eating and drinking place, as defined herein, and any other place regulated herein.

**GARBAGE** — All putrescible wastes, except sewage and body waste, including animal and vegetable offal.

**LICENSOR** — Middletown Township, Delaware County, Pennsylvania Department of Health.

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

**POTENTIALLY HAZARDOUS FOOD** — Any perishable food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

**PROPRIETOR** — Any person, partnership, association, corporation or other entity conducting or operating a food establishment within the Township.

**PUBLIC EATING AND DRINKING PLACE** — Any public establishment within the Township which serves food or drink to customers or patrons and which is regulated by the provisions of this chapter.

**PUBLIC ESTABLISHMENTS** — Any place in which or at which food and/or drink is served to one or more individual or individuals, other than within a residential household or family dwelling unit and other than at the Fair Acres Geriatric Center (which Center is owned and operated by the County of Delaware and has dietary departments which are reviewed for food preparation, service, distribution and sanitation standards by the Commonwealth of Pennsylvania Department of Health, Division of Long Term Care), regardless of whether money is paid for such food or drink, whether the place or server is a profit or nonprofit entity, whether food service is the primary function of the establishment or whether individuals are served only at the invitation of the establishment or members of the establishment. "Public establishment" shall include but not be limited to hospitals, medical and health care facilities, nursing homes, schools and other educational facilities, employee cafeterias,

penal institutions and any other place where food is served to one or more individual or individuals, other than within a residential household or family dwelling unit and other than at the Fair Acres Geriatric Center.

**REFUSE** — All nonputrescible wastes generally regarded and classified as rubbish, trash, junk and similar designations which have been rejected by the owner or possessor thereof as useless or worthless.

**RETAIL FOOD ESTABLISHMENT** — Any place, whether temporary or permanent, stationary or mobile, where food or drink is packaged, stored, served, sold or offered for sale directly to the consumer.

**SAFE TEMPERATURE** — Applied to potentially hazardous food, an internal temperature of 45° F. or below and 140° F. or above.

**SANITIZE** — Effective bactericidal treatment of clean surfaces of equipment and utensils by a process which has been approved by the Department as being effective in destroying microorganisms, including pathogens.

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

**SEWERAGE SYSTEM** — Any system, whether community or individual, publicly or privately owned, for the collection and disposal of sewage or industrial wastes of a liquid nature, or both, including various devices for the treatment of such sewage or industrial wastes.

**SINGLE-SERVICE ARTICLES** — Cups, containers, lids or closures, plates, knives, forks, spoons, stirrers, paddles, straws, place mats, napkins, doilies, wrapping materials and all similar articles which are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic or other readily destructible materials, and which are intended by the manufacturers and generally recognized by the public for one use only and then to be discarded.

**SOURCE** — Any well, spring, cistern, infiltration gallery, stream, reservoir, pond or lake from which water is taken, by any means, either intermittently or continuously, for use by the public.

**TEMPORARY PUBLIC EATING AND DRINKING PLACE** — Any public eating or drinking place which operates at any location for a temporary period of time not to exceed more than 14 consecutive calendar days, regardless of whether the establishment operates continuously during this time, in connection with a fair, carnival, circus, public exhibition or similar transitory gathering. Mobile food-service establishments shall be considered "temporary public eating and drinking places" for the purposes of this chapter.

**TOWNSHIP** — The Township of Middletown, Delaware County, Pennsylvania.

**UTENSILS** — Any tableware and kitchenware used in the storage, preparation, conveying or serving of food.

**WATERS OF THIS COMMONWEALTH** — Any and all rivers, streams, creeks, rivulets, lakes, dammed water, ponds, springs and all other bodies of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this commonwealth.

**WATER SUPPLY** — A source or sources of water, as well as any and all water treatment, storage, transmission and distribution facilities.

- B. Purpose. The purpose of the provisions of this chapter shall be to provide regulations for the sanitary

treatment and serving of food and drink in the various food establishments of the Township.

C. Licensing and fees.

- (1) License requirement. Proprietors shall not operate or conduct a food establishment within the Township except in compliance with the appropriate provisions of this chapter. Before granting any initial license pursuant to the provisions of this chapter, the licensor shall visit and inspect the food establishment for which a license has been requested. The licensor may refuse to issue a license or license renewal if the food establishment or the facilities and/or equipment therein do not meet the requirements of the Act of May 23, 1945, P.L. 926, as amended, 35 P.S. § 655.1 et seq., the applicable rules and regulations of the Department and/or the provisions of this chapter. No initial license shall be issued until inspection of the premises, facilities and equipment has been made by the licensor, and they are found to be adequate to protect the public health and comfort of patrons. The licensor shall provide the applicant with written notice of the reason for any refusal to issue a license or license renewal.
- (2) Revocation and suspension of license. Any proprietor in possession of a valid license from either the Department or the licensor to operate a food establishment who fails to comply with the appropriate provisions of this chapter may have such license either revoked, after a reasonable time to cure, or suspended by the licensor at any time during the license period.
- (3) Timing of licensing. After the effective date of the ordinance enacting this chapter, it shall be unlawful to operate or conduct a food establishment in Middletown Township without first obtaining a license from the licensor, except that any food establishment which, between the effective date of the ordinance enacting this chapter and December 31, 1991, is operating under a current, valid license from the Department need not be licensed by the licensor until January 1, 1992.
- (4) Licensing fee. The fee for any such license shall be calculated in accordance with the fee schedule for such licenses adopted by ordinance of the Middletown Township Council. Middletown Township Council is hereby authorized to establish by ordinance a fee schedule for the licensing of food establishments in the Township and to revise such fee schedule from time to time in its sole discretion.
- (5) Licensing period. Any license issued hereunder shall be for a period of one year commencing on January 1 of each year and expiring on December 31 of the same year, subject, however, to the right of the licensor to revoke or suspend any such license pursuant to Subsection C(2) hereof. Application for renewal of a license shall be made one month before the expiration of the existing license. Anything in this chapter to the contrary notwithstanding, the license period for any license issued to a temporary public eating and drinking place shall be only for the duration of the event for which the temporary public eating and drinking place is licensed, except that the license period for any license issued to a mobile food-service establishment shall be for a period of one year. Anything in this chapter to the contrary notwithstanding, all temporary public eating and drinking places, except mobile food-service establishments, must obtain a license for each event and for each location at which it operates.
- (6) Contents, display and transfer of licenses. Each license issued hereunder shall specify the name of the licensee, the place licensed, the date of issuance of the license and the period of coverage. The license shall be conspicuously displayed in the licensed food establishment at all times. Licenses shall not be transferable.
- (7) Inspections. The licensor shall have the authority to visit and inspect any food establishment at

any time during the normal business hours of the food establishment without the prior knowledge or consent of the food establishment or any proprietor, owner, operator or employee thereof in order to determine whether the food establishment is in compliance with the provisions of this chapter. The licensor shall also have the authority to visit and inspect any food establishment at other times if necessary in the opinion of the licensor to abate or avoid an emergency situation or if consented to by the proprietor of the food establishment.

- D. Applicable laws, ordinances and regulations. All provisions and requirements herein shall be in addition to any and all other provisions and requirements set forth in any and all other applicable federal, state or local laws, ordinances or regulations, including but not limited to Chapter 275, Zoning, Chapter 210, Subdivision and Land Development, the Middletown Township Building Code and Plumbing Code,<sup>39</sup> Chapter 192, Solid Waste, Chapter 180, Sewers, and Chapter 242, Water. Nothing herein shall be construed to limit, replace or obviate the need to comply with any other such applicable law, ordinance or regulation. To the extent that any provision herein is inconsistent with any other applicable Township ordinance or regulation, the provision herein shall control unless the other applicable Township ordinance or regulation is stricter than the provision herein, in which case the other ordinance or regulation shall control.
- E. Violations, penalties and appeals.
- (1) Violations. The failure to secure a license when required, the operation of a food establishment after suspension or revocation of a license by the licensor or the failure to comply with any provision of this chapter or any other law or regulation applicable to such food establishment shall constitute a violation of this chapter. When written notice of a violation of any of the provisions of this chapter has been served upon any person in violation, such violation shall be discontinued immediately.
  - (2) Penalties. Any person who violates any provision of this chapter shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine not exceeding \$300 for each offense, plus the costs of prosecution. In default of payment of such fine and costs, the violator shall be confined in the Delaware County Jail for a period of not more than 30 days. Each day that a violation continues shall be deemed a separate offense.
  - (3) Appeals. Any person aggrieved by the actions or determinations of the licensor shall have the right to a hearing before the Township Council. The aggrieved party and/or his duly authorized attorney or agent may, within 10 days after such action or determination, take an appeal therefrom to the Township Council. Any such appeal shall be in writing, shall state the action or determination of the licensor being appealed from and the reasons for the exception taken thereto, shall be verified by affidavit and shall be filed with the Township Manager. The person appealing shall have the right to appear and be heard if such a desire is stated in the written appeal. A prompt decision of such appeal shall be made by the Township Council and shall be duly recorded with the minutes of the Township.

### **§ 127-2. Public eating and drinking places.**

A. Food supplies.

(1) General.

- (a) All food in public eating and drinking places shall be clean, wholesome, free from

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39. Editor's Note: See Ch. 89, Construction Codes, Art. II, Building Standards, and Art. III, Plumbing Standards.

spoilage, free from adulteration and safe for human consumption.

- (b) No food prepared in a private home or processed in a place other than a commercial food processing establishment shall be sold or used in the preparation of foods offered for sale, sold or given away in a public eating and drinking place unless such place is regulated by a health authority or other appropriate official regulatory agency.

(2) Milk products.

- (a) Only pasteurized fluid milk and fluid milk products shall be used or served. Dry milk and milk products may be reconstituted in the establishment if used for cooking purposes only.
- (b) All milk and fluid milk products for drinking purposes shall be purchased and served in the original, individual container in which they were packaged at a milk plant or shall be served from an approved bulk milk dispenser.
- (c) Cream, whipped cream or half-and-half which is to be consumed on the premises may be served from the original container of not more than one quart capacity or from a dispenser approved by the Department for such service. For mixed drinks requiring less than 1/2 pint of milk, milk may be poured from one-quart or one-half-gallon containers packaged at a milk plant.

(3) Shellstock and shellfish.

- (a) All oysters, clams and mussels shall be from sources approved by the Department. When the source is outside Pennsylvania, it shall be one which is certified by the state of origin or the Federal Food and Drug Administration.
- (b) Shellstock shall be identified with an official tag giving the name and certificate number of the original shellstock shipper and the kind and quantity of the shellstock. The tags and an accurate record of the source and quantity of all lots of shellfish shall be maintained for 60 days.
- (c) Fresh and frozen shucked oysters, clams and mussels shall be packed in nonreturnable containers identified with the name and address of the packer, repacker or distributor and the certificate number of the packer or repacker preceded by the abbreviated name of the state of origin.
- (d) Shellfish, crabs and lobsters, if served in the shell, shall be served in the original shell, but the reuse of such shells as food containers in the preparation or serving of food shall be prohibited.

(4) Examination of food.

- (a) Food may be examined or sampled by the licensor as often as may be necessary to determine freedom from adulteration.
- (b) The licensor may, upon written notice to the owner or person in charge, place a hold order on any food which the licensor determines or has probable cause to believe to be unwholesome or otherwise adulterated. Under a hold order, food shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice or tag placed on food by the licensor, and neither such food nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of or destroyed without permission



of the licensor, except on order by a court of competent jurisdiction.

B. Food protection and storage.

(1) General.

- (a) All food, while being stored, prepared, displayed, served or sold at public eating and drinking places or during transportation between such establishments shall be protected from contamination and stored in such a manner as to prevent rodent harborage and permit ease of cleaning of the food-service facilities.
- (b) All perishable food shall be stored at such temperatures as will protect against spoilage. All potentially hazardous food shall be maintained at safe temperatures. Food shall be stored in the refrigerator so as to permit the free circulation of cold air and in such a manner as to prevent contamination. To promote rapid cooling, potentially hazardous foods shall be stored in the refrigerator in shallow containers or by such other means which shall ensure the cooling of the total mass to a temperature of 45° F. or less within two hours, unless otherwise specified by the Department.
- (c) Raw fruits and vegetables shall be washed before use. Stuffings, poultry, stuffed meats and stuffed poultry, and pork and pork products shall be thoroughly cooked before being served.
- (d) No food which has been previously served to any person or persons or returned from any counter or table shall be used in the preparation of foods offered for sale or given away. However, wrapped food which has not been unwrapped and which is wholesome may be reserved.
- (e) Tongs, forks, spoons, picks, spatulas, scoops and other suitable utensils shall be provided and shall be used by employees to reduce manual contact with food to a minimum. For self-service by customers, similar implements shall be provided.

(2) Poisonous and toxic materials.

- (a) Only those poisonous and toxic materials which are required to maintain sanitary conditions and for sanitization purposes may be used or stored in public eating and drinking places. Such materials shall be identified and shall be used only in such a manner as will not contaminate food or constitute a hazard to employees or customers.
- (b) When not in use, poisonous and toxic materials shall be stored in cabinets which are used for no other purpose or in a place which is outside the food storage, food preparation and cleaned equipment and utensil storage rooms.
- (c) Bactericides and cleaning compounds shall not be stored in the same cabinet or area of the room with insecticides, rodenticides or other poisonous materials.

(3) Cold storage facilities.

- (a) Each cold storage facility used for the storage of perishable food in the nonfrozen state shall be provided with an indicating thermometer accurate to  $\pm 2^{\circ}$  F., located in the warmest part of the facility in which food is stored and of such type and so situated that the thermometer can be easily and readily observed for reading.
- (b) The temperature in each cold storage facility used to store potentially hazardous food in

the nonfrozen state shall not be higher than 45° F.

(c) The wet storage of packaged, canned and bottled food or drink shall be prohibited.

(4) Frozen food.

(a) Frozen food shall be kept at such temperatures as to remain frozen, except when being thawed for preparation or use. Potentially hazardous frozen food shall be thawed:

[1] At refrigerator temperatures of 45° F. or below.

[2] Under cool, potable running water 70° F. or below.

[3] Quick-thawed as part of the cooking process.

[4] By any other method satisfactory to the Department, including but not limited to use of a microwave oven, but only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven.

(b) Once thawed, frozen foods shall not be refrozen.

C. Preparation of certain foods.

(1) Stuffed meats and poultry. Stuffings, poultry and stuffed meats and stuffed poultry shall be heated throughout to a minimum temperature of 165° F. with no interruption of the initial cooking process.

(2) Custards and cream fillings.

(a) Potentially hazardous custards, cream fillings or similar products which are prepared by hot or cold processes and which are used as puddings or pastry fillings shall be kept at safe temperatures and shall meet the following requirements, as applicable:

[1] Pastry fillings shall be placed in shells, crusts or other baked goods either while hot [not less than 140° F.] or immediately following preparation if a cold process is used.

[2] Such fillings and puddings shall be refrigerated at 45° F. or below in shallow pans, immediately after cooking or preparation, and held thereat until combined into pastries or served.

(b) All completed custard-filled and cream-filled pastries shall, unless served immediately following filling, be refrigerated at 45° F. or below promptly after preparation and held thereat pending service.

D. Health and disease control for employees.

(1) Employees with diseases.

(a) No employee with any disease in a communicable form or who is a carrier of such disease shall work in any public eating and drinking place in any capacity which brings him into contact with the production, handling, storage or transportation of food and/or equipment used in public eating and drinking places.

(b) No proprietor shall employ in any such capacity any such person or any person suspected

of having any disease in a communicable form or of being a carrier of such disease.

- (c) Any employee who has a discharging or infected wound, sore or lesion on his hands, arms or any exposed portion of the body shall be excluded from those operations which will bring him into contact with food, beverages, utensils or equipment used in public eating and drinking places.
- (2) Control of infectious employees. When suspicion arises as to the possibility of transmission of infection from any employee, the licensor shall be authorized to require any or all of the following measures:
  - (a) The immediate exclusion of the employee from the eating and drinking place.
  - (b) The immediate closing of the eating and drinking place concerned until, in the opinion of the licensor, no further danger of disease outbreaks exists.
  - (c) The restriction of the services of the employee to some area of work where there would be no danger of transmitting disease.
  - (d) The adequate medical examinations of the employee and of his associates, with such laboratory examinations as may be necessary.
- (3) Cleanliness.
  - (a) All employees shall wear clean outer garments, maintain a high degree of personal cleanliness and conform to hygienic practices while on duty. They shall wash their hands thoroughly in an approved hand-washing facility before starting work and as often as may be necessary to remove soil and contamination. No employee shall resume work after visiting the toilet room without washing his hands with soap and warm water.
  - (b) Hair nets, caps or other effective hair covering shall be used by employees engaged in the preparation and service of food or washing of utensils and equipment to keep hair from food and food-contact services.
  - (c) Persons engaged in the preparation, handling or service of food shall not use tobacco in any form while in equipment and utensil washing, food preparation or food serving areas. However, designated locations in such areas may be approved by the licensor for smoking where no contamination hazards will result.

E. Design and installation of equipment and utensils.

- (1) Sanitary design and installation.
  - (a) All utensils and all show and display cases or windows, counters, shelves, tables, chairs, refrigerating equipment, sinks and other equipment or utensils shall be so constructed as to be easily cleanable and durable and shall be kept in good repair.
  - (b) Food-contact surfaces of such equipment and utensils shall be easily accessible for cleaning and inspection, nontoxic, corrosion-resistant and relatively nonabsorbent. Food-contact surfaces shall not be considered easily accessible for cleaning and inspection unless they can be cleaned and inspected without being disassembled or by being disassembled without the use of tools or by being easily disassembled with the use of only simple tools kept available near the equipment.

- (c) All equipment shall be designed, installed and operated in accordance with the criteria set forth by the National Sanitation Foundation, Automatic Merchandising Health-Industry Council, Baking Industry Sanitation Standards Committee and the Committee for 3-A Sanitary Standards for Dairy Equipment or other nationally recognized testing laboratory or agency.
  - (d) Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a four-inch clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.
  - (e) Utensils containing or plated with cadmium, lead or zinc shall not be used, although solder containing lead may be used for jointing if otherwise permitted by all applicable laws, ordinances and regulations.
  - (f) All glassware, china, crockery, pottery and utensils or equipment of a similar character or coating shall be free from breaks, cracks and chipped places.
- (2) Accessibility for cleaning. All equipment shall be so installed and maintained as to facilitate the cleaning thereof and of all adjacent areas.
  - (3) Single-service articles. Single-service articles shall be made from nontoxic materials and shall have been manufactured, packaged, transported, stored and handled in a sanitary manner and shall be used only once.

F. Cleaning and sanitizing of equipment and utensils.

(1) General.

- (a) All eating or drinking utensils shall be thoroughly cleaned, rinsed and sanitized after each usage.
- (b) All kitchenware and food-contact surfaces of equipment used in the preparation or serving of food or drink and all multi-use food-storage utensils, exclusive of cooking surfaces of equipment, shall be thoroughly cleaned after each use. Cooking surfaces of equipment shall be cleaned at least once a day.
- (c) All utensils and food-contact surfaces of equipment used in the preparation or storage of potentially hazardous food shall be thoroughly cleaned, rinsed and sanitized prior to such use, except that food-contact surfaces of equipment or utensils which will be heated in the baking or cooking process of food preparation to above 140° F. shall not be required to be sanitized prior to usage. Surfaces of equipment which do not come in contact with food shall be cleaned at such intervals as to keep them in a clean and sanitary condition. After cleaning and until use, all food-contact surfaces of equipment and utensils shall be so stored and handled as to be protected from contamination.
- (d) Cloths used for wiping food spills on tableware, such as plates or bowls to be served to the consumer, shall be clean, dry and used for no other purpose.
- (e) Moist cloths or sponges used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in appropriate sanitizing solutions and shall be used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

## (2) Manual dish-washing.

- (a) When manual dish-washing is employed, equipment and utensils shall be thoroughly washed in a warm detergent solution which is kept reasonably clean and then shall be rinsed free of such solution. All eating and drinking utensils and, where required, the food-contact surfaces of all other equipment and utensils, shall be sanitized by one of the following methods:
  - [1] Immersion for at least 1/2 minute in clean hot water at a temperature of at least 170° F. Thermometers accurate to  $\pm 3^{\circ}$  F. shall be provided convenient to the sink to permit frequent checks of the water temperature.
  - [2] Immersion for a period of at least one minute in a sanitizing solution containing one of the following:
    - [a] At least 50 parts per million of available chlorine at a temperature of not less than 75° F.
    - [b] At least 12.5 parts per million of available iodine in a solution having a pH not higher than 5.0 and a temperature of not less than 75° F.
    - [c] Any other chemical sanitizing agent which has been demonstrated to the satisfaction of the Department to be effective and nontoxic under use conditions and for which a suitable field test is available. Such sanitizing agents, in use solutions, shall provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine at a temperature not less than 75° F.
  - [3] Equipment too large or impractical to treat by the methods in Subsection F(2)(a)[1] or [2] of this section may be treated:
    - [a] With live steam from a hose, in the case of equipment in which steam can be confined;
    - [b] By rinsing with boiling water; or
    - [c] By spraying or swabbing with a chemical sanitizing solution of at least twice the minimum strength required for the particular sanitizing solution when used for immersion sanitization.
- (b) Public eating and drinking places shall conduct manual washing and sanitization of utensils only in three-compartment sinks, with the following exceptions and conditions:
  - [1] In establishments where the only utensils to be washed are limited to spatulas, tongs and similar devices and when the only equipment to be cleaned is stationary and does not require disassembly for proper cleaning, a one-compartment sink may be approved by the licensor for such purpose.
  - [2] At least a two-compartment sink shall be provided and used for washing kitchenware and equipment which does not require sanitization.
- (c) Sinks used for manual washing and sanitizing operations shall be of adequate length, width and depth to permit the complete immersion of the equipment and utensils, and each compartment of such sinks shall be supplied with hot and cold running water.

- (d) Where there is a need for a slop sink or device to discard liquid waste, such sink or device shall be provided in addition to the three-compartment sink. Cleaning wastes shall not be emptied into sinks used for the preparation of food or the cleaning and sanitizing of utensils.
  - (e) When hot water is used as the sanitizing agent in manual operations, dish baskets shall be of such design as to permit complete immersion of the utensils and equipment components being sanitized therein. The sink compartment used for the sanitization process shall be equipped with heating facilities which are capable of maintaining the temperature of the water at not less than 170° F.
- (3) Machine dish-washing.
- (a) Dish-washing machines, including prewashing units, shall be designed, constructed, installed, maintained and operated so as to comply with the following criteria, if applicable:
    - [1] When chemicals are relied upon for sanitization, they shall be of a class or type approved by the Department and shall be applied in such concentration and for such a period of time as to provide effective bactericidal treatment of the equipment and utensils.
    - [2] An easily readable thermometer shall be provided in each tank of the dishwashing machine which will indicate to an accuracy of  $\pm 3^{\circ}$  F. the temperature of the water or solution therein. In addition, a thermometer of equal accuracy shall be provided which will indicate the temperature of the final rinse as it enters the manifold. All thermometers shall be so placed as to be easily read by the operator and so located as not to be unduly exposed to breakage.
    - [3] The wash and final rinse cycles of all machines shall be automatically timed.
    - [4] The flow pressure of the final rinse water shall not be less than 15 or more than 25 pounds per square inch in the line at the machine.
    - [5] Appropriate connections shall be provided to enable the testing of the temperature and pressure of the final rinse water, and plumbing connections shall be located immediately adjacent to the supply side of the valve control in the line carrying the final rinse water to the dish-washing machine.
    - [6] When automatic cold-water glass washers are employed for washing and sanitizing glasses, the following provisions shall be met:
      - [a] The washer shall be self-cleaning and sanitizing.
      - [b] All used water shall flow out of the washer immediately following use.
      - [c] The washer shall contain brushes or employ other effective means which will adequately clean both the inside and the outside of the glass.
      - [d] The detergent-sanitizer used shall be one that is expressly for use in cold-water glass washers and is effective.
  - (b) Any other type of machine, device or facilities and procedures may be approved by the Department for cleaning or sanitizing equipment and utensils, if it can be readily

established that such machine, device or facilities and procedures will routinely render equipment and utensils clean to sight and touch and provide effective bactericidal treatment.

- (4) Lack of adequate facilities. Public eating and drinking places which do not have adequate and effective facilities for cleaning and sanitizing utensils shall use single-service articles which may be used only once.
- (5) Utensils for frozen desserts and drink.
  - (a) Spoons, dippers, scoops and other utensils used in serving and packaging ice cream and allied products shall be cleansed thoroughly with hot water and soap at least once each day immediately following the day's operation. During the period when they may be used, such utensils shall be kept in running water, if practicable. Otherwise, the water shall be changed frequently enough to keep it clean.
  - (b) Straws offered for use shall be wrapped, and the use of bulk, unwrapped straws shall be prohibited.
  - (c) Dispensing scoops, spoons and dippers used in serving frozen desserts shall be stored, between uses, either in an approved running-water dipper well or in a manner approved by the Department.

G. Sanitary facilities and controls.

- (1) Water supply.
  - (a) Hot and cold running water under pressure shall be provided in all areas where food is prepared or where equipment, utensils or containers are washed.
  - (b) All water used in the operation of a public eating and drinking place shall be provided from a supply approved by the licensor. Approval of a water supply shall be based upon satisfactory compliance with construction standards for water supplies approved by the Department.
  - (c) The water supply shall be adequate in quantity and shall meet the bacteriological and chemical water standards of the Department. Unapproved water supplies shall be made inaccessible to the public in a manner deemed satisfactory to the licensor.
  - (d) When bottled water is used in an establishment, it shall be from a source under permit from the Department.
- (2) Ice.
  - (a) Ice used for any purpose shall be made from water which comes from a safe and satisfactory source and shall be used only if it has been manufactured, stored, transported and handled in a sanitary manner.
  - (b) All ice shall meet the bacteriological and chemical standards for drinking water.
- (3) Sewage disposal. All sewage disposal systems serving public eating and drinking places shall be approved by the licensor. Approval of the sewage disposal system shall be based upon satisfactory compliance with the provisions set forth in Chapter 180, Sewers, and any other applicable laws, ordinances or regulations.

## (4) Plumbing.

## (a) Plumbing shall be sized, installed and maintained in order to:

- [1] Carry adequate quantities of water to required locations throughout the establishment.
- [2] Prevent contamination of the water supply.
- [3] Properly convey sewage and liquid wastes from the establishment to the sewage disposal system.
- [4] Avoid any creation of unsanitary conditions or nuisance.

## (b) Devices shall be installed to protect against backflow and back siphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixture's flood level rim. A hose shall not be attached to a faucet unless a backflow prevention device is installed.

## (5) Toilet facilities.

## (a) For employees. Each public eating and drinking establishment shall be provided with adequate, conveniently located toilet facilities for its employees. When approved by the licenser, public eating and drinking places may be authorized to use toilet facilities not located directly within such establishments.

## (b) For patrons. For all new establishments or establishments undergoing alterations, toilet facilities, separate for each sex, shall be provided on the premises for patrons and shall be located so as not to require the patrons to pass through any food preparation area. Toilet facilities need not be installed for the patrons whenever food is not consumed within an eating and drinking place or when only carry-out food is provided.

## (c) Sanitary design. All toilet rooms shall be maintained in compliance with the following requirements:

- [1] Toilet fixtures shall be of sanitary design and be readily cleanable.
- [2] All facilities shall be kept in a clean condition and good repair.
- [3] Doors in all toilet rooms shall be self-closing.
- [4] Toilet tissue shall be provided.
- [5] Rooms shall be ventilated to outside air.
- [6] Easily cleanable receptacles shall be provided for waste materials.
- [7] Receptacles shall be provided in toilet rooms for women for sanitary napkins, and such containers shall have covers.

## (6) Hand-washing facilities.

## (a) Each public eating and drinking place shall be provided with adequate, conveniently located hand-washing facilities for its employees, including a lavatory or lavatories equipped with hot and cold or tempered running water, hand cleansing soap or detergent,



and approved sanitary towels or other approved hand-drying devices.

(b) Hand-washing facilities shall be subject to the following requirements:

- [1] The facilities shall be kept clean and in good repair.
- [2] Hands shall not be washed in sinks used for the preparation of food or the cleaning or sanitizing of utensils.
- [3] When the hot water is above 110° F., a mixing valve or combination faucet shall be provided.
- [4] Facilities shall be located within all toilet rooms, including those provided for the public.
- [5] In all new establishments and establishments which are extensively altered, a hand-washing facility shall be located within the area where food is prepared, not more than 50 feet from any work area.
- [6] Lavatories shall be adequate in size and number and so located as to permit convenient and expeditious use by all employees.

(7) Garbage and refuse disposal.

- (a) Food waste. All garbage and refuse containing food wastes shall, prior to disposal, be kept in leakproof, nonabsorbent, rust- and corrosion-resistant containers of adequate number, which shall be kept covered with tight-fitting lids when filled or stored or not in continuous use. Any other manner of garbage and refuse storage may be used if approved by the licensor.
- (b) All other. All other rubbish shall be stored in containers, rooms or areas of sufficient numbers and size so as to prevent arthropod or rodent problems and other nuisances. Adequate cleaning facilities shall be provided, and each container, room or area shall be thoroughly cleaned after each emptying or removal of garbage and rubbish. When disposal of garbage or refuse is accomplished within or upon the premises of the establishment, the disposal facilities shall be operated and maintained so as not to create a nuisance or a health hazard.

(8) Insect and rodent control. Adequate measures for the control of arthropods and rodents which the Department deems a public health hazard shall be taken in a manner satisfactory to the licensor.

H. Care of other facilities and operations.

(1) Floors, walls and ceilings.

- (a) The floor surfaces in kitchens, in all other rooms and areas in which food is stored or prepared and in which utensils are washed, and in walk-in refrigerators, rubbish or food waste rooms, dressing or locker rooms and toilet rooms shall be of smooth, nonabsorbent materials and so constructed as to be easily cleanable.
- (b) The juncture between the floor and wall shall be closed, and in new establishments or those extensively altered, it shall also be covered. Carpeting is prohibited in all areas referred to in Subsection H(1)(a) and in equipment-washing areas where it would be exposed to large

amounts of grease and water. The floors of nonrefrigerated dry food storage areas need not be nonabsorbent.

- (c) All floors, walls and ceilings shall be kept clean and in good repair.
  - (d) All walls or rooms or areas in which food is prepared, or utensils or hands are washed, or rubbish or food waste is stored shall be easily cleanable, smooth, light-colored and shall have washable surfaces up to the highest level reached by splash or spray. Ceilings in food preparation and utensil washing areas shall be light-colored.
- (2) Floor drains. Floor drains shall be provided in all rooms where floors are subjected to the type of cleaning which involves the use of water hoses. Such floors shall be graded to drain.
- (3) Surface of exterior areas.
- (a) All exterior area where food is served shall be kept clean and properly drained, and surfaces in such areas shall be finished so as to facilitate maintenance and minimize dust.
  - (b) The walking and driving surfaces of all exterior areas where food is served shall be kept clean and free of debris and shall be properly drained so that water will not accumulate. Such areas shall be surfaced with concrete or asphalt or with gravel or similar material effectively treated to facilitate maintenance and to minimize dust.
- (4) Lighting.
- (a) All areas in which food is prepared or stored or utensils are washed, hand-washing areas, dressing or locker rooms, toilet rooms and garbage and rubbish storage areas shall meet the minimum illumination standards of the Department.
  - (b) Lights and fixtures suspended over exposed food or equipment shall be of the safety type or otherwise constructed to protect food products and equipment from damage by breakage.
  - (c) During all cleanup activities, adequate light shall be provided in the area being cleaned and upon or around equipment being cleaned.
- (5) Ventilation.
- (a) All rooms in which food is prepared or served or utensils are washed, dressing or locker rooms, toilet rooms and garbage or rubbish storage areas shall be well-ventilated.
  - (b) Mechanical ventilation facilities which meet the standards of the Department shall be provided as needed to prevent the condensation or accumulation of offensive or dangerous gases, moisture, excessive heat, steam, dust, offensive odors, smoke, grease and vapors.
  - (c) All mechanical ventilation devices, including blowers, canopies, hoods and ducts, shall be so constructed as to be easily cleanable and shall be maintained as to prevent grease or other materials from dropping into or onto food preparation surfaces.
  - (d) All exhaust outlets from mechanical ventilating devices shall be designed and installed so as to avoid creating a nuisance.
  - (e) Filters, where used, shall be readily removable for cleaning or replacement.
  - (f) Ventilation systems shall comply with applicable state and local fire prevention

requirements.

(6) Dressing rooms and lockers.

- (a) Adequate facilities shall be provided for the orderly storage of the clothing and personal belongings of employees. Where employees routinely change clothes within the establishment, one or more dressing rooms or designated areas shall be provided for this purpose. Such designated areas shall be located outside of the food preparation, storage and serving areas, and the utensil washing and storage areas.
- (b) When approved by the licensor, such an area may be located in a storage room where only completely packaged food is stored. Designated areas as well as dressing rooms shall be provided with lockers or other suitable facilities and shall be kept clean.

(7) General cleanliness.

- (a) All parts of public eating and drinking establishments and their premises shall be kept neat, clean and free of litter, garbage and rubbish.
- (b) Cleaning operations shall be conducted so as to prevent contamination of food and food-contact surfaces.
- (c) The operations connected within a public eating and drinking place shall not be conducted in any room used for living or sleeping quarters.
- (d) Soiled linens, coats and aprons shall be kept in suitable containers until removal for laundering.
- (e) Live birds or animals shall not be allowed in any area where public eating or drinking place operations are carried on, except that guide dogs accompanying blind persons may be permitted in dining areas.
- (f) Vacuum cleaning, wet cleaning or other dustless methods of floor and wall cleaning shall be used or dust-arresting sweeping compounds and pushbrooms shall be employed. All such cleaning, except emergency floor cleaning, shall be done during those periods when the least amount of food is exposed, such as after closing or between meals.

I. Plan review.

(1) Review by licensor.

- (a) Before work is begun in the construction, remodeling or alteration of a public eating and drinking place where food is prepared, stored or served or in the conversion of an existing establishment to an eating or drinking place, properly prepared plan and specifications shall be submitted to and approved by the licensor.
- (b) The plans and specifications submitted to the licensor by the owner of a future public eating and drinking place shall include, where applicable, data relating to the following:
  - [1] Surrounding grounds.
  - [2] Buildings.
  - [3] Equipment.

- [4] Sewage disposal.
- [5] Water supply, including plumbing.
- [6] Refuse disposal.
- [7] Any other such information required by the licensor.

**§ 127-3. Temporary eating and drinking places.**

- A. Food supplies. The provisions regulating food supplies for temporary eating and drinking places shall be the same as prescribed in § 127-2A of this chapter, relating to food supplies of public eating and drinking places.
- B. Food protection and storage.
  - (1) Temporary eating and drinking places shall comply with the provisions of § 127-2B of this chapter, relating to food protection and storage in public eating and drinking places.
  - (2) Wet storage of packaged, canned or bottled food or drink shall be prohibited, except that beverages may be stored in direct contact with chipped or crushed ice when the following requirements are met:
    - (a) Drains are provided which prevent the accumulation of water in the storage compartment.
    - (b) The cap, top, crown or pouring lip of the container is not submerged in the ice.
    - (c) Wastewater from the storage facility is disposed of so as not to create a nuisance or any sanitation problems.
    - (d) The ice and storage facility are kept clean at all times.
    - (e) Potentially hazardous beverages, prior to icing, have an internal temperature of not more than 45° F. and are kept properly iced at all times.
- C. Custards and cream fillings. Treatment of custards and cream fillings shall be as prescribed in § 127-2C(2) of this chapter, relating to custards and cream fillings.
- D. Health and disease control. Control of temporary eating- and drinking-place employee health and infections shall be as prescribed in § 127-2D of this chapter, relating to health and disease control of employees in public eating and drinking places.
- E. Design and installation of equipment and utensils.
  - (1) General. Design and installation provisions shall be as prescribed in § 127-2E of this chapter, relating to design and installation of equipment and utensils.
  - (2) Additional requirements. Mobile food-service establishments shall also meet the following requirements:
    - (a) All power equipment shall be installed so as to eliminate the danger from electrical shock.
    - (b) Service openings shall be no larger than necessary to carry out the food operation and shall be of such size as to prevent health hazards. Service openings shall be kept closed at all times except when food is actually being served. When the mobile unit is in motion, such

openings shall be covered with a solid material so as to prevent the entrance of dust, flies and other sources of contamination.

- (c) Equipment shall be installed so as to protect unwrapped foods from customer handling.
- (d) The driver's compartment as well as the food preparation and storage areas shall be enclosed and protected against the entrance of airborne contaminants and vermin. However, the licensor may accept a mobile food-service establishment of different design whenever only commercially packaged or canned food are sold and the contents are not removed from the original package prior to being sold.
- (e) The driver's compartment shall be separated from the food service, storage and preparation areas by a wall. The wall on the side of the food compartment shall meet the wall requirements of § 127-2H(1), (2), (3) and § 127-3H(1) of this chapter, relating to floors, walls and ceilings, floor drains and the surface of exterior areas. However, a wall need not be provided if the doors of the driver's compartment are self-closing and cannot be propped open when the mobile unit is in motion. Doors used to gain entrance from one part of the mobile unit to another shall be self-closing and constructed from solid material.
- (f) The hot food storage facilities and cold storage facilities in a mobile food-service establishment shall be capable of operating at all times whenever perishable or potentially hazardous foods are stored therein.

F. Cleaning and sanitization of utensils and equipment.

(1) General.

- (a) All temporary public eating and drinking places shall use single-service articles to serve food and drink to the public. However, where adequate dish-washing facilities are available and properly used, eating or drinking utensils may be utilized for customer service.
- (b) All eating and drinking utensils shall be thoroughly cleaned, rinsed and sanitized after each usage in a three-compartment sink.
- (c) When the only utensils to be washed are limited to spatulas, tongs and similar devices and when the only equipment to be cleaned is stationary and does not require disassembly for proper cleaning, a one-compartment sink may be approved by the licensor for this purpose.
- (d) At least a two-compartment sink shall be provided and used for washing kitchenware and equipment which does not require sanitation.
- (e) Each compartment of all sinks shall be supplied with hot and cold running water.
- (f) Temporary public eating and drinking places shall comply with the provisions set forth in § 127-2F(1)(b) and (c) of this chapter, relating to cleaning and sanitizing of equipment and utensils.

(2) Manual dish-washing.

- (a) Temporary public eating and drinking places shall comply with the provisions set forth in § 127-2F(2)(a), (d) and (e) of this chapter relating to manual dish-washing.
- (b) Any type of machine, device or facilities and procedures may be approved by the

Department for cleaning or sanitizing equipment and utensils, if it can be readily established that such machine, device or facilities and procedures will routinely render equipment utensils clean to sight and touch and provide effective bactericidal treatment.

- (3) Frozen dessert utensils. The washing of frozen dessert utensils shall be regulated by the provisions of § 127-2F(5) of this chapter, relating to utensils for frozen desserts and drink.

G. Sanitary facilities and controls.

- (1) General. Temporary public eating and drinking places shall comply with the provisions set forth in § 127-2G(1), (2), (3) and (4) of this chapter, relating to water supply, ice, sewage disposal and plumbing.

- (2) Exceptions to water provisions.

- (a) Hot and cold running water under pressure need not be piped to temporary eating and drinking places whenever:

- [1] The only utensils are limited to knives, spatulas, tongs and similar devices or a single container.

- [2] Extensive soiling of the temporary public eating and drinking places from the food operation does not occur.

- [3] The equipment to be cleaned is stationary and does not require disassembly for proper cleaning.

- [4] No health hazard will result.

- (b) When the conditions of Subsection G(2)(a) of this chapter are met, the proprietor shall comply with the following:

- [1] Water required for cooking, cleaning and hand-washing shall be obtained in a container which has a tight-fitting lid and is easily cleanable.

- [2] The outlet from which the water is obtained shall be so located and protected as to preclude contamination of the water outlet as well as the water being drawn.

- [3] An adequate quantity of water shall be provided within the temporary eating and drinking place in containers approved by the licensor as to design, construction and size.

- (3) Additional water requirements. Mobile food-service establishments shall comply with the following requirements:

- (a) The water system shall be closed to contamination from the filling inlet to the discharge outlets. Vent openings are permitted wherever necessary, if properly protected to prevent contamination of the water supply.

- (b) The water-filling inlet shall be so located and designed that it is protected from contamination, provided with a hose connection of a different size and type from the waste retention tank flushing connections on the mobile unit and easily accessible.

- (c) The water storage tank shall have a minimum capacity equivalent to the amount needed for one day of operation, but in no case shall be less than five gallons, unless otherwise

approved by the licensor.

- (d) Whenever the waste retention tank is cleaned or flushed in place, two separate hoses shall be provided for the servicing operation, one for use in filling the water storage tank and one for use in flushing the waste retention tank.
  - (e) The water fill hose, unless otherwise protected from contamination, shall have the end of the hose provided with a permanently attached disc or molded protection so that the nozzle will not rest on the ground or floor if dropped. The filler hose shall be kept in the vehicle and shall be protected from contamination.
  - (f) Hot-water generating facilities shall be provided which are able to function whether the vehicle is mobile or stationary.
- (4) Additional sewage disposal provisions.
- (a) Mobile food-service establishments shall comply with the following requirements:
    - [1] A suitable liquid waste system, including a waste tank having a capacity of five gallons greater than the water storage and distribution system and hot-water generating system combined, shall be provided. The waste tank shall be capable of being completely drained and flushed.
    - [2] When wastes are retained in removable soil or waste cans, provision shall be made to fix the cans in place so as to prevent excrement or waste from falling or spilling outside of the container.
    - [3] When the soil can is removed from the mobile unit, the contents shall be enclosed or covered while being transported to the facilities for emptying and cleaning of the cans.
    - [4] All hoses used to clean soil cans shall be equipped with acceptable vacuum breakers installed on the discharge side of the last control valve.
    - [5] When wastes are stored in retention tanks which are permanently installed on the mobile unit, the tanks shall be so designed that the contents cannot be discharged when the vehicle is in motion. In addition, discharge control devices on the retention tank outlet shall be designed to prevent leakage and to prevent spattering of the servicing area or servicing area personnel.
    - [6] The disposal of all waste shall be done so as not to create a nuisance or health hazard.
  - (b) Temporary public eating and drinking places which do not have water piped to their facility and which do not have a plumbing system within their facility that connects to an approved waste disposal system shall:
    - [1] Provide a wastewater container which has a minimum capacity of five gallons, a tight-fitting lid and design and construction features that permit ease of cleaning.
    - [2] Clean and empty the container each day.
    - [3] Dispose of all wastewater so as not to cause a health hazard or nuisance.
- (5) Toilet facilities. Each temporary public eating and drinking place shall have available adequate,

conveniently located toilet facilities for its employees. A mobile food-service establishment shall be provided with toilet facilities approved by the licensor on the vehicle if the operator does not have access to such facilities at his designated stops or base of operation.

(6) Hand-washing facilities.

(a) Each temporary public eating and drinking place shall be provided with adequate, conveniently located hand-washing facilities for its employees, including a lavatory or lavatories equipped with hot and cold or tempered running water under pressure, hand cleansing soap or detergent and approved sanitary towels or other approved hand-drying devices.

(b) Temporary eating and drinking places which do not have water piped to their facilities may utilize the following:

[1] Auxiliary heating facilities to produce an ample supply of hot water.

[2] A basin or pan in lieu of a sink. Such container shall be emptied and rinsed immediately after each person's use.

[3] An adequate quantity of water shall be provided within the establishment in containers approved by the licensor for design, construction and size.

(7) Garbage disposal and rodent control. Temporary public eating and drinking places shall comply with the provisions set forth in § 127-2G(7) and (8) of this chapter, relating to garbage and refuse disposal and insect and rodent control.

H. Care of other facilities.

(1) Floors, walls and ceilings.

(a) Temporary public eating and drinking places shall comply with the provisions set forth in § 127-2H(1), (2) and (3) of this chapter, relating to floors, walls, ceilings, floor drains and the surface of exterior areas.

(b) Temporary public eating and drinking places which are not permanently located shall be eligible for the following exceptions to the provisions of SubsectionH(1)(a):

[1] Floors may be dirt or gravel-covered when graded to prevent the accumulation of liquids. Such floors shall be covered with removable, cleanable wooden platforms or duckboards which shall be kept clean. The area underneath such platforms shall also be kept clean.

[2] The walls enclosing food operations may be of canvas or another type of material approved by the licensor whenever one of the following conditions exists:

[a] The food service equipment is so located and of such type that the walls will not become soiled during the food preparation and serving operations.

[b] Durable, smooth, nonabsorbent and easily cleaned splash backs or splash guards are provided which prevent soiling of the walls. The installation of such protective devices shall be done so no cleaning, rodent or insect problems can occur.



- (2) Lighting. All areas in which food is prepared or stored or utensils are washed, hand-washing areas and garbage and refuse areas shall be well-lighted and adequate for all necessary operations.
- (3) Ventilation. Adequate ventilation shall be provided when necessary and shall comply with the ventilation standards of the Department.
- (4) Dressing rooms and lockers. Adequate facilities shall be provided for the orderly storage of clothing and personal belongings of employees. These facilities shall be kept clean.
- (5) General cleanliness. Temporary public eating and drinking places shall comply with the provisions set forth in § 127-2H(7) of this chapter, relating to general cleanliness of public eating and drinking establishments.

**§ 127-4. Retail food establishments.**

**A. Food supplies.**

- (1) Examination of food. Retail food establishments shall comply with the provisions set forth in § 127-2A(4) of this chapter, relating to examination of food in public eating and drinking places.
- (2) General. All food in retail food establishments shall be clean, wholesome, free from spoilage, free from adulteration and safe for human consumption. No food prepared in a private home or which has been processed in a place other than a commercial food processing establishment, shall be sold or used in the preparation of foods offered for sale, sold or given away, unless such place is regulated by a health authority or other appropriate official regulatory agency. Food received from a caterer or commissary shall not be offered for sale unless such caterer or commissary has a valid license as provided in the Act of May 23, 1945, P.L. 926, as amended (35 P.S. § 655.1 et seq.).

**B. Food protection and preparation.**

**(1) General.**

- (a) Retail food establishments shall comply with the provisions set forth in § 127-2B(1), (2), (3) and C(2) of this chapter, except as otherwise provided herein, relating to general provisions; poisonous and toxic materials; cold storage facilities; and custards, creams and fillings.
- (b) Retail food establishments shall comply with the provisions set forth in § 127-2B(3)(b) and (c) of this chapter, relating to cold storage facilities of public eating and drinking places, except that food or drink may be stored in direct contact with chipped or cracked ice when the following conditions exist:
  - [1] Drains are provided which prevent the accumulation of water in the storage compartment.
  - [2] The cap, top, crown or pouring lip of food containers are not submerged in the ice.
  - [3] Wastewater from the storage facility is disposed of so as not to create a nuisance or any sanitation problems.
  - [4] The ice and storage facility are kept clean at all times.

[5] Potentially hazardous foods, prior to icing, have an internal temperature of not more than 45° F. and are kept properly iced at all times.

[6] The food or container is of such type that no health hazard may result.

- (c) Only persons directly employed in the retail food establishment shall be permitted to handle unpackaged food intended for sale to the public. Display cases shall be so designed and arranged to prevent handling of such food by the public. The provisions of this Subsection B(1)(c) shall not apply to produce or any other product which is adequately packaged, wrapped or protected for display and self-service to the customer.
  - (d) No food shall be wrapped in newspapers or previously used wrapping paper.
  - (e) The evisceration, skinning, dressing or other operation, except the cutting, slicing or grinding of meat or poultry to facilitate its use, handling or sale, shall be prohibited in sales rooms.
  - (f) All perishable food shall be stored at such temperatures as shall protect against spoilage. All potentially hazardous food shall be maintained at safe temperatures.
  - (g) Meat, poultry, fish and other food requiring no further heat treatment before eating shall not be placed directly on a scale unless such food is placed in a single-service container or on wrapping paper which is only used one time.
- (2) Cold storage facilities.
- (a) Foods shall be stored in each cold storage facility or refrigerator so as to permit the free circulation of cold air, and in such a manner as to prevent contamination, except that food already at or below 45° F. may be placed in display cases without regard to air circulation, provided that the case is capable of maintaining this product temperature.
  - (b) To promote rapid cooling, potentially hazardous foods shall be stored in the refrigerator in shallow containers or by such other approved means that will ensure the cooling of the total mass to a temperature of 45° F. or less within two hours, unless otherwise specified by the Department.
- (3) Frozen food.
- (a) Frozen food shall be kept at such temperatures as to remain frozen.
  - (b) Frozen products shall be moved into frozen storage immediately upon delivery.
  - (c) Frozen food products shall not be loaded above the load limit line on display cases or in such a manner as to in any way block the circulation of cold air.
  - (d) Any freezer case found to be overloaded or containing thawed or partially thawed foods shall subject the food products therein contained to condemnation and destruction.
  - (e) Food products shall be rotated in such a manner that the products first in the display case or storage areas are the first product to be sold.
  - (f) All frozen food products shall have the date of processing stamped or printed upon each package or container. This requirement may be met by calendar or code dating.
  - (g) Frozen foods, once thawed, shall not be refrozen.

- C. Health and disease control for employees. Retail food establishments shall comply with the provisions set forth in § 127-2D of this chapter, relating to health and disease control for employees in public eating and drinking places.
- D. Maintenance of food equipment and utensils.
- (1) General.
- (a) Retail food establishments shall comply with the provisions set forth in § 127-2E of this chapter, relating to maintenance of equipment and utensils.
  - (b) Meat blocks and cutting boards shall be free of holes, cracks and crevices and shall be kept clean by effective methods.
  - (c) No oil cloth or newspaper shall be used on any counter, table or shelf where food is handled.
- (2) Equipment design and installation. All equipment, where applicable, shall be designed, installed and operated in accordance with the criteria set forth by the National Sanitation Foundation, Automatic Merchandising Health-Industry Council, Baking Industry Sanitation Standards Committee and the Committee for 3-A Sanitary Standards for Dairy Equipment or other nationally recognized testing laboratory or agency, with the following exceptions:
- (a) Equipment which was installed in a retail food establishment prior to June 27, 1968, and which does not meet fully all of the design and construction requirements of this section, shall be deemed acceptable in that establishment if it is in good repair, capable of being maintained in a sanitary condition and the food-contact surfaces are nontoxic.
  - (b) Equipment described in Subsection D(2)(a) hereof shall be so located and installed as to enable reasonable compliance with all of the requirements of this section pertaining to equipment installation and all of the requirements pertaining to food protection.
- E. Cleaning and sanitization of equipment and utensils.
- (1) General.
- (a) All utensils and food-contact surfaces of equipment, exclusive of cooking surfaces of equipment, shall be thoroughly cleaned after each use.
  - (b) Cooking surfaces of equipment shall be cleaned at least once a day.
  - (c) All utensils and food-contact surfaces of equipment used in the preparation, handling or storage of potentially hazardous food shall be thoroughly cleaned, rinsed and sanitized in a three-compartment sink prior to such use. However, food-contact surfaces of equipment or utensils which will be heated in the baking or cooking process of food preparation to above 140° F. need not be sanitized prior to usage.
  - (d) Nonfood contact surfaces of equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition.
  - (e) After cleaning and until use, all food-contact surfaces of equipment and utensils shall be stored and handled as to be protected from contamination.
- (2) Sinks for washing.

- (a) In those retail food establishments where the only items to be washed are limited to spatulas, tongs and similar devices and when the only equipment to be cleaned is stationary and does not require disassembly for proper cleaning, a one-compartment sink may be approved by the licensor for washing and sanitizing purposes.
  - (b) At least a two-compartment sink shall be provided and used for washing utensils and equipment which does not require sanitization.
  - (c) Sinks used for manual washing and sanitizing operations shall be of adequate length, width and depth to permit the complete immersion of the equipment and utensils, and each compartment of such sinks shall be supplied with hot and cold running water. If the licensor deems it impractical to meet this requirement for large utensils or equipment, a smaller sink may be approved.
- (3) Slop sinks. Where there is a need for a slop sink or device to discard liquid waste, such sink or device shall be provided in addition to the equipment and utensil washing sinks.
- (4) Machine washing and adequacy of facilities. Retail establishments shall comply with the provisions set forth in § 127-2F(3), (4) and (5) of this chapter, relating to machine dish-washing, lack of adequate facilities and utensils for frozen desserts and drink.
- F. Sanitary facilities and controls.
  - (1) General. Retail food establishments shall comply with the provisions set forth in § 127-2G of this chapter, relating to sanitary facilities and controls in public eating and drinking places.
  - (2) Other facilities and operations. Care of various facilities in retail establishments shall be in compliance with the provisions in § 127-2H of this chapter, relating to care of other facilities and operations in public eating and drinking places.
- G. Plan review. Retail food establishments shall comply with the provisions in § 127-2I of this chapter, relating to review of construction plans of public eating and drinking places by the licensor.

#### **§ 127-5. Licensing fee schedule.**

- A. Definitions. The following phrase, when used in this section, shall have the following meaning:  
**OCCASIONAL FOOD ESTABLISHMENT** — Any facility regulated by the provisions of this chapter in which food service is not the primary function of the establishment and in which food service is not provided more than 12 times per year.
- B. Licensing fee schedule. Food establishments shall pay the following license fees to the Township, and the licensor is hereby authorized to charge and collect such fees:
  - (1) Food establishments (other than temporary public eating and drinking places and occasional food establishments):

<b>Number of Seats</b>	<b>Fee (per year)</b>
0 and no preparation or processing of food	\$50
0 to 25	\$150

<b>Number of Seats</b>	<b>Fee (per year)</b>
26 to 50	\$200
51 to 75	\$250
76 to 100	\$300
101 to 125	\$350
126 to 250	\$400
251 and above	\$450

- (2) Occasional food establishments: \$50 (per year).
- (3) Temporary public eating and drinking places:
  - (a) Mobile food-service establishments: \$50 (per year).
  - (b) All other temporary public eating and drinking places: \$50 per concession stand, unit or truck (per event and per location).
- (4) Plan review. In addition to the applicable fee set forth above, the licensing fee for each food establishment shall include a charge of \$50 per hour for the review of plans which this chapter requires be submitted to the licensor. **[Added 9-9-1991 by Ord. No. 490; amended 3-9-1992 by Ord. No. 504]**

**Chapter 133****HOTELS, MOTELS AND INNS**

§ 133-1.	<b>Purpose and intent.</b>	§ 133-8.	<b>Procedure for suspension, nonrenewal or revocation; hearing.</b>
§ 133-2.	<b>Definitions.</b>	§ 133-9.	<b>License denial; hearing.</b>
§ 133-3.	<b>License required.</b>	§ 133-10.	<b>Appeals.</b>
§ 133-4.	<b>Failure to maintain license.</b>	§ 133-11.	<b>License expiration.</b>
§ 133-5.	<b>Inspections; investigation of complaints.</b>	§ 133-12.	<b>Order to vacate; authority to issue.</b>
§ 133-6.	<b>Application review; grounds for denial.</b>	§ 133-13.	<b>Rules, regulations and conditions.</b>
§ 133-7.	<b>License refusal, suspension, revocation or nonrenewal.</b>	§ 133-14.	<b>Violations and penalties.</b>

**[HISTORY: Adopted by the Township Council of the Township of Middletown 11-27-2023 by Ord. No. 855. Amendments noted where applicable.]**

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**§ 133-1. Purpose and intent.**

The purpose of this chapter is to provide for a standard of use and maintenance of motel, hotels and inns maintained within Middletown Township and to encourage the operational reliability of such facilities by requiring regulations, standards and annual inspections and licensing of the same as necessary to protect and promote the public health, safety and welfare of the residents of Middletown Township.

**§ 133-2. Definitions.**

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

**ACCOMMODATION** — The room, unit, or space provided to transient guests for lodging or sleeping, including furnishings and other accessories therein.

**CALLS FOR SERVICE** —

- A. The total number of calls to the Delaware County 911 Center, law enforcement, emergency medical services and/or the Fire Department resulting in a request for a Police, Fire or Emergency Services Department representative to be dispatched or directed to the property when those responses:

- (1) Result in a representative being dispatched or directed to the property;
- (2) Allege evidence of criminal activity;
- (3) Result in an arrest, charge or citation; or
- (4) Find an imminent threat to safety of persons or property.

- B. "Calls for service" shall not include calls to law enforcement made by employees or agents of

the hotel property itself, nor for traffic citations in which the hotel, motel, or tourist home is used as the address for the citation. It shall also not include calls for service to law enforcement specific to domestic violence.

**HOTEL, MOTEL or INN** — Include a building or group of buildings containing 10 or more guest rooms/accommodations, or a group of such buildings especially designed for the temporary lodging of transient guests, provided that no room shall have cooking facilities of any kind. Such establishment shall furnish to the occupants customary services, such as maid services and the furnishing and laundering of linen. Eating and drinking facilities may be accessory to the hotel, motel or inn.

**LICENSE** — The annual license required herein for the operation of a hotel, motel or inn within the Township. A holder of a license under this chapter shall be referred to herein as a "licensee."

**NOTICE** — Any written notice by, from or on behalf of the Township notifying the owner, operator or agent of the owner or operator that they are in violation of this chapter and directing them to cure or fix the violation.

**NUISANCE** — Includes but not be limited to the following:

- A. Existing violations of building, electrical, mechanical, plumbing, zoning, health, fire or other applicable regulatory codes, including, but not limited to, Chapter 89 of the Township Code;
- B. Existing factors constituting a public nuisance under the provisions of the Township Code;
- C. A pattern or practice of guest conduct which is in violation of the law or interferes with the health, safety and welfare of the guests and/or persons on or near the premises; or
- D. Failure to maintain the grounds and exterior of the premises, including allowing litter, debris, or refuse to exist on the premises outside of proper repositories or to blow onto or be deposited upon adjoining properties.

**RECEIPT OF NOTICE** — Receipt of the notice required herein shall be the date of mailing said notice, or, if applicable, posting of the notice on the property in question, whichever is earlier.

**TOWNSHIP** — The Township of Middletown, Delaware County, Pennsylvania.

### **§ 133-3. License required.**

No person shall operate a hotel, motel or inn within the Township without first obtaining an annual license issued by the Township.

- A. Applications for licenses and/or renewals thereof shall be made to the Township Manager or his/her designee, on forms provided by the Township Manager or his/her designee (the "application"). The completed license renewal application form, along with payment of required fees, must be filed by the licensee with the Township Manager or his/her designee no less than 60 days before the expiration of the current license to obtain a decision on the license renewal application prior to the expiration of the current license and to avoid license renewal late fees.
- B. The annual fee for the license required by this chapter shall be calculated using the fee schedule adopted by resolution of the Township Council of the Township of Middletown. The Township may enforce payment by any lawful means, including, but not limited to, a civil suit, an order to show cause, a lien assessed against the dwelling, the structure, or real property to which the fee(s) pertain, and by denying or suspending a license as provided in this chapter.
- C. The Township may impose reasonable conditions upon the issuance of any license as necessary to

promote and protect the health, safety and welfare of Township residents.

**§ 133-4. Failure to maintain license.**

In addition to all other remedies provided for in this chapter or by any other local ordinance, state statute, or federal law, the following shall apply when a hotel, motel or inn is operating in the Township without first obtaining a valid license as required herein:

- A. Order to vacate. Failure to have a current, valid license subjects the hotel, motel or inn to be ordered vacated as provided in § 133-12 hereof until a valid license is issued.
- B. Failure to vacate. In addition to any other remedy available to the Township under law, including Township ordinances, a licensee, owner or lessor of the hotel, motel or inn who fails to comply with an order to vacate after having been given notice of an order to vacate under this chapter is subject to the penalties set forth in § 133-14. Further, each day that the licensee, owner or lessor fails to comply with the order to vacate after the date indicated on the notice constitutes a new violation.
- C. In addition to any other remedy available to the Township at law or in equity, a hotel, motel or inn owner or operator who rents an accommodation to any guest, customer, lessee or renter without first obtaining a license as required under this chapter shall be subject to penalties as set forth in § 133-14A and B herein.
- D. Abatement of rent. Where there is no current, valid license, no financial compensation shall be charged, accepted, retained or recoverable by the owner, operator or lessor of the hotel, motel or inn for the period where no current, valid license existed. This abatement shall not be retroactively eliminated regardless of whether there was subsequent compliance.

**§ 133-5. Inspections; investigation of complaints.**

- A. License application inspection. Upon the filing of a completed license application form with the Township Manager, whether initial or renewal, the proposed accommodations and structure shall be inspected by the Township Building Code Official, Health Official and Fire Chief or other qualified person(s) or designee (each, for purposes of this chapter, a "Township Code Official") for compliance with the requirements of the Township Code and all applicable state and federal laws by consent or upon the issuance of an administrative search warrant.
- B. Property maintenance inspection. If, during the course of an inspection provided for under this chapter, a Township Code Official reasonably concludes that there are violations which, considering the nature and/or severity of the alleged violation, either pose a hazard to the health, safety or welfare of the occupants or that an additional professional inspection is needed either to properly determine the extent of the violations or the corrective action required to comply with the Building Code of the Township of Middletown, an additional inspection may be conducted by the Township Building Code Official as necessary to ensure compliance with all applicable Township, state and federal codes, regulations and laws. The failure to permit such additional inspections shall be a basis for denial, nonrenewal, suspension or revocation of a license.
- C. Additional inspections. Additional inspections may be scheduled and conducted on one or more of the following bases:
  - (1) Due to recurrent violations, a combined three or more substantiated recurrent or uncorrected violations for a particular structure and/or accommodations and/or unit(s) within a structure, within a twelve-month period from the date of the most recent violation.



- (2) Whenever reasonable cause exists to believe that there is a violation of the Building Code of the Township of Middletown at any hotel, motel or inn, or other condition(s) which make the structure or premises unsafe, dangerous, hazardous or a nuisance.
  - (3) For the purpose of auditing compliance with conditions on a license.
  - (4) For the purpose of reinspection to ensure the correction of any violations.
- D. Inspection of multiple accommodation units. For hotels, motels or inns having more than 50 accommodation units, a minimum of 25% of the accommodation units contained in the hotel, motel or inn shall be inspected. The accommodation units to be inspected shall be randomly selected by the Township Code Official. The number of accommodation units inspected may be increased at the discretion of the Township Code Official should significant code violations be found or should the Township Code Official have reasonable cause to believe other violations exist in the uninspected units.
- E. Notification and presence of owner at inspection. Subject to § 133-5E, the licensee, applicant, owner(s), or the owner's legal agent, if any, shall be notified of any initial or renewal inspections for the purposes of licensing. The failure of the licensee, proposed licensee owner(s) or owner's legal agent to appear for the inspection after notification does not preclude the inspection if access to the structure or unit can otherwise be lawfully obtained.
- F. Entry for inspection. Except as otherwise provided by law, authorized inspections inside an accommodation unit will be made during reasonable hours with the consent of an owner, operator, legal agent, or occupant. Entry without the consent of an owner, operator, legal agent, or occupant will be made only after obtaining an administrative or criminal search warrant for the hotel, motel or inn, a court order allowing entry of the premises for inspection, or otherwise as provided by law.
- G. Inspection reports. If there are any violations noted on an inspection, within 10 business days after an inspection has been conducted, the owner(s), operator and/or the owner's legal agent shall be given written notice of the results. The notice of the inspection results shall be given personally or by first-class mail at the address of the licensee provided to the Township. It shall be the responsibility of the licensee to notify the Township, in writing, of any change in address of the licensee or preferred address for notices issued under this chapter.

#### **§ 133-6. Application review; grounds for denial.**

- A. Provided the application is complete, the Township Manager or his/her designee shall issue a new license, or grant the renewal of a license, except as provided in § 133-6B and C hereof, which require the Township Manager or his/her designee to deny any application for a new license, or renewal of a license, and except as provided in § 133-6D and E hereof, under which the Township Manager or his/her designee may deny any application for a new license or renewal of a license.
- B. The Township Manager or his/her designee shall deny any application for a new license or renewal of a license if the applicant makes a material misrepresentation of fact on the application.
- C. The Township Manager or his/her designee shall deny any application for a new license, or renewal of a license, if the applicant is delinquent to the Township for any taxes, or indebted to the Township for any other reason unless the delinquency or indebtedness is the subject of pending litigation.
- D. The Township Manager or his/her designee may deny any application for a new license, or renewal of a license after consultation with a Township Code Official, if any of the following are shown to

have occurred at the property:

- (1) The hotel, motel or inn, or the property maintaining such facility, has outstanding notices, citations or orders from the Township that have not been corrected or abated for six months or more, including, but not limited to, notices, citations or orders regarding:
    - (a) Bed bugs, cockroaches, rats, mice, flies, and any other insects or vermin;
    - (b) Mold;
    - (c) Heating, cooling, and ventilation;
    - (d) Water supplies, including drinking water and hot and cold availability;
    - (e) Lavatories, baths, and sewage;
    - (f) Electricity;
    - (g) Adequate lighting;
    - (h) Pools and spas;
    - (i) Housekeeping practices and policies;
    - (j) Refuse storage and/or removal;
    - (k) Defective locks;
    - (l) Nonfunctional smoke or fire suppression systems or related alarms; and
    - (m) Structural defects rendering the property upon which the hotel, motel or inn operates unsafe, uninhabitable or otherwise dangerous to the health, safety and general welfare of the public;
  - (2) The hotel, motel or inn fails to meet accessibility requirements required by the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., as amended, or other applicable law;
  - (3) The owner, licensee, operator, manager or authorized agent has obstructed or interfered with the correction or abatement of the alleged violations, or is party to a pending enforcement action(s) related to the facility or property;
  - (4) The owner, licensee, operator, manager or authorized agent has hindered or prevented any inspection of the facility or property authorized by this chapter;
  - (5) The owner, licensee, operator, manager or authorized agent of the facility or property has previously violated this chapter by operating without a license required hereunder; or
  - (6) More than 10 calls for service over any three-consecutive-month period within the last 12 months from the application and/or license renewal.
- E. Upon the written recommendation of a Township Code Official, the Township Manager or his/her designee may prohibit the renting of accommodations until all violations, notices, citations and orders related to the subject accommodations have been remedied or the conditions subject thereof have been abated.
- F. Any attempt to rent accommodation(s) in violation of § 133-6F, or any failure to remedy all

violations, notices, citations or orders for such accommodation(s) within three months, shall be deemed a violation of this chapter and subject the licensee, owner or operator of the hotel, motel and inn to the penalty provisions set forth in § 133-14 hereof.

- G. The Township Manager or his/her designee may deny any application for a new license, or renewal of a license, upon a conclusion by a Township Code Official that the issuance or renewal of such license would be detrimental to the health, safety or welfare of the general public and the Township Code Official submits a written objection detailing the reason(s) therefor to the Township Manager.

**§ 133-7. License refusal, suspension, revocation or nonrenewal.**

- A. A license requested under this chapter may be denied by the Township Manager or his/her designee, and any license issued under the provisions of this chapter may be suspended, revoked or not renewed by the Township Manager or his/her designee for cause. Cause shall include, but not be limited to:

- (1) Fraud or material misrepresentation in the application for license;
- (2) Fraud or material misrepresentation in the operation of the licensed hotel, motel or inn;
- (3) Any material violation of this section or of the regulations authorized herein;
- (4) Any violation of the Township Code, or state or federal law, which creates a risk to the health, safety or welfare of the transients or to the community or where such violation brings into question whether the applicant/licensee is of suitable character to operate the hotel, motel or inn;
- (5) Operating the hotel, motel or inn in an unlawful manner or in such a manner as to constitute a maintenance of a nuisance as defined in this chapter. For purposes of this chapter, a nuisance shall include, but not be limited to:
  - (a) Existing violations of the Building Code of the Township of Middletown;
  - (b) A pattern or practice of guest conduct which is in violation of the law and/or interferes with the health, safety and welfare of properties within the immediate neighborhood or area of the subject hotel, motel or inn;
  - (c) More than 10 calls for service over any three-consecutive-month period within the last 12 months from the application and/or license renewal application date;
  - (d) Failure to maintain the grounds and exterior of the licensed premises, including permitting litter, debris or refuse to exist on the proposed and/or licensed premises outside of proper repositories or to blow onto or be deposited upon adjoining properties;
  - (e) Existing factors constituting a public nuisance under the Township Code;
- (6) Failure by the applicant/licensee to permit the inspection of the licensed premises by the Township's agents or employees in connection with the enforcement of this chapter, provided the intended inspection was in conformance with this chapter;
- (7) Failure of the applicant/licensee to pay any applicable Township taxes, fines or other fees, including, but not limited to, real property taxes, by the established due date of each year arising from the licensee's use and occupancy of the property. A licensee who does not own the real property is not responsible for the payment of the real property taxes unless a lease or contract requires such payment.

- B. Revocation or suspension of license. License suspension/revocation shall be in accordance with the following:
- (1) A license may be temporarily suspended without hearing by the Township Manager or his/her designee upon the determination by a Township Code Official that the hotel, motel or inn, or any portion thereof, is unsafe, uninhabitable or otherwise poses an imminent danger to the health, safety and general welfare of the public. The license shall be reinstated following abatement of the subject condition.
  - (2) If a license is suspended, the hotel, motel or inn is prohibited from furnishing accommodations or other space to new guests, including, but not limited to, conference rooms, ballrooms, pools and spas, and parking lots. The licensee, owner, operator and/or authorized agent may only continue to operate and furnish accommodations to current guests, unless an emergency order requires immediate evacuation of the property.
  - (3) If a license is revoked, the owner of the hotel, motel or inn is prohibited from furnishing accommodations or rented space to new guests and must cease operations within 30 days of a final decision, during which time they must:
    - (a) Notify all guests of the cessation of the operation of the hotel, motel or inn;
    - (b) Provide a reasonable amount of time for guests to vacate their accommodations, which shall be no less than one week;
    - (c) Comply with all applicable Township, state and federal laws and health codes until all guests have vacated the hotel, motel or inn;
    - (d) Allow the Township or any collaborating organizations or charities to contact current guests directly, in order to provide information regarding potential alternative accommodation options; and
    - (e) Any licensee whose license is revoked hereunder must apply for a new license as provided in this chapter in order to operate the hotel, motel or inn.

**§ 133-8. Procedure for suspension, nonrenewal or revocation; hearing.**

- A. Except pursuant to § 133-6B(1) of this chapter, before any action is taken concerning nonrenewal, revocation or suspension of a license, the Township shall hold a hearing before Township Council, with written notice thereof to be provided at least 10 days prior to said hearing ("notice").
- B. The notice issued under this subsection shall be served by certified mail, return receipt requested, addressed to the licensee at the address provided to the Township in the application, as may be revised in accordance with the provisions of this chapter, or by posting a copy of the notice on the hotel, motel or inn in question, at the option of the Township. The notice shall contain the following:
- (1) Date, time and place of the hearing;
  - (2) Notice of the proposed action;
  - (3) Reasons for the proposed action;
  - (4) A statement that the licensee may be represented by legal counsel and present evidence and testimony;

- (5) A statement requiring the licensee to notify the office of the Township Manager or his/her designee at least three days prior to the hearing date if the licensee intends to contest the proposed action.
- C. Within 30 days of the completion of the hearing, Middletown Township Council shall submit to the licensee a written determination of the decision or proposed action. Where the licensee's appeal is denied, the determination shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor.

**§ 133-9. License denial; hearing.**

- A. In the event an applicant whose initial request for a license is denied by the Township, the Township Manager or his/her designee shall issue a written notice of the denial to the applicant summarizing the reasons therefor. The applicant shall have a right to appeal the Township's denial by requesting a hearing before the Middletown Township Council, provided that a written request for a hearing is filed with the Township Manager or his/her designee within 10 days following the issuance of such denial. Failure to request a hearing within this time frame shall result in a final decision of the Township.
- B. Within 30 days of the completion of the hearing, Middletown Township Council shall submit to the applicant a written determination of the decision or proposed action. Where the applicant's appeal is denied, the determination shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor.

**§ 133-10. Appeals.**

Any applicant or licensee who is aggrieved by the decision or determination of the Middletown Township Council may, upon payment by the appellant of any reasonable costs incurred by the Township in certification of records related to the proceedings, appeal to the Delaware County Court of Common Pleas within 30 days of the date of the issuance of the determination or decision thereof.

**§ 133-11. License expiration.**

- A. Expiration date. A license shall expire 12 months from the effective date of the license, with the following exceptions:
  - (1) Inspection violations. A license will expire no more than six months from the effective date of the license if, at the last inspection, the hotel, motel or inn was cited for violations of the Building Code of the Township of Middletown; and
  - (2) Applicable conditions. The license shall expire in accordance with any conditions placed on the license under this chapter.
- B. Effect of license expiration. Upon expiration of a license:
  - (1) Vacate. The structure is subject to being ordered vacated in accordance with this chapter until a valid license is issued; and
  - (2) Meet conditions before new application. If the license expired for failure to comply with conditions placed on it, application for a new or renewal license may be made only after the conditions have been met.

**§ 133-12. Order to vacate; authority to issue.**

Where a current, valid license is not in effect for a hotel, motel or inn for any reason under this chapter, the Township Manager or his/her designee may issue an order to vacate to the owner and/or owner's legal agent. The order to vacate may be held in abeyance for up to 45 days if there are no conditions on the property posing a hazard to life, limb, property or safety of the occupants or the general public and the owner makes application in compliance with this chapter.

**§ 133-13. Rules, regulations and conditions.**

The following rules, regulations and conditions shall be observed by each licensee:

- A. Exits. All interior hallways shall have at least two exits, provided that one such exit may be an emergency-type exit or fire escape. All exits shall be clearly marked.
- B. Condition of premises; inspections. All premises shall be kept in a clean condition and in good repair. All bed sheets, pillow slips, towels and washcloths shall be replaced by clean items before any new guest occupies an accommodation unit previously occupied by another. Township Code Officials, the designee(s) or other qualified individual may inspect any hotel, motel or inn at any time, provided that no inspector may enter any accommodation unit rented to a guest or guests without the expressed consent or invitation of at least one of the guests occupying the accommodation unit.
- C. Register. The management of each hotel, motel or inn shall keep a register of guests.
- D. Hotel, motel or inn registration; security register. Every licensee, owner or operator of any hotel, motel or inn shall keep a register wherein all guests or lodgers shall inscribe their names upon procuring lodging, a room or accommodations.
  - (1) Said licensee, owner or operator (or agent thereof) shall verify the credit card signature of each guest or lodger making payment by way of credit card with the signature inscribed upon the register. If the signature as inscribed on the register does not appear to reasonably match the signature on the credit card, further identification shall be requested of the type requested of persons paying in cash.
  - (2) Said licensee, owner or operator (or agent thereof) shall require identification of any guest or lodger paying in cash at the time of registration. Identification shall be in a valid and current format showing the person's name and date of birth, and may be, but is not limited to, a driver's license, state-issued picture identification card or such other form as will reasonably assure that the registrant is, in fact, the person under whose name such lodging, room or accommodation is being procured. The licensee, owner or operator (or agent thereof) shall maintain a photocopy of such identification and transpose the identifying information in the registration ledger.
  - (3) For any guest or lodger taking occupancy through a prearranged reservation in the name of a corporation, business, association or any other entity, the licensee, owner, or operator (or agent thereof) shall request such identification of the specific guest or lodger at the time of registration as will reasonably assure such person to be the person for whom the lodging, room or accommodations have been procured.
  - (4) Before furnishing any lodging or accommodations to any person in any hotel, motel or inn, the licensee, owner or operator (or agent thereof) shall require the person to whom such lodgings are furnished, or room is rented or accommodations furnished, to inscribe his or her name in such register, kept for that purpose, and shall set opposite said name the time that said name was

so inscribed and the room occupied by such lodger or guest.

- E. Management person to be on duty. Every licensee, owner or operator (or agent thereof) of any hotel, motel or inn shall, at all times during which the premises accommodate guests or lodgers, maintain on duty a responsible management person. Such management representative shall be an individual capable of assisting and cooperating with the police or other law enforcement officials in maintaining the public health, safety and welfare.
- F. Access for law enforcement persons. All information required to be procured and kept pursuant to this section shall be provided to any federal, state or local sworn law enforcement officer having the lawful power to arrest upon demand of the officer and a representation by said officer that a reasonable suspicion exists that such information is relevant to a then-pending inquiry or investigation. Nothing in this requirement shall be construed as giving any such officer any greater right or license to enter a room or invade privacy than the officer shall otherwise possess as a matter of common law, probable cause, constitutional law, statutory right or warrant.
- G. Telephone required. Every licensee, owner or operator of any hotel, motel or inn shall keep and maintain in each and every accommodation unit a telephone equipped for outgoing calls, and which telephone will allow any person therein to place a direct call to 911 or appropriate emergency service personnel. The existence of a minor dialing requirement, such as dialing "9" to obtain an outside line, shall not be deemed a violation of this section. However, under no circumstances shall prepayment, prior authorization or any other procedure of any nature which in any way impedes effective, immediate and direct placement of such emergency phone call be permitted.
- H. Misrepresentation. No person shall procure or provide lodging in any hotel, motel or inn, or any services therefrom, through misrepresentation or production of false identification or identification which misrepresents the identity of the person procuring or sharing in such lodging or service.
- I. Number of guests or lodgers. No licensee, owner or operator (or agent thereof) of any hotel, motel or inn shall rent or provide a room for any number of persons greater than the sleeping accommodations provided within the particular rental unit.
- J. Number of persons congregating in a room. No licensee, owner operator (or agent thereof) or guest (or invitee of a guest) of any hotel, motel or inn shall allow to congregate within any room or single accommodation unit a number of persons which is greater than three times the number of persons for whom sleeping accommodations are provided within the single room or rental unit.
- K. Length of stay. As the intent of a hotel, motel or inn is to provide temporary lodging for transient guests, under no circumstances shall lodging be provided for more than 30 consecutive days without demonstration to the Township Code Official of a reasonable reason therefor, nor can the guest or lodger utilize the hotel, motel or inn as their primary residence.

#### **§ 133-14. Violations and penalties.**

In the event that any person, partnership, corporation or other legal entity violates the provisions of this chapter, the Township may take any or all of the following actions as it may deem necessary to enforce the provisions of this chapter:

- A. Commence a summary enforcement proceeding before the Magisterial District Justice against the licensee, property owner(s) and/or operator of the hotel, motel or inn, and, upon conviction thereof, be punishable by a fine of up to \$1,000 for each violation thereof. Violators shall also be responsible for court costs and reasonable attorneys' fees of the Township, as permitted by law. Each and every

day in which a person shall be in violation of this chapter shall constitute a separate offense.

- B. In addition to all other remedies and penalties provided by this chapter and other provisions of the Township Code, the Township Solicitor may bring suit in a court of competent jurisdiction to seek an injunction or other appropriate relief to halt any violation of this chapter. Such action may include seeking a temporary restraining order or temporary injunction and other appropriate temporary relief. Nothing in this chapter shall be deemed to restrict a suit for damages on behalf of the Township or on behalf of any other person or entity.



**Chapter 139****JUNKYARDS**

<b>§ 139-1.</b>	<b>Definitions.</b>	<b>§ 139-3.</b>	<b>Violations and penalties.</b>
<b>§ 139-2.</b>	<b>Junkyards prohibited.</b>	<b>§ 139-4.</b>	<b>Filing with Bureau of Municipal Affairs.</b>

**[HISTORY: Adopted by the Board of Supervisors (now Township Council<sup>40</sup>) of the Township of Middletown 1-21-1963 by Ord. No. 74 (Ch. VI, Art. 1, Sec. 102, of the 1976 Ordinance Book). Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Solid waste — See Ch. 192.**

**Zoning — See Ch. 275.**

**§ 139-1. Definitions.**

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

**JUNKYARD** — Includes any space or area, whether fenced or not, with or without a roof, used for the purpose or purposes of dismantling, depositing or storing an outworn, discarded, abandoned, junked or wrecked motor vehicle or vehicles, machinery, metal scrap, furniture or household goods or accumulation of parts thereof.

**§ 139-2. Junkyards prohibited.**

- A. The establishment, maintenance or conduct of any junkyard within the limits of the Township of Middletown, Delaware County, Pennsylvania is hereby declared to be a public nuisance and liable to be abated as provided by law.
- B. It shall be unlawful for any person or persons firm or corporation, to establish, maintain, conduct or permit the establishment, maintenance or conduct of any junkyard within the limits of the Township of Middletown, Delaware County, Pennsylvania.

**§ 139-3. Violations and penalties.**

- A. Any person or persons, firm or corporation violating any provisions of this chapter shall, upon summary conviction before a Magisterial District Judge of said Township, be sentenced to pay a fine of not less than \$50 or more than \$100, together with the costs of prosecution, which shall be recoverable as debts of like amount are now recoverable, and in default of payment of said fine and costs, shall be committed to the Delaware County Prison for a period not exceeding 30 days.
- B. The establishment, maintenance or conduct of a junkyard, as aforesaid, for any day, or portion thereof, shall constitute a separate and distinct violation.

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**40. Editor's Note: The name of the Township's governing body became the Township Council as of 1-1-1978, the effective date of the Home Rule Charter.**

**§ 139-4. Filing with Bureau of Municipal Affairs.**

A certified copy of this chapter shall be filed with the Bureau of Municipal Affairs, Department of Internal Revenue of the Commonwealth of Pennsylvania, within 15 days after its final passage and adoption.

LITTERING

**Chapter 148**

**LITTERING**

**§ 148-1. Unlawful to litter.**

**§ 148-2. Violations and penalties.**

**[HISTORY: Adopted by the Board of Supervisors (now Township Council<sup>41</sup>) of the Township of Middletown 9-14-1959 by Ord. No. 50 (Ch. IV, Art. 3, of the 1976 Ordinance Book). Amendments noted where applicable.]**

**GENERAL REFERENCES**

Solid waste — See Ch. 192.

Streets and sidewalks — See Ch. 204.

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**§ 148-1. Unlawful to litter.**

From and after the passage of this chapter it shall be unlawful for any person or persons, firm or corporation, to throw, place or be a party to any throwing or placing of any papers, bottles, cans or other rubbish or waste materials on any lawn, vacant lot, public area, sidewalk, street, or public highway in the Township of Middletown.<sup>42</sup>

**§ 148-2. Violations and penalties.**

Any person who shall violate any of the provision of this chapter shall be guilty of an offense, and upon conviction thereof, before any Magisterial District Judge shall be subject to a fine not exceeding \$50, together with costs of prosecution, and in default of the payment of the fine and costs, may be sentenced and committed to the County Jail for a period not exceeding 30 days.

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41. Editor's Note: The name of the Township's governing body became the Township Council as of 1-1-1978, the effective date of the Home Rule Charter.

42. Editor's Note: See 53 P.S. §§ 65729, 66529 and 65101 et seq.

**Chapter 155****NOISE**

<b>§ 155-1.</b>	<b>Unnecessary noise prohibited.</b>	<b>§ 155-2.</b>	<b>Specific prohibitions.</b>
		<b>§ 155-3.</b>	<b>Violations and penalties.</b>

**[HISTORY: Adopted by the Township Council of the Township of Middletown 4-22-1996 by Ord. No. 567 (Ch. IV, Art. 7, of the 1976 Ordinance Book). Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Animals — See Ch. 63.**

**All-terrain vehicles — See Ch. 227.**

**Parks and recreation areas — See Ch. 161.**

**Zoning — See Ch. 275.**

**Streets and sidewalks — See Ch. 204.**

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**§ 155-1. Unnecessary noise prohibited.**

It is hereby declared to be a nuisance and it shall be unlawful for any person, firm or corporation to make or cause or suffer or permit to be made or caused, upon any premises owned, occupied or controlled by him or it or upon any public street, alley or thoroughfare in the Township of Middletown, any unnecessary noises or sounds by means of the human voice or by any other means or methods which are physically annoying to the comfort of any person or which are so harsh or so prolonged or unnatural or unusual in their use, time and place as to occasion physical discomfort or which are injurious to the lives, health, peace and comfort of inhabitants of said Township.

**§ 155-2. Specific prohibitions.**

A violation of any of the following regulations and/or prohibitions is declared to be loud, disturbing, excessive, unreasonable noise and a nuisance in violation of this chapter, but said enumeration shall not be deemed to be exclusive:

- A. Musical instruments, stereos and other sound-producing devices. No person, firm or corporation shall play, use or operate or knowingly permit to be played, used or operated any radio receiving set, musical instrument, phonograph, sound amplifier, loudspeaker or other machine or device for the reproduction of sound upon property (real or personal) or premises owned, occupied or used by him, them or it, so that the sound coming from such machine can be audibly heard at a distance greater than 100 feet from the property or premises wherein such machine or device is located. Nothing herein contained shall be construed to prohibit the otherwise lawful playing of a band or orchestra in any concert hall, auditorium, club room or public park or other public location for a bona fide purpose.
- B. Sound trucks and loudspeakers.
  - (1) No person, firm or corporation shall operate a sound truck or loudspeaker on the streets or public places of the Township of Middletown without first obtaining a permit therefor from the Code

Enforcement Department. Such permit shall be for a period of one day only. Such permit shall not be transferable from person to person or from sound truck to sound truck and may not be extended as to the date it shall be used nor shall any permit for the operation of such sound truck be issued for use earlier than 8:00 a.m. or later than 9:00 p.m. of the prevailing local time. Every application for a permit shall be accompanied by a permit fee of \$25 or such other amount as may be set by Township Council by resolution from time to time.

- (2) The application for such permit shall be filed in duplicate with the Township Manager, and the permit issued shall be limited in accordance with the information contained in such application, which shall set forth the following:
    - (a) Name and home address of the applicant.
    - (b) Business address of the applicant.
    - (c) Name and address of the owner of the sound truck.
    - (d) Make and license number of the sound truck.
    - (e) Name and address of the person operating the sound truck.
    - (f) Name and address of the person operating the sound equipment.
    - (g) The purpose for which the sound truck will be used.
    - (h) The proposed hours of operation of the sound truck.
    - (i) A certificate from an engineer that such amplifying machine is so equipped and regulated as to decibels that the sound coming from such machine cannot be audibly heard at a distance greater than 100 feet from the sound truck or amplifying machine.
  - (3) After the issuance of said permit, the Township Manager shall return one certified copy of the application to the permittee, together with the permit, which must be in the possession of the operator of the sound truck during such time that the sound-amplifying equipment is in operation. Such certified application and permit shall, upon request, be promptly exhibited to any Code Enforcement Officer or other law enforcement officer of the Township of Middletown.
  - (4) No sound truck or loudspeaker operating pursuant to a permit so issued may be used in such a way that it attracts the attention of motorists or pedestrians, causing the blocking of streets and thereby creating a traffic congestion and hazard.
- C. Horns. It shall be unlawful for any person, firm or corporation to sound any horn or warning device on any automobile, truck, motorcycle, bus or other vehicle, except when required by law or to give timely warning of impending danger to persons driving other vehicles or to persons upon the street. No person shall sound any horn or warning device on any automobile, truck, motorcycle, bus or other vehicle which shall emit an unreasonably loud or harsh sound or for any unnecessary or unreasonable period of time.
- D. Construction work.
- (1) It shall be unlawful for any person, firm or corporation or their agents or employees owning, occupying or performing construction work at any building, premises or other place in the Township of Middletown to operate or permit to be operated any type of machinery, appliance,

equipment or hand or power tool for construction purposes which emits noise beyond the premises upon which said machinery, appliance, equipment or hand or power tool is being operated or used between the hours of 9:00 p.m. and 7:00 a.m., current time or on any Sunday or legal holiday.

- (2) The Code Enforcement Department shall be authorized to permit emergency construction and repair outside of the hours specified above upon submission of adequate proof of the necessity of such work.
- E. Motorized parking lot sweepers. Operating or permitting the operation of any motor vehicle or motor-driven equipment which is designed to collect refuse by rotating broom, vacuum, blower or other method requiring mechanical operation, and which creates during the collection cycle or operation a disturbing noise or any noise audible off of the property on which the vehicle or equipment is being operated is prohibited between the hours of 10:00 p.m. and 7:00 a.m. the following day.
- F. Domestic landscaping and maintenance. No person, firm or corporation shall operate or permit to be operated any power saw, sander, drill, grinder, mower, blower, garden equipment or tools of like nature, used primarily for domestic purposes, outdoors between one hour after sunset and 8:00 a.m. the following day.
- G. Operation of ATVs. It shall be unlawful for any person to operate or permit the operation of an ATV (as defined in Chapter 227 of the Middletown Township Code) in violation of Chapter 227, or in any manner such that the sound therefrom creates a noise disturbance which disturbs the peace and quiet of any neighboring property. **[Added 11-10-2003 by Ord. No. 650]**

### **§ 155-3. Violations and penalties.**

Any person, firm or corporation who shall violate any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$600, plus costs of prosecution, and, in default of such fine and costs, by imprisonment in the county jail for a term not exceeding 30 days. Each violation of any of the provisions of this chapter shall be deemed to be a separate and distinct offense.

**Chapter 161****PARKS AND RECREATION AREAS**

**§ 161-1. Prohibited activities and conduct.**

**§ 161-2. Violations and penalties.**

**[HISTORY: Adopted by the Township Council of the Township of Middletown 6-13-1988 by Ord. No. 422 (Ch. VII, Art. 8, of the 1976 Ordinance Book). Amendments noted where applicable.]**

**GENERAL REFERENCES**

Construction codes — See Ch. 89.

All-terrain vehicles — See Ch. 227.

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**§ 161-1. Prohibited activities and conduct.**

The following activities and conduct are prohibited in Township park and recreation areas owned, leased or under the control of the Township Council:

- A. Intoxicating beverages or drugs.
- B. Gambling or obscene or indecent act or language or any conduct that may annoy others.
- C. Defacement of any building, tree, plant or equipment.
- D. The use of fireworks.
- E. The use of moped, minibike, all-terrain vehicle, snowmobile or any other motorized vehicle.
- F. Bicycles or wheeled vehicles on hiking trails.
- G. Parking in other than a designated parking area or occupying a parked vehicle after dark.
- H. Lighting a fire anywhere except in designated fireplaces.
- I. Use of javelins, arrows, discuses or similar equipment dangerous in character.
- J. One-time use by a group in excess of 25 persons, except upon permit obtained 48 hours in advance from the Township.
- K. Extended use of the facility for a project or program without Township approval.
- L. Use after sunset or before sunrise without prior Township approval.
- M. Dogs or other animals running at large.
- N. Playing or practicing of golf.
- O. Use of motorized toys or models.

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- P. Littering or dumping of trash, refuse or other debris.
- Q. Use of glass containers in trail areas.
- R. Hunting with use of bows, arrows, pistols, rifles, knives or any other weapons or devices.
- S. Use of paint ball guns or other devices for the discharge of paint balls in or onto Township park and recreation areas as described above. **[Added 6-8-1998 by Ord. No. 585]**

**§ 161-2. Violations and penalties.**

Any person found guilty of violating any of the foregoing provisions shall be subject to a fine of \$500, upon conviction before a Magisterial District Judge. Should any act of assembly permit a fine in an amount greater than \$500, the greater of that amount or \$500 shall be permissible.



**Chapter 167****PEDDLING AND SOLICITING**

§ 167-1.	<b>Definitions.</b>	§ 167-8.	<b>Parking.</b>
§ 167-2.	<b>License required.</b>	§ 167-9.	<b>Fixed location prohibited.</b>
§ 167-3.	<b>Application for license.</b>	§ 167-10.	<b>Records.</b>
§ 167-4.	<b>License fee.</b>	§ 167-11.	<b>Suspension of license.</b>
§ 167-5.	<b>Display of license.</b>	§ 167-12.	<b>Additional requirements.</b>
§ 167-6.	<b>Permitted selling times.</b>	§ 167-13.	<b>Violation and penalties.</b>
§ 167-7.	<b>Noise prohibited.</b>		

**[HISTORY: Adopted by the Board of Supervisors (now Township Council<sup>43</sup>) of the Township of Middletown 4-10-1961 by Ord. No. 65 (Ch. 111, Art. 1, of the 1976 Ordinance Book). Amendments noted where applicable.]**

**GENERAL REFERENCES**

Food establishments — See Ch. 127.

Streets and sidewalks — See Ch. 204.

Noise — See Ch. 155.

**§ 167-1. Definitions.**

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

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

**PEDDLING** — Engaging in peddling, canvassing, soliciting or taking orders, either by sample or otherwise, for any goods, wares or merchandise, upon any of the streets or sidewalks or from dwelling unit to dwelling unit within the Township of Middletown; provided, the word "peddling" shall not apply to: **[Amended 9-23-2019 by Ord. No. 811]**

- (1) Farmers selling their own produce;
- (2) 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) 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.

**SOLICITING** — The seeking or taking of contracts or orders for any goods, wares or merchandise for immediate or future delivery, or seeking contributions of money, property or services, or for services performed for the homeowner by a private individual or for-profit corporation, from dwelling unit to

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43. Editor's Note: The name of the Township's governing body became the Township Council as of 1-1-1978, the effective date of the Home Rule Charter.

dwelling unit within the Township.[Added 9-23-2019 by Ord. No. 811]

**SOLICITOR** — Any person who shall engage in soliciting as hereinabove defined.[Added 9-23-2019 by Ord. No. 811]

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

**§ 167-2. License required.**

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

**§ 167-3. Application for license. [Amended 9-23-2019 by Ord. No. 811]**

- A. Every person desiring to engage in peddling in the Township of Middletown shall first make application to the Township Manager 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 chapter shall be transferable from one person to another.
- B. Each license shall be for the current year. No abatement of the annual license fee shall be made for any fractional part of a year, other than the annual license fee applied for on or after August 1 of each year, whereupon the said license fee shall be reduced to 1/2 of the original fee. All licenses shall expire on December 31 of the year in which they were issued.

**§ 167-4. License fee. [Amended 6-21-1976 by Ord. No. 199; 9-23-2019 by Ord. No. 811]**

Fees shall be established by the Master Fee Schedule adopted from time to time by Council resolution.

**§ 167-5. Display of license.**

Upon making application therefor and paying for 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 wear prominently upon his person such license as is supplied by the Township. 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 horse-drawn or motor vehicle.

**§ 167-6. Permitted selling times.**

No person licensed as a peddler under this chapter shall engage in peddling at any time on Sunday, or upon any other day of the week before 9:00 a.m. or after 5:00 p.m.

**§ 167-7. Noise prohibited.**

No person licensed as a peddler under this chapter shall hawk or cry his wares upon any of the streets or

sidewalks of the Township, nor shall be use any loud speaker or horn or any other device for announcing his presence by which the public is annoyed.

**§ 167-8. Parking.**

No person licensed as a peddler under this chapter shall park any vehicle upon any of the streets or alleys of the Township in order to sort, rearrange or clean any of his goods, wares or merchandise; nor may any such person place or deposit any refuse upon any of such streets or alleys; nor may any such person maintain or keep a street or curbstone market by parking any vehicle upon any street or alley in the Township for longer than necessary to sell therefrom to persons residing in the immediate vicinity.

**§ 167-9. Fixed location prohibited.**

No person licensed as a peddler under this chapter shall occupy any fixed location upon any of the streets, alleys or sidewalks of the Township for the purpose of peddling, with or without any stand or counter.

**§ 167-10. Records. [Amended 9-23-2019 by Ord. No. 811]**

The Township Manager shall keep a record of all licenses issued under this chapter and shall supervise the activities of all holders of such licenses.

**§ 167-11. Suspension of license.**

The Township Manager of the Township of Middletown is hereby authorized to suspend any license issued under this chapter when he deems such suspension to be beneficial to the public health, safety or morals, or for violation of any of the provisions of this chapter, or for giving false information upon any application for a license hereunder.

**§ 167-12. Additional requirements. [Added 9-23-2019 by Ord. No. 811<sup>44</sup>]**

Every person to whom a license has been issued hereunder shall, in the carrying on of his business or activities in the Township, comply with the following:

- A. The licensee shall not permit any other person to have possession of their license card and shall immediately report its loss to the Police Department. The licensee shall not cause or permit their license card to be altered or defaced.
- B. The licensee shall not enter or attempt to enter any dwelling unit without invitation or permission of the occupant and shall immediately leave any premises upon request.
- C. The licensee shall immediately surrender their license card upon revocation of his license.
- D. No peddling or soliciting of any goods to any resident who has posted upon the resident's property signs such as "No Solicitation," "No Peddling," "No Trespassing," or such similar signs indicating a prohibition of entry upon resident's property.
- E. Any peddler entering upon a resident's property shall immediately leave said property when asked or instructed to do so by anyone present on the property.
- F. No peddling or soliciting of any goods from a semi-tractor/tractor trailer truck on any street, highway, sidewalk or other locations in the Township.

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44. Editor's Note: This ordinance also renumbered former § 167-12, Violations and penalties, as § 167-13.

**§ 167-13. Violation and penalties. [Amended 9-23-2019 by Ord. No. 811]**

Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than \$500 and costs of prosecution, and, in default of payment thereof, to imprisonment for not more than 30 days.

# SEWERS

## Chapter 180

# SEWERS

### ARTICLE I Sewer Use Regulations

§ 180-1.	Definitions.	§ 180-21.
§ 180-2.	Use of public sewers required; use regulations.	§ 180-22.
§ 180-3.	Connections; permits.	§ 180-23.
§ 180-4.	Attachment to line; inspections; maintenance; prohibited sewage.	§ 180-24.
§ 180-5.	Enforcement.	§ 180-25.
§ 180-6.	Purpose.	§ 180-26.
		§ 180-27.
		§ 180-28.

### ARTICLE II Connection Fees and Sewer Charges

§ 180-7.	Definitions.	§ 180-29.
§ 180-8.	Imposition of connection charges and tapping fee.	§ 180-30.
§ 180-9.	Imposition of sewer rent or charges.	§ 180-31.
§ 180-10.	Rates.	§ 180-32.
§ 180-11.	Additional sewer rent for industrial wastes.	§ 180-33.
§ 180-12.	Measuring volume of sanitary sewage.	§ 180-34.
§ 180-13.	Prohibited wastes.	§ 180-35.
§ 180-14.	Admission of industrial wastes to the sewer system.	§ 180-36.
§ 180-15.	Time and method of payment.	§ 180-37.
§ 180-16.	Penalties; delinquent rentals and liens.	§ 180-38.
§ 180-17.	Segregation of sewer revenues.	§ 180-39.
§ 180-18.	Rules, regulations and operations.	§ 180-40.
§ 180-19.	When effective.	§ 180-41.
		§ 180-42.
		§ 180-43.
		§ 180-44.
		§ 180-45.

### ARTICLE III Holding Tanks

§ 180-20.	Purpose.
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Definitions.
Rights and privileges granted.
Rates and charges.
Limited/temporary use of holding tanks.
Licensing and fees.
Duties of improved property owner.
Inspection, reports, maintenance and revocation of permit.
Abatement of nuisances.

### ARTICLE IV Wastewater Treatment

Title and general intent.
Violations.
General provisions.
General sewer use requirements.
Pretreatment of wastewater.
Wastewater discharge permit eligibility.
Wastewater discharge permit issuance process.
Reporting requirements.
Compliance monitoring.
Confidential information.
Publication of industrial users in significant noncompliance.
Administrative enforcement remedies.
Judicial enforcement remedies.
Supplemental enforcement action.
Affirmative defenses to discharge violations.
Miscellaneous provisions.
Prosecution.

## MIDDLETOWN CODE

**[HISTORY: Adopted by the Board of Supervisors (now Township Council<sup>45</sup>) of the Township of Middletown as indicated in article histories. Amendments noted where applicable.]**

### GENERAL REFERENCES

Construction codes — See Ch. 81.

Subdivision and land development — See Ch. 210.

Streets and sidewalks — See Ch. 204.

Water — See Ch. 242.

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**45. Editor's Note: The name of the Township's governing body became the Township Council as of 1-1-1978, the effective date of the Home Rule Charter.**

## ARTICLE I

**Sewer Use Regulations****[Adopted 5-2-1968 by Ord. No. 105 (Ch. VI, Art. 2, Sec. 201, of the 1976 Ordinance Book)]****§ 180-1. Definitions.**

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

**AUTHORITY** — Middletown Township Delaware County Sewer Authority, a Pennsylvania municipality authority.

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

**IMPROVED PROPERTY** — Any property 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 sewage and/or industrial wastes shall be or may be discharged.

**INDUSTRIAL WASTES** — Any solid, liquid or gaseous substance or form of energy rejected or escaping in the course of any industrial, manufacturing, trade or business process, or in the course of the development, recovery or processing of natural resources and or man-made materials, as distinct from sewage.

**LATERAL** — That part of the sewer system extending from a sewer to the curblin, or, if there shall be no curblin, to the edge of pavement or to the edge of cartway or easement, if not paved, 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.

**OWNER** — Any person vested with ownership, legal or equitable, sole or partial, of any property located in this Township.

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

**SEWAGE** — Normal water-carried household and toilet wastes from any improved property.

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

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

**TOWNSHIP** — The Township of Middletown, Delaware County, Pennsylvania a political subdivision, acting by and through its Board of Supervisors, or in appropriate cases, by and through its authorized representatives.

**TOWNSHIP ENGINEER** — An engineer employed by the Township or an authorized member of his staff.

**§ 180-2. Use of public sewers required; use regulations.**

- A. Connection and billing. The owner of any improved property which is or hereafter becomes accessible to and whose principal building is within 150 feet of the sewer system, shall make connection therewith in such manner as this Township or 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 sewage and acceptable 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; provided, however, that the billing for each connection shall commence in 60 days after the notice to make the same.

- B. Connection to sewer required. All sewage and acceptable industrial wastes from any improved property, after connection of such improved property with a sewer shall be required under Subsection A, 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.
- C. Private discharge within Township prohibited. No person shall place or deposit or permit to be placed or deposited upon public or private property within this Township any sewage or industrial wastes in violation of Subsection A. No person shall discharge or permit to be discharged to any natural outlet within this Township any sewage or Industrial wastes in violation of Subsection A, except where suitable treatment has been provided which is satisfactory to this Township.
- D. Connection notice specifications. The notice by this Township to make a connection to a sewer, referred to in Subsection A, shall consist of a copy of this article, including any amendments at the time in effect, and a written or printed document requiring the connection, and may be given at any time after a sewer is in place which can receive and convey 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 or certified mail, as provided by law.

**§ 180-3. Connections; permits. [Amended 12-8-1969 by Ord. No. 130]**

- A. Separate connections required. Except as otherwise provided in this Subsection A, 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, but then only after special permission of this Township and the Authority, in writing, shall have been secured.
- B. Connection required after notice. Each owner of any occupied building in the Township on property abutting on any street, alley or right-of-way in which there has been constructed a sanitary sewer and where any part of such building is within 150 feet of said sewer, shall at his own expense connect his facilities directly with such sewer in accordance with the provisions of this article within 60 days after the date of official notice to do so, given by personal service or by mail. In the event any such owner shall refuse or neglect to so connect within said sixty-day period, he shall be deemed to be in violation of this article, and the Board of Supervisors of the Township or their agents may enter upon such property and construct such connection. In such case, the Board of Supervisors shall forthwith, upon completion of the work, send an itemized bill of the cost of the construction of such connection to such owner, which bill shall be payable forthwith. In case of neglect or refusal by such owner to pay said bill within 30 days thereafter, it shall be the duty of the Board of Supervisors to file municipal liens for said construction, to be subject in all respects to the general law provided for the filing and recovery of municipal liens.
- C. Application for permit. Each owner of any property to which Subsection B above applies shall make application in writing to the Township, in such form as may be prescribed by the Township for a permit to make the required connection to the sanitary sewer. Upon submission of the above-mentioned application and payment of a connection charge, the applicant shall be entitled to a permit to make such connection.



- D. Compliance required. All connections made to any sanitary sewer shall be constructed in compliance with standard rules and regulations hereafter adopted by the Township governing the making of connections.

**§ 180-4. Attachment to line; inspections; maintenance; prohibited sewage. [Amended 7-19-1976 by Ord. No. 200]**

- A. Attachment to sewer line. An improved property, at the time connection to a sewer is required, shall break the existing sewer line 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.
- B. Inspection of building sewer. No building sewer shall be covered until it has been inspected and approved by this Township. 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.
- C. Maintenance. Every building sewer of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.
- D. Excavation and restoration. 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.
- E. 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 15 days of receipt of such notice, this Township or the Authority may refuse to permit such person to discharge 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. Where the engineer of the Sewer Authority determines that excessive infiltration is occurring in the building sewer, said sewer authority shall require the owner or owners of the building sewer to correct the excessive infiltration. Should the owner or owners of the building sewer fail to correct the condition after reasonable notice, the Sewer Authority shall cause the condition to be corrected and shall forthwith, upon completion of the work, send an itemized bill covering the costs of said work to such owner or owners, which bill shall be payable within 30 days thereafter. In case of neglect or refusal by such owner or owners to pay such bill within said period of time, it shall be the duty of the Sewer Authority, as operating agent for the Board of Supervisors, to file a municipal lien for said correction, to be subject in all respects to the general law providing for the filing and recovery of municipal liens. The Authority shall also pursue any other legal remedies available for the collection of said bills.
- F. Types of sewage prohibited. No person shall pass any sewage into the sewer system containing any direct stormwater, roof or surface or subsurface drainage from stormwater inlets, sump pumps, floor drains, roof leaders or discharge from tile fields, nor any industrial waste, chemicals or other matter:
- (1) Having a temperature higher than 150° F.;
  - (2) Containing more than 100 parts per million, by weight, of fat, oil, or grease;
  - (3) Containing any gasoline, benzine, naptha, fuel oil or other inflammable or explosive liquids, solids, or gas;

- (4) Containing any unground garbage;
  - (5) Containing any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction or other interference with the operation of the treatment plant;
  - (6) Having a pH lower than 6.0 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the treatment plant;
  - (7) Containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the treatment plant. Toxic wastes shall include wastes containing cyanide or copper, chromium or other toxic metallic ions;
  - (8) Containing total solids of such character or in such quantity that unusual attention or expense is required to handle such materials at the treatment plant; and
  - (9) Containing noxious, malodorous gas or substance capable of creating a public nuisance.
- G. Industrial wastes. The admission into sanitary sewers of any industrial wastes is prohibited unless the owner or occupier of the property producing such waste shall first make application to the Board of Supervisors to discharge such waste into the sewer system, and if approved by the Board of Supervisors, to provide at his own expense adequate treatment facilities approved by the Township. Such facilities shall be continuously maintained in good condition.
- H. Compliance with Township plumbing code. Every connection made pursuant to the provisions of this article shall likewise be made in pursuance of the Township Plumbing Code.<sup>46</sup> The owner of the improved property upon which such connection is made shall be required to secure permits as required under such plumbing code (any notice under the provisions of this article shall not be construed to be a plumbing permit or compliance under the plumbing code with the requirements of a permit) and such work likewise shall be done in compliance with such plumbing code.

#### **§ 180-5. Enforcement.**

Any person who shall violate this article shall be liable, upon summary conviction for a first offense and upon summary conviction for each subsequent offense, to a fine of not less than \$25 nor more than \$100, together with costs of prosecution in each case. Default in payment of fine and costs shall make the offender liable for imprisonment for a term not to exceed five days. Each day that a violation shall continue shall be deemed and shall be taken to be a separate offense and shall be punishable as such. Fines and costs imposed under provisions of this article shall be enforceable and recoverable in the manner at the time provided by applicable law.

#### **§ 180-6. Purpose.**

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

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46. Editor's Note: See Ch. 89, Construction Codes, Art. III, Plumbing Standards.

## ARTICLE II

**Connection Fees and Sewer Charges****[Adopted 5-2-1968 by Ord. No. 106 (Ch. VI, Art. 2, Sec. 202, of the 1976 Ordinance Book)]****§ 180-7. Definitions.**

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

**AUTHORITY** — Middletown Township, Delaware County, Sewer Authority, a Pennsylvania municipality authority.

**BOD (BIOCHEMICAL OXYGEN DEMAND)** — The quantity of oxygen, expressed in parts per million by weight, utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five days at 20° C. The standard laboratory procedure shall be that found in the latest edition of "Standard Methods for the Examination of Water and Sewage," published by the American Public Health Association.

**COUNCIL** — The group of elected officials acting as the governing body of the Township.

**EDU** — Equivalent dwelling unit.

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

**PARTS OF PER MILLION (PPM)** — The ratio of parts by weight of material under consideration to 1,000,000 parts by weight of sewage. Metric conversion will be milligrams per liter (mg/l).

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

**pH** — The logarithm of the reciprocal of the hydrogen ion concentration expressed in moles per liter and indicates the degree of acidity or alkalinity of a substance.

**SERVICES** — A person or property where the principal building is within 150 feet of the sewer system, regardless of whether or not sewage can be carried away by gravity.

**SEWAGE** — Normal water-carried household and toilet wastes from residences, business buildings, institutions and industrial establishments.

**SEWER SYSTEM** — All facilities, as of any particular time, for collecting, pumping, transporting, treating and disposing of sewage and industrial wastes, situate in or adjacent to the Township and owned, maintained and operated by the Township, the Sewer Authority or their designated agents.

**SLUG** — Any discharge of water, sewage or waste exceeding a concentration or flow greater than five times that of the average twenty-four-hour discharge from the person, which is discharged continuously for a period longer than 15 minutes.

**SUSPENDED SOLIDS** — Solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtration.

**TAPPING FEE** — A charge assessed by the Middletown Township, Delaware County, Sewer Authority for each connection as determined by the Authority from time to time and established by resolution.

**TOWNSHIP** — The Township of Middletown, Delaware County, Pennsylvania, acting by or through its Council or, in appropriate cases by and through its authorized representatives.

**TOXIC SUBSTANCE** — Any poisonous substance.

**TREATMENT PLANT** — Wastewater treatment facility owned by Southwest Delaware County Municipal Authority in Aston Township, Aston, Pennsylvania, servicing Middletown Township by contract dated January 10, 1968.

**WATER SUPPLIER** — The public agency or private company furnishing water services to the particular property connected to the sewer system.

**§ 180-8. Imposition of connection charges and tapping fee.**

There is hereby imposed upon each owner of property connecting to the sewer system a connection charge of \$200 for each connection to a lateral of the sewer system at the curb or property line constructed during the 1968 sewer system construction project. The Authority shall, by resolution, establish a tapping fee.

**§ 180-9. Imposition of sewer rent or charges. [Amended 11-22-2010 by Ord. No. 716]**

There is hereby imposed upon each property in the Township which can be serviced by the sewer system and having the use thereof an annual or quarterly sewer rent or charge payable as hereinafter provided (such rent or charge having been determined, to the extent required by law, by the Authority) for the use, whether direct or indirect, of the sewer system, based on the schedules of classifications and rates or charges hereinafter set forth.

**§ 180-10. Rates. [Amended 6-26-2000 by Ord. No. 603; 11-24-2008 by Ord. No. 701; 11-22-2010 by Ord. No. 716; 12-10-2012 by Ord. No. 734; 12-9-2013 by Ord. No. 742; 11-24-2014 by Ord. No. 753; 11-23-2015 by Ord. No. 762; 1-3-2017 by Ord. No. 774; 12-11-2017 by Ord. No. 789; 12-13-2021 by Ord. No. 839; 11-28-2022 by Ord. No. 846<sup>47</sup>]**

Rates shall be as follows:

- A. The annual charge per equivalent dwelling unit (EDU) is increased from \$630 to \$665 for the calendar year 2023 and each year thereafter until amended.
- B. Each other user shall pay a quarterly rental for sanitary sewage service based on the quantity of water used, as evidenced by meter readings of water meters installed and maintained by the water supplier for the purpose of measuring water purchased from said supplier and such other meters, including metered sewer flows, as may be installed pursuant to any provision of this article and subject to the minimum charge hereinafter provided, all as follows:

<b>Classification</b>	<b>Water Consumed/ Metered Sewer Flows</b>	<b>Rate Per Quarter</b>
Other users	0 to 24,000 gallons	\$183.20 for the calendar year 2023 and each year thereafter until amended
	Above 24,000 gallons	\$7.57 per 1,000 gallons (or portion thereof) for the calendar year 2023 and each year thereafter until amended

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47. Editor's Note: This ordinance also provided that the effective date of the new rates would be 1-1-2023 and that the implementation of these rates would commence with the 1-1-2023 billing cycle for residential customers and the 2-15-2023 quarterly billing cycle for commercial and industrial customers.

Classification	Water Consumed/ Metered Sewer Flows	Rate Per Quarter
Multiple use	—	In case of a combination of one or more private dwellings or living units with one or more commercial establishments in one building, each of which has the use of the sewer system through one sewer connection, each such dwelling or living unit and each such commercial establishment shall be charged the applicable foregoing rates under Subsection A or B, as applicable, as though each thereof was in a separate structure and as though each had a direct and separate connection to the sewer system.

**§ 180-11. Additional sewer rent for industrial wastes.**

- A. The sewer rentals and charges for collection and treatment of industrial wastes discharged into the sewer system shall be made in accordance with § 180-10 above. In addition thereto, further charges shall be made for all sewage discharged into the sewer system having suspended solids and biochemical oxygen demand in excess of the following concentrations:
- (1) Suspended solids: 350 parts per million.
  - (2) BOD: 300 ppm.
- B. The additional charge for sewage having concentrations in excess of the foregoing shall be based on the strength factor determined according to the following formula:

$$\text{Factor} = 0.60 + 0.10 (\text{BOD in ppm}^*) / (300) + 0.30 (\text{SS in ppm}^*) / (350)$$

\* NOTE: Where these figures are less than 300 ppm in BOD or 350 ppm in suspended solids, the value in the parentheses shall be equal to one.

- C. In cases where the suspended solids, in the opinion of the Township, do not represent the true characteristics of the solids loading, the Township reserves the right to use total solids instead of suspended solids.
- D. No industrial user shall begin or continue to discharge any industrial waste into the sewer system until he has first submitted a written application to the Township for permission to do so, accompanied by a detailed report prepared by a sanitary engineer registered in Pennsylvania and satisfactory to the Township, setting forth such information relating to such industrial waste as the Township may require and until the Township shall have consented to such discharge.

**§ 180-12. Measuring volume of sanitary sewage.**

- A. Methods of measuring volume.
- (1) Whenever a person purchasing all water used from the water supplier discharges sanitary sewage into the sewer system, the volume of water consumed, as determined from meter readings of the water supplier, shall be used in computing the sewer rental.

- (2) In cases where dwellings and establishments have sources of water supply in addition to or other than that of the water supplier, those establishments shall provide a meter on such additional or other source of supply. The total amount of water consumed, as shown by these meter readings, will be used in computing the sewer rental.
- (3) In cases where establishments use water from the water supplier and/or from an independent supply for industrial or recreational purposes such that the water so used is not discharged into the sewer system, the quantity of water used to determine the sewer rental shall be computed by one of the following methods:
  - (a) Method No. 1: by placing a meter or measuring device on the sewer connection. The readings from this meter or measuring device shall be used in computing the sewer rental.
  - (b) Method No. 2: by placing a meter or measuring device on the effluent not discharging into the sewer system. The readings from this meter or measuring device will then be deducted from the total water meter readings and the remainder will be used in computing the sewer rental.
- B. No meters. When, in the opinion of the Township or its designated agents, it is not practical to install meters or measuring devices to determine the sewer rental under either Subsection A(2) or (3) of this section, the Township may determine, in such manner and by such method as it may prescribe, the total amount of sanitary sewage discharged into the sewer system, and the quantity so determined to be discharged shall be used to determine the sewer rental. Any dispute as to the estimated quantity shall be submitted to the Township after notice of the estimate to the property owner. The decision of the Township on the matter shall be final for the current year.
- C. Measuring devices. All meters or other measuring devices not provided by the water supplier but required to be used under the provisions of this article shall be furnished and installed by the property owner and shall be under the control of the Township and may be tested, inspected or repaired by the Township employees whenever the Township deems necessary. The owner of the property upon which such measuring device is installed shall be responsible for its maintenance and safekeeping, and all repairs thereto shall be made at the property owner's expense, whether such repairs are made necessary by ordinary wear and tear or other causes. Bills for such repairs, if made by the Township, shall be due and payable at the same time and collected in the same manner as are the bills for sewer services; such bills from and after their due date shall constitute a lien upon the property upon which such measuring device is installed.
- D. Meter reading. The Sewer Authority shall have the right to read all meters or measuring devices, and they shall be available to Authority employees for meter reading at any reasonable time. The property owner shall keep meters safely accessible at all times.

### **§ 180-13. Prohibited wastes.**

No person shall discharge or cause to be discharged any wastes which contain any direct stormwater, roof, surface or subsurface drainage from stormwater inlets, sump pumps, floor drains, roof leaders or discharge from tile fields nor any industrial waste, chemicals or other matter (unless otherwise permitted, authorized or approved by the Township):

- A. Having a temperature higher than 150° F;
- B. Containing more than 100 parts per million, by weight, of fat, oil or grease;

- C. Containing any gasoline, benzine, naphtha, fuel oil or other flammable or explosive liquids, solids or gas;
- D. Containing any unground garbage;
- E. Containing any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction or other interference with the operation of the treatment plant;
- F. Having a pH lower than 6.0 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the treatment plant;
- G. Containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the treatment plant. Toxic wastes shall include wastes containing cyanide or copper, chromium or other toxic metallic ions;
- H. Containing total solids of such character or in such quantity that unusual attention or expense is required to handle such materials at the treatment plant; and
- I. Containing noxious, malodorous gas or substances capable of creating a public nuisance.

**§ 180-14. Admission of industrial wastes to the sewer system.**

- A. Industrial waste questionnaire. Any person desiring to make a connection to the sewer system for the purpose of discharging industrial wastes to the public sewers shall fill in and file with the Township an industrial waste questionnaire, which shall furnish pertinent or predicted data, inclusive of quantity of flow, and an analysis of the industrial waste to be discharged into the sewerage system.
- B. Control manhole.
  - (1) Any person discharging industrial wastes into the sewerage system shall construct and maintain a suitable control manhole or manholes downstream from any treatment, storage or other approved works to facilitate observation, measurement and sampling of all wastes, including domestic sewage from the person.
  - (2) The control manhole or manholes shall be constructed at suitable and satisfactory locations and built in a manner approved by the Township Engineer.
  - (3) The control manhole or manholes shall be equipped with permanent-type volume-measuring devices of a type approved by the Township Engineer. The manhole shall be installed by the person discharging the waste, at his expense, and shall be maintained by him so as to be safe, accessible and in proper operation condition at all times.
  - (4) Plans for the construction of the control manhole or manholes and all included devices shall be approved by the Township prior to the beginning of construction.
- C. Measurement of flow.
  - (1) The volume of flow used in computing surcharges shall be the metered water consumption of the person, as shown in the records of meter readings maintained by the water supplier.
  - (2) Where the person discharging wastes into the sewage works of the Township procures any part or all of his water supply from sources other than the water supplier, all or a part of which is

discharged into the sewerage system, the person discharging said waste may install and maintain, at his expense, water meters of a type approved by the Township for the purpose of determining the proper volume of flow to be used.

D. Sewage metering.

- (1) Sewage metering may be authorized by the Township in those cases in which there is no other method of determining the volume of industrial wastes or sanitary sewage entering the sewerage system.
- (2) Auxiliary meters for determining the volume of flow of these sewers shall be installed, owned and maintained to the satisfaction of the Township by the property owners. However, following the installation of such meters and approval of the installation by the Township, such meters may not be removed without the approval of the Township.

E. Sewage sampling.

- (1) The industrial wastes of each person discharging the same into the sewerage system shall be subject to periodic inspection and a determination of character and concentration of said wastes. These determinations shall be made quarterly, or as required, by the Township at the expense of the owner or his representative and a report of determinations submitted to the Township.
- (2) The installation, operation and maintenance of the sewage sampling facilities shall be assumed by the person discharging the waste and shall be subject at all times to the approval of Township. Access to the sewage sampling location or locations shall be available to the Township or its duly authorized representatives at all times. Due care shall be exercised in the collection and preservation of all samples to ensure the preservation of the sample in as nearly its natural state as possible. This includes the refrigeration of all samples which will be analyzed by biochemical methods.

F. Analysis. The laboratory methods used in the examination of all industrial waste shall be those set forth in the latest edition of Standard Methods for the Examination of Water and Sewage, as published by the American Public Health Association. However, alternate methods for the analysis of industrial wastes may be used, subject to mutual agreement between the Township and the particular person.

**§ 180-15. Time and method of payment.**

- A. Residential. The above tapping fee assessment shall be payable upon all applications for permits to make sewer connections. Sewer rental charges shall be made to residential houses, apartments, condominiums, townhouses, trailers or other dwelling units, by semiannual bills dated the 15th days of February and August of each year, beginning on the semiannual billing date immediately following the semiannual calendar period in which connection is made to the sewer system or when a connection is made to the sewer system or when a certificate of use and occupancy is issued by the Township for new or renovated buildings. Bills for the first billing period will be prorated from the date of connection or issuance of a certificate of occupancy to the billing date.
- B. Commercial, industrial, municipal and any user other than residential shall be charged quarterly on March 15, June 15, September 15 and December 15 or dates which correspond to the receipt of quarterly water and sewage meter data, beginning on such quarterly date immediately following the quarterly calendar period on which connection or issuance of a certificate of occupancy is made to the sewer system, for the quarterly calendar period or portion thereof preceding the date of the bill.



**§ 180-16. Penalties; delinquent rentals and liens.**

- A. Annual charges for sewer service shall be subject to a penalty of 10% if not received in the Township Building, the Sewer Authority Building or designated bank on or before May 31 of each year, and the Township shall have the right to terminate water and/or sewer service from the property where payment has not been made and not to restore same until all unpaid bills against the property and the costs of cutting off and restoring service shall have been paid. Further, the Township may impose an interest charge each month as established by Council from time to time. **[Added 6-26-2000 by Ord. No. 603<sup>48</sup>]**
- B. All sewer rentals, together with all penalties thereon, not paid on or before December 31 of each year shall be deemed to be delinquent. All delinquent sewer rentals and all penalties thereon shall be a lien on the property served and shall be entered as a lien against such property in the office of the Prothonotary of Delaware County and shall be collected in the manner provided by law for the filing and collection of such liens. **[Added 6-26-2000 by Ord. No. 603<sup>49</sup>]**
- C. Notice. All persons serviced by the sewer system must give the Township their correct address. Failure to receive bills will not be considered an excuse for nonpayment nor permit an extension of the period during which bills are payable at face amount.

**§ 180-17. Segregation of sewer revenues.**

The funds received by the Township or its billing agent from the collection of the connection charges and from sewer rentals and all penalties thereon as herein provided for and any fines collected by the Township in connection with the sewer system shall be segregated and kept separate and apart from all other funds of the Township and shall be used only for the purpose of defraying the expenses of the Township in the operation, maintenance, repair, alteration, inspection, depreciation or other expenses in relation to such sewer system, including periodic payments due under an agreement with Southwest Delaware County Municipal Authority for treatment and disposal of sewage, and for such payments as the Township may be required to make under any lease it may enter into for and of, or in connection with, said sewer system with the Middletown Township, Delaware County, Sewer Authority, in accordance with the provisions of the Act of May 2, 1945, P.L. 382, as amended.<sup>50</sup>

**§ 180-18. Rules, regulations and operations.**

The Township reserves the right to and may from time to time adopt, revise, amend and readopt such rules and regulations as it deems necessary and proper for the use and operation of the sewer system, and all such rules and regulations shall become a part of this article. Further, the Township reserves the right to contract with the Middletown Township, Delaware County, Sewer Authority to operate the sewer system on terms and conditions agreed upon mutually.

**§ 180-19. When effective.**

This article and any rules and regulations hereunder shall become effective at once and shall be applicable to the properties in the Township as soon as they become connected with and have the right to use the sewer system. The Township reserves the right to make such changes from time to time as, in its opinion,

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48. Editor's Note: This ordinance also provided that the effective date of the above changes shall be January 1, 2001, and implementation of the change shall take place with a single billing cycle for the year 2001.

49. Editor's Note: This ordinance also provided that the effective date of the above changes shall be January 1, 2001, and implementation of the change shall take place with a single billing cycle for the year 2001.

50. Editor's Note: Said Act was repealed 6-19-2001 by P.L. 287, No. 22; see now 53 Pa.C.S.A. § 5601 et seq.

may be desirable or beneficial and to amend this article or to change the rates or charges in such manner and at such times as, in its opinion may be advisable.

ARTICLE III  
**Holding Tanks**

**[Adopted 3-8-1993 by Ord. No. 520 (Ch. VII, Art. 6, of the 1976 Ordinance Book)]**

**§ 180-20. Purpose.**

The purpose of this article is to establish procedures for the use, operation and maintenance of holding tanks designed to receive and retain sewage, on a limited and temporary basis, whether from residential or commercial uses, and for the collection, transportation and disposal of sewage therefrom, and it is hereby declared that the enactment of this article is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of Middletown Township (the "Township").

**§ 180-21. Definitions.**

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

**COUNCIL** — The Council of Middletown Township, Delaware County, Pennsylvania.

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

**IMPROVED PROPERTY** — Any property within Middletown 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 sewage shall or may be discharged.

**OWNER** — Any person vested with ownership, legal or equitable, sole or partial, of any property located within Middletown Township.

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

**PUBLIC SEWER SYSTEM** — All facilities, as of any particular time, for collecting, pumping, transporting, treating and disposing of sewage and industrial wastes, situate in or adjacent to the Township and owned, maintained and operated by the Township or the Township Sewer Authority or an entity approved by the Township.

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

**TOWNSHIP** — Middletown Township, Delaware County, Pennsylvania.

**§ 180-22. Rights and privileges granted.**

The Township Sewage Enforcement Officer is hereby authorized and empowered to undertake within the Township, in accordance with the provisions hereof, the control over methods of holding tank usage, operation and maintenance and the disposal, collection and transportation of sewage therefrom.

**§ 180-23. Rates and charges.**

The Township Sewage Enforcement Officer shall have the right and power to charge and collect application or permit fees and escrow account funds in accordance with the provisions hereof.

**§ 180-24. Limited/temporary use of holding tanks.**

The use of holding tanks shall be permitted in Middletown Township only on improved property and only on a limited and temporary basis. No person shall be permitted to use a holding tank in Middletown Township unless:

- A. A permit therefor is issued by the Township in accordance with the provisions hereof;
- B. All approvals and permits for the use of the holding tank which are required by law have been obtained from the Pennsylvania Department of Environmental Protection (DEP) and any other agency or entity with jurisdiction; and
- C. The connection of the improved property to a public sewer system is imminent. The connection of the improved property to a public sewer system shall be considered "imminent" hereunder when:
  - (1) A project to construct a public sewer system to which the improved property will be able to connect has been authorized by the issuance of a notice to proceed by the Township Sewer Authority;
  - (2) The applicant has agreed to connect the improved property to the public sewer system as soon as such connection is possible.

**§ 180-25. Licensing and fees.**

- A. It shall be unlawful for any person to use a holding tank in Middletown Township unless and until the person obtains a permit to do so from the Township. A separate permit application must be made and a separate permit obtained for each holding tank proposed to be used.
- B. Any person proposing to use a holding tank in Middletown Township shall first apply for a permit by written application on a form furnished by the Township. The applicant must be the owner of the property where the holding tank is proposed to be used. The application shall be signed by a responsible applicant or by a fully authorized officer, partner or employee of the applicant and submitted to the Township Sewage Enforcement Officer who shall either approve or disapprove the same. The application shall be accompanied by a permit fee which shall be established by Township resolution.<sup>51</sup>
- C. If the Sewage Enforcement Officer approves the application, then the Township, acting through the Sewage Enforcement Officer, shall issue the permit. Whenever the Township issues a permit for a holding tank, it may impose conditions it deems necessary for the operation and maintenance of the tank to prevent a nuisance or public health hazard. An applicant shall be entitled to appeal from the disapproval of a holding tank application to the Council within 30 days after the disapproval. Such appeal shall be in writing, shall set forth the decision appealed from and the reason for the appeal and shall be verified by affidavit and shall be filed with the Township Manager. It shall be the duty of the Township Manager to bring said appeal to the attention of the Council, who shall proceed to consider said appeal at the next regular or special meeting of Township Council, to be held within 30 days after the date of filing of such appeal. The person appealing shall have the right to appear and to be heard if he states such desire in his written appeal. The action of the Council with respect to such appeal shall be final. A holding tank permit holder shall have similar rights of appeal with respect to any revocation of a holding tank permit.

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51. Editor's Note: The current resolution is on file in the office of the Township Secretary.

- D. Before any permit is issued, the applicant shall post an adequate escrow account with the Township, the amount of which shall be determined by the Sewage Enforcement Officer and/or Township resolution. If required by the Township, the applicant shall execute an escrow agreement with the Township which must be approved by the Township Solicitor. The escrow account shall be used for the repayment of costs incurred by the Township for inspections of the holding tank for which the permit is issued, and for any costs incurred by the Township under § 180-27 hereof and for any and all costs, expenses, charges and fees incurred by the Township in connection with or on account of the use of the holding tank on the improved property. As soon as the escrow account has been 50% depleted, it shall be replenished by the applicant to the original amount. Any amount remaining in the escrow account after the Township costs are repaid shall be returned to the applicant upon connection of the improved property to a public sewer system and the removal of the holding tank from the improved property in accordance with all applicable laws, ordinances and regulations.
- E. No permit for the use of a holding tank shall be issued hereunder unless:
- (1) The Township is provided with evidence satisfactory to it that all approvals and permits for the use of the holding tank which are required by law have been obtained from DEP and any other agency or entity with jurisdiction; and
  - (2) The connection of the improved property for which the holding tank permit is sought to a public sewer system is imminent as required hereunder and the applicant has provided the Township with evidence satisfactory to the Township of the same, including but not limited to an agreement by the applicant to:
    - (a) Connect the improved property to the public sewer system as soon as such connection is possible.
    - (b) Permit the Township, the Township Sewage Enforcement Officer and its, his or their authorized representatives or agents to enter the improved property to inspect the holding tank and to take any other action authorized hereunder.
    - (c) Permit the use of the escrow account in accordance with the provisions of this article.
    - (d) Indemnify and hold the Township harmless from and against any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity which it may incur or with which it may be threatened resulting in whole or in part from the use, operation and maintenance of the holding tank or the collection, transportation and disposal of sewage therefrom, except in the case of the willful misconduct, gross negligence or sole negligence of the Township.
    - (e) Comply with the provisions of § 180-26 hereof, which agreement shall be in a form satisfactory to the Township and the Township Solicitor.
- F. Expiration of permit.
- (1) Any permit issued hereunder shall be valid until the earlier to occur of:
    - (a) The date which is one year from the date the permit is issued.
    - (b) Any earlier date required by DEP.
    - (c) The connection of the improved property to a public sewer system.
    - (d) Revocation by the Township.

- (2) The Township may extend the permit period upon the written request of the applicant and upon the approval of such extension by DEP, if required.
- G. The submission of an application for a holding tank permit and the use of a holding tank within the Township shall be deemed to constitute an agreement by the applicant to:
- (1) Comply with the provisions of § 180-26 hereof.
  - (2) Permit the Township and/or its representatives or agents, including but not limited to the Sewage Enforcement Officer, to enter the improved property to inspect the holding tank and/or to take any action permitted hereunder.
  - (3) Connect the improved property to a public sewer system as soon as such connection is possible.
  - (4) Permit the use of the escrow fund for the purposes set forth herein.
  - (5) Indemnify and hold the Township harmless from and against any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity which it may incur or with which it may be threatened resulting in whole or in part from the use, operation and maintenance of the holding tank or the collection, transportation and disposal of sewage therefrom, except in the case of the willful misconduct, gross negligence or sole negligence of the Township.

**§ 180-26. Duties of improved property owner.**

The owner of an improved property that utilizes a holding tank shall:

- A. Install the holding tank in accordance with all applicable laws, ordinances and regulations, including but not limited to Chapter 73 of Title 25 of the Pennsylvania Code regarding standards for sewage disposal facilities. Such installation shall be inspected by the Township Sewage Enforcement Officer.
- B. Use, operate and maintain the holding tank in conformance with this article and any other applicable ordinance of this Township, and the provisions of any other applicable law, ordinance or regulation.
- C. Arrange for the collection, transportation and disposal of all sewage from any holding tank on the improved property. The collection, transportation and disposal of all sewage from any improved property utilizing a holding tank shall be done in accordance with all applicable laws, ordinances and regulations, and the disposal thereof shall be made only at such site or sites as may be approved by DEP. Such collection and transportation shall be done solely by or under the direction and control or with the approval of the Township and the Sewage Enforcement Officer.
- D. Permit only the Township or its representatives or agents, including but not limited to the Sewage Enforcement Officer or an entity approved by the Township, to inspect holding tanks.
- E. Permit only the Township or its representatives or agents, including but not limited to the Sewage Enforcement Officer, or an entity approved by the Township, to collect, transport and dispose of the contents therein.
- F. Keep a log relating to the use and operation of the holding tank, noting such matters as dates checked and pumped and approximate quantity of sewage pumped.
- G. Provide and maintain a visible and audible level indicator/alarm system to alert concerning the need for sewage to be hauled.

**§ 180-27. Inspection, reports, maintenance and revocation of permit.**

- A. The Township and/or its representatives or agents, including but not limited to the Township Sewage Enforcement Officer, shall be permitted to enter into any improved property for the purpose of inspecting the holding tank(s) being used thereon and for engaging in any other act authorized hereunder.
- B. The Township, acting through its Sewage Enforcement Officer, will receive, review and retain pumping receipts from permitted holding tanks, which pumping receipts shall be provided to him or her by the applicant.
- C. The Township, acting through its Sewage Enforcement Officer, will complete and retain inspection reports for each permitted holding tank.
- D. All holding tanks, including but not limited to the installation, use, operation and maintenance thereof and the collection, transportation and disposal of sewage therefrom, shall be subject to inspection by the Township.

**§ 180-28. Abatement of nuisances.**

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

ARTICLE IV  
Wastewater Treatment

**[Adopted 5-11-1998 by Ord. No. 584 (Ch. VI, Art. 6, of the 1976 Ordinance Book)]**

**§ 180-29. Title and general intent.**

This article is adopted to promote and protect the public health, safety, comfort, convenience and other aspects of the general welfare. These general goals include the specific enforcement of the various regulations promulgated by the Southwest Delaware County Municipal Authority (SWDCMA), the United States Environmental Protection Agency (USEPA), the Pennsylvania Department of Environmental Protection (PADEP), and such other agencies which may succeed the aforementioned agencies. This article shall be known and may be cited as the "Township of Middletown Wastewater Treatment Ordinance," and said Township shall be referred to hereinafter as the "municipality."

**§ 180-30. Violations.**

It is intended that this article provide for the enforcement and prosecution of the standards, rules and regulations adopted by SWDCMA, USEPA and PADEP. The municipality hereby ordains and establishes that any person, firm or corporation who fails or refuses to comply with the standards, rules, and regulations of the Southwest Delaware County Municipal Authority, which are set forth herein in §§ 180-31 through 180-45, shall be subject to the penalties set forth in this article.

**§ 180-31. General provisions.**

A. Purpose and policy.

- (1) This article sets forth uniform requirements for users of the wastewater collection and publicly owned treatment works (POTW) for this municipality to comply with all applicable state and federal laws, including the Clean Water Act (33 U.S.C. § 1251 et seq.), and the General Pretreatment Regulations (40 CFR 403). The objectives of this article are to:
  - (a) Prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW.
  - (b) Prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW.
  - (c) Ensure that the quality of the wastewater treatment plant sludge is maintained at a level.
  - (d) Ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations.
  - (e) Protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public.
  - (f) Improve the opportunity to recycle and reclaim wastewater and sludge from the POTW.
  - (g) Provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW.
  - (h) Enable the POTW to comply with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject.



(2) This article shall apply to all industrial users of the POTW. This article authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures; requires industrial user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

B. Administration. The administration and enforcement of this article shall be by an officer or person appointed by the governing body. Any powers granted to or duties imposed upon such officer or person may be delegated to other personnel.

C. Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, 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 appropriate Regional Administrator of the USEPA, or his designee, or the appropriate state authority when the state has been delegated an approved pretreatment program.

AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER —

(1) If the industrial user is a corporation, "authorized representative" shall mean:

- (a) 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; specifically, any delegate of the corporation identified by "Signature of Official" affixed to either initial wastewater survey for nonresidential establishments or permit renewal applications. Such delegate shall personally oversee and coordinate duties or obligations as required by the POTW's pretreatment program. Change in delegation shall be granted when a written request to do is submitted to the POTW by the IU's president, vice president or secretary.
- (b) The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the industrial user is a partnership or sole proprietorship, an "authorized representative" shall mean a general partner or proprietor, respectively.

(3) If the industrial user is a federal, state or local governmental facility, an "authorized representative" shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility or his/her designee.

(4) The individuals described in Subsections (1) through (3) above may designate another "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 this POTW.

**BIOCHEMICAL OXYGEN DEMAND (BOD)** — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20° C., expressed in terms of mass and concentration [milligrams per liter (mg/l)].

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

**COLOR** — The optical density at the visual wave length of maximum absorption, relative to distilled water. One-hundred-percent transmittance is equivalent to 0.0 optical density.

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

**ENFORCING OFFICER** — The person designated by this municipality to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this article.

**ENVIRONMENTAL PROTECTION AGENCY or EPA** — The United States Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of said agency.

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

**GRAB SAMPLE** — A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.

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

**INDUSTRIAL USER ("IU") or USER** — A source of indirect discharge.

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

**INTERFERENCE** — A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment process or operations or its sludge processes, use or disposal and therefore is a cause of a violation of this municipality'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 more stringent state or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), 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 SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

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

**MUNICIPALITIES** — Legal entity adopting this article.

## NEW SOURCE —

- (1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
  - (a) The building, structure, facility or installation is constructed at a site at which no other source is located; or
  - (b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (c) The production of 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.
- (2) 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 (1)(b) or (c) above but otherwise alters, replaces or adds to an existing process or production equipment.
- (3) Construction of a new source, as defined under this definition, has commenced if the owner or operator has:
  - (a) Begun or caused to begin as part of a continuous on-site construction program:
    - [1] Any placement, assembly or installation of facilities or equipment; or
    - [2] 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.
  - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

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

**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 POTW'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 or local governmental

entities.

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

POLLUTANT — Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes and the characteristics of the wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, chemical oxygen demand (COD), toxicity, odor].

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

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

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

PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES — Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 180-32A of this article.

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 SWDCMA. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal authority having jurisdiction over the industrial users and the responsibility for the operation and maintenance of the treatment works.

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

SEWAGE — Human excrement and gray water (household showers, dish-washing operations, etc.).

SHALL — Is mandatory; "may" is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

SIGNIFICANT INDUSTRIAL USER ("SIU") — Shall apply to:

- (1) Industrial users subject to categorical pretreatment standards; and
- (2) Any other industrial user that:
  - (a) Discharges an average of 25,000 gpd or more of process wastewater;
  - (b) Contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
  - (c) Is designated as significant by the POTW on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

**SLUG LOAD** — Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 180-32A of this article or any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge.

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

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

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

**TOXIC POLLUTANT** — One of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provisions of Section 307 (33 U.S.C. § 1317) of the Act.

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

**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 TREATMENT PLANT or TREATMENT PLANT** — That portion of the POTW designed to provide treatment of sewage and industrial waste.

D. Abbreviations. The following abbreviations shall have the designated meanings:

- (1) BOD: biochemical oxygen demand.
- (2) CFR: Code of Federal Regulations.
- (3) COD: chemical oxygen demand.
- (4) EPA: United States Environmental Protection Agency.
- (5) gpd: gallons per day.
- (6) l: liter.
- (7) mg: milligrams.
- (8) mg/l: milligrams per liter.
- (9) NPDES: National Pollutant Discharge Elimination System.
- (10) O&M: operation and maintenance.
- (11) POTW: publicly owned treatment works.
- (12) RCRA: Resource Conservation and Recovery Act.
- (13) SIC: standard industrial classifications.
- (14) SWDA: Solid Waste Disposal Act (42 U.S.C. § 6901 et seq.).

(15) TSS: total suspended solids.

(16) USC: United States Code.

**§ 180-32. General sewer use requirements.**

**A. Prohibited discharge standards.**

- (1) No industrial 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 industrial users of the POTW, whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirement except hauled waste as permitted under § 180-33. Furthermore, no industrial user may contribute the following substances to the POTW:
  - (a) Pollutants which create a fire or explosive hazard in the municipal wastewater collection and POTW, including but not limited to waste streams with a closed-cup flashpoint of less than 140° F. (60° C.) using the test methods specified in 40 CFR 261.21.
  - (b) Any wastewater having a pH of less than 5.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment or endangering personnel.
  - (c) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than three inches or 7 1/2 centimeter(s) in any dimension.
  - (d) Any wastewater containing pollutants, including oxygen demanding pollutants (BOD or TSS, 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 either the POTW or any wastewater treatment or sludge process or which will constitute a hazard to humans or animals. The POTW reserves the right to affix surcharges for excess BOD or TSS discharge concentrations.
  - (e) Any wastewater having a temperature greater than 90° F. (32.2° C.) or 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) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through and/or otherwise result in total fats, oils and greases in excess of 100 mg/l.
  - (g) Any 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 nonpermitted trucked or hauled waste. Permitted waste shall be discharged at points designated by this POTW in accordance with § 180-33.
  - (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 to prevent entry into the sewers for maintenance and repair.
  - (j) Any wastewater which imparts color which cannot be removed by the treatment process,

such as, but not limited to, dye waste and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating this POTW's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than 10% from the seasonably established norm for aquatic life.

- (k) Any wastewater containing any radioactive wastes or isotopes, except as specifically approved by the enforcing officer or as delineated in the wastewater discharge permit in compliance with applicable state or federal regulations.
  - (l) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the enforcing officer.
  - (m) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
  - (n) Any medical wastes, except as specifically authorized by the enforcing officer in a wastewater discharge permit.
  - (o) Any wastewater causing the treatment plant's effluent to fail a toxicity test.
  - (p) Any wastes containing detergents, surface active agents or other substances which may cause excessive foaming in the POTW.
  - (q) Any discharge of fats, oils or greases of animal or vegetable origin is limited to 100 mg/l.
- (2) Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW.
- B. Federal categorical pretreatment standards. The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471, are hereby incorporated herein.
- C. State requirements. In the event that state pretreatment standards are approved by the EPA, the same shall be incorporated herein.
- D. Specific pollutant limitations.
- (1) Effective immediately, all nonresidential users shall be subject to effluent testing parameters, methods and limits. Failure to comply with the requirements will be considered a violation of the POTW's rules and regulations and, in accordance with the provisions of local, state and federal law, is punishable by a minimum daily fine of \$1,000 per day and a maximum daily fine of \$25,000 per day.
  - (2) The pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the limits delineated in the significant industrial user discharge permit. A copy of the pollutant limits established and approved by the POTW and the EPA are available on request from the POTW.
  - (3) Concentrations apply at the point where the industrial waste is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. At his discretion, the enforcing officer may impose mass limitations in addition to or in place of the concentration-based limitations above.

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

**§ 180-33. Pretreatment of wastewater.**

- A. Pretreatment facilities. Industrial users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in § 180-32A above within the time limitations specified by the EPA, the state or the enforcing officer, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to this POTW shall be provided, operated and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to this POTW for review and shall be acceptable to this POTW before construction of the facility. The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to this POTW under the provisions of this article.
- B. Additional pretreatment measures.
- (1) Whenever deemed necessary, the enforcing officer may require industrial 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 industrial user's compliance with the requirements of this article.
  - (2) Each person discharging into the POTW greater than 25,000 gallons per day or greater than 50% of the average daily flow in the POTW, whichever is lesser, shall install and maintain, on his property and at his expense, a suitable storage and flow control facility to ensure equalization of flow over a twenty-four-hour period. The facility shall have a capacity for at least 50% of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the enforcing officer. A wastewater discharge permit may be issued solely for flow equalization. As an alternative, the industrial user may, with the consent of the enforcing officer, develop and implement a discharge/slug control plan.
  - (3) Grease, oil and sand interceptors shall be provided when, in the opinion of the enforcing officer, 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 enforcing officer and shall be so located as to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the owner at his expense.
  - (4) Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
  - (5) At no time shall two readings on an explosion hazard meter at the point of discharge into the POTW be more than 10% nor any single reading over 5% of the lower explosive limit (LEL) of the meter.
- C. Accidental discharge/slug control plans.



- (1) The enforcing officer may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two years, the enforcing officer shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:
    - (a) Description of discharge practices, including nonroutine batch discharges.
    - (b) Description of stored chemicals.
    - (c) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in § 180-32A of this article.
    - (d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage 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.
  - (2) In the event of an accidental discharge, the industrial user shall be required to comply with the reporting requirements of § 180-36F.
- D. Tenant responsibility. Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this article. Both generators and transporters of hauled waste may be held jointly and severally responsible for compliance with the provisions of this article.
- E. Hauled wastewater.
- (1) Hauled wastewater may be accepted into the POTW at a designated receiving structure within the treatment plant area, and at such times as are established by the enforcing officer, provided that such wastes do not violate § 180-32 of this article or any other requirements established or adopted by this POTW. A general wastewater discharge permit for individual transporters to use such facilities shall be issued by the enforcing officer. A letter of intent shall also be issued by the enforcing officer to the transporter, specifically to addend the general permit.
  - (2) The discharge of hauled nonresidential waste requires prior approval from the enforcing officer. The enforcing officer shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation. Waste haulers are subject to all other sections of this article.
  - (3) Fees for discharging hauled wastewater will be established in the waste hauler's agreement, with an addendum by the letter of intent. Other fees may apply as established in § 180-44.
- F. Vandalism. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in §§ 180-40 through 180-42, below.

**§ 180-34. Wastewater discharge permit eligibility.**

- A. Wastewater survey. When requested by the enforcing officer, all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The enforcing officer is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of this article.
- B. Wastewater discharge permit requirement.
- (1) It shall be unlawful for any significant industrial user to discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the enforcing officer. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in § 180-40 through 180-42. Obtaining a 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.
  - (2) The enforcing officer shall require other industrial users, including waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this article.
- C. Wastewater discharge permitting existing connections. Any significant industrial user which discharges industrial waste into the POTW prior to the effective date of this article and who wishes to continue such discharges in the future shall, within 30 days after said date, apply to the POTW for a wastewater discharge permit in accordance with Subsection F below and shall not cause or allow discharges to the POTW to continue after 60 days of the effective date of this article, except in accordance with a wastewater discharge permit issued by the enforcing officer.
- D. Wastewater discharge permitting new connections. Any significant industrial user proposing to begin or recommence discharging industrial wastes into the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least 90 days prior to the date upon which any discharge will begin.
- E. Wastewater discharge permitting extrajurisdictional industrial use.
- (1) Any existing significant industrial user located beyond the POTW's limits shall submit a wastewater discharge permit application, in accordance with Subsection F below, within 30 days of the effective date of this article. New significant industrial users located beyond the POTW's limits shall submit such applications to the enforcing officer 30 days prior to any proposed discharge into the POTW.
  - (2) Alternately, the enforcing officer may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said industrial user.
- F. Wastewater discharge permit application contents.
- (1) In order to be considered for a wastewater discharge permit, all industrial users required to have a wastewater discharge permit must submit the information required by § 180-36A(2) of this article. The enforcing officer shall approve a form to be used as a permit application. In addition, the following information may be requested:
    - (a) A description of activities, facilities and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are or could

accidentally or intentionally be discharged to the POTW.

- (b) The number and type of employees, hours of operation and proposed or actual hours of operation of the POTW.
  - (c) Each product produced by type, amount, process or processes and rate of production.
  - (d) The type and amount of raw materials processed (average and maximum per day).
  - (e) The 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.
  - (f) Time and duration of the discharge.
  - (g) Any other information as may be deemed necessary by the enforcing officer to evaluate the wastewater discharge permit application.
- (2) Incomplete or inaccurate applications will not be processed and will be returned to the industrial user for revision.
- G. Application signatories and certification. All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user. "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."
- H. Wastewater discharge permit decisions. The enforcing officer will evaluate the data furnished by the industrial user and may require additional information. Within 30 days of receipt of a complete wastewater discharge permit application, the enforcing officer will determine whether or not to issue a wastewater discharge permit. The enforcing officer may deny any application for a wastewater discharge permit.
- I. Decertification. The enforcing officer may decertify an industrial user out of the POTW's wastewater discharge permit requirements upon application by the industrial user, completion of a certification statement and fulfillment of all requirements and conditions mandated by the enforcing officer. The decision as to whether an industrial user meets the requirements for decertification shall be determined at the discretion of the enforcement officer.

**§ 180-35. Wastewater discharge permit issuance process.**

- A. Wastewater discharge permit duration. Wastewater discharge permits shall be issued for a specified time period, not to exceed one year. A wastewater discharge permit may be issued for a period of less than one year, at the discretion of the enforcing officer. Each wastewater discharge permit will indicate a specific date upon which it will expire.
- B. Wastewater discharge permit contents. Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the enforcing officer 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, protect ambient air quality and protect against

damage to the POTW.

- (1) Wastewater discharge permits must contain the following conditions:
  - (a) A statement that indicates wastewater discharge permit duration, which in no event shall exceed one year.
  - (b) A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from the POTW and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
  - (c) Effluent limits applicable to the user based on applicable standards in federal, state and local law.
  - (d) Self-monitoring, sampling, reporting, notification and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency and sample type based on federal, state or local law.
  - (e) Statement of applicable civil, criminal and administrative 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.
- (2) Wastewater discharge permits may contain, but need not be limited to, the following:
  - (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 instantaneous, daily and monthly average and/or maximum concentration, mass or other measure of identified wastewater pollutants or properties.
  - (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) Development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated or routine discharges.
  - (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 industrial 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.
  - (h) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit.
  - (i) Other conditions as deemed appropriate by the enforcing officer to ensure compliance with

this article and state and federal laws, rules and regulations.

- C. Wastewater discharge permit appeals. Any person, including the industrial user, may petition this POTW to reconsider the terms of a wastewater discharge permit within 30 days of its issuance.
- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
  - (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
  - (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
  - (4) If the POTW fails to act within 60 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit or not to modify a wastewater discharge permit shall be considered final administrative action for purposes of judicial review.
  - (5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Court of Common Pleas within 30 days.
- D. Wastewater discharge permit modification.
- (1) The enforcing officer may modify the wastewater discharge permit for good cause, including, but not limited to, the following:
    - (a) To incorporate any new or revised federal, state or local pretreatment standards or requirements.
    - (b) To address significant alterations or additions to the industrial user's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance.
    - (c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
    - (d) Information indicating that the permitted discharge poses a threat to the POTW, POTW personnel or the receiving waters.
    - (e) Violation of any terms or conditions of the wastewater discharge permit.
    - (f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
    - (g) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.
    - (h) To correct typographical or other errors in the wastewater discharge permit.
    - (i) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.
  - (2) The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

E. Wastewater discharge permit transfer.

- (1) Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least 60 days' advance notice to the enforcing officer and he approves the wastewater discharge permit transfer. The notice to him must include a written certification by the new owner and/or operator which:
  - (a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes.
  - (b) Identifies the specific date on which the transfer is to occur.
  - (c) Acknowledges full responsibility for complying with the existing wastewater discharge permit.
- (2) Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable on the date of facility transfer.

F. Wastewater discharge permit and letter of intent revocation.

- (1) Wastewater discharge permits and letters of intent may be revoked for the following reasons:
  - (a) Failure to notify the POTW of significant changes to the wastewater prior to the changed discharge.
  - (b) Failure to provide prior notification to the POTW of changed condition pursuant to § 180-36E.
  - (c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
  - (d) Falsifying self-monitoring reports.
  - (e) Tampering with monitoring equipment.
  - (f) Refusing to allow the POTW personnel timely access to the facility premises and records.
  - (g) Failure to meet effluent limitations.
  - (h) Failure to pay fines.
  - (i) Failure to pay sewer charges.
  - (j) Failure to meet compliance schedules.
  - (k) Failure to complete a wastewater survey or the wastewater discharge permit application.
  - (l) Failure to provide advance notice of the transfer of a permitted facility.
  - (m) Violation of any pretreatment standard or requirement or any terms of the wastewater discharge permit or this article.
- (2) Wastewater discharge permits shall be voidable upon nonuse, cessation of operations or transfer of business ownership except through § 180-35E. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit.

G. Wastewater discharge permit reissuance.

- (1) A significant industrial user shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application in accordance with § 180-34F a minimum of 60 days prior to the expiration of the industrial user's existing wastewater discharge permit.
- (2) It shall be the responsibility of the permittee to secure a renewal application from the enforcing officer and thereafter submit an executed application, along with the appropriate fees, in accordance with § 180-34F.

**§ 180-36. Reporting requirements.**

A. Baseline monitoring reports.

- (1) 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 significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the POTW a report which contains the information listed in Subsection A(2) below. At least 90 days prior to commencement of their discharge, new sources and sources that become industrial users subsequent to the promulgation of an applicable categorical standard shall be required to submit to the POTW a report which contains the information listed in Subsection A(2) below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.
- (2) The industrial user shall submit the information required by this section including:
  - (a) Identifying information: the name and address of the facility including the name of the operator and owners.
  - (b) Wastewater discharge permits: a list of any environmental control wastewater discharge permits held by or for the facility.
  - (c) Description of operations: a brief description of the nature, average rate of production and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
  - (d) Flow measurement: information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
  - (e) Measurement of pollutants:
    - [1] Identify the categorical pretreatment standards applicable to each regulated process.
    - [2] Submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by this POTW) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations (and flow, required for SIU) shall

be reported. The sample shall be representative of daily operation and shall be analyzed in accordance with procedures set out in Subsection J.

[3] Sampling must be performed in accordance with procedures set out in Subsection K.

- (f) Certification: a statement reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
  - (g) Compliance schedule: if additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 180-34F of this article.
  - (h) All baseline monitoring reports must be signed and certified in accordance with § 180-34G.
- B. Compliance schedule progress report. The following conditions shall apply to the schedule required by Subsection A(2)(g). 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 hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation.) No increment referred to above shall exceed six months. The industrial user shall submit a progress report to the enforcing officer 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 industrial user to return to the established schedule. In no event shall more than six months elapse between such progress reports to the enforcing officer.
- C. Report on compliance with categorical pretreatment standard deadline. Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any industrial user subject to such pretreatment standards and requirements shall submit to this POTW a report containing the information described in Subsection A(2)(d) through (f). For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the industrial user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 180-34G.
- D. Periodic compliance reports.
- (1) Any significant industrial user subject to a pretreatment standard shall, at a frequency determined by the enforcing officer, but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and



maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 180-34G.

- (2) All wastewater samples must be representative of the industrial 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 an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.
  - (3) If an industrial user subject to the reporting requirement in and of this section monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in § 180-36K of this article, the results of this monitoring shall be included in the report.
- E. Report of changed conditions. Each industrial user is required to notify the enforcing officer of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.
- (1) The enforcing officer may require the industrial 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 § 180-34F.
  - (2) The enforcing officer may issue a wastewater discharge permit under § 180-34H or modify an existing wastewater discharge permit under § 180-35D.
  - (3) No industrial user shall implement the planned changed condition(s) until and unless the enforcing officer has responded to the industrial user's notice.
  - (4) For purposes of this requirement, flow increases of 10% or greater over the self-monitoring period, as specified in the wastewater discharge permit, and the discharge of any previously unreported pollutants shall be deemed significant.
- F. Reports of potential problems.
- (1) In the case of any discharge, including but not limited to accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge or a slug load which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in § 180-32A of this article), it is the responsibility of the industrial user to immediately telephone and notify the POTW of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user. Notification shall be given to the offices of SWDCMA (24 hours per day). The telephone number is provided in the wastewater discharge permit.
  - (2) Within five days following such discharge, the industrial user shall, unless waived by the enforcing officer, submit a detailed written report describing the cause(s) 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 POTW, natural resources 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 article.
  - (3) Failure to notify the POTW of potential problem discharges shall be deemed a separate violation of this article.

- (4) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees to call in the event of a discharge described in Subsection F(1) above. Employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.
- G. Reports from nonsignificant industrial users. All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW as the enforcing officer may require.
- H. Notice of violation/repeat sampling and reporting. If sampling performed by an industrial user or the POTW indicates a violation, the industrial user must notify the POTW within 24 hours of becoming aware of the violation. The industrial user shall be required to repeat the sampling and analysis and submit the results of the repeat analysis to the POTW within 30 days after becoming aware of the violation. The enforcing officer shall be given a minimum of 72 hours' notice by the industrial user of the date, time and place of the resample.
- I. Notification of the discharge of hazardous waste.
- (1) Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number and the type of discharge (continuous, batch or other). If the industrial user discharges more than 10 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month and an estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection needs to be submitted only once for each hazardous waste discharge. However, notifications of changed discharges must be submitted under Subsection E above. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of Subsections A, C and D above.
- (2) Dischargers are exempt from the requirements of Subsection I of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month or of any quantity of acute hazardous wastes, as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.
- (3) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA Regional Waste Management Waste Division Director and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- (4) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the

degree it has determined to be economically practical.

- J. Analytical requirement. 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 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA. The analytical method selected must be of equal or greater sensitivity than the general sewer use requirements of § 180-32.
- K. Sample collection.
- (1) Except as indicated in Subsection K(2) below, the industrial user must collect wastewater samples using flow-proportional composite collection techniques. In the event that flow-proportional sampling is infeasible, the enforcing officer may authorize the use of time-proportional sampling or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
  - (2) Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides and volatile organic chemicals must be obtained using grab collection techniques.
  - (3) The industrial user shall be required to demonstrate the accuracy of the sample results, including, but not limited to reanalysis. Should there continue to be discrepancies between the sample results of the industrial user and the POTW, the POTW shall have the discretion to authorize a referral to a third-party laboratory whose results shall be final. All costs for such referral shall be borne by the industrial user.
- L. Determination of noncompliance. The enforcing officer may use a grab sample(s) to determine noncompliance with pretreatment standards if such sample exceeds the product of the permit limit multiplied by the applicable criteria. (See § 180-39B.)
- M. Timing. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.
- N. Recordkeeping. Industrial users shall retain and make available for inspection and copying all records and information required to be retained under this article. 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 compliance with this article, or where the industrial user has been specifically notified of a longer retention period by the enforcing officer.

#### **§ 180-37. Compliance monitoring.**

- A. Inspection and sampling. The POTW shall have the right to enter the facilities of any user to ascertain whether the purpose of this article, and any permit or order issued hereunder, is being met and whether the industrial user is complying with all requirements thereof. Industrial users shall allow the enforcing officer or his representatives 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 an industrial user has security measures in force which require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements

with its security guards so that, upon presentation of suitable identification, personnel from this POTW, state and the EPA will be permitted to enter without delay for the purposes of performing their specific responsibilities.

- (2) The POTW, state and the EPA shall have the right to set up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations. The POTW shall also have the right to conduct off-premises sampling and/or metering of the industrial user's operations, with the option of splitting samples with the industrial user.
  - (3) The POTW may require the industrial user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all time in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.
  - (4) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the enforcing officer and shall not be replaced. The costs of clearing such access shall be borne by the industrial user.
  - (5) Unreasonable delays in allowing the POTW's personnel access to the industrial user's premises shall be a violation of this article.
- B. Search warrants. If the enforcing officer has been refused access to a building, structure or property or any part thereof, and if the enforcing officer has demonstrated probable cause to believe that there may be a violation of this article or that there is a need to inspect as part of a routine inspection program of this POTW designed to verify compliance with this article or any permit or order issued hereunder or to protect the overall public health, safety and welfare of the community, then, upon application by the POTW's attorney, the Magisterial District Judge having proper jurisdiction shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the enforcing officer in the company of a uniformed police officer of the municipality. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

#### **§ 180-38. Confidential information.**

Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit application, wastewater discharge permits and monitoring programs and from inspection and sampling activities shall be available to the public without restriction, unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the POTW that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the industrial 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 by 40 CFR 2.302, will not be recognized as confidential information and will be available to the public without restriction.

**§ 180-39. Publication of industrial users in significant noncompliance.**

The POTW shall publish annually, in a daily newspaper published in the municipality where the POTW is located, a list of the industrial users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount.
- B. Technical review criteria (TRC) violation, 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 daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease and 1.2 for all other pollutants except pH).
- C. Any other discharge violation that the POTW believes has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public).
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- E. Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction or attaining final compliance.
- F. Failure to provide, within 30 days after the due date, any required reports, including baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
- G. Failure to accurately report noncompliance.
- H. Any other violation(s) which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

**§ 180-40. Administrative enforcement remedies.**

- A. Notification of violation. Whenever the enforcing officer finds that any user has violated or is violating this article, a wastewater discharge permit or order issued hereunder or any other pretreatment requirements, the enforcing officer or his agent may serve upon said user a written notice of violation. Within 30 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the enforcing officer. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the POTW to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- B. Consent orders. The enforcing officer is hereby empowered to enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have

the same force and effect as the administrative orders issued pursuant to Subsections D and E below and shall be judicially enforceable. Consent orders, including milestone dates, may be incorporated as a part of the terms and conditions of the industrial user's wastewater discharge permit.

- C. Show cause hearing. The enforcing officer may order any user which causes or contributes to violation(s) of this article, wastewater discharge permits or orders issued hereunder or any other pretreatment standard or requirement to appear before the enforcing officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 30 days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.
- D. Compliance orders. When the enforcing officer finds that a user has violated or continues to violate this article, wastewater discharge permits or orders issued hereunder or any other pretreatment standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance within 30 days. If the user does not come into compliance within 30 days, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders may also 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 federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user. Compliance orders, including milestone dates, may be incorporated as part of the terms and conditions of the industrial user's wastewater discharge permit.
- E. Cease-and-desist orders.
  - (1) When the enforcing officer finds that a user is violating this article, the user's wastewater discharge permit, any order issued hereunder or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the enforcing officer may issue an order to the user directing it to cease and desist all such violations and directing the user to:
    - (a) Immediately comply with all requirements.
    - (b) 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.
  - (2) Issuance of a cease-and-desist order shall not be a prerequisite to taking any other action against the user.
- F. Administrative fines.
  - (1) Notwithstanding any other section of this article, any user that is found to have violated any provision of this article, its wastewater discharge permit and orders issued hereunder or any other pretreatment standard or requirement shall be fined in a minimum amount of \$1,000, up to the maximum amount of \$25,000, or the maximum fine allowed under state law, whichever

is higher. Such fines shall be assessed on a per-violation, per-day basis.

- (2) Assessments may be added to the user's next scheduled sewer service charge, and the enforcing officer shall have such other collection remedies as may be available for other service charges and fees.
- (3) Unpaid charges, fines and penalties shall, after 30 calendar days, be assessed an additional penalty of 10% of the unpaid balance and interest shall accrue thereafter at a rate of 1/2% per month. A lien against the individual user's property will be sought for unpaid charges, fines and penalties.
- (4) Users desiring to dispute such fines must file a written request for the enforcing officer 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 enforcing officer shall convene a hearing on the matter within 14 days of receiving the request from the industrial user. In the event that the user's appeal is successful, the payment together with any interest accruing thereto, shall be returned to the industrial user. The POTW may add costs of preparing administrative enforcement actions, such as notices and orders to the fine.
- (5) Issuance of an administrative fine shall not be a prerequisite for taking any other action against the user.

G. Emergency suspensions.

- (1) The enforcing officer may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The enforcing officer may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW or which presents or may present an endangerment to the environment.
  - (a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the enforcing officer shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The enforcing officer shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the POTW that the period of endangerment has passed, unless the termination proceedings set forth in Subsection H are initiated against the user.
  - (b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the enforcing officer, prior to the date of any show cause or termination hearing under Subsections C and H.
- (2) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

H. Termination of discharge.

- (1) In addition to those provisions in § 180-35F of this article, any user that violates the following conditions of this article, wastewater discharge permits or orders issued hereunder is subject to

discharge termination:

- (a) Violation of wastewater discharge permit conditions.
  - (b) Failure to accurately report the wastewater constituents and characteristics of its discharge.
  - (c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
  - (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
  - (e) Violation of the pretreatment standards in § 180-32 of this article.
- (2) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Subsection C of this section why the proposed action should not be taken.

**§ 180-41. Judicial enforcement remedies.**

- A. Injunctive relief. Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this article, wastewater discharge permits and orders issued hereunder or any other pretreatment requirement, the POTW may petition the Court of Common Pleas, through the POTW's Attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by this article on activities of the industrial user. Such other action, as appropriate for legal and/or equitable relief, may also be sought by the POTW. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.
- B. Civil penalties.
- (1) Any user which has violated or continues to violate this article, any order or wastewater discharge permit hereunder or any other pretreatment standard or requirement shall be liable to the POTW for a minimum civil penalty in the amount of \$1,000, up to the maximum amount of \$25,000, or the maximum allowed under state law, whichever is higher. The penalty may be imposed on a per-violation, per-day basis. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
  - (2) The POTW may recover reasonable attorney's fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the POTW.
  - (3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user and any other factor, as justice requires.
  - (4) Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.
- C. Criminal prosecution.
- (1) Any user that willfully or negligently violates any provision of this article, any orders or wastewater discharge permits issued hereunder or any other pretreatment requirement shall,



upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$25,000 or the maximum fine allowed under state law, whichever is higher, and imprisonment for not more than one year. The penalty may be imposed for each day of violation.

- (2) Any user that willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$25,000, or the maximum allowable under state law, and/or be subject to imprisonment for one year. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law or federal law.
  - (3) Any user that knowingly makes any false statements, representations or certifications in any application, record, report, plan or other documentation filed or required to be maintained, pursuant to this article, wastewater discharge permit or order, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than one year, or both.<sup>52</sup>
  - (4) In the event of a second conviction, a user shall be punished by a fine of not more than \$25,000 per violation per day or imprisonment for not more than one year, or both.
- D. Remedies nonexclusive. The provisions in §§ 180-40 through 180-42 are not exclusive remedies. This POTW reserves the right to take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with this POTW enforcement response plan. However, this POTW reserves the right to take other action against any user when the circumstances warrant. Further, this POTW is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

#### **§ 180-42. Supplemental enforcement action.**

- A. Performance bonds. The enforcing officer may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this article, any orders or previous wastewater discharge permit issued hereunder, unless such user first files a satisfactory bond, payable to this POTW, in a sum not to exceed a value determined by the enforcing officer to be necessary to achieve consistent compliance.
- B. Liability insurance. The enforcing officer may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this article, any order or a previous wastewater discharge permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.
- C. Water supply severance. Whenever a user has violated or continues to violate the provisions of this article, orders or wastewater discharge permits issued hereunder, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.
- D. Public nuisances. Any violation of this article, wastewater discharge permits or orders issued hereunder is hereby declared a public nuisance and shall be corrected or abated as directed by the enforcing officer or his designee. Any person(s) creating a public nuisance shall be subject to the provisions of Pennsylvania law governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

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52. Editor's Note: So in original.

- E. Contractor listing (optional). Users which have not achieved consistent compliance with applicable pretreatment standards and requirement are not eligible to receive a contractual award for the sale of goods or services to the POTW. Existing contracts for the sale of goods or services to the POTW held by a user found to be in significant noncompliance with pretreatment standards may be terminated at the discretion of the POTW.

**§ 180-43. Affirmative defenses to discharge violations.**

A. Upset.

- (1) 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 industrial 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.
  - (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of Subsection A(3) are met.
  - (3) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:
    - (a) An upset occurred and the industrial user can identify the cause(s) of the upset.
    - (b) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.
    - (c) The industrial user has submitted the following information to the POTW and treatment plant operator within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):
      - [1] A description of the indirect discharge and cause of noncompliance.
      - [2] The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue.
      - [3] Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
  - (4) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.
  - (5) Industrial users will have the opportunity for a judicial determination of any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
  - (6) The industrial user 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.
- B. General/specific prohibitions. An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in § 180-32A

of this article if it can prove that it did not know or have reason to know that its discharge, along or in conjunction with discharges from other sources, would cause pass through or interference and that either: a local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to and during the pass through or interference, or no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the POTW was regularly in compliance with its NPDES permit and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.

C. Bypass.

- (1) Definitions. As used in this subsection, the following terms shall have the meanings indicated:

**BYPASS** — The intentional diversion of waste streams from any portion of an industrial user's treatment facility.

**SEVERE PROPERTY DAMAGE** — Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. "Severe property damage" does not mean economic loss caused by delays in production.

- (2) An industrial 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 provisions of Subsection C(3) and (4) of this section.

- (3) Need for bypass.

- (a) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the POTW at least 10 days before the date of the bypass if possible.
- (b) An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW 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 industrial 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 POTW may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

- (4) Bypass prohibited.

- (a) Bypass is prohibited, and the POTW may take enforcement action against an industrial 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 industrial user submitted notices as required under Subsection C(3) of this section.

- (b) The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in Subsection C(4)(a) of this section.

**§ 180-44. Miscellaneous provisions.**

- A. Pretreatment charges and fees. The POTW may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the POTW pretreatment program which may include:
- (1) Fees for wastewater discharge permit applications, including the cost of processing such application.
  - (2) Fees for monitoring, inspection and surveillance procedures, including the cost of collection and analyzing an industrial user's discharge, and reviewing monitoring reports submitted by industrial users.
  - (3) Fees for reviewing and responding to accidental discharge procedures and construction.
  - (4) Fees for filing appeals.
  - (5) Other fees as the POTW may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees, fines and penalties chargeable by the POTW.
- B. Conflicts. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this article are hereby repealed to the extent of the inconsistency or conflict.

**§ 180-45. Prosecution.**

- A. The Township may appoint the Southwest Delaware County Municipal Authority (SWDCMA) as its agent having the power of the Township to institute proceedings in the name of the Township against any and all persons, firms or corporations who violate the provisions of this article.
- B. In cases involving the prosecution of this article, the Solicitor of the Southwest Delaware County Municipal Authority (SWDCMA) shall subpoena all witnesses for the prosecution and conduct the hearing on behalf of the Township, if authorized and appointed to do so by the Township.



**Chapter 186****GRADING AND EXCAVATING**

<b>§ 186-1.</b>	<b>Purpose.</b>	<b>§ 186-8.</b>	<b>Soil erosion and sedimentation control maintenance and responsibilities.</b>
<b>§ 186-2.</b>	<b>Applicability.</b>		
<b>§ 186-3.</b>	<b>Exemptions.</b>	<b>§ 186-9.</b>	<b>Stormwater management requirements.</b>
<b>§ 186-4.</b>	<b>General.</b>	<b>§ 186-10.</b>	<b>Application for permit.</b>
<b>§ 186-5.</b>	<b>Soil erosion and sedimentation control standards.</b>	<b>§ 186-11.</b>	<b>Inspections.</b>
<b>§ 186-6.</b>	<b>Soil erosion and sedimentation control plan.</b>	<b>§ 186-12.</b>	<b>Costs of inspection.</b>
<b>§ 186-7.</b>	<b>Approvals from regulating agencies.</b>	<b>§ 186-13.</b>	<b>Waivers.</b>
		<b>§ 186-14.</b>	<b>Violations and penalties.</b>

[<sup>53</sup>**HISTORY: Adopted by the Township Council of the Township of Middletown 7-26-2004 by Ord. No. 654. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Construction codes — See Ch. 89.

Subdivision and land development — See Ch. 210.

Stormwater management — See Ch. 198.

**§ 186-1. Purpose.**

- A. The purpose of this chapter is to regulate the modification of natural terrain and the alteration of stormwater runoff by providing for certain soil erosion and sediment control management measures within the Township in order to protect the public health, safety and welfare of the general public. It is the intent of this chapter to implement the current Title 25, Rules and Regulations, Part 1, Department of Environmental Protection, Subpart C, Protection of Natural Resources, Article II Water Resources, Chapter 102, Erosion Control.
- B. In addition to the requirements of this chapter, there is a Department of Environmental Protection requirement for a NPDES permit (National Pollutant Discharge Elimination System). Persons proposing earth disturbance activities which disturb five or more acres, or an earth disturbance on any portion, part, or during any stage of, a larger common plan of development or sale that involves five or more acres of earth disturbance over the life of the project, or persons proposing earth disturbance activities with a point source discharge to surface waters of the commonwealth that disturb from one to less than five acres, or an earth disturbance on any portion, part, or during any stage of, a larger common plan of development or sale that involves one to less than five acres of disturbance with a point source discharge to surface waters of the commonwealth over the life of the project, must apply for the general NPDES permit for stormwater discharges associated with construction activities. A point source is defined as any discernible, confined and discrete conveyance, including but not limited

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53. Editor's Note: The title of this chapter was changed from "Soil Erosion and Sedimentation Control" to "Grading and Excavating" 12-9-2019 by Ord. No. 814.

to any pipe, ditch, channel, tunnel, well, discrete fissure, or container from which pollutants are or may be discharged.

- C. Reference to "soil erosion and sedimentation control" shall also mean "grading and excavating" in Chapter 186 and all references herein. **[Added 12-9-2019 by Ord. No. 814]**

#### **§ 186-2. Applicability.**

- A. Any person engaging in activities which disturb the nature topography and vegetation of their land or the land of others shall submit a soil erosion and sedimentation control plan to the Township for review and approval, and ensure compliance with § 275-198A through F, if applicable. **[Amended 9-10-2018 by Ord. No. 795]**
- B. The following activities are specifically included under this chapter, which shall be known and may be cited as the Middletown Township "Soil Erosion and Sedimentation Control Regulations."
- (1) Alteration of any existing grade or ground cover as a result of excavation, paving, filling, stripping, clearing, and the like over 1,000 square feet.
  - (2) Disturbance of natural overland or subsurface flow of stormwater by diversion, blockage, or alteration of flow rate by grading operations.
  - (3) Obstruction of the natural drainage of land by the construction of dams, retaining walls, ditches, culverts, bridges or other structures.

#### **§ 186-3. Exemptions.**

The following activities are specifically exempt from this chapter:

- A. Use of land for gardening primarily for home consumption.
- B. Agricultural use of lands in accordance with a farm conservation plan approved by the Delaware County Conservation District.
- C. Individual lot grading permits shall not be required if the finally approved and recorded subdivision and land development plan contains an approved grading plan for the entire tract to be developed, and if in the opinion of the Township Engineer, the proposed development of the individual lots does not sufficiently deviate from the overall grading plan. If the Township Engineer determines that an individual lot grading permit is required because of change in ownership or other circumstances, the applicant shall comply with the provisions of this chapter.
- D. In all cases where a proposed activity does not require a permit under this chapter, the landowner shall at all times comply with the applicable provisions of this chapter and the soil erosion and sedimentation control provisions. All bare earth shall be promptly seeded, sodded or otherwise stabilized and effectively protected from soil erosion.

#### **§ 186-4. General.**

- A. The permittee, who shall be the landowner of record identified in the application, shall be responsible for any property damage or personal injury which occurs in the performance of any activity under this chapter, even if the activity requires no permit. Escrow shall be posted, in accordance with a resolution adopted by the Township, from time to time, to ensure completion of any activity.

- B. No person, firm, corporation or entity shall modify, fill, excavate, pave, grade or regrade or otherwise disturb land within the Township, in any manner as to endanger or damage public or private property, or to cause physical damage or personal injury. All precautions shall be taken to prevent any damage to adjoining streets, sidewalks, buildings and other structures which could be caused by settling, cracking, soil erosion or sediment deposition.
- C. The management and the control of accelerated soil erosion on the site, both during and upon completion of the disturbances associated with grading, a proposed subdivision and/or land development, shall be accomplished in accordance with the standards and criteria of this chapter. The design of any temporary or permanent facilities and structures and the utilization of any natural drainage systems shall be in full compliance with these provisions.
- D. No person, firm, corporation or entity shall fail to adequately maintain in good operating order any drainage facility on his premises. All watercourses, drainage ditches, culverts, drain pipes and drainage structures shall be kept open and free flowing at all times.
- E. A landowner or developer shall be responsible for the maintenance of all disturbed areas, soil erosion and sedimentation control devices, drainage facilities, stormwater management structures, and other related structures during and after construction is completed.
- F. All graded surfaces shall be seeded, sodded, planted or otherwise protected from erosion within 20 days, weather permitting, and shall be watered, tended and maintained until growth is well established. The disturbed area and duration of exposure shall be kept within the identified limits of disturbance.
- G. Adequate provisions shall be made for dust control as determined by the Township Engineer.
- H. Any landowner and any person engaged in the alteration or development of land which may affect stormwater runoff characteristics shall implement such measures as are reasonably necessary to prevent injury to health, safety, or other property. These measures shall include such actions and are required:
  - (1) To insure that the maximum rate of stormwater runoff is not greater after development than prior to development activities; and
  - (2) To manage the quantity, velocity, quality and direction of the resulting stormwater runoff in a manner which otherwise adequately protects health and property from possible injury.

**§ 186-5. Soil erosion and sedimentation control standards.**

- A. Soil erosion and sedimentation control plans shall be submitted for all subdivisions, land developments and/or any other regulated land disturbance activity within the Township. The Township or its designated representative shall ensure and enforce compliance with the appropriate standards.
- B. Measures used to control soil erosion and reduce sedimentation shall as a minimum meet the latest revised standards, specifications and/or regulations of the Commonwealth of Pennsylvania, Department of Environmental Protection in its Soil Erosion and Sedimentation Control Manual.
- C. Any land disturbance activity whether subdivision, land development and/or other project shall be conducted only in compliance with the following principles:
  - (1) There shall be no increase in or redirection of discharge of sediment or other solid materials



from the site as a result of stormwater runoff; and any increase shall be deemed a violation of this chapter.

- (2) Erosion and sedimentation control devices, such as temporary vegetation and mulch, temporary earthen berms, interceptor dikes, ditches, diversion terraces, rock filter berms, crushed stone tire scrubbers, silt basins, silt fences, and the like, appropriate to the scale of operations, shall be installed concurrent with earthmoving activities and whenever any situation is created which would contribute to increased soil erosion.
- (3) Earthmoving operations shall be minimized where possible and practicable to preserve desirable natural features and the topography of the site. No cut or fill shall be steeper than 3:1 and should be blended into the existing topography.
- (4) Stripping of vegetation, regrading or other development shall be done in such a way that will minimize soil erosion.
- (5) To the maximum extent practicable, mature, healthy trees of at least 12 inches in caliper and other significant existing vegetation shall be retained and protected. Such trees shall not be removed, except as provided on the approved plan accompanying the land disturbance activity. The filling of soil more than five inches over the roots of trees to be preserved is prohibited. (The roots are presumed to extend out from the tree as far as the branches of the tree extend outward.)
- (6) Land disturbance shall be limited to the actual construction site and an access strip. The amount of disturbed area and the duration of exposure shall be kept to a minimum. Disturbed areas shall be stabilized with vegetation, mulch, erosion control fabric, and the like, as soon as possible after earthmoving procedures.
- (7) Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development. Water runoff shall be minimized and retained on-site wherever possible to facilitate groundwater recharge.
- (8) Temporary vegetation and/or mulching shall be used to protect critical areas during development ("Critical areas" shall be construed to mean those portions of a site which are extremely vulnerable to soil erosion.)
- (9) The permanent final vegetation and structural soil erosion control and drainage measures shall be installed as soon as practical in the development in accordance with the approved plans.
- (10) Sediment in the runoff water shall be trapped until the disturbed area is stabilized by the use of debris and sediment basins, silt fences or other approved measures. Sediment deposits in basins, silt fences, and the like, shall be removed at periodic intervals during the construction period.
- (11) Soils and rock or geologic formations with water supply potential shall be protected from contamination by surface water or other source or disruption caused by construction activity. Prior to any work, protective procedures shall be developed and submitted to the Township Engineer for review and approval.
- (12) A soil erosion and sedimentation control permit shall be obtained as required from the Pennsylvania Department of Environmental Protection for all developments in which more than one acre will be disturbed.

D. The following practices shall be required for all subdivisions, land developments and/or other

regulated land disturbance activity, unless the Township determines that they are not applicable.

- (1) Silt fences shall be utilized in lieu of straw bale silt barriers and shall be securely anchored in place.
- (2) Approved silt fences or silt traps shall be placed at all inlets, headwalls, basin outlets and similar drainage structures during the construction period in order to prevent sediment from entering any watercourse, storm drainage system, or other areas downstream.
- (3) Temporary on-lot berms shall be required during construction. The top width of the berms shall be a minimum of three feet in width, with side slopes of 3:1 maximum.
- (4) Crushed stone tire scrubbers shall be placed at all entrances to construction areas immediately at the time of commencement of construction. Tire scrubbers shall be of sufficient width and length to prevent the transportation of sediment off of the construction site.
- (5) Temporary and permanent seeding and mulch specifications shall be noted on all plans. The specifications shall include lime and fertilizer rates of application, as well as other provisions regarding procedures and materials. The Township shall require hydro-seeding of all graded areas associated with street construction and stormwater management basins. Seeding and mulch must be done within 20 days of disturbance, unless otherwise specified.
- (6) During roadway grading, interceptor dikes shall be installed on all roadway subgrades with slopes in excess of 5% to prevent soil erosion of the subgrade. The interceptor dikes shall divert runoff through silt traps or silt fences.
- (7) The crushed stone base course for driveways, roadways and parking areas shall be applied as soon as possible after grading procedures, in order to prevent soil erosion of the subgrade.
- (8) Drainage swales and ditches, and all slopes greater than 4:1 shall be protected against erosive velocities with soil erosion control measures such as erosion control fabric and other material as approved by the Township.
- (9) Energy dissipaters and/or stilling basins shall be installed at the outlet end of all storm drainage facilities.
- (10) All road rights-of-way and stormwater management basins shall be hydro-seeded within seven days of final grading.

**§ 186-6. Soil erosion and sedimentation control plan.**

- A. General requirements for subdivisions and/or land developments. For all subdivisions and/or land developments, a soil erosion and sediment control plan and report shall be submitted containing but not limited to the information required below. For any other regulated land disturbance activity, see Subsection B below. The determination of the need for additional information shall be made by the Township Engineer after conducting a review of the following:
  - (1) A map depicting the total watershed. A USGS Quadrangle Map is suitable as the source for such a map. However, the watershed area must be highlighted or otherwise distinguished from other areas outside the watershed.
  - (2) Maps and drawings showing all existing and proposed drainage facilities affecting the subject property.

- (3) A plan of the site, at a scale of no less than one inch equals 50 feet, prepared by a registered engineer or surveyor and including the following:
- (a) All existing topographic features with a contour interval of at least two feet.
  - (b) Boundary survey information.
  - (c) Location and description of all vegetative and land cover characteristics.
  - (d) All existing utilities.
  - (e) Soil types.
  - (f) All existing natural or man-made features as more fully required in Chapter 210, Subdivision and Land Development.
  - (g) All proposed improvements, including but not limited to proposed buildings, driveways, swimming pools, stormwater drainage systems, sewage disposal systems, wells, stormwater management facilities, grading, soil erosion and sedimentation controls and procedures, and the like.
  - (h) Profiles of all proposed sewers, including elevations, sizes, slopes and materials, at a scale of no less than one inch equals 50 feet horizontal and one inch equals five feet vertical.
  - (i) Staging of earthmoving activities and program of operation.
  - (j) Locations, dimensions and design details required for the construction of all facilities.
  - (k) All soil erosion and sedimentation control measures, temporary as well as permanent, and sufficient detail in order to clearly indicate effectiveness of the plan.
  - (l) Project specifications relative to stormwater control, soil erosion and sedimentation.
  - (m) When major control facilities, such as detention/retention basins, are planned, soil structures and characteristics shall be investigated and analyzed. Plans and data shall be prepared and submitted by a licensed professional engineer or geologist with experience and education in soil mechanics. These submissions should consider and offer design solutions for frost heave potential, shrink-swell potential, soil bearing strength, water infiltration, soil settling characteristics, suitability of existing soils for placement of fill, fill and backfilling procedures and soil treatment techniques as required to protect the improvements or structures.
- (4) The design computations for the stormwater drainage systems including storm drain pipes and inlets, runoff control measures, and culverts and drainage channels.
- (5) A narrative report of the project stating the proposed and engineering assumptions and calculations for control measures and facilities. The following information shall be included:
- (a) General description of the project.
  - (b) General description of accelerated runoff control plan.
  - (c) General description of soil erosion and sedimentation control plan.
  - (d) Expected project time schedule, including anticipated start and completion dates.

- (e) The stormwater characteristics of the project as related to its location within the watershed(s).
    - (f) On-site detention methods.
    - (g) Methodology and basis of design computations.
    - (h) Brief description of soils and their characteristics.
  - (6) The soil erosion and sedimentation control plan shall comply with all other applicable provisions of this chapter and any other applicable Township ordinances, codes or regulations.
- B. General requirements for any other regulated land disturbance activity.
- (1) An area plan or plans describing existing and proposed features of the area surrounding the site of the work, including topography, existing vegetation, watercourses, man-made features, the affected watersheds and other pertinent natural features.
  - (2) A topographical survey plan of the site, at a suitable scale of no less than one inch equals 50 feet, and contour interval of no more than two feet, prepared by a registered engineer or surveyor, also including a boundary line survey, the location and description of vegetative cover, soil types and any other pertinent existing natural or man-made features.
  - (3) An improvements plan at the same scale as the topographic survey plan showing and describing all changes to the site including cuts, fills, structures, paving, utilities, all erosion and sedimentation controls, stormwater management facilities, details, procedures, etc. (This information may be combined with the topographic survey plan, provided the combined plan is clear and legible.)
  - (4) A time schedule indicating the anticipated starting and completion dates of the development sequence, and the time of exposure of each area prior to the completion of effective erosion and sediment control measures.
  - (5) Special requirements. The Township may require any additional information when the area of a site to be disturbed exceeds one acre, or when smaller sites are environmentally sensitive because of the presence of watercourses, steep slopes, woodland and the like.
  - (6) All plans required pursuant to this chapter shall be prepared and sealed by a registered engineer, land surveyor or landscape architect licensed in the Commonwealth of Pennsylvania.

#### **§ 186-7. Approvals from regulating agencies.**

All requirements of the Pennsylvania Department of Transportation, Pennsylvania Department of Environmental Protection and/or the USDA Natural Resources Conservation Service and the Delaware County Soil Conservation Service, with regards to erosion and sediment control, shall be followed, and evidence of approvals by those agencies shall be submitted to the Township.

#### **§ 186-8. Soil erosion and sedimentation control maintenance and responsibilities.**

- A. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person causing such sedimentation to remove the accumulated sediment from all adjoining or downstream properties, surfaces, drainage systems, watercourses and roadways and to repair any damage at his expense as quickly as possible.

- B. All necessary soil erosion and sedimentation control measures installed under this chapter, shall be adequately maintained by the landowner or developer during and after completion of the approved plan.

**§ 186-9. Stormwater management requirements.**

In addition to the soil erosion and sedimentation control regulations of this chapter, any land disturbance activity whether subdivision, land development and/or other project shall also comply with Chapter 198, Stormwater Management. In the event of a conflict or inconsistency between the requirements of this chapter and Chapter 198, regarding stormwater management, the requirements of Chapter 198 shall control.

**§ 186-10. Application for permit.**

- A. Any person, firm or corporation proposing to engage in an activity requiring a permit hereunder shall apply for a permit by written application on a form furnished by the Township.
- B. A separate application shall be required for each grading permit. Three copies of the proposed plan, including specifications and timing schedules, shall be submitted with each application for a permit. One of the copies, at the discretion of the Township, shall be submitted to the Delaware County Conservation District for comment and review.
- C. The application for a permit shall be accompanied by a permit fee, which shall be established by Township resolution, as adopted by Township Council from time to time.
- D. Before any permit is granted, the applicant shall post an escrow account with the Township. The exact sum shall be determined by Township resolution. For larger tracts of land, an escrow agreement shall be signed by the applicant and approved by the Township Manager and/or Engineer, the condition of which shall be a full and complete compliance with this chapter, and all terms of the permit. Among other items, the escrow account shall be used for the repayment of the costs incurred by the Township for inspections, to reestablish the erosion, sediment and stormwater control features, and to repair any damage done to adjacent properties. Once the escrow account is 50% depleted, it shall be replenished to the original amount.
- E. The permit shall be valid for the time period indicated on the permit, or two years, whichever is less. The applicant may request the permit period be extended by giving 30 days written notice to the Township prior to expiration of the permit. At this time, the Township shall review the status of the permit and shall decide whether or not to grant or deny the extension.

**§ 186-11. Inspections.**

All earthwork and materials shall be subject to inspection for conformity with the terms of this chapter and Chapter 210, Subdivision and Land Development.

- A. The Township may inspect any earth disturbing or water flow alteration activities covered by this chapter on a random basis to assure full compliance with the soil erosion and sedimentation control plans on file in the Township.
- B. During inspections, if it is found that the soil or other conditions are not as stated or shown in the application and plans approved or the work is not proceeding in accord with the plans, the Township may refuse to approve further work and revoke and or all permits and/or agreements until approval is obtained for a revised soil erosion and sedimentation control plan conforming to existing conditions.

- C. If, at any stage of the work, the Township shall determine by inspection that the nature of the work is such that further work as authorized by an existing permit is likely to endanger property, streets, or create hazardous conditions, the Township may require as a condition to allowing the work to be done that such reasonable safety precautions shall be implemented by the permittee as the Township considers advisable to avoid such likelihood of danger.
- D. No person shall interfere with or obstruct the ingress or egress to or from any such site or premises by an authorized representative or agent of the Township engaged in the inspection of work for compliance with the approved plans.
- E. All plans must be kept on the site during construction and through to inspection.
- F. A final inspection shall be conducted by the Township Engineer to certify compliance with this chapter. Compliance with this chapter and/or Chapter 210, Subdivision and Land Development, shall be necessary before issuance of an occupancy permit.
- G. For any work authorized by the Township under this chapter that remains uncompleted, the permittee may request a temporary certificate of occupancy from the Township. If approved, the temporary certificate shall contain a written list of uncompleted items and is valid for no more than 30 days from the date of issuance. In addition, the permittee shall post additional escrow with the Township sufficient to satisfy the cost of completing the uncompleted items listed on the temporary certificate. No permanent certificate of occupancy shall be issued until all of the uncompleted items have been completed. In the event that the permittee fails to satisfy the uncompleted items within the time stated on the temporary certificate, the Township, may, in addition to any other remedies available to it in law or equity, draw upon said escrow funds and cause the outstanding items to be completed.

#### **§ 186-12. Costs of inspection.**

All applicants shall bear all costs of inspections required hereunder. Such costs shall be deducted from the escrow account as established under § 186-10D above. The costs of inspections shall be charged at the rate established by Township resolution, adopted by Township Council from time to time, or actual costs incurred. The Township shall have the right to seek outside consultants to provide independent inspections, plan review and inspection reports.

#### **§ 186-13. Waivers.**

For applications not involving subdivision or land development review and approval, one or more provisions of this chapter may be modified by the Township Council, upon recommendation of the Township Engineer, if the literal enforcement of the provisions will exact undue hardship because of peculiar conditions pertaining to the land in question, provided such modification will not be contrary to the public interest and that the purpose and intent of this chapter is observed.

- A. All requests for a modification shall be in writing. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of this chapter involved and the minimum modification necessary.
- B. The Township shall keep a written record of all action on all requests for modifications.
- C. In granting any modification, the Township Council shall prescribe any conditions that they deem necessary to or desirable for the public interest. In making their findings, the Township Council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the probable effect of the proposed subdivision and/or upon traffic conditions, fire, police protection

and other utilities and services in the vicinity. No modification shall be granted unless the Township Council finds:

- (1) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land.
- (2) That the modification is necessary for the preservation and enjoyment of a substantial property right of the applicant.
- (3) That the granting of the modification will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

**§ 186-14. Violations and penalties.**

Any person, firm or corporation violating any provisions of this chapter shall, upon summary conviction before any Magisterial District Judge, be fined an amount not exceeding \$500 and costs of prosecution, and in default thereof, may be imprisoned in the county jail for a term of not more than 30 days. Each and every day in which any person, firm or corporation shall be in violation of this chapter shall constitute a separate offense.

## MIDDLETOWN CODE

## Chapter 192

## SOLID WASTE

	ARTICLE I	§ 192-14.	Abatement of nuisance.
	Garbage and Refuse	§ 192-15.	Regulations.
§ 192-1.	Definitions.	§ 192-16.	Amendments; contract.
§ 192-2.	Disposal regulations.	§ 192-17.	Adoption of solid waste management plan.
§ 192-3.	Hauler license and standards.	§ 192-18.	When effective.
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	ARTICLE II	§ 192-19.	Title.
	Municipal Solid Waste Disposal	§ 192-20.	Definitions.
		§ 192-21.	Establishment of program.
§ 192-7.	Definitions.	§ 192-22.	Separation of recyclables and placement for removal.
§ 192-8.	Prohibitions.		
§ 192-9.	County/authority operations and charges.	§ 192-23.	Separation and disposal of leaf and yard waste.
§ 192-10.	Operations by licensed collectors.	§ 192-24.	Municipal ownership of recyclable materials.
§ 192-11.	Disposal at designated site.	§ 192-25.	Recycling of materials.
§ 192-12.	Private dumps, transfer stations, and landfills prohibited.	§ 192-26.	Residential collection fee.
		§ 192-27.	Violations and penalties.
§ 192-13.	Violations and penalties.	§ 192-28.	Additional method of disposal.

[HISTORY: Art. I adopted by the Board of Supervisors (now Township Council<sup>54</sup>) of the Township of Middletown as indicated in article histories. Subsequent articles adopted by the Township Council of the Township of Middletown as indicated in article histories. Amendments noted where applicable.]

## GENERAL REFERENCES

Junkyards — See Ch. 139.

Littering — See Ch. 148.

54. Editor's Note: The name of the Township's governing body became the Township Council as of 1-1-1978, the effective date of the Home Rule Charter.



## ARTICLE I

**Garbage and Refuse**

**[Adopted 6-13-1960 by Ord. No. 59; amended 8-26-1985 by Ord. No. 378; 8-27-1990 by Ord. No. 473 (Ch. VI, Art. 1, Sec. 101, of the 1976 Ordinance Book)]**

**§ 192-1. Definitions.**

The following words, as used in this article, shall have the meanings hereby ascribed thereto, unless the context clearly indicates a different meaning:

**GARBAGE** — All table refuse, animal and vegetable matter, offal from meat, fish and fowls, fruits, vegetables and parts thereof and other articles and materials ordinarily used for food which have become unfit for such use or which are for any reason discarded.

**PERSON** — Any natural person, association, partnership, firm or corporation. In this article, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

**REFUSE** — All discarded articles or materials, except sewage and liquid waste, and including garbage, ashes and combustible and noncombustible waste.

**§ 192-2. Disposal regulations.**

All garbage and/or refuse originating within the Township of Middletown shall be disposed of only by removal beyond the limits of the Township by a licensed collector. In no case may garbage be brought into the Township for the purpose of disposal therein, nor may garbage be disposed within the limits of the Township by burning. Pending disposal as hereby authorized, garbage may be stored in covered containers only and in such limited quantities and for such limited period of time as shall ensure that no annoyance, nuisance or health hazard shall be created or maintained thereby. Except for such temporary storage as is hereby specifically authorized, no person shall keep, have, maintain, store upon or allow to exist in any manner whatsoever any garbage upon any lot or piece of ground within the limits of the Township. Materials designated as recyclable materials shall be handled in accordance with the provisions of Article III, Recycling.

**§ 192-3. Hauler license and standards.**

- A. License and regulations. No person shall remove, haul or convey any refuse through or upon any of the streets or alleys of the Township of Middletown and dispose of the same in any manner or place without first obtaining a license from the Township Manager of said Township. The fee for such license shall be \$50 per annum, and all licenses shall be issued for the calendar year or such portion thereof which shall remain after issuance thereof. There shall be no reduction in the fee for a person who shall apply for a license issued after the beginning of any calendar year. Every person who shall apply for a license under this section shall, in applying therefor, state the type or types of refuse to be collected, the manner and place of disposal of all refuse to be collected under such license and any other information deemed necessary by the Township to enforce the terms of this article. The applicant shall provide certification that all vehicles to be used in such collection are properly insured. No such license shall be granted by the Township Manager if the manner or place of disposal of such refuse shall not conform in every respect to the requirements of this article. No licensed collector shall make any change in the arrangements for disposal of refuse collected by him without securing the approval of the Township Manager. Said license shall at all times be displayed by the collector in the cab of his truck.
- B. No licensed collector shall permit any outfallings from the conveyance of refuse to lie upon any of

the streets or alleys in the Township. Collection vehicles shall have closed bodies or shall have sufficient covers to prevent the blowing and spillage of refuse during collection and transportation.

**§ 192-4. Unlicensed collectors.**

No person shall permit any unlicensed collector to take any refuse from premises owned or occupied by him.

**§ 192-5. Hours specified for collection.**

All collections made by licensed collectors pursuant to the provisions hereof shall be made between the hours of 6:00 a.m. and 7:00 p.m. or dusk, whichever shall occur first. In the event that collections in residential areas result in noise which creates a disturbance, the Township Manager shall have the discretion to direct licensed collectors to withhold collection until 7:00 a.m.

**§ 192-6. Violations and penalties.**

Any person who shall violate or fail to comply with any of the provisions of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$25 and costs of prosecution and, in default thereof, to undergo imprisonment for no more than five days, provided that each day's continuance of a violation of this article shall constitute a separate offense, and provided, further, that a violation may result in revocation of the license of said collectors.

## ARTICLE II

**Municipal Solid Waste Disposal****[Adopted 7-27-1987 by Ord. No. 409 (Ch. VI, Art. 5, of the 1976 Ordinance Book)]****§ 192-7. Definitions.**

A. The following terms shall have the following meanings in this article:

**COLLECTOR** — Any person collecting or transporting municipal solid waste for owners or occupants of property in the municipality, including the municipality itself if it undertakes the collection of municipal solid waste directly, and any business or institution within the municipality which generates municipal solid waste and uses its own employees and equipment for the collection and transport of the waste.

**CONTRACTOR** — Shall mean one or more contractors with whom the county or the Delaware County Solid Waste Authority (hereinafter referred to as "Authority") contracts for construction and operation of the proposed resource recovery plant or plants, or other solid waste facilities.

**MUNICIPAL SOLID WASTE** — Any garbage, refuse, industrial lunchroom or office waste, and other material including solid or semisolid material generated in residential, municipal, commercial or institutional establishments and from community activities, and other solid waste which is within the definition of "municipal solid waste" as set forth in the Act and which the county, Authority, or contractor by its ordinance or regulations is willing to accept at the plant, but excluding:

- (1) Any liquid waste or sludge;
- (2) All wastes which are defined by existing or future federal or state law or regulations as hazardous waste or industrial residual waste;
- (3) Any waste which may be marketable and which is intentionally segregated for the purposes of recycling; and
- (4) Materials specifically excluded under applicable county ordinances.

**MUNICIPALITY** — The Township of Middletown.

**PERSON** — Any individual, partnership, association, corporation or governmental entity, with the exception of the county, Authority, or designated contractor.

**PLANT** — The energy and/or material recovery facility or facilities, transfer station or solid waste plants owned by the county or Authority or the contractor, including all associated property and equipment.

**SOLID WASTE FACILITY** — Any site owned and operated by the county, the Authority, or its designated contractor for the purpose of transfer, processing, or disposal of municipal solid waste, including landfills, resource recovery plants, and transfer stations.

B. Certain terms used herein are also defined in the recitals hereto.

**§ 192-8. Prohibitions.**

It is hereby declared to be unlawful and a public nuisance for any person to accumulate upon any property in this municipality, any municipal solid waste or to dispose of it except in accordance with this article, and other applicable laws, ordinances, or regulations.

**§ 192-9. County/authority operations and charges.**

The municipality has been advised by the county that the solid waste plan proposes to provide for a plant or plants which will be operated efficiently and economically by the contractor and/or by the county in accordance with all applicable laws and regulations, and also that the contractor and/or the county will impose reasonable charges, which will be uniform among all classes of users of the plant or plants.

**§ 192-10. Operations by licensed collectors.**

Except as it pertains to municipal solid waste collected directly by this municipality, all collectors of municipal solid waste generated within the municipality shall be licensed by the municipality and shall be responsible for collecting municipal solid waste from properties in the municipality pursuant to a contract between them and the municipality and/or contracts between them and the owners or occupants of properties.

**§ 192-11. Disposal at designated site.**

All collectors shall deliver and dispose all municipal solid waste collected within the municipality at the solid waste plant designated by the county subject to such reasonable regulations for the operation thereof as may be established by the county and/or contractor. Delivery and disposal at any other place shall be a violation of this article and cause for revocation of the collector's license, except in special circumstances approved in advance by the municipality and the county and/or contractor. All collectors shall comply in their operations with all applicable laws, ordinances and regulations pertaining to the collection and transportation of municipal solid waste.

**§ 192-12. Private dumps, transfer stations, and landfills prohibited.**

No person shall use or permit to be used any property owned or occupied by him within the municipality as a public or private dump, transfer station, or landfill for municipal solid waste, whether generated within the municipality or elsewhere, without the express written approval of the municipality.

**§ 192-13. Violations and penalties.**

Any person who shall violate any provision of this article shall, upon conviction thereof, in a summary proceeding before a Magisterial District Judge, be sentenced to pay a fine of not more than \$300 and, in default of payment thereof, shall be committed to the county jail for a period not exceeding 30 days; and each day's continuance of any other violation of this article as well as each truckload of illegally delivered trash shall constitute a separate offense.

**§ 192-14. Abatement of nuisance.**

In addition to the remedies provided in § 192-14 herein, any continued violation of this article or other applicable law which shall constitute a nuisance in fact, or which in the opinion of the governing body of this municipality shall constitute a nuisance, may be abated by proceeding against the violator in a court of equity for relief.

**§ 192-15. Regulations.**

The collection of municipal solid waste in the municipality and the disposal thereof shall be subject to such further reasonable rules and regulations as may from time to time be promulgated by the governing body of the municipality, including, but without limitation, regulations as to the form of license application, the

amount of fee to be charged for said license, and the terms of licenses and license issuance procedures; provided, however, that no such rules and regulations shall be contrary to the provisions of this article, the county solid waste plan, or applicable law.

**§ 192-16. Amendments; contract.**

The municipality reserves the right to amend this article or repeal it at any time; provided, however, that the requirement for use of the designated solid waste facility for disposal of municipal solid waste from the municipality shall not be amended or repealed without the prior express written approval of the county during the term of the contract between the county (or Authority) and contractor providing for the construction and operation of the plant, which contract shall have a term of 25 years. For the purposes of securing the contractor's financing, such requirement shall be deemed to be a contract between the county, the contractor, and the municipality, which the municipality (subject to the terms of the joint cooperation agreement set forth below) agrees to enforce so that the municipal solid waste from the municipality will be available to provide a source of energy for the plant. If the municipality is not now a collector but in the future it becomes a collector, it agrees to deliver all municipal solid waste so collected to the plant.

- A. Municipality agrees to deliver or cause to be delivered during the term of this agreement all municipal solid waste, as defined herein, generated within the municipality for disposal at a facility designated by the county.
- B. County agrees to accept for disposal all such municipal solid waste described in Subsection A above upon completion and commencement of operation of the plant in accordance with a contract, containing terms satisfactory to the county, with the contractor providing for construction and operation of the plant.
- C. The term of this agreement shall be for a period of 25 years, and said term shall commence on January 1, 2017. The municipality, at its option, may terminate this agreement with 30 days' written notice to the county in the event that the municipality will incur substantial costs over and above the costs generally accepted by the other municipalities in delivering municipal solid waste to the county during the term of this agreement, provided the municipality has first obtained final approval from the Department of Environmental Protection for its own plan under the act, or an approval from the Department for a modification that brings the municipality under another plan that has already obtained final approval. It is understood, however, that (upon any such termination of this agreement by the municipality) the County, the Authority, and/or the county's contractor shall be relieved of any responsibility to accept and dispose of municipal solid waste generated within the municipality. It is further understood that any such termination of this agreement by the municipality shall constitute a repeal, whether express or implied, of § 192-18 of this article. **[Amended 4-25-2016 by Ord. No. 767]**
- D. The county shall hold harmless and defend the municipality from any suit, claim or action challenging the legality of this article against the municipality. In the event that any such suit, claim or action is brought against the municipality, the municipality shall authorize the county, through its designated legal counsel, to defend against the same, and the municipality shall cooperate with the county in said defense and shall give the county solicitor notice of any such suit, claim or action within five days of the municipality's receiving notice thereof.

**§ 192-17. Adoption of solid waste management plan.**

- A. DEP has recommended that the requirements of the Solid Waste Management Act can best be accomplished on a county-wide basis.

- B. The municipality, by formal resolution dated May 14, 1987, authorized the county to prepare the solid waste management plan on the municipality's behalf.
- C. The county, through the staff of its Public Works Department, its Planning Commission, and Charles M. Harris and Associates, Inc., Consulting Engineers, prepared a ten-year plan for solid waste management.
- D. The appropriate municipal officials of this municipality have reviewed the findings and recommendations of the plan as it affects this municipality, have found the plan acceptable, and have recommended that the plan be adopted.
- E. The municipality, accordingly, hereby accepts and adopts the solid waste management study prepared by the County as the ten-year plan for solid waste management required by the Act.
- F. The county is hereby authorized to submit the plan to DEP for the final approval on behalf of the municipality.
- G. All other provisions, terms and conditions of the 1987 ordinance not specifically amended hereby shall remain in full force and effect. The SWA and the municipality hereby reaffirm the 1987 ordinance as amended hereby. **[Added 4-25-2016 by Ord. No. 767]**

**§ 192-18. When effective.**

This article shall become effective 31 days after adoption. Notwithstanding the foregoing, this municipality shall have neither the right nor the obligation to dispose of its municipal solid waste at the plant which is contemplated under this article until said plant is constructed and fully operational.

## ARTICLE III

**Recycling****[Adopted 8-27-1990 by Ord. No. 473 (Ch. VI, Art. 4, of the 1976 Ordinance Book)]****§ 192-19. Title.**

The title of this article shall be the "Municipal Recycling Program."

**§ 192-20. Definitions. [Amended 8-23-1993 by Ord. No. 525]**

The following words and phrases shall have the meanings respectively assigned to them by this section:

ALUMINUM CANS — Empty all-aluminum beverage and food containers.

COMMERCIAL ESTABLISHMENT — Those properties used primarily for commercial or industrial purposes and those multiple-dwelling residential buildings containing more than four dwelling units.

COMMUNITY ACTIVITIES — Events that are sponsored by public or private agencies or individuals that include but are not limited to fairs, bazaars, socials, picnics and organized sporting events attended by 200 or more individuals per day.

CORRUGATED PAPER — Structural paper material with an inner core shaped in rigid parallel furrows and ridges.

GLASS CONTAINERS — Bottles and jars made of clear, green or brown glass. Excluded are plate glass, automotive glass, blue glass and porcelain and ceramic products.<sup>55</sup>

INSTITUTIONAL ESTABLISHMENT — Those facilities that house or serve groups of people such as hospitals, schools, day-care centers and nursing homes.

LEAF WASTE — Leaves, but not grass clippings. **[Added 7-27-2009 by Ord. No. 706]**

MIXED PAPER — All white paper, colored paper, newspaper, card stock, grayboard, brochures, junk mail, envelopes with and without windows, magazines, etc., used in commercial, institutional and municipal establishments and in residences. **[Added 7-27-2009 by Ord. No. 706]**

MULTIFAMILY HOUSING PROPERTIES — Any properties having more than four dwelling units per structure.

MUNICIPAL ESTABLISHMENTS — Public facilities operated by the municipality and other governmental and quasi-governmental authorities.

MUNICIPALITY — Middletown Township.<sup>56</sup>

PERSON(S) — Owners, lessees and occupants of residences, commercial or institutional establishments, multifamily housing properties of more than four dwelling units or operators or sponsors of community activities.

PLASTIC CONTAINERS — Empty plastic beverage containers manufactured of polyethylene terephthalate (PET) or high-density polyethylene (HDPE).

RECYCLABLE MATERIALS (RECYCLABLES) — Source-separated reusable materials, including materials listed in Section 1501 of Act 101<sup>57</sup> and materials identified by the municipality to be recycled,

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55. Editor's Note: The former definition of "high-grade office paper," which immediately followed this definition, was repealed 7-27-2009 by Ord. No. 706.

56. Editor's Note: The former definition of "newspapers," which immediately followed this definition, was repealed 7-27-2009 by Ord. No. 706.

which would otherwise be disposed of or processed as waste.

**RESIDENTIAL DWELLINGS** — Any occupied single- or multifamily dwelling having up to and including four dwelling units per structure.<sup>58</sup>

**WASTE** — A material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed of. The term does not include source-separated recyclable materials.

**YARD WASTE** — Shrubby, tree trimmings, twigs, sticks, and branches, but not grass clippings. **[Added 7-27-2009 by Ord. No. 706]**

**§ 192-21. Establishment of program.**

- A. There is hereby established a recycling program for the mandatory separation of recyclables from garbage and refuse in Middletown Township. All residences, as well as commercial, institutional, and municipal facilities located within the Township, are required to recycle in the manner set forth in the regulations adopted by resolution of the Council of Middletown Township, as amended from time to time. The items to be recycled and the specific instructions for recycling shall be contained within the recycling program regulations. Recycling program regulations shall ensure that the minimum requirements of the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101 of 1988),<sup>59</sup> as may be amended, and the Delaware County Solid Waste Management Plan, as may be amended, are met. **[Amended 7-27-2009 by Ord. No. 706]**
- B. The Township Council or its authorized agent is empowered to designate the day or days of the month on which recyclables shall be collected, removed and disposed of from the Township or any designated area within the Township.

**§ 192-22. Separation of recyclables and placement for removal.**

All recyclables shall be kept separate from other garbage and refuse and shall be collected by the Township or by its designated agent. Recyclables shall be sorted and placed for collection in the manner described in the recycling program regulations. These materials shall be placed either at the curbside in such a manner that prevents the blowing or scattering of these materials so as to cause littering or they shall be placed in specific recycling collection locations as may be designated in the recycling program regulations from time to time. Nothing shall prevent the municipality from establishing different recycling requirements and procedures for different classes of use within the municipality.

**§ 192-23. Separation and disposal of leaf and yard waste. [Amended 7-27-2009 by Ord. No. 706]**

Leaf and yard waste shall be separated from garbage and refuse in accordance with requirements established by the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101 of 1988)<sup>60</sup> and the Delaware County Solid Waste Management Plan, as amended from time to time. All property owners shall make provision for the on-lot composting or collection of leaf waste. All residents, if not composting, shall place leaf and waste curbside for collection for composting purposes by Middletown Township under recycling program regulations. Nonresidential facilities, if not composting, shall make arrangements

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57. Editor's Note: See 53 P.S. § 4000.100 et seq., particularly § 4000.1501.

58. Editor's Note: The former definition of "source-separated recyclable materials," which immediately followed this definition, was repealed 7-27-2009 by Ord. No. 706.

59. Editor's Note: See 53 P.S. § 4000.101 et seq.

60. Editor's Note: See 53 P.S. § 4000.101 et seq.



for the collection and composting of leaf waste.

**§ 192-24. Municipal ownership of recyclable materials.**

From the time of placement of recyclable materials at the curb or at specified recycling collection points for collection in accordance with the terms of the Middletown Township recycling program regulations, these items shall be and become the property of Middletown Township or its authorized agent. It shall be a violation of this article for any person unauthorized by the Township to collect or pick up or cause to be collected or picked up any such items. Any and each such collection in violation hereof from one or more locations shall constitute a separate and distinct offense punishable as hereinafter provided.

**§ 192-25. Recycling of materials.<sup>61</sup>**

It shall be unlawful for a person to collect, remove or dispose of solid waste which contains recyclable materials designated by recycling program regulations with other forms of solid waste or refuse.

**§ 192-26. Residential collection fee. [Amended 10-29-1990 by Ord. No. 479; 8-23-1993 by Ord. No. 525; 4-22-1996 by Ord. No. 566; 6-26-2000 by Ord. No. 602]**

The owner of each residential property served by the curbside recycling program shall be billed by the Township on an annual basis at an amount established by the Township Council. Said billing shall be sufficient to cover the cost of the residential collection, administrative and billing costs and any tipping fees, disposal costs or shipping charges involved in marketing the recyclables collected.

**A. Annual billing system.**

- (1) The annual bill for recycling will be set forth as a separate item on the Township annual tax bills which are mailed to each residential property owner, as so listed in the real estate and interim tax duplicate. The entire tax bill, including but not limited to the recycling item, must be paid in full. Partial payments will not be accepted by the Township.
- (2) Each bill will be payable with a 2% discount if paid in full on or before March 31 of each year and will be payable at the face amount of the bill if paid between April 1 and May 31 of each year. Payments received in full, either at the Township Finance Office or at the bank designated on the bill, on or prior to the end of the period during which the bills are payable, will be deemed to be a payment within such period. For the purposes of this section, the residential property owner shall be deemed to have made payment within such period if the letter transmitting the payment is postmarked by the United States Postal Service on or prior to the final day in which the payment is to be received. Presentation of the receipt indicating that payment was mailed by registered or certified mail on or before the due date shall also be evidence of timely payment. Failure to receive such bills will not be considered an excuse for nonpayment and will not permit an extension of the period during which the bills are payable.
- (3) All moneys collected or recovered under the provisions of this article shall be paid into the Treasury of the Township of Middletown for the use and benefit of the Township of Middletown.
- (4) The face amount of the annual recycling charge shall be set by ordinance or resolution of Township Council.

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61. Editor's Note: Former § 192-25, Existing recycling operations, was repealed 7-27-2009 by Ord. No. 706. This ordinance also provided for the renumbering of former §§ 192-26 through 192-29 as §§ 192-25 through 192-28, respectively.

- (5) All recycling bills remaining unpaid after May 31 of each year will be subject to a ten-percent penalty to be added to the face amount of the bill. Such bills will be deemed to be delinquent recycling bills and must be paid by the 31st day of December of the year in which the bill is dated. All delinquent recycling bills and the penalties thereon which are not paid by December 31 shall continue to be deemed delinquent and a lien shall be entered in the Office of Judicial Support against the property served by the recycling program for which the recycling bill remains unpaid and shall be collected in the manner provided by law for the filing and collection of municipal claims or liens. The Township shall assess each property against which a lien is filed, a Township lien processing fee of \$30 or other amount as may be provided by ordinance or resolution of Township Council. The amount of the Township lien processing fee, together with the amount of any county filing and satisfaction fees, an interest charge of 9% per annum on the overdue amount and any other charges, expenses and/or fees permitted by law to be included shall be included in the amount of the lien.

**§ 192-27. Violations and penalties. [Amended 8-23-1993 by Ord. No. 525]**

Any person, firm or corporation who violates or neglects to comply with any provision hereof or with any regulation promulgated pursuant hereto shall, upon conviction thereof, be punishable by a fine not to exceed \$300 or the maximum fine allowed by law, except that the maximum fine for failure to comply with § 192-27 hereof shall not exceed \$10 for the first offense or \$50 for any succeeding offense.

**§ 192-28. Additional method of disposal.**

Any person may donate or sell recyclable materials to any other person, partnership or corporation, whether operating for profit or not for profit, for recycling purposes. Said other person, partnership or corporation may not, however, under any circumstances pick up recyclable materials placed for collection in accordance with Township recycling program regulations unless express authorization is received from the Township to do so.



**Chapter 195****SPECIAL EVENTS AND TEMPORARY SPECIAL EVENT STRUCTURES**

§ 195-1.	Definitions.	§ 195-5.	Permit issuance; denial.
§ 195-2.	Exemptions.	§ 195-6.	Permit fees.
§ 195-3.	Special event permits requirement.	§ 195-7.	Expenses; damages.
§ 195-4.	Application process.	§ 195-8.	Violations and penalties.

**[HISTORY: Adopted by the Township Council of the Township of Middletown 9-18-2024 by Ord. No. 862. Amendments noted where applicable.]**

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**§ 195-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the following meanings, except where the context clearly indicates a different meaning:

**APPLICANT** — Any person, agent, operator, firm, corporation or organization that seeks a permit from the Township to conduct a special event governed by this chapter.

**CONCESSIONS** — Food, beverage, alcohol, merchandise, or convenience items.

**FIRST AMENDMENT ACTIVITIES** — Activities with a primary purpose involving the exercise of freedom of speech, of association, of the press, of assembly, and petition as are guaranteed and protected by the First Amendment of the Constitution of the United States of America.

**OPERATOR** — Any person who has charge, care or control of a special event area which is let or offered for special event use.

**SPECIAL EVENT** —

- A. A temporary event, gathering or organized activity on a public street, public property or private property, or in any Township park, building or other facility, when an organized activity is conducted involving one or more of the following factors:
  - (1) The closing of a public street, sidewalk or alleyway or a portion thereof.
  - (2) Blocking or restricting public property or a portion thereof.
  - (3) Blocking or restricting access to private property of others.
  - (4) Installation of a stage, vehicle(s) of any kind, trailer, van, portable building, booth, stand, grandstand or bleachers on public property or on private property where otherwise prohibited by ordinance.
  - (5) Placement of no-parking signs or barricades in a public right-of-way.
  - (6) Amplification of music, voices, sounds or activities in excess of that permitted by ordinance.

- (7) The event will result in substantial impact on Township resources, facilities, or public safety services in response thereto.
- B. Examples of special events include, but are not limited to, block parties, concerts, dances, assemblages, processions, parades, circuses, amusement rides, fairs, festivals, community events, half marathons, 10Ks, 5Ks and other running events, bicycle races and tours, motorcycle rides, and other organized activity conducted for the purpose of recreation, fundraising for profit, nonprofit fundraising including religious festivals, community or organizational promotion or charity.

### **§ 195-2. Exemptions.**

This chapter does not apply to the following:

- A. An activity held solely on private property, and which does not otherwise require for its successful execution the provision and coordination of Township services to a degree over and above that which the Township routinely provides, notwithstanding § 195-3D;
- B. Programmed activities provided or managed by the Township;
- C. First Amendment activity on Township streets or sidewalks (including those in parks) that does not impede, obstruct, impair, interfere or disrupt normal or usual use of Township-owned property, public property, public facilities or public right-of-way; and
- D. Events that are public-school-related student academic, athletic or extracurricular activities and are historically typical school-related events.

### **§ 195-3. Special event permits requirement.**

- A. A special event permit issued by the township shall be required when an event is a special event, as defined by this chapter, and is not otherwise exempt.
- B. The applicant shall obtain all additional federal, state and municipal permits and approvals required to conduct the special event and related activities.
- C. For special events that propose to close a public street, a petition is required to be submitted bearing the signatures of 75% of those property owners who will be affected by the road closure.
- D. Certain types of special events may include the use of temporary special event structures. Structures in excess of 400 square feet shall not be erected, operated or maintained for any purpose without first obtaining approval and a permit from the fire code official and the building official.

### **§ 195-4. Application process.**

- A. Applications must be filed at least 10 business days in advance of the proposed special event.
- B. All applications for special event permits and associated temporary special event structures shall be made on a special event permit application form, available from the Township office, and shall be signed by the applicant and include the following information.
- (1) The name, address and telephone number of the person or entity seeking to conduct a special event.

- (2) The name, address and telephone of the organization and of the authorized or responsible head of said organization.
- (3) The intended dates and hours when the proposed special event is to be conducted.
- (4) A site plan showing location, layout, roads, entrances and exits, traffic flow patterns, parking and land uses of the surrounding areas; and the proposed route to be traveled or the area sought to be used or closed off for the special event.
- (5) The approximate total number of persons, animals and vehicles participating, with descriptions thereof.
- (6) A description of food and beverages to be sold or distributed.
- (7) When a temporary special event structure is proposed, applicant shall provide a dimensioned plot plan showing property boundaries, a detailed floor plan of the temporary structure, flame certificates, proof of proper anchoring in accordance with written manufacturer requirements.
- (8) A description of any musical instrument, sound amplification, audio equipment or similar device proposed to be used at the special event. The special event shall comply at all times with the noise regulations set forth in Chapter 155 of the Code.
- (9) The plan for cleanup after the special event is closed.
- (10) The amount of insurance, security bond and/or security deposit to cover all contingencies with the Township proposed to be held by the Township, if any. The amount of the required insurance or security bond shall be determined by the Township based upon the particular nature of the special event. The Township shall be named as additional insured in any insurance policy.
- (11) The payment of the application permit fee as set forth in § 195-6 herein.

**§ 195-5. Permit issuance; denial.**

The Township Manager, or his or her designee, shall issue the special events permit within five business days of receipt all of the items required in § 195-4 and upon a showing that the special event shall comply with this chapter and all other applicable ordinances to his satisfaction. The Township Manager may deny the application for a special events permit for failure to satisfy the requirements of § 195-4 or any other applicable ordinance.

**§ 195-6. Permit fees.**

The fee for any permit shall, from time to time, be determined by resolution of Township Council and posted in a fee schedule and shall be paid at the time of filing the application.

**§ 195-7. Expenses; damages.**

Any cost, expense or other damage incurred by the Township for services, including but not limited to the costs of additional police protection, shall be collected from any insurance, security bond or security deposit posted for the special event, by municipal lien against the property, and by any other action authorized under law.

**§ 195-8. Violations and penalties.**

Any person violating the provisions of this chapter shall, upon conviction thereof in summary proceedings brought before a District Magistrate Judge, be sentenced to pay a fine of not less than \$500, together with the costs of prosecution, including reasonable attorney fees. Each and every day in which any person, firm or corporation shall be in violation of this chapter shall constitute a separate offense.

## MIDDLETOWN CODE

## Chapter 198

## STORMWATER MANAGEMENT

ARTICLE I General Provisions		ARTICLE IV Stormwater Management Plan and Approval Requirements	
§ 198-1.	Statement of findings.	§ 198-21.	General requirements.
§ 198-2.	Purpose.	§ 198-22.	Stormwater management site plan (SMSP) contents and requirements.
§ 198-3.	Statutory authority.	§ 198-23.	Simplified stormwater management approach and simplified stormwater management site plan (SSMSP) contents and requirements.
§ 198-4.	Applicability and regulated activities.	§ 198-24.	Plan submission.
§ 198-5.	Exemptions.	§ 198-25.	Review of stormwater management site plan and simplified stormwater management site plan.
§ 198-6.	Repealer.	§ 198-26.	Modification of plans.
§ 198-7.	Severability.	§ 198-27.	Resubmission of disapproved stormwater management site plans and simplified stormwater management site plans.
§ 198-8.	Compatibility with other ordinance requirements.	§ 198-28.	As-built plans.
§ 198-9.	Modification (waiver).	§ 198-29.	Retention of plans at project site.
§ 198-10.	Erroneous permit.	§ 198-30.	Adherence to approved plan.
ARTICLE II Definitions		§ 198-31.	Certification of completion.
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ARTICLE III Stormwater Management		ARTICLE V Inspections	
§ 198-12.	General requirements.	§ 198-33.	Schedule of inspections.
§ 198-13.	Stormwater management performance standards and peak rate control.	§ 198-34.	Right-of-entry during construction.
§ 198-14.	Project design (sequencing to minimize stormwater impacts).		
§ 198-15.	Volume control and infiltration BMPs.		
§ 198-16.	Water quality requirements.		
§ 198-17.	Stream bank erosion requirements.		
§ 198-18.	Calculation methodology.		
§ 198-19.	Design and construction criteria for stormwater management facilities and best management practices.		
§ 198-20.	Erosion and sedimentation control requirements.		



## STORMWATER MANAGEMENT

ARTICLE VI  
Fees and Expenses

- § 198-35. Stormwater management plan fees and escrow.
- § 198-36. Expenses covered by fees and escrow.

ARTICLE VII  
Maintenance Responsibility

- § 198-37. Performance guarantee.
- § 198-38. Maintenance responsibilities.
- § 198-39. Review of stormwater facilities and BMP operations and maintenance (O&M) plan.
- § 198-40. Maintenance agreement for privately owned stormwater facilities.
- § 198-41. Stormwater management easements.
- § 198-42. Stormwater Maintenance Fund.
- § 198-43. Post-construction maintenance inspections.

ARTICLE VIII  
Prohibitions

- § 198-44. Prohibited discharges.
- § 198-45. Prohibited connections.
- § 198-46. Roof drains, sump pumps, and foundation drains.
- § 198-47. Waste disposal prohibitions.
- § 198-48. Alteration of SWM BMPs.

ARTICLE IX  
Enforcement and Penalties

- § 198-49. Right of entry.
- § 198-50. Notification.
- § 198-51. Enforcement.
- § 198-52. Violations deemed public nuisances.
- § 198-53. Violations and penalties.
- § 198-54. Appeals.

[HISTORY: Adopted by the Township Council of the Township of Middletown 12-9-2019 by Ord. No. 813.<sup>62</sup> Amendments noted where applicable.]

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62. Editor's Note: This ordinance also repealed former Ch. 198, Stormwater Management, adopted 8-27-2012 by Ord. No. 731.

ARTICLE I  
**General Provisions**

**§ 198-1. Statement of findings.**

The Middletown Township Council finds that:

- A. Inadequate management of accelerated stormwater runoff resulting from development throughout a watershed increases flood flows and velocities, contributes to erosion and sedimentation, degrades water quality, overtaxes the carrying capacity of existing streams and storm sewers, greatly increases the cost of public facilities to convey and manage stormwater, undermines floodplain management and flood reduction efforts in upstream and downstream communities, reduces groundwater recharge, and threatens public health and safety.
- B. A comprehensive program of stormwater management (SWM), including reasonable regulation of development and activities causing accelerated erosion, is fundamental to the public health, safety, welfare, and the protection of the people of the Township and all the people of the commonwealth, their resources, and the environment.
- C. Through project design, impacts from stormwater runoff can be minimized to maintain the natural hydrologic regime, and sustain high water quality, groundwater recharge, stream baseflow, and aquatic ecosystems. The most cost effective and environmentally advantageous way to manage stormwater runoff is through nonstructural project design, minimizing impervious surfaces and sprawl, avoiding sensitive areas (i.e., stream buffers, riparian corridors, floodplains, steep slopes, very steep slopes, etc.), and designing to topography and soils to maintain the natural hydrologic regime.
- D. Inadequate planning and management of stormwater runoff resulting from land development and redevelopment throughout a watershed can also harm surface water resources by changing the natural hydrologic patterns, accelerating stream flows (which increase scour and erosion of stream beds and stream banks thereby elevating sedimentation), destroying aquatic habitat and elevating aquatic pollutant concentrations and loadings such as sediments, nutrients, heavy metals and pathogens.
- E. The aforementioned impacts happen mainly through a decrease in natural infiltration of stormwater.
- F. Stormwater is an important water resource by providing groundwater recharge for water supplies and base flow of streams, which also protects and maintains surface water quality.
- G. Public education on the control of pollution from stormwater is an essential component in successfully addressing stormwater.
- H. Federal and state regulations require certain municipalities to implement a program of stormwater controls. These municipalities are required to obtain a federal permit for stormwater discharges from their municipal separate storm sewer system (MS4) under the National Pollutant Discharge Elimination System (NPDES) and are required to reduce sediment and other pollutants from entering the MS4.
- I. Nonstormwater discharges to municipal separate storm sewer systems (MS4) can contribute to pollution of surface waters of the commonwealth by the Township.

**§ 198-2. Purpose.**

The purpose of this comprehensive stormwater management ordinance is to promote health, safety, and welfare within Middletown Township by maintaining the natural hydrologic regime and by minimizing the

harms and maximizing the benefits described in § 198-1 of this chapter through provisions designed to:

- A. Meet water quality requirements under state law, including regulations at 25 Pa. Code Chapter 93.4a to protect and maintain "existing uses" and maintain the level of water quality to support those uses in all streams, and to protect and maintain water quality in "special protection" streams.
- B. Promote nonstructural best management practices (BMP).
- C. Minimize increases in stormwater volume and control peak flow.
- D. Minimize impervious surfaces.
- E. Manage accelerated runoff and erosion and sedimentation problems at their source by regulating activities that cause these problems.
- F. Utilize and preserve the existing natural drainage systems.
- G. Maintain the pre-development volume of groundwater recharge and prevent degradation of groundwater quality.
- H. Maintain the pre-development peak and volume of stormwater runoff and prevent degradation of surface water quality.
- I. Minimize nonpoint source pollutant loadings to the ground and surface waters.
- J. Minimize impacts on stream temperatures.
- K. Maintain existing flows and quality of streams and watercourses in the Township and the commonwealth.
- L. Preserve and restore the flood-carrying capacity of streams.
- M. Provide proper operations and maintenance of all permanent stormwater management facilities and best management practices that are implemented in the Township.
- N. Provide performance standards and design criteria for watershed-wide stormwater management and planning.
- O. Provide review procedures, performance standards, and design criteria for stormwater planning and management.
- P. Manage stormwater impacts close to the runoff source, requiring a minimum of structures and relying on natural processes.
- Q. Infiltrate stormwater to maintain groundwater recharge, to prevent degradation of surface and groundwater quality, and to otherwise protect water resources.
- R. Prevent stream bank and stream bed scour and erosion.
- S. Provide standards to meet National Pollution Discharge Elimination System (NPDES) permit requirements.
- T. Address certain requirements of the Municipal Separate Stormwater Sewer System (MS4) NPDES Phase II Stormwater Regulations.
- U. Implement an illicit discharge detection and elimination program to address nonstormwater

discharges into the MS4.

### **§ 198-3. Statutory authority.**

The Township is empowered to regulate land use activities that affect runoff 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 Stormwater Management Act; by the authority of Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended by Act 170 of 1988, as further amended by Act 209 of 1990 and Act 131 of 1992, 53 P.S. § 10101; and by the authority of Home Rule, 53 Pa.C.S.A., § 2961 et seq.

### **§ 198-4. Applicability and regulated activities.**

- A. This chapter shall apply to all areas of the Township that are located within the Ridley Creek and Chester Creek Watersheds.
- B. All construction and development activities that may affect stormwater runoff, including land development and earth disturbance activity, are subject to regulation by this chapter.
- C. This chapter shall apply to temporary and permanent stormwater management facilities constructed as part of any of the regulated activities listed in this section. Stormwater management and erosion and sedimentation control during construction activities which are specifically not regulated by this chapter shall continue to be regulated under existing laws and ordinances.
- D. This chapter contains the stormwater management performance standards and design criteria that are necessary or desirable from a watershed-wide perspective. Stormwater management design criteria (e.g., inlet spacing, inlet type, collection system design and details, outlet structure design, etc.) shall continue to be regulated by applicable ordinances, where not specifically identified herein.
- E. The following activities are defined as "regulated activities" and shall be regulated by this chapter, except as may be exempt from provisions of this chapter pursuant to § 198-5:
  - (1) Land development.
  - (2) Subdivision.
  - (3) Prohibited or polluted discharges.
  - (4) Alteration of the natural hydrologic regime.
  - (5) Construction of new or additional impervious surfaces (refer to Article II) which cumulatively exceed 500 square feet in area since August 28, 2012.
  - (6) Construction of new buildings or additions to existing buildings which cumulatively exceed 500 square feet of impervious surface area since August 28, 2012.
  - (7) Redevelopment (Refer to Article II.) proposing demolition and/or removal of more than 50% of existing structures and impervious surfaces on a site, excluding sites maintaining existing single-family detached or single-family semidetached residential dwelling uses. In the event a proposed development fails to meet the thresholds necessary to constitute redevelopment hereunder, an applicant may request a modification (waiver of modification) approved the requirements of under § 198-9, subject to the recommendation of the Township Manager, or their designee, where the Applicant can demonstrate that the development proposes an overall enhancement to the Middletown Township community, including, but not limited to,

development proposing a multimodal transportation enhancement for Township residents or a proposed alternative redevelopment which is consistent with the Township Comprehensive Plan or other plan adopted by the Township.

- (8) Diversion piping or encroachments in any natural or man-made stream channel.
  - (9) Nonstructural and structural stormwater management best management practices (BMPs) or appurtenances thereto.
  - (10) Temporary storage of impervious or pervious material (rock, soil, etc.) where ground contact exceeds 5% of the lot area or 5,000 square feet (whichever is less), and where the material is placed on slopes exceeding 8%.
  - (11) Any activity requiring a grading and excavating permit pursuant to Township Code Chapter 186, Grading and Excavating (aka "Soil Erosion and Sedimentation Control"), as amended.
- F. All regulated activities which result in earth disturbance shall comply with the requirements of the Middletown Township Code, Chapter 186, Grading and Excavating (aka "Soil Erosion and Sedimentation Control"), as amended.

#### **§ 198-5. Exemptions.**

- A. Exemption from any provision of this chapter shall not relieve the applicant from all other applicable requirements of this chapter, as identified herein or any applicable state or federal regulations.
- B. If approved by the Township pursuant to § 198-5E of this chapter, the following regulated activities are exempt from the requirements of this chapter (except as identified in § 198-5D or as otherwise specifically identified, herein):
  - (1) Installation of 1,200 square feet or less of cumulative impervious surface area since August 28, 2012.
  - (2) Use of land for gardening for home consumption.
  - (3) Agricultural activities when operated in accordance with a conservation plan, nutrient management plan, or erosion and sedimentation control plan approved by the Delaware County Conservation District, including activities such as growing crops, rotating crops, tilling of soil, and grazing animals. Installation of new, or expansion of existing, farmsteads, animal housing, waste storage, production areas, or other areas having impervious surfaces shall be subject to the provisions of this chapter unless exempt pursuant to § 198-5.
  - (4) Lot line adjustment subdivisions are exempt where no new lots are proposed and when no increase in impervious surface is proposed.
  - (5) Public road replacement, replacement paving, repaving and/or maintenance, and roadway shoulder improvements. This includes shoulder improvements conducted within the existing roadway cross section of municipally owned roadways, provided said improvements do not result in the construction of a new lane of travel. However, if the shoulder improvements require an NPDES permit, the proposed work must comply with all of the requirements of this chapter.
  - (6) Any aspect of BMP maintenance to an existing SWM system made in accordance with plans and specifications approved by the Township.
  - (7) Repair and reconstruction of on-lot sewage disposal systems where work is performed in

accordance with a valid permit issued by the Township or county.

- (8) Lots that are part of an approved subdivision containing overall subdivision stormwater management facilities, such as detention basins, rain gardens, etc., are exempt from additional individual lot controls if the total quantity of impervious surface area on the lot (existing plus proposed) is equal to or less than that quantity allocated to the lot, in the stormwater management design approved in conjunction with the subdivision. Stormwater runoff from impervious surface area must be directed to on-lot stormwater controls and overall subdivision stormwater controls consistent with that shown on the approved subdivision plan.
- (9) Construction or reconstruction of buildings or additions to existing buildings or other impervious surface (regulated activities) is exempt where the following conditions are met:
  - (a) An area of impervious surface is removed from the site so that upon completion of the regulated activity, the total increase of impervious surface area is 1,200 square feet, or less.
  - (b) The area where existing impervious surface is removed pursuant to § 198-5B(9)(a) above must be restored in accordance with § 198-19J of this chapter.
- (10) Grading and excavating permit applications (pursuant to Chapter 186 of the Middletown Township Code) where the addition of impervious surface area is 1,200 square feet or less.
- (11) A high tunnel (Refer to Article II.) shall be exempt from the provisions of this chapter if:
  - (a) The high tunnel conforms to all applicable Township Code requirements except as otherwise exempted by Pennsylvania Act 15 of 2018 (Act of April 18, 2018, P.L. 91, No. 15); and
  - (b) The high tunnel or its flooring does not result in an impervious area exceeding 25% of all structures located on the owner's total contiguous land area; and
  - (c) The high tunnel meets one of the following:
    - [1] The high tunnel is located at least 100 feet from any perennial stream or watercourse, public road or neighboring property line; and
    - [2] The high tunnel is located at least 35 feet from top of bank of any perennial stream or watercourse, public road or neighboring property line and located on land with a slope not greater than 7%; and
    - [3] The high tunnel is supported with a buffer or diversion system that does not directly drain into a stream or other watercourse by managing stormwater runoff in a manner consistent with requirements of Stormwater Management Act 167.
- C. Except as identified in § 198-5D (or as otherwise identified in this chapter), regulated activities in Middletown Township creating a cumulative amount of additional impervious surface area [on a "parent tract" - refer to § 198-5D(4)] in excess of 1,200 square feet but less than the quantities identified in table 198-5.1, and satisfying the setback criteria identified in Table 198-5.2, are only exempt from certain provisions of this chapter and must comply with the requirements of the Simplified Stormwater Management Approach, including submission and approval of a simplified stormwater management site plan (SSMSP) pursuant to Article IV of this chapter. Regulated activities creating impervious surface area greater than the quantities referenced in Tables 198-5.1 and 198-5.2 are not exempt from any requirements of this chapter and shall submit for approval a

stormwater management site plan (SMSP) pursuant to Article IV of this chapter.

- (1) Regulated activities included within § 198-5C are exempt from certain provisions of this chapter where the cumulative amount of additional proposed impervious surface area and the location of the impervious surface area conform to the following tables, 198-5.1 and 198-5.2.

<b>Table 198-5.1 - Maximum Exempt Impervious Surface Area</b>	
<b>Total Parcel Area (acres)</b>	<b>Maximum Exempt Impervious Surface Area (square feet)</b>
Less than 0.50	1,200
0.50 to 1.0	2,500
Greater than 1.0 to 2.0	4,000
Greater than 2.0 to 5.0	5,000
Greater than 5.0	7,500

- (2) Maximum amount of impervious surface area permitted (pursuant to Table 198-5.1) within a setback (excluding driveway access), measured from the downslope property boundary, shall conform to the following table:

<b>Table 198-5.2 - Maximum Exempt Impervious Surface Area Permitted Within the Setback</b>	
<b>Minimum Setback* (feet)</b>	<b>Maximum Exempt Impervious Surface Area Permitted Within the Setback (square feet)</b>
10	None permitted
20	1,200
50	2,500
100	4,000
200	5,000
500	7,500

**NOTES:**

- \* The "minimum setback" is defined as that distance between the downslope property boundary (where surface stormwater runoff from the regulated activity crosses that boundary) to the nearest point of the proposed impervious improvements, or the stormwater control structure discharge point, whichever is closer. Setback distances may be adjusted at the discretion of the Township Engineer based upon factors such as topography, surface flow path, soil conditions, and location of structures.

- (3) Projects meeting the exemption criteria established by Tables 198-5.1 and 198-5.2 must comply

with the requirements of the Simplified Stormwater Management Approach and shall construct a stormwater management infiltration facility (BMP) capable of capturing, storing and infiltrating the first two inches of rainfall generated by the net increase in impervious surface area (or the equivalent, thereof). The physical surface area of infiltration BMPs (the surface on which water is infiltrated) shall be no less than 20% of the net increase of impervious surface area. Infiltration BMPs must be constructed in accordance with Middletown Township standards and specifications and provisions of § 198-19 of this chapter, unless an alternative construction specification is approved by the Township Engineer. Regulated activities subject to the Simplified Stormwater Management Approach must submit to the Township for approval a simplified stormwater management site plan (SSMSP) conforming to the requirements of this chapter. Refer to § 198-23, § 198-24 and Middletown Township standards and specifications for plan content requirements, construction details for required infiltration BMPs, design and calculation criteria and submission and approval requirements.

D. Conditions and eligibility.

- (1) Subdivision and/or land development activities are not eligible for exemption and are not eligible for the Simplified Stormwater Management Approach (§ 198-5C).
- (2) Nonresidential development activities and development activities disturbing one acre or more of ground are not eligible for exemption and are not eligible for the Simplified Stormwater Management Approach (§ 198-5C), except for municipal activities that do not require state or federal permits or subdivision and/or land development approval. Development activities on a site involving residential properties containing three or more separate residential units constitutes nonresidential development activity hereunder.
- (3) Regulated activities as defined in § 198-4E(8) and (9) of this chapter are not eligible for exemption and are not eligible for the Simplified Stormwater Management Approach (§ 198-5C).
- (4) All impervious surface area constructed on a parcel or tract ("parent tract") after August 28, 2012, shall be considered cumulatively in determining the eligibility of a regulated activity for exemption. Impervious surface area existing on a parent tract prior to this date shall not be included in cumulative impervious surface area summation. Any area designated to be gravel or crushed stone shall be considered impervious surface unless it is part of an approved BMP. This requirement shall apply to the total development of the parcel even if development is to take place in phases.
- (5) Any regulated activity that does not create new or additional impervious surface area, but would create additional stormwater runoff as compared to the pre-development condition [e.g., removing woods or forest (or other dense vegetation) and replacing with nonwooded vegetation such as meadow or lawn], is not eligible for exemption and is not eligible for the Simplified Stormwater Management Approach (§ 198-5C).
- (6) An exemption shall not relieve the applicant from compliance with § 198-16D of this chapter related to "riparian corridor" and other Middletown Township Code requirements, including but not limited to Chapter 275, Article XXIX (Floodplain Conservation District), Chapter 275, Article XXX (Steep Slope Conservation District), Chapter 186 (Grading and Excavating, aka Soil Erosion and Sedimentation Control) and Middletown Township standards and specifications.
- (7) An exemption shall not relieve the applicant from implementing such measures as are necessary



to protect the public health, safety, and property.

- (8) Drainage problems. Where drainage problems are documented or known to exist downstream of, or is expected from, the proposed activity, the Township may deny an exemption.
  - (9) HQ and EV streams. An exemption shall not relieve the applicant from meeting state or county requirements for watersheds draining to high quality (HQ) or exceptional value (EV) waters.
  - (10) Forest management (timber harvesting) operations are not eligible for exemption.
- E. Middletown Township, upon written request by an applicant, may grant an exemption from the provisions of this chapter for a regulated activity qualifying for an exemption identified pursuant to § 198-5B. The Township shall require the applicant to pay a fee to the Middletown Township Stormwater Management Capital Fund, in an amount established by separate resolution of Middletown Township Council, for any exemption identified pursuant to § 198-5B(1), (9) and/or (10) of this chapter.
- F. All applicants seeking an exemption of stormwater management requirements based upon criteria contained in § 198-5B and E shall, at a minimum, submit the following documentation to the Township for approval of an exemption:
- (1) Two copies of the completed Township stormwater management exemption application form.
  - (2) Exemption application fee as established by separate resolution of Township Council.
  - (3) Two copies of a plan containing, at a minimum, the following information:
    - (a) Name and address of owner and tax folio number.
    - (b) Property boundaries and acreage of the parcel including a copy of the parcel deed.
    - (c) Location map identifying the site relative to streets and other parcels in the vicinity of the site.
    - (d) Location of existing site features within 100 feet of the proposed impervious surface area, including but not limited to wetlands, watercourses, surface waters, riparian corridor, floodplains, woods, forest, steep slopes and very steep slopes (as defined by the Middletown Township Zoning Ordinance<sup>63</sup>), structures, parking areas, driveways, utilities, wells, and on-lot septic systems, regardless of the location of the property boundary.
    - (e) Location and dimensions of existing and proposed impervious surface and other improvements on the property (that do not absorb rainfall), with setbacks drawn to relate the location of same to property lines, streets, and other existing features. Impervious surface area tabulation must be provided identifying existing area of impervious surface, existing impervious surface area to be removed, and proposed impervious surface areas. Impervious surface areas removed shall be restored in accordance with § 198-19J of this chapter. This restoration must be verified by the applicant for an exemption, if approved by the Township.
    - (f) Other information deemed necessary by the Township to determine compliance with exemption criteria contained in § 198-5B.

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63. Editor's Note: See Ch. 275, Zoning.

**§ 198-6. Repealer.**

Any ordinance or ordinance provision of the Township inconsistent with any of the provisions of this chapter is hereby repealed to the extent of the inconsistency only.

**§ 198-7. Severability.**

Should any section or provision of this chapter be declared invalid by a court of competent jurisdiction, such decisions shall not affect the viability of any of the remaining provisions of this chapter.

**§ 198-8. Compatibility with other ordinance requirements.**

Approvals issued pursuant to this chapter do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance.

**§ 198-9. Modification (waiver).**

A Modification of the requirement of one or more provisions of this chapter may be granted by the Township Manager upon the recommendation of the Township Engineer or other Township professional staff, as applicable, if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of this chapter is observed. In the event a requested modification is denied by the Township Manager, the Middletown Township Council may grant a waiver of a modification upon submission of a written request, which specifically sets forth the justification of modification of the requirement(s). In granting a waiver of a modification hereunder, Middletown Township Council may impose such conditions upon the waiver as will, in its judgment, substantially secure the objectives of this chapter.

**§ 198-10. Erroneous permit.**

Any permit or authorization issued or approved based on false, misleading or erroneous information provided by an applicant is void without the necessity of any proceedings for revocation. Any work undertaken or use established pursuant to such permit or other authorization is unlawful. No action may be taken by a board, agency or employee of the Township purporting to validate such a violation.

## ARTICLE II

### Definitions

#### § 198-11. Word usage; terms defined.

A. For the purposes of this chapter, certain terms and words used herein shall be interpreted as follows:

- (1) Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender; and words of feminine gender include masculine gender.
- (2) The word "includes" or "including" shall not limit the term to the specific example but is intended to extend its meaning to all other instances of like kind and character.
- (3) The word "person" includes an individual, firm, association, organization, partnership, trust, company, corporation, or any other similar entity.
- (4) The words "shall" and "must" are mandatory; the words "may" and "should" are permissive.
- (5) The words "used" or "occupied" include the words "intended," "designed," "maintained," or "arranged to be used," "occupied" or "maintained."

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

**ACCELERATED EROSION** — The removal of the surface of the land through the combined action of man's activity and the natural processes of a rate greater than would occur because of the natural process alone.

**AGRICULTURAL ACTIVITIES** — Activities associated with agriculture such as agricultural cultivation, agricultural operation, and animal heavy use areas. This includes the work of producing crops, including tillage, land clearing, plowing, disking, harrowing, planting, harvesting crops or pasturing and raising livestock and installation of conservation measures. Construction of new buildings or impervious area is not considered an agricultural activity.

**ALTERATION** — As applied to land, a change in topography as a result of the moving of soil and rock from one location or position to another; also, the changing of surface conditions by causing the surface to be more or less impervious; land disturbance.

**APPLICANT** — A landowner or developer who has filed an application for approval to engage in any regulated activities as defined in § 198-4 of this chapter.

**AS-BUILT DRAWINGS (As-Built Plan)** — Drawings that are maintained during construction of the project and which document the actual locations of the site improvements. An as-built plan must be prepared by a professional land surveyor, landscape architect, or professional engineer licensed in the Commonwealth of Pennsylvania and must be signed and include seal of the responsible professional preparing the plan.

**BANKFULL** — The channel at the top of bank or point where water begins to overflow onto a floodplain.

**BASE FLOW** — The portion of stream flow that is sustained by groundwater discharge.

**BIORETENTION** — A stormwater retention area which utilizes woody and herbaceous plants and soils to remove pollutants before infiltration occurs.

**BMP (Best Management Practice)** — Activities, facilities, designs, measures, or procedures used to

manage stormwater impacts from regulated activities, to meet state water quality requirements, to promote groundwater recharge, and to otherwise meet the purposes of this chapter. Stormwater BMPs are commonly grouped into one of two broad categories or measures: "structural" or "nonstructural." In this chapter, nonstructural BMPs or measures refer to operational and/or behavior-related practices that attempt to minimize the contact of pollutants with stormwater runoff whereas structural BMPs or measures are those that consist of a physical device or practice that is installed to capture and treat stormwater runoff. Structural BMPs include, but are not limited to, a wide variety of practices and devices, from large-scale retention ponds and constructed wetlands, to small-scale underground treatment systems, infiltration facilities, filter strips, low-impact design, bioretention, wet ponds, permeable paving, grassed swales, riparian corridor or forested buffers, sand filters, detention basins, and manufactured devices. Structural stormwater BMPs are permanent appurtenances to the project site.

**BMP MANUAL** — Pennsylvania Stormwater Best Management Practices Manual, December 2006, as amended.

**CHANNEL** — An open drainage feature through which stormwater flows. Channels include, but shall not be limited to, natural and man-made watercourses, swales, streams, ditches, canals, and pipes that convey continuously or periodically flowing water.

**CHANNEL EROSION** — The widening, deepening, and headward cutting of channels and waterways, due to erosion caused by moderate to large floods.

**CONSERVATION DISTRICT** — Delaware County Conservation District.

**CONSERVATION PLAN** — A plan written by a planner certified by NRCS that identifies conservation practices and includes site-specific BMPs for agricultural plowing or tilling activities and animal heavy use areas.

**CONVEYANCE** — A natural or man-made existing or proposed facility, feature or channel used for the transportation or transmission of stormwater from one place to another. For the purposes of this chapter, "conveyance" shall include pipes, drainage ditches, channel and swales (vegetated and other), gutters, stream channels, and like facilities or structures.

**COUNTY** — Delaware County.

**CULVERT** — A pipe, conduit, or similar structure including appurtenant works which conveys surface water under or through an embankment, driveway, street or road.

**CURVE NUMBER (CN)** — Value used in the Soil Cover Complex Method. It is a measure of the percentage of precipitation which is expected to run off from the watershed and is a function of the soil, vegetative cover, and tillage method.

**DAM** — An artificial barrier, together with its appurtenant works, constructed for the purpose of impounding or storing water or another fluid or semifluid, or a refuse bank, fill or structure for highway, railroad, or other purposes which does or may impound water or another fluid or semifluid.

**DEPARTMENT** — The Pennsylvania Department of Environmental Protection (PADEP).

**DESIGN PROFESSIONAL, QUALIFIED** — A Pennsylvania registered professional engineer, registered landscape architect, or a registered professional land surveyor trained to develop stormwater management site plans or simplified stormwater management site plans or any person licensed by the Pennsylvania Department of State or qualified by law to perform the work required by this chapter.

**DESIGN STORM** — The magnitude and temporal distribution of precipitation from a storm event

measured in probability of occurrence (e.g., fifty-year storm) and duration (e.g., 24 hours), used in the design and evaluation of stormwater management systems.

**DESIGNEE** — The agent of Middletown Township, Delaware County, Delaware County Conservation District and/or governing body involved with the administration, review, or enforcement of any provisions of this chapter by contract or memorandum of understanding.

**DETENTION BASIN** — An impoundment structure designed to manage stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate. Detention basins are designed to drain completely soon after a rainfall event.

**DETENTION VOLUME** — The volume of runoff that is captured and released into the surface waters of the commonwealth at a controlled rate.

**DETENTION/RETENTION BASIN WATERSHED** — All land area whose surface runoff is captured by a detention and/or retention basin.

**DEVELOPER** — A person, partnership, association, corporation, or other entity, or any responsible person therein or agent thereof that undertakes any regulated activity of this chapter. The developer is the applicant for approval of a stormwater management plan as described in this chapter.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including, but not limited to, the construction or placement of buildings or other structures, mobile homes, streets and other paving, utilities, mining, dredging, filling, grading, excavation, or drilling operations, and the subdivision of land.

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

**DEVELOPMENT SITE** — The specific tract of land for which a regulated activity is proposed.

**DIFFUSED DRAINAGE DISCHARGE** — Drainage discharge not confined to a single point location or channel, such as sheet flow or shallow concentrated flow.

**DISCHARGE** —

- (1) (verb) To release water from a project, site, aquifer, drainage basin or other point of interest;
- (2) (noun) The rate and volume of flow of water such as in a stream, generally expressed in cubic feet per second (CFS).

**DISCONNECTED IMPERVIOUS AREA (DIA)** — An impervious surface that is disconnected from any stormwater drainage or conveyance system and is redirected or directed to a pervious area, which allows for infiltration, filtration, and increased time of concentration.

**DISTURBED AREAS** — Unstabilized land area where an earth disturbance activity is occurring or has occurred.

**DOWNSLOPE PROPERTY LINE** — That portion of the property line of the lot, tract, or parcels of land being developed, located such that overland or pipe flow from the site would be directed toward it.

**DRAINAGE EASEMENT** — A right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

**EARTH DISTURBANCE** — A construction or other human activity which disturbs the surface of land, including, but not limited to, clearing and grubbing, grading, excavations, embankments, land development, agricultural plowing or tilling, timber harvesting activities, road maintenance activities, mineral extraction, and the moving, depositing, stockpiling or storing of soil, rock or earth materials. Grinding or milling of bituminous or concrete paving is not considered earth disturbance.

**EMERGENCY SPILLWAY** — A conveyance area that is used to pass peak discharge greater than the maximum design storm controlled by the stormwater facility.

**ENCROACHMENT** — A structure or activity that changes, expands or diminishes the course, current or cross section of a watercourse, floodplain or body of water.

**ENGINEER** — A licensed professional civil engineer licensed in the Commonwealth of Pennsylvania.

**EROSION** — The movement of soil particles by the action of water, wind, ice, or other natural forces.

**EROSION AND SEDIMENTATION CONTROL PLAN (Soil Erosion and Sedimentation Control Plan)** — A plan which is designed to minimize accelerated erosion and sedimentation.

**EXCEPTIONAL VALUE WATERS** — Surface waters of high quality which satisfy Pennsylvania Code Title 25, Environmental Protection, Chapter 93, Water Quality Standards, § 93.4b(b) (relating to antidegradation).

**EXISTING CONDITIONS** — The initial condition of a project site prior to the proposed construction. Except where specifically indicated otherwise in this chapter, farm field, disturbed earth, or undeveloped cover conditions of a site or portions of a site used for modeling purposes shall be considered "meadow" in "good" condition unless the natural groundcover generates lower curve numbers (CN) or Rational coefficient (C), such as a wooded or forested land.

**EXISTING RECHARGE AREA** — Undisturbed surface area or depression where stormwater collects and a portion of which infiltrates and replenishes the groundwater.

**EXISTING RESOURCES AND SITE ANALYSIS MAP (ERSAM)** — A base map which identifies environmentally sensitive areas subject to restrictions as defined by the Subdivision and Land Development Ordinance,<sup>64</sup> Zoning Ordinance<sup>65</sup> and this chapter, including, but not limited to, steep slopes, very steep slopes, ponds, lakes, streams, hydric soils, wetlands, vernal pools, floodplains, riparian corridors, woods (forest), surface waters of the commonwealth regulated by the state or federal government, topography, vegetated site features, natural areas, any areas supportive of endangered species, existing stormwater recharge areas or other stormwater management facilities, on-lot septic systems and wells.

**FLOOD** — Stormwater that temporarily inundates land areas not normally covered by water.

**FLOODPLAIN** — A relatively flat or low land area, adjoining a river, stream, watercourse or body of water, which area is subject to partial or complete inundation; an area subject to the unusual and rapid accumulation of surface waters from any source, e.g., stormwater drainage courses and basins. Also refer to Middletown Township Code Chapter 275, Article XXIX.

**FOREST** — Refer to "woods."

**FOREST MANAGEMENT/TIMBER HARVESTING OPERATIONS** — Planning and activities necessary for the management of forest land. These include timber inventory and preparation of forest

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64. Editor's Note: See Ch. 210, Subdivision and Land Development.

65. Editor's Note: See Ch. 275, Zoning.

management plans, silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, site preparation, and reforestation.

**FREEBOARD** — A vertical distance between the elevation of the design high water and the top of a dam, levee, tank, basin, or diversion ridge. The space is required as a safety margin in a pond or basin.

**GEOTEXTILE** — A fabric manufactured from synthetic fiber that is used to achieve specific objectives, including infiltration, separation between different types of media (i.e., between soil and stone), or filtration.

**GRADE** —

- (1) (noun) A slope usually of a street, other public way, land area, drainage facility or pipe, specified in percent;
- (2) (verb) To finish the surface of a roadbed, top of embankment or bottom of excavation.

**GROUNDWATER** — Water beneath the earth's surface that supplies wells and springs and is often between saturated soil and rock.

**GROUNDWATER RECHARGE** — Replenishment of natural underground water supplies.

**HEC-HMS** — The US Army Corps of Engineers, Hydrologic Engineering Center (HEC)-Hydrologic Modeling System (HMS).

**HIGH QUALITY WATERS** — Surface waters having quality which exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water by satisfying Pennsylvania Code Title 25, Environmental Protection, Chapter 93, Water Quality Standards, § 93.4b(a).

**HIGH TUNNEL** — A structure which meets the following:

- (1) Is used for the production, processing, keeping, storing, sale or shelter of an agricultural commodity as defined in Section 2 of the Act of December 19, 1974 (P.L. 973, No. 319), known as the "Pennsylvania Farmland and Forest Land Assessment Act of 1974,"<sup>66</sup> or for the storage of agricultural equipment or supplies.
- (2) Is constructed consistent with all of the following:
  - (a) Has a metal, wood or plastic frame.
  - (b) When covered, has a plastic, woven textile or other flexible covering.
  - (c) Has a floor made of soil, crushed stone, matting, pavers or a floating concrete slab.

**HOT SPOT** — An area where land use or activity generates highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Typical pollutant loadings in stormwater may be found in Chapter 8, Section 6 of the Pennsylvania Stormwater Best Management Practices Manual, Pennsylvania Department of Environmental Protection (PADEP) No. 363-0300-002 (2006).

**HYDRIC SOILS** — A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic condition in the upper part and as more specifically identified by the Delaware County Conservation District and/or NRCS Soil Survey.

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66. Editor's Note: See 72 P.S. § 5490.2.

**HYDROLOGIC REGIME, NATURAL** — The hydrologic cycle or balance that sustains quality and quantity of stormwater, baseflow, storage, and groundwater supplies under the natural conditions.

**HYDROLOGIC SOIL GROUP** — A classification of soils by the Natural Resources Conservation Service, formerly the Soil Conservation Service, into four runoff potential groups. The groups range from A soils, which are very permeable and produce little runoff, to D soils, which are not very permeable and produce much more runoff.

**IMPERVIOUS SURFACE (Impervious Area)** — A surface that prevents the infiltration of water into the ground. Impervious surface area shall include, but not be limited to, buildings, parking areas, driveways, roads, and sidewalks. Any areas containing concrete, asphalt, crushed stone, gravel, compacted soils, or other equivalent surfaces shall be considered impervious. Decks that do not prevent infiltration shall not be considered as impervious surface. Pool water surfaces are shall be considered impervious area. In addition, other areas determined by the Township Engineer to be impervious within the meaning of this definition shall be classified as impervious surface. Any area designated to be gravel or crushed stone shall be assumed to be impervious unless it is part of an approved BMP.

**IMPOUNDMENT** — A retention or detention basin designed to retain stormwater runoff and release it at a controlled rate.

**INFILTRATION** — Movement of surface water into the soil, where it is absorbed by plant roots, evaporated into the atmosphere or percolated downward to recharge groundwater.

**INFILTRATION STRUCTURES** — A structure designed to direct runoff into the ground [e.g., french drains, underdrain (that is level) seepage pits, seepage trench, biofiltration swale].

**INFILTRATION ZONE** — The soil elevation at which infiltration testing is completed and the approved bottom elevation of at-grade or underground infiltration basins.

**INLET** — A surface connection to a closed drain. A structure at the diversion end of a conduit. The upstream end of any structure through which water may flow.

**INVASIVE PLANT SPECIES** — Plant species that are non-native to the area and tend to spread to a degree that causes harm to the environment, local species, or human interests.

**INVERT** — The inside bottom of a culvert or other conduit.

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

- (1) The improvement of one 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 purposed 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.
- (2) A subdivision of land.
- (3) "Land development" does not include development which involves:
  - (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 a residential accessory building, including farm building, on a lot or lots subordinate to an existing principal building; or
- (c) 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 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 initial plans for the expanded area have been approved by the proper authorities.

**LAND/EARTH DISTURBANCE (Earth Disturbance)** — Any activity involving grading, tilling, digging, or filling of ground or stripping/removal of vegetation or any other activity that causes an alteration to the natural condition of the land.

**LIMITING ZONE** — A soil horizon or condition in the soil profile or underlying strata which includes one of the following:

- (1) A seasonal high-water table, whether perched or regional, determined by direct observation of the water table or indicated by soil mottling.
- (2) A rock with open joints, fracture or solution channels, or masses of loose rock fragments, including gravel, with insufficient fine soil to fill the voids between the fragments.
- (3) A rock formation, other stratum or soil condition which is so slowly permeable that is effectively limits downward passage of effluent.

**LOW-IMPACT DEVELOPMENT (LID) PRACTICES** — Practices that will minimize proposed conditions' runoff rates and volumes, which will minimize the need for artificial conveyance and storage facilities.

**MANNING EQUATION (MANNING FORMULA)** — A method for calculation of velocity of flow (e.g., feet per second) and flow rate (e.g., cubic feet per second) in open channels based upon channel shape, roughness, depth of flow and slope. "Open channels" may include closed conduits so long as the flow is not under pressure.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** — Pursuant to 40 CFR 122.26(b)(8), municipal separate storm sewer system is a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- (1) Owned or operated by a state, city, town, township, county, parish, district, association, or other public body (created to or pursuant to state law), including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the Clean Water Act that discharges into waters of the United States;
- (2) Designed or used for collecting or conveying stormwater;
- (3) Which is not a combined sewer; and
- (4) Which is not part of a publicly owned treatment works as defined at 40 CFR 122.2.

**NONPOINT SOURCE POLLUTION** — Pollution that enters a water body from diffuse origins in the watershed and does not result from discernible, confined, or discrete conveyances.

**NONSTORMWATER DISCHARGES** — Water flowing in stormwater collection facilities, such as pipes or swales, which is not the result of a rainfall event or snowmelt.

**NOXIOUS PLANTS (Noxious Weeds)** — Plants that are determined to be injurious to public health, crops, livestock, agricultural land, and other properties.

**NPDES** — National Pollution Discharge Elimination System, the federal government's system for issuance of permits under the Clean Water Act, which is delegated to PADEP in Pennsylvania.

**NRCS** — Natural Resource Conservation Service (previously SCS).

**OPEN CHANNEL** — A drainage element in which stormwater flows with an open surface. Open channels include, but shall not be limited to, natural and man-made drainageways, swales, streams, ditches, canals, and pipes flowing partly full.

**OUTFALL** — "Point source" as described in 40 CFR 122.2 at the point where Middletown Township's storm sewer system discharges to surface waters of the commonwealth.

**OUTLET** — Points of water disposal from a stream, river, lake, tidewater or artificial drain.

**PADEP** — The Pennsylvania Department of Environmental Protection.

**PARENT TRACT** — The parcel of land from which a land development or subdivision originates as of August 28, 2012.

**PEAK DISCHARGE** — The maximum rate of stormwater runoff from a specific storm event.

**PENNDOT (PADOT)** — The Pennsylvania Department of Transportation.

**PIPE** — A culvert, closed conduit, or similar structure (including appurtenances) that conveys stormwater.

**PLANNING COMMISSION** — The Planning Commission of Middletown Township.

**PMF (Probable Maximum Flood)** — The flood that may be expected from the most severe combination of critical meteorological and hydrologic conditions that are reasonably possible in any area. The PMF is derived from the probable maximum precipitation (PMP) as determined on the basis of data obtained from the National Oceanographic and Atmospheric Administration (NOAA).

**POINT SOURCE** — Any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, or conduit from which stormwater is or may be discharged, as defined in state regulations at 25 Pa. Code § 92.1.

**POLLUTANT REDUCTION PLAN (PRP)** — A plan required by PADEP for the reduction of sediment and nutrients to impaired surface waters, from a municipal separate storm sewer system (MS4), under the Township's NPDES permit, under the Clean Water Act of 1972.

**POST-DEVELOPMENT** — Period after construction during which disturbed areas are stabilized, stormwater controls are in place and functioning, and all improvements in the approved stormwater management plan are completed.

**PRETREATMENT** — Techniques employed in stormwater BMPs to provide storage or filtering to help trap coarse materials and other pollutants before they enter the system.

**QUALIFIED PROFESSIONAL** — Refer to "design professional, qualified."

**RATIONAL METHOD** — A rainfall-runoff relation used to estimate peak flow.

**RECHARGE AREA** — Undisturbed surface area or depression where stormwater collects, and a portion of which infiltrates and replenishes the underground and groundwater.

**RECHARGE VOLUME** — A calculated volume of stormwater runoff from impervious areas which is required to be infiltrated at a site and may be achieved through use of structural or nonstructural BMPs.

**RECORDATION (Record)** — The recordation of a subdivision, land development, NPDES permit, NPDES permit notice of termination, stormwater operation and maintenance agreement, deed, declaration of restrictions and covenants, or similar document at the Delaware County Recorder of Deeds.

**REDEVELOPMENT** — Any regulated activity that involves demolition, removal, reconstruction, or replacement of existing impervious surface(s).

**REGULATED ACTIVITIES** — Any activity to which this chapter is applicable pursuant to § 198-4.

**REGULATED EARTH DISTURBANCE ACTIVITY** — Activity involving earth disturbance subject to regulation under 25 Pa. Code Chapter 92, 25 Pa. Code Chapter 102, the Clean Streams Law, or as indicated in Township Code Chapter 186, Grading and Excavating (aka Soil Erosion and Sedimentation Control).

**REGULATED WATERS (Regulated Waterway)** — Surface waters regulated by the Commonwealth of Pennsylvania and/or waters of the United States.

**RELEASE RATE** — The percentage of pre-development peak rate of runoff from a site or subarea to which the post-development peak rate of runoff must be reduced to protect downstream areas.

**RETENTION BASIN** — A basin designed to retain stormwater runoff so that a permanent pool is established.

**RETENTION VOLUME/REMOVED RUNOFF** — The volume of runoff that is captured and not released directly into the surface waters of the commonwealth during or after a storm event.

**RETURN PERIOD** — The average interval, in years, within which a storm event of a given magnitude can be expected to recur. For example, the twenty-five-year return period rainfall would be expected to recur on the average once every 25 years.

**RIPARIAN CORRIDOR** — A vegetative ecosystem along surface waters (consisting of predominantly native trees, shrubs, and forbs) that is maintained in a natural state or sustainably managed to protect and enhance water quality, stabilize stream channels and banks, provide recharge rate attenuation, volume reduction and water quality filtering, and shading of the surface waters to promote cooling of runoff.

**RISER** — A vertical pipe extending from the bottom of a pond that is used to control the discharge rate from the pond for a specified design storm.

**ROAD MAINTENANCE** — Earth disturbance activities within the existing road cross section and right-of-way, such as grading and repairing existing unpaved road surfaces, cutting road banks, cleaning or clearing drainage ditches and other similar activities.

**ROOF DRAINS** — A drainage conduit or pipe that collects water runoff from a roof and leads it away from a structure.

**RUNOFF** — Any part of precipitation that flows over the land surface.

**SEDIMENT BASIN** — A barrier, dam, or retention or detention basin located and designed to retain rock, sand, gravel, silt, or other material transported by water.

**SEDIMENT POLLUTION** — The placement, discharge or any other introduction of sediment into the surface waters of the commonwealth occurring from the failure to design, construct, implement or maintain control measures and control facilities in accordance with the requirements of this chapter.

**SEDIMENTATION** — The process by which mineral or organic matter is accumulated or deposited by the movement of water or air.

**SEEPAGE PIT/SEEPAGE TRENCH** — An area of excavated earth filled with loose stone or similar coarse material, into which surface water is directed for infiltration into the underground water. (Refer to PA BMP Manual, December 2006, Chapter 6, Section 4.)

**SHALLOW CONCENTRATED FLOW** — Stormwater runoff flowing in shallow, defined ruts prior to entering a defined channel or waterway.

**SHEET FLOW** — Runoff that flows over the ground surface as a thin, even layer, not concentrated in a channel.

**SLOPES, STEEP** — Refer to Middletown Township Code, Chapter 275, Article XXX.

**SLOPES, VERY STEEP** — Refer to Middletown Township Code, Chapter 275, Article XXX.

**SOIL COVER COMPLEX METHOD** — A method of runoff computation developed by the NRCS that is based on relating soil type and land use/cover to a runoff parameter called a curve number (CN).

**SOIL GROUP, HYDROLOGIC** — A classification of soils by the NRCS into four runoff potential groups. The groups range from A soils, which are very permeable and produce little runoff, to D soils, which are not very permeable and produce much more runoff.

**SPECIAL PROTECTION WATERSHEDS** — Watersheds of streams that have been designated in Pennsylvania Code Title 25, Environmental Protection, Chapter 93, Water Quality Standards as being exceptional value (EV) or high quality (HQ) waters.

**SPILLWAY** — A depression in the embankment of a pond or basin which is used to pass peak discharge greater than the maximum design storm controlled by the pond.

**STORAGE INDICATION METHOD** — A reservoir routing procedure based on solution of the continuity equation (inflow minus outflow equals the change in storage) with outflow defined as a function of storage volume and depth.

**STORM FREQUENCY** — The number of times that a given storm event occurs or is exceeded on the average in a stated period of years. Refer to "return period."

**STORM SEWER** — A system of pipes and/or open channels that convey intercepted runoff and stormwater from other sources, but excludes domestic sewage and industrial wastes.

**STORMWATER** — The surface runoff generated by precipitation reaching the ground surface.

**STORMWATER CONVEYANCE FACILITY (Runoff Conveyance Facility)** — A stormwater management facility designed to transmit stormwater runoff which shall include streams, channels, swales, pipes, conduits, culverts, storm sewers, etc.

**STORMWATER MANAGEMENT (SWM)** — The control of surface runoff generated by precipitation reaching the ground surface.

**STORMWATER MANAGEMENT APPROVAL** — A written approval issued by the Township after the stormwater management site plan (SMSP) or the simplified stormwater management site plan (SSMSP) has been reviewed. Said approval is confirmed as part of the final approval by the Township and recordation of a subdivision and/or land development plan, or through the issuance

of a grading and excavating permit (aka soil erosion and sedimentation control permit) pursuant to Township Code Chapter 186.

**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** —

- (1) The plan for managing stormwater runoff within the Township adopted as required by the Act of October 4, 1978, P.L. 864 (Act 167);
- (2) A stormwater management site plan (SMSP) or simplified stormwater management site plan (SSMSP), as applicable, as required by this chapter.

**STORMWATER MANAGEMENT SITE PLAN (SMSP)** — The written stormwater management site plan submitted by the applicant (prepared by a qualified design professional), indicating how stormwater runoff will be managed at the particular site of interest according to this chapter.

**STORMWATER MANAGEMENT SITE PLAN, SIMPLIFIED (SSMSP)** — The written simplified stormwater management site plan submitted by the applicant (prepared by a qualified design professional), indicating how stormwater runoff will be managed at the particular site of interest according to this chapter.

**STREAM** — Rivers, creeks, springs, and other perennial or intermittent watercourses containing water at least on a seasonal basis during an average water year. The term "stream" shall include all "intermittent streams" and all "perennial streams."

- (1) **SPRINGS or SEEPS** — The point where groundwater discharges to become surface water.
- (2) **STREAM, EPHEMERAL** — A reach of stream that flows only during and for short periods following precipitation and flows in low areas that may or may not be a well-defined channel. Ephemeral stream beds are located above the water table year round. Groundwater is not a source of water for the stream. Some commonly used names for ephemeral streams include stormwater channel, drain, swale, gully, dry stream channel, hollow, or saddle.
- (3) **STREAM, HEADWATER** — The beginning reach of a stream, which collects water from springs and seeps and provides a hydrologic connection to a perennial stream. These channels may be ill defined and may move from year to year depending upon groundwater input, snowmelt, and runoff, but are typified by hydric soils and hydric vegetation.
- (4) **STREAM, INTERMITTENT** — A reach of stream that flows only during wet periods of the year and flows in a continuous well-defined channel. During dry periods, when the water table is depressed by seasonal aridity or drought, intermittent streams may go down to a trickle of water and appear dry, when in fact there is water flowing within the stream bottom or substrate.
- (5) **STREAM, PERENNIAL or WATERCOURSE, PERENNIAL** — A body of water in a channel that flows throughout a majority of the year in a defined channel and is capable, in the absence of pollution, drought, or man-made stream disturbances, of supporting a benthic macroinvertebrate community that is composed of two or more recognizable taxonomic groups of organisms, large enough to be seen by the unaided eye and can be

retained by a U.S. Standard No. 30 sieve (28 meshes per inch, 0.595 mm openings) and live at least part of their life cycles within or upon available substrates in a body of water or water transport system. A perennial stream can have Q7-10 flow of zero. For the purposes of this document, a perennial stream includes lakes, ponds and other areas of permanently impounded water, unless such areas of impounded water are not classified as surface waters regulated by the state or federal government.

**STREAM BANK EROSION** — The widening, deepening or headward cutting of channels and waterways caused by stormwater runoff or bankfull flows.

**STREAM BUFFER** — The land area adjacent to each side of a stream, essential to maintaining water quality.

**STREAM ENCLOSURE** — A bridge, culvert, or other structure, as defined by 25 Pa. Code Chapter 105, which encloses a regulated water of the Commonwealth of Pennsylvania.

**SUBAREA (Subwatershed)** — The smallest drainage unit of a watershed for which stormwater management criteria have been established in the stormwater management plan.

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

**SURFACE WATER (Surface Waters)** — Any and all perennial and intermittent streams, rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs, natural seeps, and all other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of the commonwealth (aka waters of the commonwealth), including any feature identified as waters of the United States.

**SWALE** — A low-lying stretch of land which gathers or carries surface water runoff.

**TIMBER HARVESTING OPERATIONS** — Refer to "forest management."

**TIME OF CONCENTRATION (T<sub>c</sub>)** — The time for surface runoff to travel from the hydraulically most distant point of the watershed to a point of interest within the watershed. This time is the combined total of overland flow time and flow time in pipes or channels, if any.

**TOP OF BANK** — Highest point of elevation in a stream channel cross section at which a rising water level just begins to flow out of the channel and over the floodplain.

**TOWNSHIP** — Middletown Township, Delaware County, Pennsylvania.

**TOWNSHIP ENGINEER** — A professional engineer licensed as such in the Commonwealth of Pennsylvania and appointed by Middletown Township pursuant to the authority of Home Rule, 53 Pa.C.S.A.

**TRIBUTARY AREA** — The portion of a watershed that contributes runoff to a particular point in that watershed.

**VERNAL POOL** — Seasonal depression wetlands that are covered by shallow water for variable periods from winter to spring, but may be completely dry for most of the summer and fall.

**VOLUMETRIC RUNOFF COEFFICIENT** — A variable indicative of stormwater runoff volume and

dependent on the impervious coverage for a site.

**WATER QUALITY VOLUME** — A calculated volume of stormwater runoff from impervious areas which is required to be captured and treated at a site and may be achieved through use of structural or nonstructural BMPs.

**WATERCOURSE** — An intermittent, ephemeral or perennial stream of water, river, brook, creek, or swale identified on USGS, SCS or state mapping; and/or delineated waters of the commonwealth.

**WATERS OF THE COMMONWEALTH** — Any and all rivers, streams, creeks, rivulets, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs, and all other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this commonwealth, including all such features identified in the USGS National Hydrography Dataset (NHD), Hydrologic Unit Code HUC-12.

**WATERS OF THE UNITED STATES (or WATERS OF THE US)** —

- (1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (2) All interstate waters, including interstate "wetlands";
- (3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce, including any such waters:
  - (a) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
  - (b) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - (c) Which are used or could be used for industrial purposes by industries in interstate commerce;
- (4) All impoundments of waters otherwise defined as waters of the United States under this definition;
- (5) Tributaries of waters identified in Subsections (1) through (4) of this definition;
- (6) The territorial sea; and
- (7) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in Subsections (1) through (6) of this definition.

**WET BASIN** — Pond for runoff management that is designed to detain runoff and always contains water.

**WETLAND** — Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, ferns, and similar areas.

**WETLAND DELINEATION** — The process by which wetland limits are determined. Wetlands must

be delineated by a qualified specialist according to the 1989 Federal Manuals (as amended) for the Delineation of Jurisdictional Wetlands (whichever is greater) or according to any subsequent federal or state regulation. "Qualified specialist" shall include those persons being certified professional soil scientists as registered with the Registry of Certified Professionals in Agronomy Crops and Soils (ARCPACS); or as contained on a consultant's list of Pennsylvania Association of Professional Soil Scientists (PAPSS); or as registered with the National Society of Consulting Soil Scientists (NSCSS); or as certified by state and/or federal certification programs; or by a qualified biologist/ecologist.

**WOODS (Forest)** — Any land area of at least 0.25 acre with a natural or naturalized ground cover (excluding manicured turf grass) that has an average density of two or more trees of six-inch caliper or greater, per 1,500 square feet and where such trees existed within three years of application to the Township for development approval or permit. An area shall be considered wooded if there is a contiguous canopy of trees measured from the outer driplines.



ARTICLE III  
**Stormwater Management**

**§ 198-12. General requirements.**

- A. All applicants proposing regulated activities in the Township that do not fall under the exemption criteria shown in § 198-5B and C of this chapter shall submit a stormwater management site plan (SMSP), consistent with this chapter, to the Township for review. All applicants proposing regulated activities that fall under the exemption criteria identified in § 198-5C are subject to the Simplified Stormwater Management Approach and shall submit a simplified stormwater management site plan (SSMSP), consistent with this chapter, to the Township for review. The plan shall be submitted by an applicant and reviewed by the Township in accordance with Article IV of this chapter. All impervious surface area constructed on a parcel or tract ("parent tract") after August 28, 2012, shall be considered cumulatively in determining the eligibility of a regulated activity for exemption. Impervious surface area existing on a parent tract prior to this date shall not be included in cumulative impervious surface area summation. Any area designated to be gravel or crushed stone shall be considered impervious surface unless it is part of an approved BMP. This requirement shall apply to the total development of the parcel even if development is to take place in phases. Refer to the definition of "impervious surface" within Article II of this chapter.
- B. All regulated activities shall include such measures as necessary to:
- (1) Protect health, safety, and property;
  - (2) Meet the water quality goals of this chapter by implementing measures to:
    - (a) Minimize disturbance to floodplains, wetlands, and wooded areas.
    - (b) Create, maintain, repair or extend riparian corridors and stream buffers.
    - (c) Stabilize eroded stream banks.
    - (d) Avoid erosive flow conditions in natural flow pathways.
    - (e) Minimize thermal impacts to waters of the commonwealth.
    - (f) Disconnect impervious surfaces [i.e., create disconnected impervious areas (DIAs)] by directing runoff to pervious areas, wherever possible.
  - (3) To the maximum extent practicable, incorporate the techniques for low-impact development practices (e.g., protecting existing trees, reducing area of impervious surface, cluster development, and protecting open space) described in the Pennsylvania Stormwater Best Management Practices Manual, Pennsylvania Department of Environmental Protection (PADEP) No. 363-0300-002 (December 30, 2006, as amended). Refer to § 198-12I of this chapter.
- C. No approval of any subdivision or land development plan, or issuance of any building, zoning, grading and excavating permit (aka soil erosion and sedimentation control permit), certificate of occupancy for a structure, or the commencement of any regulated earth disturbance at a project site within the Township shall proceed until the requirements of this chapter are met, including written approval of a stormwater management plan pursuant to Article IV and a permit under PADEP regulations, where applicable. A stormwater management plan shall be construed to mean either a stormwater management site plan (SMSP) or simplified stormwater management site plan (SSMSP),

as applicable, as required in this chapter.

- D. For all regulated earth disturbance activities, erosion and sediment (E&S) control best management practices (BMPs) shall be designed, implemented, operated, and maintained during the regulated earth disturbance activities (e.g., during construction) to meet the purposes and requirements of this chapter and to meet all requirements under Title 25 of the Pennsylvania Code and the Clean Streams Law. Various BMPs and their design standards are listed in the Erosion and Sediment Pollution Control Program Manual (March 2012), as amended and updated.
- E. The Township may, after consultation with PADEP, approve measures for meeting the state water quality requirements, other than those in this chapter, provided that they meet the minimum requirements of, and do not conflict with, state law, including, but not limited to, the Clean Streams Law.
- F. Erosion and sediment control during land disturbance shall be addressed as required by § 198-20.
- G. Infiltration and water quality protection shall be addressed as required by §§ 198-15 and 198-16.
- H. All best management practices (BMPs) shall conform to the design criteria of this chapter and Pennsylvania Stormwater Best Management Practices Manual, December 30, 2006, as amended, whichever is more stringent.
- I. Low-impact development techniques as described in Pennsylvania Stormwater Best Management Practices Manual (December 30, 2006, as amended) are encouraged to reduce the costs of complying with the requirements of this chapter and state water quality requirements. Use of nonstructural BMPs is encouraged and design and applicability of such BMPs is identified pursuant to Chapter 5 of the Pennsylvania BMP Manual.
  - (1) For all proposed nonstructural BMPs, the applicant shall utilize and submit applicable checklists included in Chapter 8, Section 8.8, of the Pennsylvania BMP Manual, to demonstrate that the BMPs are applicable to the project and to determine the amount of volume credit that may be applied to the development activity.
  - (2) When conversion of existing impervious surfaces is primarily to be utilized as a low-impact development technique to control surface runoff rate and volume, post-construction, from a development site, the applicant must demonstrate, through submission of soil testing by a qualified technical professional, that existing impervious surface areas to be converted to vegetative cover can achieve the same or greater capability to absorb water than the original ground cover condition prior to installation of impervious/compacted surfaces. Impervious surfaces to be converted to vegetative cover shall be accomplished in accordance with Middletown Township requirements or as recommended by a qualified technical professional, whichever is more stringent.
- J. Infiltration BMPs should be spread out, made as shallow as practicable, and located to minimize the use of natural on-site infiltration features while still meeting the other requirements of this chapter.
- K. Stormwater drainage systems shall be provided in order to permit unimpeded flow along natural watercourses, except as modified by stormwater management facilities designed to encourage infiltration, groundwater recharge, and improved water quality.
- L. Existing points of concentrated drainage that discharge onto adjacent property shall not be altered without written approval of the affected property owner(s) and shall be subject to discharge criteria specified in this chapter.

- M. Areas of existing sheet flow discharge shall be maintained wherever possible. If sheet flow is proposed to be concentrated and discharged onto adjacent property, the applicant must document that adequate downstream conveyance facilities exist to safely transport the concentrated discharge, or otherwise prove that no erosion, sedimentation, flooding or other harm will result from the concentrated discharge as verified by the Township Engineer; and submit written approval from the affected adjacent property owner(s) if required by the Township.
- N. Where a development site is traversed by watercourses, drainage easements shall be provided conforming to the line of such watercourses. The width of the easement shall be adequate to provide for the unimpeded flow of stormwater runoff from the 100-year storm event and shall include the riparian corridor required as specified in this chapter. Terms of the easement shall prohibit excavation, the placing of fill or structures, and any alterations that may adversely affect the flow of stormwater within any portion of the easement. Periodic maintenance of the easement shall be required by the landowner to ensure proper runoff conveyance and control of invasive plant species and noxious weeds, as defined by the Commonwealth of Pennsylvania. With the exception of invasive plants and noxious weeds, no vegetation shall be removed from within the riparian corridor.
- O. When it can be shown that, due to topographic conditions, natural drainageways on the site cannot adequately provide for drainage, open channels may be constructed conforming substantially to the line and grade of such natural drainageways. Work within natural drainageways shall be subject to approval by PADEP through the Chapter 105 permit process or, where deemed appropriate by PADEP, through the general permit process.
- P. Any stormwater management facilities regulated by this chapter that will be located in or adjacent to surface waters of the commonwealth, waters of the United States or wetlands shall be subject to approval by PADEP through the Chapter 105 permit process or, where deemed appropriate by PADEP, the general permit process. When there is a question whether wetlands or regulated surface waters may be involved, it is the responsibility of the applicant to prove that the land in question cannot be classified as wetlands, surface waters of the commonwealth or waters of the United States, otherwise approval to work in the area must be obtained from PADEP.
- Q. Any stormwater management facilities regulated by this chapter that would be located on state highway rights-of-way, or discharge stormwater to facilities located within a state highway right-of-way, shall be subject to approval by the Pennsylvania Department of Transportation (PennDOT).
- R. Site disturbance and impervious surface shall be minimized. Infiltrating stormwater runoff through seepage beds, infiltration basins, etc., shall be required, where soil conditions permit, to reduce the size or eliminate the need for retention/detention facilities.
- S. Roof drains, foundation drains, underdrains and sump pumps shall discharge to an infiltration structure, natural watercourse, storm sewer system, drainage swale, or stormwater easement. Roof drains and sump pumps shall not be connected to the storm sewer unless the storm sewer is designed as part of a stormwater BMP facility. In no case shall roof drains, foundation drains or sump pumps be connected to the sanitary sewer or be permitted to discharge directly across a sidewalk or walkway, or onto a street. If curbing is present, no drainage pipes shall pass through the curb to discharge onto the street. Sump pump, foundation drain, underdrain and roof drain discharge pipes shall not extend beyond the building envelope for the lot unless they are directly connected to an infiltration facility, detention basin, storm sewer pipe or as approved by the Township.
- T. All storm sewer inlets must be identified with a storm drain marker. Storm drain markers shall be stainless steel affixed to the inlet hood with adhesive, rivets, or bolts. (Markers may be bolted to the grate in off-road locations.) Markers shall have a minimum diameter of 3 1/2 inches and include "No

Dumping - Drains to Waterway" and a fish symbol. Alternate designs/sizes may be used if approved by the Township.

- U. Whenever a watercourse is located within a development site, it shall remain open in the natural state and location and shall not be piped, impeded, or altered (except for permitted crossings). It is the responsibility of the applicant, where applicable, to stabilize existing eroded stream/channel bed and banks. (Refer to § 198-17.)
- V. The temperature and quality of water of streams that have been declared as exceptional value (EV) and high quality (HQ) are to be maintained as defined in Chapter 93, Water Quality Standards, Title 25, Pennsylvania Department of Environmental Protection Rules and Regulations. All regulated development activities within HQ or EV watersheds must provide volume controls and water quality controls pursuant to the requirements of §§ 198-15 and 198-16 of this chapter.
- W. All stormwater runoff shall be pretreated for water quality prior to discharge to surface or groundwater as required by § 198-16 of this chapter.
- X. Hot spots.
  - (1) Hot spots are sites where the land use or activity produces a higher concentration of trace metals, hydrocarbons, or priority pollutants than normally found in urban runoff. Use of infiltration BMPs is prohibited on hot spot land use areas. Examples of hot spots include, but are not limited to the following:
    - (a) Vehicle salvage yards and recycling facilities.
    - (b) Vehicle fueling stations.
    - (c) Vehicle service and maintenance facilities.
    - (d) Vehicle and equipment cleaning facilities.
    - (e) Fleet storage areas (bus, truck, etc.).
    - (f) Industrial sites (based on Standard Industrial Codes defined by the U.S. Department of Labor).
    - (g) Marinas (service and maintenance).
    - (h) Outdoor liquid container storage.
    - (i) Outdoor loading/unloading facilities.
    - (j) Public works storage areas.
    - (k) Facilities that generate or store hazardous materials.
    - (l) Commercial container nursery.
    - (m) Contaminated sites ("brownfield" sites).
    - (n) Other land uses and activities as designated by the Township.
  - (2) Stormwater runoff from hot spot land uses shall be pretreated. In no case may the same BMP be employed consecutively to meet this requirement. Guidance regarding acceptable methods of pre-treatment is located in the Pennsylvania Stormwater Best Management Practices Manual.

- Y. West Nile guidance requirements. All wet basin designs shall incorporate biologic controls consistent with the West Nile guidance found in Appendix C of this chapter.<sup>67</sup>
- Z. Artificial wetlands, wet ponds, and bioretention structures designed to retain water shall incorporate geese damage/nuisance prevention techniques, including but not limited to those identified in § 198-19I(3)(a)[10] of this chapter.
- AA. Where there are surface features or facilities carrying and conveying stormwater runoff (not including storm sewer), no development activity shall be permitted which impacts the area inundated by the 100-year frequency rainfall event in a manner which would result in the increase in depth or extent of the area of inundation on an adjoining property or that would encroach upon an existing structure.

**§ 198-13. Stormwater management performance standards and peak rate control.**

- A. Each watershed has been divided into stormwater management release rate districts as shown on the map in Appendix E.<sup>68</sup> Standards for managing runoff from each subarea in a watershed for the one-, two-, five-, ten-, twenty-five-, fifty-, and 100-year design storms are shown in Tables 198-13.1, 198-13.2 and 198-13.3. Development sites located in each of the management/release rate districts must control proposed conditions runoff rates to existing conditions runoff rates for the design storms in accordance with the tables. In all other cases where unretained stormwater directly discharges from the site by bypassing the stormwater management facilities, the post-development runoff rate shall not exceed pre-development runoff rate. The preceding requirements shall apply to each location of concentrated or diffused drainage discharge from the development site. Refer to § 198-18 for requirements related to calculation of pre-development peak flow rates.
- B. For all subareas set forth in Table 198-13.2, the proposed two-year peak rate storm condition shall be reduced at a minimum to the existing one-year storm condition.
- C. Release rate district boundaries. The boundaries of the stormwater management release rate districts are shown on an official map that is available for inspection at the Township and County Planning offices. A copy of the official map at a reduced scale is included in Appendix E.<sup>69</sup> The exact location of the stormwater management district boundaries as they apply to a given development site shall be determined by mapping the boundaries using two-foot topographic contours (or most accurate data required) provided as part of the stormwater management plan.
- D. Sites located in more than one district or watershed. For a proposed development site located within two or more stormwater management district subareas, the peak discharge rate from any subarea shall meet the management district criteria in which the discharge is located. The natural hydrology of each respective subarea shall be maintained.
- E. The tributary area discharging surface runoff to any location along the development site property boundary shall not increase by more than 25% over the pre-development condition without written approval from the adjacent affected property owner(s) receiving runoff from the site, or any other downstream property owner as required by the Township.
- F. Site areas. Where the area of a site being impacted by a proposed development activity differs significantly from the total site area as determined by the Township Engineer, the Township may, but is not required to, permit only the proposed impacted area, which includes areas of the site that would

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67. Editor's Note: Said appendix is included as an attachment to this chapter.

68. Editor's Note: Said appendix is included as an attachment to this chapter.

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be disturbed, graded, cleared of vegetation and/or compacted due to construction activity, to be subject to the peak rate control requirements (performance standards).

- G. Off-site areas that drain through a proposed development site are not subject to peak rate control (release rate) requirements when determining allowable peak runoff rates or volume reduction. However, on-site drainage facilities shall be designed to safely convey off-site flows through the development site.
- H. Hardship option for regulated activities less than one acre, excluding subdivisions, land developments and nonresidential development activities. There may be certain instances where the peak rate criteria are too restrictive for a particular landowner or applicant. The existing drainage network in some areas may be capable of safely transporting slight increases in flows without causing a problem or increasing flows elsewhere. This must be demonstrated as per § 198-13I below in order for the hardship option to be considered. If an applicant or homeowner cannot meet the stormwater standards due to lot conditions or if conformance would become a hardship to an owner, the hardship option may be applied. The applicant would have to plead their case to Middletown Township Council with the final determination made by the Township. Any landowners pleading the "hardship option" will assume all liabilities that may arise due to exercising this option. Cost or financial burden cannot be considered as a hardship. The applicant may consider off-site management controls as long as the stormwater management controls are within the same subwatershed.
- I. Downstream hydraulic capacity analysis. Any downstream hydraulic capacity analysis conducted in accordance with this chapter shall use the following criteria for determining adequacy for accepting increased peak flow rates:
  - (1) Natural or man-made channels or swales must be able to convey the increased runoff associated with a two-year storm event within their banks at velocities consistent with protection of the channels from erosion. Velocities shall be based upon criteria and methodologies acceptable to the Township.
  - (2) Natural or man-made channels or swales must be able to convey increased twenty-five-year storm event runoff without creating any increased hazard to persons or property.
  - (3) Culverts, bridges, storm sewers or any other hydraulic facilities which must pass or convey flows from the tributary area must be designed in accordance with PADEP Chapter 105 regulations (if applicable) and, at a minimum, pass the increased twenty-five-year storm event runoff.
  - (4) Water quality requirements defined in § 198-15 must be met.
  - (5) Post-construction peak rates shall not exceed the existing peak rates for the respective subarea.
- J. For "redevelopment" sites, one of the following minimum design parameters shall be accomplished, whichever is most appropriate for the given site conditions as determined by the Township Engineer. Refer to Article II for definition of "redevelopment" and § 198-4E(7) of this chapter for regulated activities that qualify for the "redevelopment" standard described in this section.
  - (1) Meet the full requirements specified by Table 198-13.1 for the Ridley Creek Watershed or Table 198-13.2 for the Chester Creek Watershed, as applicable to the site, and § 198-13A through I; or
  - (2) Reduce the total impervious surface on the site by at least 30% based upon a comparison of existing impervious surface to proposed impervious surface. In this case, calculations must be

provided that show the peak rate of runoff for all design storms has not increased. Impervious surfaces to be converted to vegetative cover shall be accomplished in accordance with § 198-12I of this chapter.

- K. Peak rates of runoff from a development site during construction when the ground is disturbed must conform to § 198-20G of this chapter for all design storm events, one-year through 100-year frequency. Peak rate of runoff during construction, prior to permanent stabilization of a development site shall not exceed the corresponding pre-development peak rate of runoff. Calculations demonstrating compliance with this requirement shall be based on actual ground cover conditions for the pre-development condition.

**Table 198-13.1 - Peak Rate Control Standards in the Chester and Ridley Creek Watersheds**

Peak flow rate of the post-construction design storm shall be reduced to the peak flow rate of the corresponding pre-development design storm shown in the following table:

Post-Construction Design Storm Frequency	Pre-Development Design Storm Frequency
1-year	1-year
2-year	1-year
5-year	5-year
10-year	10-year
25-year	25-year
50-year	50-year
100-year	100-year

**Table 198-13.2 - Control Criteria for Chester Creek Watershed Stormwater Management Districts**

District	Control Criteria
90%	Post-development peak discharge for all design storms must be no greater than 90% of the pre-development peak discharges.
75%	Post-development peak discharge for all design storms must be no greater than 75% of the pre-development peak discharges.
50%	Post-development peak discharge for all design storms must be no greater than 50% of the pre-development peak discharges

**Table 198-13.3 - Control Criteria for Ridley Creek Watershed Stormwater Management Districts**

District	Control Criteria
90%	Post-development peak discharge for all design storms must be no greater than 90% of the pre-development peak discharges

**§ 198-14. Project design (sequencing to minimize stormwater impacts).**

- A. The design of all regulated activities shall include the following steps in sequence to minimize stormwater impacts.
- (1) The applicant is required to find practicable alternatives to the surface discharge of stormwater, the creation of impervious surfaces, and the degradation of surface waters of the commonwealth, and must maintain as much as possible the natural hydrologic regime of the site.
  - (2) An alternative is practicable if it is available and capable of being completed after considering cost, existing technology, and logistics in light of overall project purposes, and other Township requirements.
  - (3) All practicable alternatives to the discharge of stormwater are presumed to have less adverse impact on quantity and quality of surface waters of the commonwealth unless otherwise demonstrated.
- B. All applicants proposing regulated activities in the Township that do not fall under the exemption criteria shown in § 198-5B and C of this chapter shall demonstrate that regulated activities are designed in the following sequence to minimize the increases in stormwater runoff and impacts to water quality:
- (1) Prepare an Existing Resources and Site Analysis Map (ERSAM), showing environmentally sensitive areas subject to restrictions as defined by the Subdivision and Land Development Ordinance,<sup>70</sup> Zoning Ordinance<sup>71</sup> and this chapter, including, but not limited to, steep slopes, very steep slopes, ponds, lakes, streams, hydric soils, wetlands, vernal pools, floodplains, riparian corridors, woods (forest), surface waters of the commonwealth regulated by the state or federal government, topography, vegetated site features, natural areas, any areas supportive of endangered species, existing stormwater recharge areas or other stormwater management facilities, on-lot septic systems and wells.
  - (2) Prepare a draft project layout avoiding sensitive areas identified in § 198-14B(1) and minimizing total site earth disturbance as much as possible. The ratio of disturbed area to the entire site area and measures taken to minimize earth disturbance shall be included in the ERSAM.
  - (3) Identify site-specific existing conditions, drainage areas, discharge points (points of interest),

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70. Editor's Note: See Ch. 210, Subdivision and Land Development.

71. Editor's Note: See Ch. 275, Zoning.



recharge areas, and hydrologic soil groups A and B.

- (4) Evaluate nonstructural stormwater management alternatives. (Refer to the Pennsylvania BMP Manual.)
  - (a) Minimize earth disturbance.
  - (b) Minimize impervious surfaces.
  - (c) Break up large impervious surface areas.
  - (d) Protect existing trees [not within protected areas as described in § 198-14B(1)].
  - (e) Direct rooftop runoff to pervious areas.
  - (f) Revegetate and reforest disturbed areas.
  - (g) Utilize natural flow pathways.
- (5) Satisfy volume control standards (§ 198-15).
- (6) Satisfy water quality objective (§ 198-16).
- (7) Satisfy stream bank erosion protection objective (§ 198-17) and riparian corridor vegetation objective (§ 198-16D).
- (8) Prepare final project design to maintain pre-development drainage areas and discharge points, to minimize earth disturbance and impervious surfaces, to reduce runoff to the maximum extent possible, and to minimize the use of surface or point discharges.
- (9) Conduct a proposed conditions runoff analysis based on the final design, to meet the release rate criteria (performance standards) including during-construction (land disturbance) release rate criteria. (Refer to § 198-20.)
- (10) Manage any remaining runoff through treatment prior to discharge, as part of detention, bioretention, direct discharge or other structural control.

#### **§ 198-15. Volume control and infiltration BMPs.**

- A. For all regulated activities that are not exempt from requirements of this chapter pursuant to § 198-5B and C, water volume mitigation controls shall be implemented. The total volume of runoff that must be infiltrated (Rev) shall be equal to or greater than the difference between the post-development runoff volume and the pre-development runoff volume for the two-year, twenty-four-hour duration precipitation event [aka Control Guidance 1 (CG-1)]. The post-development total runoff volume for all storms equal to or less than the two-year, twenty-four-hour duration precipitation shall not be increased from the existing condition. For the purposes of existing (pre-development) conditions flow rate determination for all development activity, undeveloped land shall be considered as "meadow" in "good" condition, unless the natural ground cover generates a lower curve number (CN) or Rational coefficient (C) (e.g., woods, forest). Areas of woods shall use a ground cover of "woods" in "good" condition. All existing (pre-development) impervious surface area, when present, shall be considered "meadow" in "good" condition. For "redevelopment" sites, no less than 30% of existing (pre-development) impervious surface area, when present, shall be considered "meadow" in "good" condition. (Refer to § 198-18, Calculation methodology.) Refer to Article II for the definition of "redevelopment" and § 198-4E(7) of this chapter for regulated activities that qualify for the

"redevelopment" design criteria described in this section. The recharge volume (Rev) must either be reused, evapotranspired or infiltrated through structural and/or nonstructural means.

- (1) Alternative standards for runoff volume (Rev) control. Alternative standards are allowed in this chapter where it can be demonstrated that due to existing natural site conditions, substantial infiltration and recharge are not feasible. If it can be demonstrated that compliance with § 198-15A (CG-1) cannot be accomplished, then applicants may request from Middletown Township that an alternative standard be applied. Use of an alternative standard shall be permitted by the Township only after thorough scrutiny has been directed toward all possible stormwater management options at all possible locations at the site, consistent with the process set forth in § 198-15A(1)(e) and (f).

- (a) If CG-1 cannot be accomplished as indicated in § 198-15A, and if approved by the Township, at least the first one inch of runoff from new or replacement impervious surface areas shall be infiltrated. This recharge volume (Rev) shall be calculated as follows:

$$\text{Rev} = (1 \text{ inch} \times \text{IA}) \div 12$$

Rev (recharge volume in cubic feet)

IA (impervious surface area in square feet)

- (b) If infiltration of the recharge volume identified in § 198-15A and § 198-15A(1)(a) cannot be accomplished, and if approved by the Township, at least the first 0.50 inch of runoff from new or replacement impervious surface areas shall be infiltrated. This recharge volume (Rev) shall be calculated as follows:

$$\text{Rev} = (0.50 \text{ inch} \times \text{IA}) \div 12$$

Rev (recharge volume in cubic feet)

IA (impervious surface area in square feet)

If the volume of runoff that can actually be infiltrated is greater than that calculated in § 198-15A(1)(b), but less than that calculated in § 198-15A(1)(a), the larger volume shall be infiltrated.

- (c) For development activities where it can be demonstrated that the recharge volume requirement of § 198-15A, § 198-15A(1)(a), and § 198-15A(1)(b) cannot be accomplished, the Township may approve a stormwater volume control design after consultation with and evaluation by the Pennsylvania Department of Environmental Protection (PADEP) and confirmation that such an alternative stormwater volume control design is consistent with the requirements of Chapter 102 of Title 25 of the Pennsylvania Code and meets the current PADEP design guidelines for managing runoff volume, where infiltration is not feasible (infiltration-challenged sites).
- (d) The recharge volume derived from the method/calculations identified in § 198-15A, § 198-15A(1)(a), and § 198-15A(1)(b) is the minimum volume the applicant must control through infiltration BMPs. If site conditions preclude capture of surface runoff from portions of the impervious surfaces, capture of surface runoff volume from the remaining area of the development site shall be increased as necessary to capture and infiltrate an

equivalent volume of runoff to conform to the recharge volume requirement.

- (e) Required analysis for allowing use of an alternative standard for runoff volume control. The alternative standard shall be used only in those situations where it is demonstrated to the satisfaction of the Township that due to natural site conditions infiltration is not occurring in the pre-development condition, resulting in greater runoff volumes (than would normally be anticipated) due to bedrock near or at the surface (less than two feet in depth); presence of seasonal high water table (SHWT) (less than two feet in depth); and soils with low permeability (e.g., 0.20 inch per hour or less). Alternate standard shall be permitted by the Township only in those cases where the applicant has demonstrated that one or all of the above described conditions exist throughout the site, such that there is no reasonable means of infiltrating required stormwater volumes and that the property cannot be reasonably developed utilizing a stormwater management system which infiltrates the two-year frequency storm event volume (difference between the pre- and post-development storm). The applicant must demonstrate that there is no area of the site where the runoff volume requirement can feasibly be infiltrated. It is not grounds for approval of the alternate standard that infiltrating the runoff volume requirement will utilize areas that could otherwise be developed to obtain the most building area or lots.
- (f) Applicants requesting to utilize the alternative standard must provide a feasibility study for infiltration utilizing BMPs as well as other runoff volume stormwater management systems and provide the following information:
  - [1] Site plan demonstrating the extent of site area with seasonal high water table (SHWT) (less than two feet): The site will be evaluated both as to the extent of site with SHWT and the actual locations of SHWT areas. Use of the alternate standard shall be permitted by the Township only in those cases where it is demonstrated that site areas free of SHWT are not feasible for use as stormwater BMPs (i.e., they are located upgradient from reasonable site building areas).
  - [2] Site plan demonstrating extent of site area with less than two feet to bedrock: The site will be evaluated both as to the extent of site with shallow depth to bedrock and actual locations of shallow bedrock areas. Use of the alternate standard shall be permitted by the Township only in those cases where it is demonstrated that site areas free of shallow bedrock constraints are not feasible for use as stormwater BMPs (i.e., they are located upgradient from reasonable site building areas).
  - [3] The site plan shall demonstrate the extent of site area with less than 0.20 inch/hour of permeability in accordance with the soil testing protocol set forth in § 198-15D and Appendix B.<sup>72</sup>
  - [4] In order to utilize the alternative standard, the applicant must demonstrate that the sum total of limited infiltration areas (the total of areas described in § 198-15A(1)(f)[1] through [3]) exceed the following percentages of the total site:
    - [a] Sites less than five acres: 75%.
    - [b] Sites five to 10 acres: 80%.
    - [c] Sites greater than 10 acres: 85%.

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72. Editor's Note: Said appendix is included as an attachment to this chapter.

In addition, the applicant must demonstrate that there is no feasible site area free of the above described infiltration constraining features which exist in a location such that the runoff volume requirement can be achieved.

- B. If it is determined to the satisfaction of the Township that the recharge volume standard set forth in § 198-15A cannot be achieved, then the peak rate standards for post-development runoff are modified so that peak rate discharges from the site for all storms up to the ten-year frequency design storm must be additionally reduced to be equal to or less than 75% of the design peak rates permitted pursuant to § 198-13.
- C. Water volume controls will mitigate increased runoff impacts, protect stream channel morphology, maintain groundwater recharge, and contribute to water quality improvements. The applicant must demonstrate how the required recharge volume is controlled through stormwater best management practices (BMPs) which shall provide the means necessary to capture, reuse, evaporate, transpire or infiltrate the total runoff volume. The low-impact development practices provided in the Pennsylvania BMP Manual shall be utilized for all regulated activities to the maximum extent practicable. Volume controls provided through nonstructural BMPs may be subtracted from the required recharge volume to determine the volume of structural BMPs necessary for compliance with § 198-15A of this chapter. Design and applicability of nonstructural BMPs is identified pursuant to Chapter 5 of the Pennsylvania BMP Manual and § 198-12I of this chapter, as applicable. For all proposed nonstructural BMPs, the applicant shall utilize and submit applicable checklists included in Chapter 8, Section 8.8 of the Pennsylvania BMP Manual, to demonstrate that the BMPs are applicable to the project and to determine the amount of volume credit that may be applied to the development activity.
- D. Infiltration BMPs intended to receive runoff from developed areas shall be selected based on the suitability of soils and site conditions. All applicants proposing regulated activities that are not exempt from preparation and submission of a stormwater management site plan (SMSP) are required to perform a detailed soils evaluation of the project site by a qualified geotechnical engineer, geologist and/or soil scientist, pursuant to Appendix B<sup>73</sup> of this chapter, which at minimum addresses soil permeability, depth to bedrock, susceptibility to sinkhole formation, and subgrade stability. Infiltration/permeability tests shall be completed (in conjunction with the soils evaluation) with an infiltrometer or other method approved by the Township Engineer, pursuant to Appendix B, to determine the saturated hydraulic conductivity of the soil [at the location and the level of the proposed infiltration surface(s)]. "Percolation" tests (as utilized for septic system design) are not permitted for design of infiltration BMPs, unless approved by the Township Engineer.
- E. Infiltration BMPs must include safeguards against groundwater contamination for uses where it is anticipated that pollutants may enter the facility, by mishap or spill or where salt or chloride might be a nonpoint source contaminant since soils do little to filter this pollutant. If it is anticipated that pollutants may enter the infiltration facility (or other stormwater facility impounding water), resulting in potential groundwater contamination, Middletown Township may require the applicant to submit a hydrogeologic justification study of the site and proposed infiltration BMPs, prepared by a qualified design professional, to determine the risk for such contamination. The Township may require the installation of a mitigative layer or an impermeable liner in the BMP and/or detention basins where the possibility of groundwater contamination exists.
- F. Infiltration BMPs within high quality/exceptional value waters shall be subject to PADEP's Title 25,

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73. Editor's Note: Said appendix is included as an attachment to this chapter.

## Chapter 93, Antidegradation Regulations.

- G. The requirements for volume control and infiltration are applied to all disturbed areas, even if they are ultimately to be a pervious or permeable land use given the extent to which development-related disturbance leads to compaction of the soils and reduces their infiltrative capacity.
- H. If on-lot infiltration structures are proposed, it must be demonstrated that the soils are conducive to infiltrate on the lots identified.
- I. Infiltration BMPs shall be designed in accordance with the design criteria and specifications of the Pennsylvania Stormwater BMP Manual (2006) and as additionally identified pursuant to § 198-19I(1) of this chapter.

**§ 198-16. Water quality requirements.**

- A. In addition to the performance standards and design criteria requirements of Article III of this chapter, adequate storage and treatment facilities must be provided to capture and treat stormwater runoff from developed or disturbed areas, unless otherwise exempted by provisions of this chapter. The recharge volume computed under § 198-15 may be a component of the water quality volume if the applicant chooses to manage both components in a single facility. Only if the recharge volume is less than the water quality volume may the remaining water quality volume be captured and treated by methods other than recharge/infiltration BMPs. The required water quality volume (WQv) is the storage capacity needed to capture and to treat a portion of stormwater runoff from the developed areas of the site produced from 90% of the average annual rainfall (P). The following calculation formula is to be used to determine the required water quality storage volume (WQv) in acre-feet of storage:

<b>Equation 198-16.1</b>	
WQv =	$[(P)(R_v)(A)]/12$ (inches/foot), where:
P =	Rainfall amount equal to 90% of events producing this rainfall (in) - the volume of rainfall for 90% of the storm events which produce runoff in the watershed annually
A =	Area of the project contributing to the water quality BMP (acres)
Rv =	Volume runoff coefficient $0.05 + 0.009(I)$ where I is the percent of the area that is impervious surface (impervious area ÷ total project study area) x 100%

- B. Provisions shall be made (such as adding a small orifice at the bottom of the BMP facility outflow control structure) so that the proposed condition, one-year frequency design storm takes a minimum of 24 hours to drain from the facility from a point where the maximum volume of water from the one-year storm is captured (i.e., the maximum water surface elevation is achieved in the facility). The design of the facility shall minimize clogging and sedimentation. Trash racks are required for any primary orifice. Orifices smaller than three inches in diameter are not permitted. [Refer to § 198-19H(13).] However, if the design engineer can verify that a smaller orifice is protected from clogging by use of trash racks, etc., smaller orifices may be permitted. Should it be verified by the design engineer that the requirement to release the one-year frequency design storm over a twenty-four-hour period is not feasible using an orifice of three inches in diameter [or the equivalent thereof - refer to § 198-19H(13)] or greater, this requirement shall be considered satisfied by utilizing a three-inch diameter outflow control orifice to achieve the maximum release time feasible for a given basin tributary drainage area.

- C. To accomplish the requirements in Subsections A and B above, the applicant may submit original and innovative designs to the Township Engineer for review and approval. Such designs may achieve the water quality objectives through a combination of BMPs. Infiltration BMPs shall be used wherever feasible. Wet ponds, artificial wetlands, or other permanent BMP acceptable to the Township shall be used to the extent that infiltration BMPs are proven not to be feasible.
- D. Riparian corridor.
- (1) A riparian corridor shall be created along surface waters as defined by this chapter, within all development sites in accordance with the following criteria:
- (a) All area within 50 feet of either side of a surface water as set back from the top-of-bank (of a stream, channel, watercourse, etc.), permanent water surface (of a pond, lake, etc.) or wetland, as applicable. For subdivisions, land developments and construction activities requiring a PADEP Chapter 102 permit and/or NPDES permit, studies conducted by qualified technical professionals must be completed to identify the limit of wetlands and/or waters of the United States, or to verify such features do not exist on a development site (or on a nearby site, whereby the existence of such a feature would result in the riparian corridor area extending into the development site).
  - (b) The width of the riparian corridor shall be increased to be consistent with that required in conjunction with any federal and/or state permits required for development of a site.
  - (c) The width of the riparian corridor shall be increased to the limit of the floodplain where the floodplain extends further from the surface waters than the boundary requirement indicated in § 198-16D(1)(a) and (b).
- (2) Uses and development activities permitted within the riparian corridor area shall include the following, subject to Township approval and provided that they comply with all federal, state, and local regulations and applicable provisions of this chapter. Any permitted activity within the riparian corridor shall be conducted in a manner that will maintain the extent of the existing floodplain, improve or maintain the stream stability, and preserve and protect the ecological function of the floodplain:
- (a) Recreational trails conforming to all applicable PADEP regulations and permit requirements.
  - (b) Utility rights-of-way and utility installation when no viable alternative alignment or location is feasible.
  - (c) Bridges.
  - (d) Roads and driveways, including related stormwater culverts and storm sewer, when no viable alternative alignment or location is feasible, provided that such roads and driveways are aligned predominantly perpendicular to the surface water and topography.
  - (e) Removal of invasive and noxious plant species and debris in accordance with state regulations.
  - (f) Stream bank stabilization including construction access and erosion controls for such stabilization efforts, in accordance with state regulations.
  - (g) Revegetation and planting of trees, shrubs, or ground cover vegetation approved by the

Township.

- (h) Other nondestructive uses subject to Township approval.
- (3) Uses and development activities prohibited within the riparian corridor area shall be cuts, fills, soil/rock/mineral extraction and/or removal, removal of topsoil, structures, stormwater management facilities, removal of vegetation (excluding removal of downed trees), forestry, timber harvesting, ground disturbance and on-lot septic system drainfields, tanks and related components.
- (4) The following provisions also apply to riparian corridor areas on lots in existence at the time of adoption of this chapter:
  - (a) If the applicable rear or side yard building setback pursuant to applicable zoning regulations, is less than 50 feet, the riparian corridor area setback may be reduced within the zoning setback to 25% of the setback or 25 feet, whichever is greater.
  - (b) If a surface water traverses a site in a manner that significantly reduces the use of the site, the riparian corridor area setback may be reduced to 25 feet with the approval of a waiver by Middletown Township Council.
  - (c) Reduction of the riparian corridor area as described in this section shall only be considered for approval upon the applicant verifying, through analysis by qualified technical professional, that reduction of the setback would not result in a riparian corridor width that is less (at any point on the development site) than the floodplain of the surface water or the extent of any existing wetlands or waters of the United States on the property or on nearby properties (but impacting the development site). Riparian corridor area may not be reduced to less than that width required by federal or state regulations.
  - (d) If an existing riparian corridor area (or a stream buffer), or the equivalent thereof, is legally prescribed (i.e., established by deed, covenant, easement, etc.) and it exceeds the requirements of this section, the existing buffer (riparian corridor area) shall be maintained and may not be reduced in width.
- (5) The riparian corridor area shall be maintained in a vegetated state, except where vegetation is otherwise permitted to be removed from within the riparian corridor area pursuant to the requirements of this chapter. Invasive plant species and noxious weeds shall be carefully removed from the riparian corridor on a continual basis.
- (6) For subdivisions, land developments and construction activities requiring a PADEP Chapter 102 permit and/or NPDES permit, the riparian corridor area shall be planted with Pennsylvania native vegetation unless the applicant demonstrates, through submission of documentation, reports, studies and/or expert technical analysis prepared by a qualified professional, that existing vegetation is sufficient to satisfy the purpose of a riparian corridor as defined in this chapter. The priority goal of the riparian vegetation will be the reduction of thermal impacts on stormwater runoff associated with impervious areas, with a secondary goal being the protection of capacity of existing stormwater conveyance channels. Planting/revegetation shall be accomplished in a manner satisfactory to the Township, utilizing the Pennsylvania Stormwater Best Management Practices Manual, December 2006, as amended. Also refer to [http://www.docs.dcnr.pa.gov/cs/groups/public/documents/document/dcnr\\_20029752.pdf](http://www.docs.dcnr.pa.gov/cs/groups/public/documents/document/dcnr_20029752.pdf) for a guide book titled "Common Trees of Pennsylvania" for a native tree list. The requirements of this section shall be in addition to any other Township Code requirements.

- (7) For subdivisions or land developments, an easement shall be established to encompass the entire riparian corridor area and shall be recorded with the Delaware County Recorder of Deeds so that it shall run with the land and shall limit the use of the property located therein. The easement shall allow for the continued private ownership of the riparian corridor area, and the area of this easement shall count toward the minimum lot area required by zoning regulations. The recording plan of subdivision and land development shall identify the boundary of such easement including description of the metes and bounds. The recording plan shall clearly reference by notation, all restrictions on use of, and activity within the riparian corridor area as defined in this chapter and within a floodplain (as defined by the Township Code).
- E. Design of BMPs used for water quality control shall be in accordance with design specifications outlined in the Pennsylvania Stormwater BMP Manual or other applicable manuals. The following factors must be considered when evaluating the suitability of BMPs used to control water quality at a given development site:
- (1) Total contributing drainage area.
  - (2) Permeability and infiltration rate of the site soils.
  - (3) Topographic slope and depth to bedrock.
  - (4) Seasonal high water table.
  - (5) Proximity to building foundations and wellheads.
  - (6) Erodibility of soils.
  - (7) Land availability and configuration of the topography.
  - (8) Peak discharge and required volume control.
  - (9) Stream bank erosion.
  - (10) Efficiency of the BMPs to mitigate potential water quality problems.
  - (11) Volume of runoff that will be effectively treated.
  - (12) Nature of the pollutant being removed.
  - (13) Maintenance requirements.
  - (14) Creation/protection of aquatic and wildlife habitat.
  - (15) Recreational value.
  - (16) Enhancement of aesthetic and property value.

**§ 198-17. Stream bank erosion requirements.**

- A. In addition to the water quality volume, to mitigate the impact of stormwater runoff on downstream stream bank erosion, BMPs must be designed to detain the proposed conditions two-year, twenty-four-hour design storm to the existing conditions one-year flow using the SCS Type II distribution.
- B. Whenever a watercourse is located within a development site, it shall remain open in the natural state and location and shall not be piped, impeded, or altered (except for permitted crossings). The



applicant shall stabilize all eroded stream/channel beds and banks within a subdivision or land development site and/or within the limit of disturbance of a development activity requiring an NPDES permit (for discharge of stormwater during construction activities) and obtain all permits necessary from PADEP to do so. The applicant must submit a report, prepared by a qualified professional, of existing stream/channel banks, including photo documentation, to assess the condition of existing watercourses and determine whether existing banks must be stabilized.

**§ 198-18. Calculation methodology.**

- A. Stormwater runoff calculations shall use generally accepted calculation technique that is based on the NRCS soil cover complex method. Table 198-18.1 summarizes acceptable computation methods. Method must be selected by the applicant based on the individual limitations and suitability of each method for a particular site. The Rational Method may be used to estimate peak discharges from drainage areas that contain less than 200 acres. The Rational Method is recommended for drainage areas under 100 acres.

<b>Table 198-18.1 Acceptable Computation Methodologies for Stormwater Management Designs</b>		
<b>Method</b>	<b>Method Developed by</b>	<b>Applicability</b>
TR-20 (or commercial computer package based on TR-20)	USDA NRCS	Applicable where use of full hydrology computer model is desirable or necessary
TR-55 (or commercial computer package based on TR-55)	USDA NRCS	Applicable for land development plans within limitations described in TR-55
HEC-1, HEC-HMS	US Army Corps of Engineers	Applicable where use of full hydrologic computer model is desirable or necessary
PSRM	Penn State University	Applicable where use of a hydrologic computer model is desirable or necessary; simpler than TR-20 or HEC-1
Rational Method (or commercial computer package based on Rational Method)	Emil Kuichling (1889)	Applicable sites less than 200 acres, or as approved by the Township engineer
Other methods	Varies	Other computation methodologies approved by the Township engineer

- B. All calculations consistent with this chapter using the Soil Cover Complex Method shall use the appropriate design rainfall depths for the various return period storms according to the National Oceanic and Atmospheric Administration (NOAA) Atlas 14, Volume 2, Version 3.0, rain data corresponding to the Media, Pennsylvania, rain gage as presented in Table A-1 of Appendix A<sup>74</sup> of this chapter. This data may also be directly retrieved from the NOAA Atlas 14, Volume 2, Version

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74. Editor's Note: Said appendix is included as an attachment to this chapter.

3.0 website: <https://hdsc.nws.noaa.gov/hdsc/pfds/>. If a hydrologic computer model such as PSRM or HEC-1/HEC-HMS is used for stormwater runoff calculations, then the duration of rainfall shall be 24 hours.

- C. Runoff curve numbers (CN) for both existing and proposed conditions to be used in the Soil Cover Complex Method shall be obtained from Table A-2 in Appendix A<sup>75</sup> of this chapter.
- D. Runoff coefficients (C) for both existing and proposed conditions for use in the Rational Method are contained in Table A-4 in Appendix A<sup>76</sup> of this chapter. If approved by the Township Engineer, coefficients from other credible published sources may be utilized.
- E. All calculations using the Rational Method shall use rainfall intensities consistent with appropriate time-of-concentration for overland flow and return periods from NOAA Atlas 14, Volume 2, Version 3.0, rain data corresponding to the Media, Pennsylvania, rain gage as presented in Table A-3 of Appendix A<sup>77</sup> of this chapter. This data may also be directly retrieved from the NOAA Atlas 14, Volume 2, Version 3.0 website: <https://hdsc.nws.noaa.gov/hdsc/pfds/>. Times-of-concentration for overland flow shall be calculated using the methodology presented in Chapter 3 of Urban Hydrology for Small Watersheds, NRCS, TR-55 (as amended or replaced from time to time by NRCS). Times-of-concentration for channel and pipe flow shall be computed using Manning's Equation.
- F. Existing (pre-development) condition peak flow rate calculation.
  - (1) Undeveloped land shall be considered as "meadow" in "good" condition, unless the natural ground cover generates a lower curve number (CN) or Rational coefficient (C) (e.g., woods, forest), as listed in Tables A-2 and A-4 in Appendix A<sup>78</sup> of this chapter. Areas of woods shall use a ground cover of "woods" in "good" condition.
  - (2) No less than 30% of existing (pre-development) impervious surface area, when present, shall be considered "meadow" in "good" condition. Stormwater calculations shall clearly identify the existing impervious surface area to be modeled as meadow, as "existing impervious surface as meadow." Stormwater calculations shall clearly identify the existing impervious surface area to be modeled as meadow, as "30% existing impervious surface as meadow." Calculations must include a detailed tabulation of total existing impervious surface area, existing impervious surface area modeled as "meadow" and existing impervious surface area modeled using Rational coefficient or curve numbers for impervious surface, or the equivalent thereof.
  - (3) For "redevelopment" sites, the ground cover used in determining the existing conditions (pre-development) flow rates shall be based upon actual land cover conditions. Refer to Article II for the definition of "redevelopment" and § 198-4E(7) of this chapter for regulated activities that qualify for the "redevelopment" design criteria described in this section.
  - (4) Any portion of the site that is designed to discharge runoff to proposed stormwater management facilities/BMPs (thus is within the calculation study area), but is not proposed to be reconstructed, regraded, or redeveloped, the ground cover used in determining the existing conditions flow rates shall be based upon actual land cover conditions.

- G. Where uniform flow is anticipated, the Manning Equation shall be used for hydraulic computations,

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75. Editor's Note: Said appendix is included as an attachment to this chapter.

76. Editor's Note: Said appendix is included as an attachment to this chapter.

77. Editor's Note: Said appendix is included as an attachment to this chapter.

78. Editor's Note: Said appendix is included as an attachment to this chapter.

and to determine the capacity of open channels, pipes, and storm sewers. Values for Manning's roughness coefficient (n) shall be consistent with Table A-5 in Appendix A<sup>79</sup> of this chapter.

- H. Outlet structures for stormwater management facilities shall be designed to meet the performance standards of this chapter using any generally accepted hydraulic analysis technique or method.
- I. The design of any stormwater management facilities intended to meet the performance standards of this chapter shall be verified by routing the design storm hydrograph through these facilities using the Storage Indication Method. For drainage areas greater than 20 acres in area, the design storm hydrograph shall be computed using a calculation method that produces a full hydrograph.
- J. The time of concentration (Tc) is the time required for water to flow from the hydraulically most remote point of the drainage area to the point of interest (design point). Use of the rational formula requires calculation of a Tc for each design point within the drainage basin. Travel time estimation for the Rational Method shall be based on NRCS Technical Release No. 55 (2nd Edition). For design purposes, the time of concentration may not be less than five minutes. Travel time (Tt) is the time it takes runoff to travel from one location to another in a watershed (subreach) and is a component of time of concentration. Tc is computed by summing all the travel times for consecutive components of the drainage conveyance system.
- K. Water moves through a watershed as sheet flow, shallow concentrated flow, open channel flow, or some combination of these. Sheet flow rates shall be calculated using the NRCS TR-55 (1986) variation of the kinematic wave equation. Sheet flow length may not exceed 50 feet over paved surfaces and 150 feet over unpaved surfaces. Maximum permitted sheet flow length shall be 150 feet unless site-specific conditions exist (that can be demonstrated and proven) that warrant an increase of the sheet flow length. Under no circumstances shall sheet flow length exceed 300 feet. Shallow concentrated flow time and open channel flow time shall be calculated using standard engineering methodologies.

**§ 198-19. Design and construction criteria for stormwater management facilities and best management practices.**

- A. Stormwater runoff which may result from regulated activities identified in § 198-4 shall be controlled by permanent stormwater runoff BMPs that will provide the required standards within Article III. The methods of stormwater control or best management practices (BMPs) which may be used to meet the required standards are described in this chapter and the Pennsylvania Stormwater Best Management Practices Manual, December 30, 2006, as amended, and are the preferred methods of controlling stormwater runoff. The choice of BMPs is not limited to the ones appearing in this chapter and the BMP Manual; however, any selected BMP must meet or exceed the runoff peak rate requirements of this chapter.
- B. Any stormwater facility located on state highway rights-of-way shall be subject to approval by the Pennsylvania Department of Transportation.
- C. Collection system standards.
  - (1) Curb inlets. Curb inlets shall be located at curb tangents on the uphill side of street intersections, and at intervals along the curbline to control the maximum amount of encroachment of runoff on the roadway pavement so that same does not exceed a width of four feet during the design storm event. Design and location of curb inlets shall be approved by the Township.

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79. Editor's Note: Said appendix is included as an attachment to this chapter.

- (2) Pipe materials. All storm sewer piping shall be Class III reinforced concrete pipe, except when pipe class and strength is required to be increased in accordance with PennDOT Specification. Piping shall be saw-cut at ends, as needed, and not hammered or broken. All pipe joints and lift holes must be mortared except where designed for infiltration. High-density polyethylene (HDPE) or polyvinyl chloride (PVC) pipe, as approved by the Township Engineer, may be utilized for underdrain, infiltration basins or combination storm sewer underdrain (outside of public right-of-way).
- (3) Minimum pipe size. Minimum pipe diameter shall be 18 inches (or an equivalent flow area of 1.77 square feet).
- (4) Inlet and manhole construction. Inlet and manhole castings and concrete construction shall be equivalent to PennDOT Design Standards. Manhole castings and covers shall have the word "STORM" cast in two-inch letters on the top of the cover. All inlet grates shall be "bicycle safe" heavy duty structural steel. All storm sewer inlets must be identified with a storm drain marker ("environmental" type). Storm drain markers shall be stainless steel affixed to the inlet hood with adhesive, rivets or bolts. (Markers may be bolted to the grate in off-road locations.) Markers shall have a minimum diameter of 3 1/2 inches and include "No Dumping - Drains to Waterway" and a fish symbol. Alternate designs/sizes may be used if approved by the Township.
- (5) Open-end pipes must be fitted with concrete endwalls or wing walls in accordance with PennDOT Standards.
- (6) Flow velocity. Stormwater collection systems shall be designed to produce a minimum velocity of three feet per second when flowing full. The maximum permissible velocity shall be 15 feet per second. Pipe slopes shall not be less than 1/2 of 1% (0.005 ft/ft), with the exception that terminal sections of pipe shall have a minimum slope of 1% (0.01 ft/ft).
- (7) Inlets and manholes shall be spaced at intervals not exceeding 300 feet, and shall be located wherever branches are connected or sizes are changed, and wherever there is a change in alignment or grade. For drainage lines of at least 36 inches in diameter, inlets and manholes may be spaced at intervals of 400 feet. Manholes shall be equipped with open grate lids.
- (8) Storm sewer bedding/backfill requirements shall conform to the Middletown Township standards and specifications.
- (9) Inlets shall be located to intercept concentrated runoff prior to discharge over public/private rights-of-way, sidewalks, streets, and driveways.
- (10) The capacity of all Type "C" inlets shall be based on a maximum surface flow to the inlets of four cubic feet per second (cfs), calculated based on the 100-year frequency design storm event. The maximum flow to Type "C" inlets located in low points (such as sag vertical curves) shall include the overland flow directed to the inlet as well as all bypass runoff from upstream inlets. The bypass flow from upstream inlets shall be calculated using inlet efficiency curves included in PennDOT Design Manual Part 2, latest edition. If the surface flow to an inlet exceeds four cfs, additional inlets shall be provided upstream of the inlet to intercept the excessive surface flow. A Type "C" inlet at a low point of a paved area may be designed to accept a maximum of six cubic feet per second (CFS). Type "M" inlets shall be designed to accept a maximum surface flow of six CFS based on the 100-year frequency design storm event, unless otherwise approved by the Township. Double inlets will not be permitted where additional pipe and inlets can be placed upstream to intercept excessive surface flow. A maximum of 12 CFS shall be permitted

to be collected by a Type "M" inlet located in an isolated pervious area provided the designer can verify that such an inlet would not cause stormwater to accumulate (pond/flood) on any adjoining public or private property, outside of a storm sewer easement, and that the depth of the accumulated stormwater would not exceed 12 inches. Double inlets (two single collection inlets closely positioned side by side or front to back) must be separated by at least one segment of connecting pipe, no less than three feet long.

- (11) A minimum drop of two inches shall be provided between the inlet and outlet pipe invert elevations within all inlets and manholes. When varying pipe sizes enter an inlet or manhole, the elevation of crown of all pipes shall be matched. Storm sewer pipes shall enter and exit the sides of inlet boxes and shall not encroach into the corner, wherever possible. Where pipe is designed to encroach the corner of a collection inlet box, the design engineer must verify the box has sufficient strength to withstand PennDOT vehicle loading requirements.
- (12) Stormwater pipes shall have a minimum depth of cover of 18 inches (including over the bell) or as designated by the American Concrete Pipe Association (whichever is greater), and in no case shall any part of the pipe project into the road subbase or curb. Where cover is restricted, equivalent pipe arches may be specified in lieu of circular pipe, to achieve required cover. Stormwater pipes conveying swale flow under driveway crossings shall have a minimum cover of 12 inches, including over the bell, but in no case shall the cover be less than that required for the anticipated traffic loading. For driveway culverts, cover may be less than 12 inches if the design engineer verifies proposed pipe has sufficient strength to withstand PennDOT vehicle loading requirements. Where cover is restricted, concrete trench drain with bolt-down metal grates may be used, as approved by the Township Engineer.
- (13) The capacity of all stormwater pipes shall be calculated utilizing the Manning Equation for open channel flow as applied to closed conduit flow. The Manning's roughness coefficient shall be 0.13 for all concrete pipe. In cases where pressure flow may occur, the hydraulic grade line shall be calculated throughout the storm sewer system to verify that at least one foot of freeboard will be provided in all inlets and manholes for the design storm event.
- (14) Culverts shall be designed based on procedures contained in Hydraulic Design of Highway Culverts, HDS No. 5, U.S. Department of Transportation, Federal Highway Administration. Where pressure flow is anticipated in storm sewer pipes (non-open channel flow), the applicant's designer shall be required to calculate the elevation of the hydraulic grade line through the storm sewer system. Wherever the hydraulic grade line elevation exceeds the pipe crown elevation for the design flow, pipes with watertight joints must be specified.
- (15) Storm sewer structures (e.g., endwalls, inlets, pipe sections, etc.) may not be located on top of, or within 10 feet of, electric, communication, water, sanitary sewer, or gas services and/or mains, and structures, unless approval is received from the Township and the authority or utility having jurisdiction over same.
- (16) Stormwater pipes must be oriented at right angles to electric, water, sanitary sewer, and gas utilities when crossing above or beneath same. Crossing angles of less than 90° will only be permitted at the discretion of the Township. When skewed crossings are permitted, interior angles between alignment of the storm sewer pipe and utility may not be less than 45°. Vertical and horizontal design of storm sewers must be linear.
- (17) Roadway underdrain is required along both sides of all proposed roadways, existing roadways proposed to be widened, and within existing or proposed roadside swales as directed by the Township.

- (18) Where a public storm sewer system is not located within a right-of-way, or dedicated public property, a twenty-foot-wide easement shall be established to encompass the storm sewer system and any required access from a public road (or other area designated for public use that is accessible to maintenance vehicles and equipment). For multiple pipes or utilities, the width of the easement shall be a minimum of 30 feet.
- (19) A minimum of one-foot of freeboard, between the inlet grate and the design flow elevation, shall be provided in all storm sewer systems (inlets and manholes) for the 100-year frequency design storm event.
- (20) Stormwater roof drains and sump pumps shall not discharge water directly onto a sidewalk, street, driveway or pavement area and shall be constructed to discharge to a dry well/seepage pit or aboveground entirely on the subject property, except where such discharge could flow across sidewalk or onto a street, driveway or pavement area. If approved by the Township Engineer, roof drains and sump pumps may be discharged directly to a storm sewer system if such system discharges to a stormwater BMP or water quality facility.
- D. Open swales and gutters. Open swales shall be designed on the basis of Manning's Formula as indicated for collection systems with the following considerations:
- (1) Roughness coefficient. The roughness coefficient shall be 0.040 for earth swales.
  - (2) Bank slopes. Slopes for swale banks shall not be steeper than one vertical to four horizontal.
  - (3) Flow velocity. The maximum velocity of flow as determined by Manning's Equation shall not exceed the allowable velocities as shown in the following table for the specific type of material, unless otherwise approved by the Township and the Delaware County Conservation District. Note: Source of the following design criteria is the Pennsylvania Department of Environmental Protection, Bureau of Soil and Water Conservation Publication, Erosion and Sediment Pollution Control Program Manual (Document No. 363-2134-008).

Allowable Velocity	
Material	Velocity in Feet Per Second (fps)
Well established grass on good soil	
Short pliant bladed grass	4.0 to 5.0
Bunch grass - soil exposed	2.0 to 3.0
Stiff stemmed grass	3.0 to 4.0
Earth without vegetation	
Fine sand or silt	1.0
Ordinary firm loam	2.0 to 3.0
Stiff clay	3.0 to 5.0
Clay and gravel	4.0 to 5.0
Coarse gravel	4.0 to 5.0
Soft shale	5.0 to 6.0

<b>Allowable Velocity</b>	
<b>Material</b>	<b>Velocity in Feet Per Second (fps)</b>
Shoulders	
Earth	(as defined above)
Stabilized	6.0
Paved	10.0 to 15.0

- (4) Swales shall be stabilized with biodegradable erosion control blanket to permit establishment of permanent vegetation. Swales shall be of such shape and size to effectively contain the 100-year (or greater), Rational Method design storm, and to conform to all other specifications of the Township.
  - (5) To minimize sheet flow of stormwater across lots located on the lower side of driveways, roads or streets, and to divert flow away from building areas, the cross section of the street as constructed shall provide for parallel ditches or swales which shall discharge only at drainage easements, unless otherwise approved by the Township.
  - (6) Gutters and swales adjacent to road, driveway or other paved area shall be permitted to carry a maximum flow of four cubic feet per second prior to discharge away from the paved surface, unless it is proven to the satisfaction of the Township by engineering calculations that the road slopes or other factors would allow higher gutter or swale capacity.
  - (7) Concentrated runoff greater than that permitted in gutters, roadside swales or along driveways may be conveyed in swales outside the required road right-of-way or driveway easement area, in separate drainage easements, or may be conveyed in pipes or culverts inside or outside the required road right-of-way or driveway easement area.
  - (8) Existing and proposed swales shall be provided with underdrains as deemed necessary by the Township should it be anticipated that overland seepage, swale flow or groundwater may result in potential maintenance problems and or deterioration. Underdrains must discharge into a natural drainage channel or stormwater management system.
  - (9) Where drainage swales are used to divert surface waters away from buildings, they shall be sodded, landscaped, or otherwise protected as required and shall be of a slope, shape, and size conforming to the requirements of the Township. Concentration of surface water runoff shall be permitted only in swales, watercourses, retention or detention basins, bioretention areas, or other areas designed to meet the objectives of this chapter.
  - (10) Except for culverts required for roadway or driveway crossings of surface waters, artificial swale discharge shall be set back at least 75 feet from a receiving waterway, and shall be diffused or spread out to reduce and eliminate high-velocity discharges to the impacted ground surface.
- E. Bridge and culvert design. Any proposed bridge or culvert to convey flow within a watercourse, channel, perennial stream, intermittent stream, ephemeral stream or other surface water shall be designed in accordance with the following principals:
- (1) Culverts and bridges shall be designed with an open bottom to maintain natural sediment

transport and bed roughness, avoiding acceleration of water velocity above the natural (preexisting) condition. Rock (riprap) lining (native material if possible) shall be installed within the culvert as needed to prevent erosion within the structure. Approximate top of rock lining must be at the level of the existing stream bottom so as to maintain unimpeded movement of native animal species and a normal water depth of 12 inches unless a greater depth is required by PADEP.

- (2) Bottom of opening shall be designed to match the bankfull channel condition in terms of width and depth. The cross-sectional area of the bankfull channel (measured at a reference location upstream of the structure) shall be matched with area in the crossing structure.
- (3) Above the bankfull elevation, the width shall increase a minimum of 30% to disperse the energy of higher flow volumes and avoid undermining of the supporting structure by secondary currents.
- (4) The total cross-sectional area of the structure opening must be equal to or greater than the flood-prone area (cross-sectional stream area at a depth of twice the maximum bankfull depth, measured at a reference location upstream of the structure). The flood-prone area is approximately equal to the area flooded by a fifty-year return period runoff event.
- (5) All bridges, culverts, and drainage channels shall be designed to convey a flow rate equal to a 100-year, twenty-four-hour storm as defined by the U.S. Department of Agriculture, Soil Conservation Service, Technical Release No. 55. All bridges and culverts shall be designed to convey the 100-year design storm without increasing the extent and depth of the 100-year floodplain, upstream or downstream of the structure.

F. Storm sewer design.

- (1) Design flow rate. The storm sewer system shall be designed to carry the 100-year frequency design storm peak flow rate. The drainage area and runoff coefficient to each inlet shall be indicated on the stormwater management plan. The 100-year flow rate shall be determined by the Rational Method formula:

$$Q = CIA$$

Where:

- |   |   |   |
|---|---|---|
| Q | = | Peak runoff rate measured in cubic feet per second (cfs)  |
| C | = | Runoff coefficient - The coefficient of stormwater runoff includes many variables, such as ground slope, ground cover, shape of drainage area, etc. |
| I | = | Intensity - average rainfall intensity in inches per hour for a time equal to the time of concentration   |
| A | = | Area - drainage area in acres   |



Values for the rainfall intensity shall be based on NOAA Atlas 14, Volume 2, Version 3.0, rain data found in Table A-3, Appendix A<sup>80</sup> of this chapter.

- (2) Consideration shall be given to future land use changes in the drainage area in selecting the Rational ("C") coefficient. For drainage areas containing several different types of ground cover, a weighted value of "C" shall be used.
- (3) In determining the peak flow rate to individual storm sewer inlets (or other collection structures) the time of concentration method (as referenced in § 198-18) shall be used for inlet drainage areas in excess of one acre, unless otherwise approved by the Township. For inlet drainage areas less than one acre, a five-minute time of concentration shall be used unless otherwise approved by the Township.
- (4) In determining the required design flow rate through a storm sewer piping system, if a five-minute time of concentration (storm duration) results in a pipe size exceeding a thirty-inch diameter pipe (or equivalent flow area of 4.9 square feet), the time of concentration approach (as defined herein) shall be used in determining storm duration.
- (5) In determining the required design flow rate through a storm sewer piping system, if a five-minute time of concentration results in a pipe size exceeding 30 inches, within any run of pipe, the time of concentration approach may be used for sizing of pipes from that point on by adjusting the time of concentration.
- (6) Overflow system. An overflow system shall be provided to carry all bypass flow and/or flow in excess of storm sewer pipe and collection inlet design capacity, to the detention basin (or other approved collection or outlet point) when the capacity of the system is exceeded. Stormwater runoff will not be permitted to surcharge from storm sewer structures. [Refer to § 198-19C(19).]
- (7) Except for drainage at roadway or driveway crossings of surface waters, pipe discharge shall be set back at least 75 feet from a receiving surface water, and the pipe discharge shall be diffused or spread out to reduce and eliminate high-velocity discharges to the impacted ground surface.

G. Grading and drainage.

- (1) After completion of rough grading, a minimum of eight inches of topsoil shall be returned to remaining disturbed areas prior to final grading and seeding.
- (2) Lots shall be graded to secure proper drainage away from buildings and to prevent the collection of stormwater in pools. Minimum two-percent slopes shall be maintained away from and around all structures. Separation between the top of foundation wall (or slab) and final grade shall comply with Middletown Township Building Code requirements, but in no case shall it be less than nine inches in the case of a foundation wall.
- (3) Construction. The applicant shall construct and/or install such drainage structures and/or pipe as are necessary to prevent erosion damage and to satisfactorily disperse, infiltrate or carry off such surface runoff to the nearest practical stormwater BMP, storm drain or surface water.
- (4) Excavation. No excavation shall be made with a cut face steeper in slope than three horizontal to one vertical (3:1 = 33%), except under one or more of the following conditions:

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80. Editor's Note: Said appendix is included as an attachment to this chapter.

- (a) The material in which the excavation is made is sufficiently stable to sustain a slope of steeper than 3:1 and a written statement (certification) from a professional civil engineer, licensed in the Commonwealth of Pennsylvania and experienced in erosion control, to this effect is submitted to the Township Engineer for review. This statement shall indicate the site has been inspected and that the deviation from the slope specified herein will not result in injury to persons, damage to property or erosion.
  - (b) A concrete, segmental block or stone masonry wall, constructed in accordance with Township requirements, is provided to support the face of the excavation.
- (5) Fill. No fill shall be made which creates any exposed surface steeper in slope than three horizontal to one vertical (3:1 = 33%), except under one or more of the following conditions:
  - (a) The fill is located so that settlement, sliding, or erosion will not result in property damage or be a hazard to adjoining property, streets, alleys, or buildings.
  - (b) A written statement from a professional civil engineer, licensed in the Commonwealth of Pennsylvania and experienced in erosion control, certifying the site has been inspected and that the proposed deviation from the slope specified above will not result in injury to persons, damage to property or erosion, is submitted to and approved by the Township.
  - (c) A concrete, segmental block, or stone masonry wall, constructed in accordance with Township requirements, is provided to support the face of the excavation.
- (6) Slopes and fences. The top or bottom edge of slopes shall be a minimum of five feet from property or right-of-way lines of streets or alleys in order to permit the normal rounding of the edge without encroaching on the abutting property. Where walls or slopes (steeper than two horizontal to one vertical) are approved under the criteria in this chapter, and are four feet or more in height, a protective fence (conforming to Middletown Township standards and specifications), no less than four feet in height, shall be required at the top of the wall (or bank).
- (7) Cleanup. All lots must be kept free of any debris or nuisances whatsoever during construction.
- (8) Design of erosion and sedimentation control facilities (particularly stormwater/sediment basins) shall incorporate best management practices as defined herein.
- (9) Cut and fill operations shall be kept to a minimum. Wherever feasible, natural vegetation shall be retained, protected, and supplemented. Cut and fills shall not endanger or otherwise adversely impact adjoining property.
- (10) No grading equipment shall be permitted to be loaded and/or unloaded on a public street, and no grading equipment shall be permitted to travel on or across a public street, unless licensed for operation on public thoroughfares.
- (11) Grading equipment shall not be permitted to cross surface waters of the commonwealth. Temporary crossing shall only be permitted where application is made, and approval is received, from the Pennsylvania Department of Environmental Protection (where applicable), the Delaware County Conservation District, and Middletown Township.
- (12) Design of energy dissipation for high volume and/or high velocity discharge from storm sewer pipes and channels shall be in accordance with Hydraulic Engineering Circular No. 14, "Hydraulic Design of Energy Dissipaters for Culverts and Channels," as published by Department of Transportation, FHA, when deemed necessary by the Township, and as approved

by the Delaware County Conservation District.

- (13) To control the dissemination of mud and dirt on to public roads and driveways, tire cleaning areas constructed of AASHTO No. 1 stone (underlain by geotextile structural fabric), at least 50 feet in length shall be installed at each point of access to the site (and individual lots) upon construction of internal streets in a binder condition. When deemed necessary by the Township or as otherwise required by the Delaware County Conservation District, washing stations shall also be set up at every construction entrance in order to wash mud and dirt from exiting vehicles. Appropriate measures must be taken to control runoff from such locations. The applicant shall be responsible for the placement of appropriate signage (conforming to PennDOT requirements) identifying construction entrances and washing stations. Construction entrances shall be maintained by the applicant during construction, as determined by the Township.
- (14) In the event any mud and/or debris is transported from the site onto a public roadway, the debris shall be removed immediately upon each occurrence and the roadway swept and/or washed as deemed necessary by the Township.
- (15) Adequate provision shall be made to prevent surface water from damaging the cut face of excavation and the sloping surfaces of fills.

H. Stormwater detention/retention basins.

- (1) If permanent ponds (retention basin) are proposed, the applicant shall demonstrate that such ponds are designed to protect the public's health and safety. Should any stormwater management facility require a dam safety permit under the PADEP Chapter 105 regulations, the facility shall be designed in accordance with Chapter 105 and meet the regulations of Chapter 105 concerning dam safety which may be required to pass storms larger than a 100-year event.
- (2) During construction, duly authorized representatives of Middletown Township may enter at any reasonable time upon any property within the Township to investigate whether construction activity is in compliance with this chapter.
- (3) When basins are provided, they shall be designed to utilize the natural contours of the land whenever possible. When such design is not practical, the construction of the basin shall utilize slopes as flat as possible to blend the structure into the terrain. To minimize the visual impact of detention basins, they shall be designed to avoid the need for safety fencing. To meet this requirement, detention basins shall be designed as follows:
  - (a) Maximum depth of detained runoff shall be 24 inches for a two-year or ten-year storm event.
  - (b) Maximum depth of detained runoff shall be 36 inches for a 100-year storm event.
  - (c) The basin inflow and outflow structures shall not be located directly across from each other and shall not be in close proximity to one another. A length-to-width ratio in all detention/retention basins and other such storage facilities of at least 2:1 shall be provided to maximize the flow path between the inflow point and the outlet structure. The distance between these two structures must be at least 50% of the maximum length of the basin as measured at the top of berm elevation. Alternatively, a means for extending the time of surface flow from basin inflow point to basin outlet structure, designed to the satisfaction of the Township Engineer, may be utilized.
- (4) Except with the one-year design storm, basins shall be designed so that they drain and return to

normal dry-weather condition within 72 hours from the time at which peak water elevation occurs in the facility for the 100-year rainfall event, unless the Township determines that downstream conditions may warrant other design criteria for stormwater release.

- (5) Landscaping and planting in and around the perimeter of basins shall be provided. Proposed planting shall also be in accordance with the provisions of this chapter, the Subdivision and Land Development Ordinance,<sup>81</sup> and as recommended by the Township. When a detention basin is not designed as a stormwater management constructed wetland, it shall be planted with low maintenance, wet-tolerant meadow grass or similar satisfactory to the Township.
- (6) If a stormwater management basin will serve as a temporary sediment control device, the temporary sediment control measures shall be shown, including perforated riser pipes or standboxes, filter berms, cleanout stakes and other measures as may be required by Pennsylvania Department of Environmental Protection, Chapter 102 regulations. Plans for such facilities shall require Delaware County Conservation District approval prior to implementation. Sedimentation basins shall be constructed prior to any other earthmoving activities within their tributary drainage areas. A note identifying the above criteria shall be on all plan sheets required to be recorded as well as the stormwater management facilities operation and maintenance agreement.
- (7) Stormwater management basins shall be constructed before the creation of any new impervious surfaces on the site. As-built drawings of the basin(s) shall be submitted to the Township for review immediately upon completion of installation. The basin shall not be considered functional until it is proven by the applicant that the basin meets the volume requirements and the outflow characteristics of the original design of the basin(s). A notation identifying these requirements must be added to the appropriate plan sheets including those to be recorded.
- (8) Runoff shall not be directed to any infiltration structure until all tributary drainage areas are permanently stabilized. Where a surface detention basin is to be utilized for infiltration and sediment control (during construction), the bottom of the sediment basin/trap may be constructed no less than three feet above the proposed permanent infiltration basin bottom elevation, and must remain that way until the sediment basin/trap is converted to permanent condition (upon permanent stabilization of all tributary surface area discharging runoff to the basin) as approved by the Township and Delaware County Conservation District. Also refer to § 198-19I for additional requirements related to dual use of surface infiltration basins, erosion and sedimentation controls, and sediment basin/traps.
- (9) Except where otherwise identified herein, all detention or retention basins shall have slopes of four horizontal to one vertical (4:1 = 25%) or flatter on the basin's outer berm and five horizontal to one vertical or less on the basin's inner berm. The top or toe of any slope shall be located a minimum of five feet from any property line. The maximum difference between the top of berm elevation and the invert elevation of the outlet structure shall be seven feet.
- (10) All portions of a detention basin bottom shall have a minimum slope of 2%. For portions of basin bottoms with grades less than 2%, the applicant shall provide a landscape design which minimizes maintenance provisions and encourages infiltration and absorption of runoff. These requirements may be altered when approved by the Township Engineer.
- (11) Basin berm construction requirements.

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81. Editor's Note: See Ch. 210, Subdivision and Land Development.

- (a) Site preparation. Areas under the embankment and any structural works shall be cleared, grubbed, and the topsoil stripped to remove the trees, vegetation, roots or other objectionable material. In order to facilitate cleanout and restoration, the pool area will be cleared of all brush and excess trees except where designed to retain such existing vegetation as stormwater BMPs.
- (b) Cutoff trench. A cutoff trench will be excavated along the center line dam on earth fill embankments. The minimum depth shall be two feet. The cutoff trench shall extend up both abutments to the riser crest elevation. The minimum bottom width shall be eight feet but wide enough to permit operation of compaction equipment. The side slopes shall be no steeper than 1:1. Compaction requirements shall be the same as those for the embankment. The trench shall be kept free from standing water during the backfilling operations.
- (c) Embankment.
  - [1] The fill material shall be taken from the selected borrow areas. It shall be free of roots, wood vegetation, oversized stones, rocks or other objectionable material. Areas on which fill is to be placed shall be scarified prior to placement of fill.
  - [2] The fill material should contain sufficient moisture so that it can be formed by hand into a ball without crumbling. If water can be squeezed out of the ball, it is too wet for proper compaction.
  - [3] Fill material will be placed in six- to eight-inch layers and shall be continuous over the entire length of the fill. Fill material must be compacted to a minimum of 95% of modified proctor density as established by ASTM D-1557. Compaction testing by a qualified soils engineer, soil scientist or geologist must be completed as directed by the Township Engineer to verify adequate compaction has been achieved. Compaction tests shall be run on the leading and trailing edge of the berm along with the top of the berm. Verification of required compaction shall be submitted to the Township prior to utilization of any basin for stormwater management or erosion control.
- (12) Emergency overflow facilities/spillways shall be provided within basins in order to convey basin inflow in excess of design flows, out of the basin, or in the event the outlet structure becomes blocked and is unable to convey flow. Emergency spillways discharging over embankments shall be constructed of reinforced concrete checkerblock (or other spillway lining approved by the Township Engineer) to protect the berm against erosion. The checkerblock shall be backfilled with topsoil and seeded. Checkerblock shall extend to the toe of the embankment on the outside of the berm and shall extend to an elevation of three feet below the spillway crest on the inside of the berm. Vegetated spillways may be utilized for spillways constructed entirely on undisturbed ground (i.e., not discharging over fill material). A dense cover of vegetation shall be rapidly established in such spillways by sodding or seeding with a geotextile anchor. The vegetated spillway must be stabilized before runoff is directed to the basin. The minimum capacity of all emergency spillways shall be equivalent to the peak flow rate of the 100-year, post-development design storm (entering to the basin).
- (13) In all cases, the discharge end of the basin shall be provided with a properly designed outflow control structure (concrete headwall, concrete box with orifice, concrete box with internal weir wall (containing orifice) or other approved flow control structure), culvert pipe, and concrete endwall. Perforated riser pipes alone, without provision for permanent outflow control structure (as stated above), and culvert pipe are not permitted for permanent basins. In no case shall any

orifice or opening on an outflow contracture be less than three inches in diameter (or the equivalent thereof) or less than three inches in height (for rectangular openings), unless a smaller opening is required as part of an NPDES Permit utilizing the "Managed Release Concept" for infiltration-challenged sites. In such cases, openings on the outflow control structure must be screened in a manner, approved by the Township Engineer, that will minimize the possibility of clogging and minimize required recurring maintenance to remove debris.

- (14) The minimum top of basin berm width (at the design elevation) shall be 10 feet.
- (15) The minimum freeboard through the emergency spillway shall be one foot. Freeboard is defined as the difference between the design flow elevation through the spillway and the elevation of the top of the settled basin berm.
- (16) Antiseep collars shall be installed around the pipe barrel and shall be centered within the normal saturation zone of the berm. The antiseep collars and their connections to the pipe barrel shall be watertight. The antiseep collars shall be cast-in-place in the field and extend a minimum of two feet beyond the outside of the principal pipe barrel. Precast collars shall be permitted if approved by the Township Engineer. A minimum of two collars shall be installed on each basin outlet pipe. Collars shall have a minimum thickness of 12 inches and may not be installed within two feet of pipe joints.
- (17) A perforated sediment control structure, sized in accordance with Delaware County Conservation District requirements, shall be provided at each basin outlet structure (if more than one is to be utilized) for sediment control. Sediment control structures shall not be removed until the entire area tributary to the basin has been permanently stabilized and until approved by the Township and Delaware County Conservation District.
- (18) Stormwater management facility outlet piping shall be Class III reinforced O-ring concrete pipe. All joints shall be mortared. Crushed stone bedding/backfill shall not be utilized through basin berms.
- (19) The top of the basin outflow control structure box (emergency overflow grate) shall be at least six inches lower than the elevation of the earthen emergency spillway. Six inches, minimum, is also required between the 100-year water surface elevation and the emergency overflow grate on the basin outflow control structure. All outflow control structures shall be constructed of noncorrosive materials (such as concrete, stainless steel, galvanized steel, aluminum, heavy-gage PVC, or other coated metals).
- (20) Energy dissipating devices (rock lining/riprap, or other approved materials) shall be provided at all basin outlets and shall be sized in accordance with Pennsylvania Department of Environmental Protection, Bureau of Soil and Water Conservation Publication, Erosion and Sediment Pollution Control Program Manual, latest revision.
- (21) Stone gabion baskets, concrete blocks, stone, boulders, or concrete or segmental block walls shall not be permitted for use in construction of detention/retention basins within the 100-year water surface elevation (as measured through the earthen emergency spillway) or within 20 feet of any embankment or cut slope that is appurtenant to the construction and integrity of a detention or retention facility. A minimum of 30 feet shall separate the foundation wall (or slab) of any building or structure and a detention/retention basin (berm/embankment).
- (22) An access easement and stabilized drive to stormwater detention/retention facilities shall be provided for maintenance and operation. This access easement shall be cleared and, when

possible, be at least 20 feet in width. Multiple accesses shall be encouraged for major facilities. The applicant shall provide access easements and drives of interlocked, reinforced pervious paving systems (backfilled with topsoil and seeded) or other similar paver acceptable to the Township Engineer, over a six-inch bed of compacted PennDOT Type 3A coarse aggregate (or approved equivalent). Accessways to basins shall be a minimum of 10 feet wide and be no steeper in slope than 10 feet horizontal to one foot vertical (10:1). In addition, depressed curb and reinforced concrete apron (six-inch minimum thickness) shall be provided where the accessway enters a street/driveway and the stabilized driveway shall extend from the bottom of the interior basin berm embankment to the point of access to the basin from a public right-of-way or paved area within an access or utility easement. Access easement shall be owned and maintained by the same entity responsible for the ownership and maintenance of the stormwater management facilities (within) and shall establish rights for access by Middletown Township, or its designee, for emergency inspection and/or maintenance at any reasonable time.

(23) If the basin is not designed to meet the requirements of § 198-19H(3), a split rail fence must be provided as follows:

- (a) A level area (two-percent slope), eight feet in width, shall be provided on both the inside and outside of the fence along the entire length of the fence for proper access by maintenance equipment. The total width of this generally level area shall be at least 16 feet.
- (b) Each basin fence installation shall include two points of access with 10 feet wide self-closing, self-latching gates to allow for maintenance equipment/vehicle access.
- (c) Fences shall be split rail consisting of locust posts (two- or three-rail), four feet high, minimum, with assorted hardwood rails (eight feet to 10 feet long), and epoxy-coated wire mesh (black or green in color) installed six inches above finished grade. The mesh shall be installed on the outside of the fence.
- (d) Split rail fences shall also be required around any detention or retention basin, where directed by Middletown Township.

(24) Landscaping.

- (a) The perimeter berms and embankments of retention/detention basins, including wet ponds, and artificial wetland stormwater management BMPs shall be designed to create a natural appearance and reduce future maintenance requirements. Landscaping shall include a mixture of native tall grasses and perennial plants, ground cover, shrubs, and trees to eliminate the necessity of periodic mowing. All proposed vegetation shall be native to the State of Pennsylvania (Refer to [http://www.docs.dcnr.pa.gov/cs/groups/public/documents/document/dcnr\\_20029\\_752.pdf](http://www.docs.dcnr.pa.gov/cs/groups/public/documents/document/dcnr_20029_752.pdf) for a guide book titled "Common Trees of Pennsylvania" for a native tree list.), consistent with the Pennsylvania BMP Manual (December 2006, as amended), shall conform to the planting requirements of this chapter and all other applicable Township Codes, including Chapter 210, Subdivision and Land Development, whichever is most stringent.
- (b) Artificial wetland basins shall be designed pursuant to requirements of the Pennsylvania Stormwater BMP Manual. Plant material and arrangement shall be subject to approval of the Township.
- (c) The perimeter of the retention/detention basin shall be landscaped with a mixture of

deciduous trees, evergreens, and shrubs arranged in an informal manner. Retention basin (wet ponds) and artificial wetland basin landscaping shall be designed to create a "natural" appearance.

- [1] Minimum plant material shall include the following per 100 linear feet of basin perimeter measured at the 100-year water surface elevation:
  - [a] Three evergreen trees (minimum height: six feet).
  - [b] Two deciduous trees (minimum caliper: 2 1/2 inches).
  - [c] Five shrubs (minimum height: three feet).
- [2] Deciduous trees shall not be planted on the top or sides of basin berms created by filling and compaction of earth. Vegetation shall be suitable for wet conditions when planted on the bottom of the basin or on the inner embankment of basins (where they will be subject to periodic inundation). All required deciduous trees and other vegetation shall be planted informally along the perimeter of the basin to create the appearance of a natural condition. Suitability of a particular basin design or location to required landscape plantings (e.g., due to restriction on planting on fill berms) shall not relieve the applicant from the planting requirements. Basin landscaping design is subject to approval by the Township.
- (d) Evergreen trees and deciduous trees shall be offset a minimum horizontal distance of 10 feet from all subsurface pipes and utilities. This minimum horizontal offset distance shall be specified on the plans.
- (e) Trees and shrubs shall be located so that at maturity they do not interfere with the function, maintenance and inspection of basin structures, including any required perimeter fencing.
- (25) Special requirements for stormwater detention/retention BMPs within defined exceptional value and high-quality watersheds as defined in Chapter 93, Water Quality Standards, Title 25, Pennsylvania Department of Environmental Protection Rules and Regulations:
  - (a) Temperature-sensitive BMPs and stormwater conveyance systems are to be used and designed with storage pool areas and supply outflow channels and shaded with trees. At a minimum, the southern half of pond shorelines shall be planted with shade or canopy trees within 10 feet of the pond shoreline. In conjunction with this requirement, the maximum slope allowed on the berm area to be planted is 10 to 1. This will lessen the destabilization of berm soils due to root growth. A long-term maintenance schedule and management plan for the thermal control BMPs must be identified on the stormwater management site plan and recorded at the Delaware County Recorder of Deeds for all development sites.
  - (b) As an alternative to mitigating the temperature of stormwater runoff as described in § 198-19H(25)(a), alternative temperature-sensitive BMPs may be utilized, if approved by the Township Engineer, upon the applicant demonstrating such BMPs will effectively reduce the temperature of detained runoff before it is released from the development site. Such alternative BMPs may include but are not limited to facilities that cool runoff through underground storage and filtration and retention ponds/basins where outflow from the facility is drawn from a depth of six feet (or greater) below the permanent pool surface.
- (26) The applicant shall provide written assurance, satisfactory to the Township, that the retention/detention basin will be properly maintained. Such assurances shall be in the form of a covenant



that will run with the land and shall provide Township maintenance at the cost of the landowner in case of default, and further provide for assessment of costs and penalties in case of default.

(27) As an alternate to the above subsection [§ 198-19H(26)], the Township may, at their own option, assume responsibility of the basin and may accept dedication of the basin by the applicant. If the retention/detention basin is dedicated or offered to the Township for long-term maintenance, the following regulations shall apply:

- (a) The basin and appurtenances shall be on a separate lot/parcel conforming to Township Zoning requirements.<sup>82</sup> The recording plan of subdivision must identify the detention/retention basin parcel/lot as "not a building lot, not approved for construction of a dwelling."
- (b) The entire ponded area for the 100-year storm event, outside slope of the berm embankment and all area within 10 feet of the top of berm (where the basin is cut into existing grade), shall be entirely within the lot.
- (c) The dedicated lot/parcel shall not be part of the open space and/or recreation land/facilities requirements of the Subdivision and Land Development Ordinance<sup>83</sup> and Zoning Ordinance.<sup>84</sup>
- (d) The applicant shall provide for the special financial burden the Township would take on by accepting basin maintenance. To help mitigate this future financial burden, the applicant shall contribute to the Township a cash payment in an amount to be calculated by the Township Engineer, which amount shall include all estimated cost to inspect, maintain and repair the facilities during a fifteen-year period.

I. All developments which create impervious surface shall provide capacity for and treatment of the water quality volume and recharge volume, unless exempt under § 198-5. In potential stormwater BMPs, the order of preference is as follows: 1) infiltration BMPs; 2) flow attenuation methods (e.g., vegetated open swales and natural depressions); 3) artificial wetlands, bioretention structures, and wet ponds; 4) minimum first flush detention or dual-purpose detention (where appropriate). Infiltration BMPs shall be utilized unless the applicant can demonstrate use of infiltration techniques is not feasible due to site conditions based upon site-specific soil testing. Vegetated swales, wetlands or artificial wetlands and bioretention structures shall be utilized wherever possible if infiltration BMPs are deemed unfeasible. BMP techniques can and should be used in conjunction with each other (e.g., vegetated swales with infiltration or retention facilities).

(1) Infiltration best management practices (BMPs). Infiltration BMPs shall be designed in accordance with the design criteria and specifications of the Pennsylvania Stormwater BMP Manual (2006) and shall conform to the following minimum requirements:

- (a) A soils evaluation and infiltration/permeability testing of the project site shall be conducted in accordance with Appendix B<sup>85</sup> of this chapter.
- (b) A minimum soil depth of 18 inches shall be provided between the bottom of the infiltration BMPs and the top of bedrock or seasonally high water table. The minimum required

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82. Editor's Note: See Ch. 275, Zoning.

83. Editor's Note: See Ch. 210, Subdivision and Land Development.

84. Editor's Note: See Ch. 275, Zoning.

85. Editor's Note: Said appendix is included as an attachment to this chapter.

separation between the infiltration surface and these limiting zones shall be increased by the Township should project-specific conditions exist (such as soil conditions, anticipated increased contaminants or high infiltration rates) which dictate greater prevention of groundwater contamination.

- (c) Infiltration BMPs must have an infiltration rate sufficient to accept the design stormwater load and dewater completely as determined by field infiltrometer tests. The minimum field-tested infiltration rate permitted for construction of infiltration BMPs shall be 0.2 inch/hour (in/hr). A safety factor of 50% shall be applied to field-tested rates to determine the infiltration rate that must be utilized for design of infiltration BMPs (e.g., for soil which measured 0.4 in/hr, the BMP design rate shall be 0.2 in/hr to insure effective infiltration after construction).
- (d) Infiltration BMPs intended to receive rooftop runoff shall include appropriate measures such as leaf traps and cleanouts to prevent clogging by debris or sediment. Surface inflows shall be designed to prevent direct discharge (of sediment) into the infiltration system. Filter inlets/collection structures must conform to Middletown Township standards and specifications. Underground stormwater BMPs may not be utilized for erosion and sedimentation control.
- (e) Adequate storage shall be provided to accommodate the volume of runoff calculated as the difference between the pre-development runoff volume and post-development runoff volume based on the 100-year design storm.
- (f) The facility shall be designed to control the post-development peak rate of runoff to the pre-development peak rate of runoff for all design storms identified in § 198-13 of this chapter.
- (g) An overflow or spillway shall be provided that safely permits the passing of runoff greater than that occurring during the 100-year design storm event.
- (h) Underground infiltration basins and BMPs shall have positive overflow controls to prevent storage within one foot of the finished surface over the basin.
- (i) When infiltration methods such as seepage pits, beds, or trenches are proposed, the locations of existing and proposed septic tanks, infiltration areas, and wells must be shown. A separation distance of no less than 50 feet shall be provided between any septic system and any facility used for stormwater management and infiltration.
- (j) A minimum of 30 feet of undisturbed soil shall separate the foundation wall (or slab) of any building or structure and an infiltration BMP (or underground basin). A minimum of 20 feet shall be provided between an underground basin and a property line or right-of-way.
- (k) All infiltration facilities shall be designed to completely infiltrate runoff volume within two days (48 hours) from the peak of the design storm.
- (l) Special attention shall be paid to proper installation of infiltration-oriented stormwater management systems during the construction and to careful avoidance of soil compaction during site development. Areas proposed for infiltration BMPs shall be protected from sedimentation and compaction during the construction phase, so as to maintain their maximum infiltration capacity. Refer to § 198-19H(8) of this chapter for other

requirements related to dual use of surface infiltration basins, erosion control facilities and sediment basins/traps.

- (m) The Township may require the installation of a mitigative layer or an impermeable liner in an infiltration BMP and/or other stormwater structure that impounds runoff, where the possibility of groundwater contamination exists. A detailed hydrogeologic investigation may be required by the Township.
  - (n) Infiltration BMPs shall not be constructed nor receive runoff until the entire contributory drainage area to the infiltration BMP has achieved final stabilization.
  - (o) Infiltration BMPs shall be designed based on field-tested infiltration rates at the level of the proposed infiltration surface(s) and based on a safety factor of 50%.
  - (p) Under no circumstances shall excavation, loading or construction equipment be permitted in the bottom of proposed infiltration basins or within three feet of the proposed infiltration zone of a surface or underground basin (proposed elevation where infiltration is to occur). Excavation to the infiltration zone must be conducted from the perimeter of the basin (infiltration zone) to prevent compaction of the infiltration zone. If approved by the Township Engineer, low ground pressure excavators and/or timber matting may be utilized to access and excavate/grade within three feet of the infiltration zone. A notation summarizing this requirement must be added to all stormwater management plans.
  - (q) All surface or underground infiltration basins (infiltration zones) must be protected from compaction. Four-foot-high construction fences (or other similar structure approved by the Township Engineer) must be installed around the perimeter of infiltration basins during construction to prevent encroachment by construction equipment. A notation summarizing this requirement must be added to all stormwater management plans.
  - (r) All surface (at-grade) infiltration basins shall be constructed with amended soil (sufficient for growth of permanent vegetation), just above the infiltration zone, in lieu of topsoil (stripped from the construction area). The location of this soil must be shown on the stormwater management plan. The permeability of the amended soil on the surface of the basin, over the infiltration zone, may be no less than the infiltration rate utilized to design the basin. A specification for the amended soil, including minimum required permeability rate, must be shown on stormwater management plans for surface infiltration basins.
- (2) Noninfiltration facilities used as best management practices (BMPs). All facilities shall be designed in accordance to the design criteria and specifications in the Pennsylvania Stormwater BMP Manual.
- (3) Artificial wetlands, wet ponds, and bioretention structures.
- (a) Wet pond BMPs shall meet the following requirements:
    - [1] Wet ponds shall be constructed on hydric or wet soils and/or soils which have an infiltration rate of less than 0.2 inch/hour.
    - [2] A minimum drainage area of five acres shall be directed to the pond unless a source of recharge is utilized such as a natural spring or well.
    - [3] The length of the pond between the inflow and outlet points shall be maximized. In addition, an irregular shoreline shall be provided. By maximizing the flow length

through the pond and providing an irregular shoreline, the greatest water quality benefit will be achieved by minimizing "short circuiting" of runoff flowing through the pond.

- [4] A shallow forebay shall be provided adjacent to all inflow areas. The forebay shall be planted as a marsh with emergent wetland vegetation. The forebay serves to enhance sediment trapping and pollutant removal, as well as concentrating accumulated sediment in an area where it can be readily removed.
- [5] All wet ponds shall be designed with public safety as a primary concern. An aquatic safety bench shall be provided around the perimeter of the permanent pool. The depth of the bench shall be a maximum of 15 inches and a minimum of 12 inches for a width of at least 10 feet. A 3:1 slope shall lead from the edge of the safety bench toward the deep-water portion of the pond. At least 15 feet of 3:1 slope shall be provided from the edge of the safety bench. Slopes in the remainder of the pond below the permanent pool elevation shall be a maximum of 2:1.
- [6] The perimeter slope above the permanent pool shall have a maximum slope of 5:1.
- [7] Wet ponds shall have a deep-water zone of at least six feet to encourage gravity settling of suspended fines and prevent stagnation and possible eutrophication.
- [8] Wet ponds shall be capable of being substantially drained by gravity flow. Wet ponds shall be equipped with a manually operated drain that can be secured against unauthorized operation.
- [9] A planting plan shall be developed for the wet pond, showing all proposed aquatic, emergent, and upland plantings required pursuant to this chapter and the Zoning and Subdivision and Land Development Ordinances<sup>86</sup> (where specifically identified).
- [10] Wet ponds shall be designed to discourage use by Canada geese. Techniques employed shall include the following:
  - [a] Elimination of straight shorelines, islands, and peninsulas;
  - [b] Placement of walking paths (where applicable) along the shoreline;
  - [c] Placement of grassed areas (i.e., playing fields) at least 450 feet from the water surface;
  - [d] Vegetative barriers;
  - [e] Rock barriers;
  - [f] Installation of tall trees within 10 feet of the water surface;
  - [g] Use of ground covers not palatable to Canada geese.
  - [h] Other techniques as approved by the Township Engineer.
- [11] A minimum of 30 feet shall separate the foundation wall (or slab) of any building or structure and a wet pond (berm/embankment).

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86. Editor's Note: See Ch. 275, Zoning, and Ch. 210, Subdivision and Land Development, respectively.

(b) Artificial wetland BMPs shall meet the following requirements:

- [1] Artificial wetlands shall be constructed on hydric or wet soils and/or soils which have an infiltration rate of less than 0.2 inch/hour.
- [2] Runoff entering artificial wetlands shall be filtered through a sediment removal device before entering the wetland.
- [3] A planting plan shall be developed for the artificial wetland showing all proposed aquatic, emergent, and upland plantings required pursuant to this chapter and the Zoning and Subdivision and Land Development Ordinances (where specifically identified).<sup>87</sup> The planting plan shall be developed to provide a diversity of species resulting in a dense stand of wetland vegetation.
- [4] At least 75% of the surface area of the wetland shall be developed as a shallow water emergent wetland, with a water depth of less than 12 inches. The remainder shall be constructed as open water with depths between two feet and four feet.
- [5] A minimum of 30 feet shall separate the foundation wall (or slab) of any building or structure and an artificial wetland (berm/embankment).

(4) Minimum first flush detention/dual purpose BMPs.

(a) Minimum first flush detention/dual purpose detention basin BMPs shall be designed to meet the following requirements:

- [1] Post-development runoff from a "water quality storm" (a one-year, twenty-four-hour event) shall be released over a minimum period of 24 hours from the point of peak water surface elevation of impounded water.
- [2] Two stage basins shall be utilized where first flush detention will be employed for water quality and conventional detention used for peak rate control of storms exceeding the one-year, twenty-four-hour event.
- [3] Two stage basins shall be constructed so that the lower part of the basin is graded to detain stormwater from the "water quality storm," and the remainder of the basin graded as a flat overbank area to provide storage only for the larger, less frequent storm events. The overbank area is encouraged to be developed as an active or passive recreational area.
- [4] The area inundated by the "water quality storm" is encouraged to be maintained as a wetland environment, which will increase the water quality benefits of the first flush/dual purpose detention basin, and will prevent the need for mowing of a frequently saturated area.

J. Removal of existing impervious surfaces. Existing impervious surface areas to be removed and converted to vegetative cover (to reduce the overall increase of impervious surface area within a development site for the purposes of reducing the size/scope of required stormwater BMPs) shall be accomplished in accordance with Middletown Township standards and specifications or as recommended by a qualified technical professional, whichever is more stringent. Refer to § 198-12I and § 198-13J of this chapter for additional requirements related to this activity.

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87. Editor's Note: See Ch. 275, Zoning, and Ch. 210, Subdivision and Land Development, respectively.

**K. General design requirements.**

- (1) Prior to finish grading of a development site and final overlay of streets, roads, and driveways, temporary measures, acceptable to the Township, shall be taken to ensure that all runoff intended to be intercepted and collected by an inlet or other facility, will be collected. The stormwater management plan shall include such details, notes, or specification, including bituminous "eyebrows" at inlets, diversion berms, etc.
- (2) Water originating from other than natural sources, such as air-conditioning units, sump pumps, underdrain (except those beneath public roads and rights-of-way), foundation drains or other dry-weather flow, wherever practical and possible, shall be connected first to an infiltration BMP and if that is not possible, then to a storm sewer, street drainage structure, or other approved stormwater conveyance facility that is designed as part of a stormwater management BMP.
- (3) All stormwater runoff and floodplain calculations and stormwater management facilities design shall be prepared by a professional engineer licensed in the Commonwealth of Pennsylvania.
- (4) When subdivisions or land developments are submitted to the Township for approval in sections, a complete storm sewer design for the proposed subdivision and land development shall be submitted. The proposed design must include the entire tract and not a portion.
- (5) The design of all stormwater management facilities shall incorporate sound engineering principles and practices. The Township shall reserve the right to disapprove any design that would result in the occupancy or continuation of an adverse hydrologic or hydraulic condition within the watershed.

**L. All stormwater control facility designs shall conform to the applicable standards and specifications of the following governmental and institutional agencies:**

- (1) American Society of Testing and Materials (ASTM).
- (2) Asphalt Institute (AI).
- (3) Delaware County Conservation District (DCCD).
- (4) Federal Highway Administration (FHWA).
- (5) National Crushed Stone Association (NCSA).
- (6) National Sand and Gravel Association (NSGA).
- (7) Pennsylvania Department of Environmental Protection (PADEP).
- (8) Pennsylvania Department of Transportation (PennDOT).
- (9) U.S. Department of Agriculture, Natural Resources Conservation Service, Pennsylvania (USDA, NRCS, PA).

**§ 198-20. Erosion and sedimentation control requirements.**

- A. Whenever vegetation and topography are to be disturbed, such activity must be in conformance with Chapter 102, Title 25, Rules and Regulations, Part 1, Commonwealth of Pennsylvania, Department of Environmental Protection, Subpart C, Protection of Natural Resources, Article II, Water

Resources, Chapter 102, Erosion Control, and in accordance with the Delaware County Conservation District and the standards and specifications of the Township. Various BMPs and their design standards are identified in the PADEP Erosion and Sediment Pollution Control Program Manual (March 2012), as amended and updated.

- B. No regulated earth disturbance activities within the Township shall commence until approval by the Township of a grading and excavating (aka soil erosion and sedimentation control) plan and permit for construction activities.
- C. In addition, under 25 PA Code Chapter 92, a PADEP NPDES construction activities permit is required for regulated earth disturbance activities of one or more acres.
- D. Evidence of all necessary permit(s) for regulated earth disturbance activities from the appropriate PADEP regional office and/or Delaware County Conservation District must be submitted to the Township.
- E. A copy of the erosion and sedimentation control permit plan and any other permit, as required by PADEP or Delaware County Conservation District regulations, shall be available at the project site at all times.
- F. Additional erosion and sedimentation control design standards and criteria that must be applied where infiltration BMPs are proposed include the following:
  - (1) Areas proposed for infiltration BMPs shall be protected from sedimentation and compaction during the construction phase, so as to maintain their maximum infiltration capacity. Thirty-three-inch super filter fabric fence (or other means of protection approved by the Township Engineer) must be installed around proposed infiltration areas to prevent encroachment and compaction by construction equipment.
  - (2) Infiltration BMPs shall not be constructed nor receive runoff until the entire contributory drainage area to the infiltration BMP has received final stabilization. If necessary, thirty-three-inch super filter fabric fence (or other approved protection mechanism) must be installed in the vicinity of infiltration area to prevent contamination by runoff containing suspended sediment.
- G. Peak discharge rates from the site during land disturbance shall comply with the appropriate sections in this chapter related to allowable post-development stormwater runoff rates, with the following additions:
  - (1) For purposes of calculating required detention storage during land disturbance, peak discharges shall be calculated based upon the runoff coefficients for bare soils during the period of maximum anticipated disturbance from clearing and grading, in combination with the entire quantity of proposed impervious surface construction, within the entire limit of disturbance, indicated on the development plan. Runoff controls shall ensure that the peak rate of "during construction" runoff does not exceed pre-development runoff rates for the one-year frequency through 100-year frequency design storm events using the actual pre-development ground cover condition. Detention storage during the period of land disturbance and prior to establishment of permanent cover may require additional detention facilities on a temporary basis (e.g., sediment basin, sediment trap). Such measures shall be located so as to preserve the natural soil infiltration capacities of the planned infiltration areas, particularly as required in this chapter. Calculations based on the above parameters must be submitted to verify compliance with this requirement.

- (2) Wherever soils, topography, cut and fill or grading requirements, or other conditions suggest substantial erosion potential during land disturbance, the Township may require that the entire volume of all storms up to a two-year storm from the disturbed areas be retained on site and that special sediment trapping facilities (such as check dams, etc.) be installed.
- H. Areas of the site to remain undisturbed shall be protected from encroachment by construction equipment/vehicles and activities that may cause compaction of the ground, to maintain the existing infiltration/permeability characteristics of the soil. Four-foot-high orange safety fences (or other similar protection mechanism approved by the Township Engineer) must be installed around the entire limit of disturbance/clearing prior to commencement of earthmoving activities and shall be maintained and left in place until completion of all construction activity.



## ARTICLE IV

**Stormwater Management Plan and Approval Requirements****§ 198-21. General requirements.**

- A. For any of the development activities regulated by this chapter as defined pursuant to § 198-4E, the final approval of subdivision and/or land development plans, the issuance of any building, zoning, or certificate of occupancy (or the equivalent thereof), or the commencement of any land disturbance activity may not proceed until the property owner, applicant or their authorized agent (as verified by the Township) has obtained approval of a stormwater management plan [stormwater management site plan (SMSP) or simplified stormwater management site plan (SSMSP), as applicable] or approval of a stormwater management exemption by the Township.
- B. Recordation of a final approved subdivision and/or land development plan at the Delaware County Recorder of Deeds shall constitute approval of the stormwater management site plan (SMSP) required for such regulated activities. For all recorded subdivisions and/or land developments, no construction activity, tree/vegetation clearing, or ground disturbance may commence until a grading and excavating permit (aka soil erosion and sedimentation control permit) is approved by Middletown Township pursuant to the requirements of Chapter 186 of the Township Code. The SMSP shall include all items identified pursuant to § 198-22.
- C. For all regulated development activities that do not qualify for exemption from the provisions of this chapter (pursuant to § 198-5B and C of this chapter), and that are not a subdivision or land development, approval of a stormwater management site plan (SMSP) shall be required. Approval of the SMSP shall be accomplished at time of approval, by Middletown Township, of a grading and excavating permit application, submitted by the applicant (or approved agent/designee of the owner), pursuant to the requirements of Chapter 186 of the Township Code (aka Soil Erosion and Sedimentation Control). No construction activity, tree/vegetation clearing, or ground disturbance associated with such regulated activities may commence until a grading and excavating permit application is approved by the Township and a permit is issued to the applicant, by the Township Director of Planning and Development. The SMSP shall include all items identified pursuant to § 198-22.
- D. A simplified stormwater management site plan (SSMSP) shall be required in conjunction with a permit for regulated development activities qualifying for exemption of the provisions of this chapter pursuant to § 198-5C. Approval of the SSMSP shall be accomplished at time of approval, by Middletown Township, of a grading and excavating permit application, submitted by the applicant (or approved agent/designee of the owner), pursuant to the requirements of Chapter 186 of the Township Code (Grading and Excavating, aka Soil Erosion and Sedimentation Control). No construction activity, tree/vegetation clearing, or ground disturbance associated with such regulated activities may commence until a grading and excavating permit application is approved by the Township and a permit is issued to the applicant, by the Township Director of Planning and Development. The SSMSP shall include all items identified pursuant to § 198-23.
- E. The SMSP or SSMSP approved by the Township shall be available to view on a development site throughout the duration of the regulated activity.
- F. Approval of a stormwater management plan is not required for regulated activities exempt pursuant to § 198-5B of this chapter, but approval of a stormwater management exemption must be issued by the Township pursuant to § 198-5B and F prior to commencement of construction activities, tree/vegetation clearing, or ground disturbance.

**§ 198-22. Stormwater management site plan (SMSP) contents and requirements.**

For all regulated activities that are not exempt from provisions of this chapter, a stormwater management site plan (SMSP) is required and shall consist of all applicable calculations, maps, and plans as described in this chapter. A note on the maps shall refer to the associated computations and erosion and sedimentation control plan by title and date. The cover sheet of the computations and erosion and sedimentation control plan shall refer to the associated maps by title and date. All SMSP documents, reports and calculations shall be submitted to the Township in a format that is clear, concise, legible, neat, and well organized; otherwise, the stormwater management site plan shall be disapproved and returned to the applicant. A SMSP and related documentation/reports shall be prepared by qualified professional(s), as applicable, including but not limited to professional land surveyors or engineers licensed in the Commonwealth of Pennsylvania. The following items shall be included with submission of any stormwater management site plan (SMSP) for approval by the Township (Refer to § 198-22J for additional SMSP requirements related to subdivision and/or land development applications.):

- A. Three copies of the completed Township grading and excavating (aka soil erosion and sedimentation control) permit application form. (Refer to § 198-21B.)
- B. Grading and excavating (aka soil erosion and sedimentation control) permit application fee and escrow, as established by separate resolution of The Township Council.
- C. Feasibility analysis.
  - (1) A feasibility analysis that evaluates the potential application of infiltration, flow attenuation, bioretention, wetland, or wet pond BMPs must be submitted with the stormwater management site plans required in Article IV.
  - (2) The feasibility analysis must allow the Township to review the general soil characteristics of a site and the proposed development for that site and determine if infiltration BMPs or wet pond or artificial wetland BMPs could have been more thoroughly pursued for use by the applicant. The information required in the analysis shall be detailed enough to determine the potential applicability of these BMPs for a proposed development, but general enough not to force an applicant into incurring excessive cost associated with conducting laborious field and/or laboratory soil testing for a site which ultimately may not be suitable for infiltration or wet pond or artificial wetland BMP implementation. Applicants are expected to use these BMPs wherever possible and are required to provide adequate justification if these BMPs are not to be implemented. Applicants for those sites that are determined to be generally suitable from these analysis (taking into consideration the areal extent of suitable soils necessary to accommodate an infiltration or wet pond or wetland BMP for the type and size of development proposed) are required to conduct the detailed soil testing and other feasibility testing required in other sections of this chapter which contain the description and additional design criteria of these BMPs.
  - (3) This analysis shall provide:
    - (a) A general assessment of the anticipated additional runoff based on the design storm and post-development condition and utilizing the calculation procedures required in § 198-18;
    - (b) Indication of drainage areas on the development site resulting in impervious, pervious, and rooftop runoff;
    - (c) Indication of type of land use (residential, nonresidential) generating the impervious

surface runoff;

- (d) A delineation of soils on the site from the NRCS, soil survey and on-site soil study. The soil study shall be conducted by a soil scientist and shall include sufficient probes/deep holes to evaluate application of BMPs;
  - (e) Indication of soils generally suitable for infiltration and/or wet pond/artificial wetland BMPs;
  - (f) Calculated acreage of suitable soils for infiltration BMPs and wet pond or artificial wetland BMPs and percentage of suitable soils based on total site acreage;
  - (g) Calculated acreage of suitable soils for infiltration BMPs and wet pond or artificial wetland BMPs made unavailable due to proposed development layout and justification that alternative development layout which would reduce impact on suitable soil availability is unfeasible;
  - (h) An analysis of potential infiltration or wet pond or artificial wetland BMPs which could be implemented to manage the projected post-development runoff with consideration of suitable soil availability runoff point of and type of land use (items in Subsection C(3)(b) and (c) above) and the general design standards and maintenance issues included in this chapter, including an indication of how most post-development runoff can be managed by these BMPs (e.g., the entire post-development runoff or partial amount of runoff expressed as a percentage); and
  - (i) The rationale for the decision to not proceed with implementation of infiltration BMPs or wet pond or artificial wetland BMPs, such as excessive cost of implementation, insufficient soil suitability, and development constraints.
- D. A detailed geologic evaluation of the project site pursuant to § 198-15D and Appendix B<sup>88</sup> of this chapter shall be performed to determine the suitability of recharge facilities. The evaluation shall be performed by a qualified geologist and/or soil scientist, and shall address, at a minimum, soil permeability, depth to bedrock, susceptibility to sinkhole formation, and subgrade stability.
- E. Whenever stormwater management facilities will be located in an area underlain by limestone or in proximity to known sinkholes or other karst features, a geological evaluation of the proposed location shall be conducted to determine susceptibility to sinkhole formations. The design of all stormwater BMPs over karst/limestone formations or in proximity to known sinkholes shall include measures to prevent groundwater contamination and, where necessary, sinkhole formation. Installation of an impermeable liner shall be required in stormwater management BMPs to be constructed over or in close proximity (less than 150 feet) to limestone, other known sinkholes, or karst features. The following note shall be attached to all stormwater management site plans and signed and sealed by the applicant's professional engineer:

"I, \_\_\_\_\_, certify that the proposed stormwater management facilities (circle one) are/are not in close proximity to known sinkholes, karst features, underlain by limestone or in proximity to geology associated with the formation of voids and sinkholes."

- F. General.

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88. Editor's Note: Said appendix is included as an attachment to this chapter.

- (1) General description of project.
  - (2) General description of permanent stormwater management techniques, including construction specifications of the materials to be used for stormwater management facilities.
  - (3) Complete hydrologic, hydraulic, and structural computations for all stormwater management facilities.
- G. Three copies of the stormwater management site plan for the parcel shall be submitted on twenty-four-inch-by-thirty-six-inch sheets and shall be prepared in a form that meets the requirements for recording at the offices of the Recorder of Deeds of Delaware County. All existing surface features required to be depicted on the plan must be obtained from a field survey of the development site prepared by a qualified professional licensed in the Commonwealth of Pennsylvania. The plan must include the date of survey and the professional seal of the individual(s) responsible for completing the survey and identification of existing features. The contents of the plan shall include, but not be limited to:
- (1) The location of the project relative to highways, municipalities, or other identifiable landmarks. Property boundaries of the development site must be shown based on a field survey prepared by a professional land surveyor licensed in the Commonwealth of Pennsylvania. The plan must show property corners located and include the date of survey and the professional seal of the land surveyor responsible for completing the boundary survey. The zoning district in which the property is located shall be shown including bulk zoning data (required, existing and proposed).
  - (2) Watershed(s) within which the project is located (e.g., Chester Creek, Ridley Creek, etc.).
  - (3) Existing contours at intervals no greater than two feet.
  - (4) Existing streams, lakes, ponds, surface waters, watercourses or other bodies of water within the project area and all drainage channels leading to or from such surface waters.
  - (5) Other physical features, including riparian corridors, floodplains, sinkholes, streams, existing surface waters, wetlands, areas of natural vegetation to be preserved, and the total extent of the upstream area draining through the site.
  - (6) The locations of all existing and proposed utilities, sanitary sewers, and water lines located on the site and/or within 50 feet of property lines with minimum setback distances for all existing and proposed water supply wells and on-lot sewage disposal systems.
  - (7) An overlay showing soil names and boundaries. This overlay shall include a table on the map showing the recharge capabilities of each soil represented on site in inches per hour and describe their recharge or infiltration capabilities.
  - (8) Proposed changes to the land surface and vegetative cover, including a tabulation of impervious surface area which identifies the type of surface and the quantity of existing impervious surface area, existing impervious surface area to be removed and proposed impervious surface area.
  - (9) Proposed structures, roads, paved areas, and buildings. Where pervious pavement is proposed for parking lots, recreational facilities, nondedicated streets, or other areas, detailed pervious pavement construction specifications shall be noted on the plan. All pervious pavement areas of a development site must be permanently posted with legible signs summarizing the maintenance requirements of pervious paving as well as other restrictions on use/maintenance of such areas (i.e., activities that would adversely impact the ability of the surface to absorb water).

- (10) Required and proposed structure setbacks to property boundaries shall be shown.
- (11) Final proposed contours at intervals no greater than two feet.
- (12) The name of the development, the name and address of the owner of the property, and the name of the individual or firm preparing the plan.
- (13) The date of submission.
- (14) A graphic and written scale of one inch equals no more than 50 feet. For tracts of 20 acres or more, the scale may be one inch equals no more than 100 feet.
- (15) Location map identifying the site relative to streets and other parcels in the vicinity of the site and depicting zoning district boundaries.
- (16) A North arrow.
- (17) The total tract boundary and size with distances marked to the nearest foot and bearings to the nearest degree.
- (18) Existing and proposed land use(s).
- (19) A key map showing all existing man-made features beyond the property boundary that may be affected by the project, or that may impact the development proposal.
- (20) Horizontal and vertical profiles of all open channels, including hydraulic capacity.
- (21) All existing and proposed stormwater management facility and/or drainage easements described by metes and bounds, including the purpose and ownership and maintenance provisions for each easement.
- (22) A twenty-foot-wide access easement around all stormwater management facilities that would provide ingress to and egress from a public right-of-way or paved driveway within an existing or proposed easement that accesses a public right-of-way.
- (23) A note on the plan indicating the location and responsibility for maintenance of stormwater management facilities that would be located off site. All off-site facilities shall meet the performance standards and design criteria specified in this chapter.
- (24) A certification on the plan, signed by the landowner, acknowledging the stormwater management system to be a permanent fixture that may not be altered or removed without written approval of a revised plan by the Township, which shall be recorded with the record plan and which shall be applicable to all future owners of the property.
- (25) The location of all erosion and sedimentation control facilities and an erosion and sedimentation control plan.
- (26) Riparian corridor area and floodplain shall be shown on the plan.
- (27) Steep and very steep slopes, as defined by Middletown Township Code Chapter 275, shall be shown on the plan.
- (28) The following signature block for the design engineer:

"(Design engineer), on this date (date of signature), has reviewed and hereby certifies that the stormwater management site plan meets all design standards and criteria of the Middletown Township Stormwater Management Ordinance, Township Code Chapter 198."

(29) Design professional signature.

(a) The following signature block for the certified design professional:

"(Design professional), on this date (date of signature), has reviewed the project site, parcel(s) and surrounding areas and hereby certifies that there are no wetlands, waters of the United States, regulated surface waters or areas subject to inundation by the 100-year frequency rainfall event, as defined by this chapter 198 and other applicable Township codes, within the parcel(s) being developed or within the minimum required setbacks from such features if such features are outside of the parcel(s) boundary."

(b) Alternatively, if any of these features do exist on the development parcel(s) or in proximity to the parcel(s), the plan shall show such features and must include a signed and dated statement from a qualified professional indicating date of identification of such features and certifying location and extent of features identified on the plan.

(30) The stormwater management site plan shall include an operation and maintenance plan for all existing and proposed stormwater management/BMP facilities, addressing long-term ownership and maintenance responsibilities for such facilities, including schedule for operation and maintenance activities.

H. Required supplemental information.

(1) A written description of the following information shall be submitted:

- (a) The overall stormwater management concept for the project.
- (b) Three copies of stormwater runoff computations as specified in this chapter, signed and sealed by a qualified technical professional.
- (c) Stormwater management techniques to be applied both during and after development.
- (d) Expected project time schedule.

(2) An erosion and sedimentation control plan, where applicable, including all reviews and approvals, as required by PADEP and/or Delaware County Conservation District.

(3) A geologic assessment of the effects of runoff on limestone, karst geology or sinkholes as specified in this chapter.

(4) The effect of the project (in terms of runoff volume, peak flow, and discharge duration) on adjacent properties and on any existing Township stormwater collection system that may receive runoff from the project site.

(5) Highway occupancy permit from the PennDOT District Office when utilization of a PennDOT storm drainage system is proposed.

(6) An operations and maintenance (O&M) plan for all existing and proposed physical stormwater

facilities, as well as schedules and costs for O&M activities. The plan shall address long-term ownership and responsibilities for O&M. Operation and maintenance agreements for privately owned stormwater management facilities/BMPs must be executed by the applicant/owner pursuant to § 198-40 of this chapter.

I. Stormwater management BMPs.

- (1) All stormwater management facilities must be located on a plan and described in detail.
- (2) When groundwater recharge methods such as seepage pits, beds, or trenches are proposed, the locations of existing and proposed septic tanks and seepage areas and wells must be shown. A minimum separation distance of no less than 50 feet shall be provided between any septic system and any facility used for stormwater management. An analysis shall be submitted to verify that stormwater infiltration shall not affect groundwater elevations of the septic drain field site if this distance is approved by the Township to be less than 50 feet. In no case shall this distance be less than 20 feet.
- (3) All calculations, assumptions, and criteria used in the design of the stormwater management facilities must be shown. If multiple facilities are proposed in conjunction with each other, such as infiltration best management practices with vegetation-based management practices, a summary narrative shall be included describing any sequence and how the facilities are meant to function with each other to manage stormwater runoff.
- (4) All stormwater management/BMP facility easements required by this chapter must be shown on the stormwater management site plan, including the bearing and distance of each segment of the easement(s) boundary.

J. Additional requirements related to subdivisions and/or land development applications.

- (1) A grading and excavating (aka soil erosion and sedimentation control) permit application form is not required at the time of submission of the subdivision and land development application. (Refer to Township Code, Chapter 210 for submission documents/requirements for subdivisions and/or land developments.) A grading and excavating permit application (and form) is required upon approval and recordation of the subdivision and/or land development plan, prior to commencement of construction activity, tree/vegetation clearing, or ground disturbance, and shall be submitted as described in § 198-22.
- (2) A fee for review of an SMSP, separate from that required in conjunction with a subdivision and/or land development application, is not required until time of submission of the grading and excavating permit application identified in § 198-22J(1). A separate escrow is not required as long as the escrow posted with the Township, in conjunction with the subdivision and/or land development application, remains in good standing and in an amount exceeding the minimum required by the Township.
- (3) The SMSP and stormwater management calculations (report) shall be included with the subdivision and/or land development plan and application and shall include the same number of copies required with the subdivision/land development application.

**§ 198-23. Simplified stormwater management approach and simplified stormwater management site plan (SSMSP) contents and requirements.**

For all regulated activities that qualify for the simplified stormwater management approach (i.e., exempt

from certain provisions of this chapter pursuant to § 198-5C), a simplified stormwater management site plan (SSMSP) is required for approval by the Township. SSMSPs and related documentation shall be prepared by qualified professional(s) as applicable, including but not limited to professional land surveyors or engineers licensed in the Commonwealth of Pennsylvania. The following items shall be included with submission of any simplified stormwater management site plan (SSMSP) for approval by the Township:

- A. Three copies of the completed Township grading and excavating permit application pursuant to Township Code, Chapter 186, Grading and Excavating (aka Soil Erosion and Sedimentation Control).
- B. Grading and excavating (aka soil erosion and sedimentation control) permit application fee and escrow, as established by separate resolution of The Township Council.
- C. Three copies of the simplified stormwater management site plan for the parcel containing, at a minimum, the following information:
  - (1) Property boundaries (within 100 feet of the proposed improvements and/or limit of ground disturbance) and area of the parcel, based on deed information. Property boundaries shall be shown based on a field survey prepared by a professional land surveyor licensed in the Commonwealth of Pennsylvania. Plan must show property corners located and include date of survey and professional seal of land surveyor responsible for completing the boundary survey.
  - (2) Location map identifying the site relative to streets and other parcels in the vicinity of the site and depicting zoning district boundaries.
  - (3) North arrow.
  - (4) Within 100 feet of the proposed improvements and/or limit of ground disturbance: location of significant natural and existing man-made features, including but not limited to wetlands, watercourses, surface waters, riparian corridors, woodlands, steep slopes, very steep slopes, structures, parking areas, driveways, utilities, floodplains, flood hazard boundaries, sinkholes, limestone/karst features, wells, and on-lot septic systems within 100 feet of proposed impervious surface areas and/or limit of proposed ground disturbance, regardless of the location of the property boundary. The plan must include the date of survey and the professional seal of the individual responsible for completing the survey.
  - (5) Location and dimensions of existing and proposed impervious surface and other improvements, with setbacks drawn to relate the location of same to property lines, streets, and existing features. Impervious surface area tabulation must be provided identifying existing area of impervious surface, existing impervious surface area to be removed, and proposed impervious surface area. The plan must clearly delineate the areas of existing impervious surfaces that are to be removed. The tabulation must include all existing and proposed impervious surface on the entire parcel. If required by the Zoning Officer to verify compliance with the maximum permitted impervious surface area cover percentage on the parcel, all existing impervious surface areas must be shown on the plan, regardless of whether they are within 100 feet of the proposed improvements and/or limit of disturbance.
  - (6) Zoning district in which the property is located, including bulk zoning data (required, existing and proposed).
  - (7) Plan scale, as applicable.
  - (8) Existing contours at intervals no greater than two feet.



- (9) Final proposed contours at intervals no greater than two feet.
- (10) Location and dimensions of proposed infiltration BMP(s), including design calculation and BMP construction details. Projects meeting the exemption criteria established by Tables 198-5.1 and 198-5.2 shall construct a stormwater management infiltration facility (BMP) capable of capturing, storing and infiltrating the first two inches of rainfall generated by the net increase in impervious surface area (or the equivalent thereof). The physical surface area of infiltration BMPs (the surface on which water is infiltrated) shall be no less than 20% of the net increase of impervious surface area. Infiltration BMPs must be constructed in accordance with Middletown Township standards and specifications and provisions of § 198-19 of this chapter, unless an alternative construction specification is approved by the Township Engineer.
- (11) An overlay showing soil names and boundaries. This overlay shall include a table on the map showing the recharge capabilities of each soil represented on site in inches per hour and describe their recharge or infiltration capabilities.
- (12) Watershed(s) within which the project is located (e.g., Chester Creek, Ridley Creek, etc.).
- (13) A graphic and written scale of one inch equals no more than 50 feet. For tracts of 20 acres or more, the scale may be one inch equals no more than 100 feet.
- (14) The name of the development, the name and address of the owner of the property, and the name of the individual or firm preparing the plan.
- (15) Proposed changes to the land surface and vegetative cover. Proposed structures, driveways, parking areas, paved areas, concrete surfaces, pavers, structures and buildings. Required and proposed structure setbacks from the property boundaries shall be shown.
- (16) A key map showing all existing man-made features beyond the property boundary that may be affected by the project or that may impact the development proposal.
- (17) An operation and maintenance plan for all existing and proposed stormwater management/BMP facilities, addressing long-term ownership and maintenance responsibilities for such facilities, including schedule for operation and maintenance activities.
- (18) An erosion and sedimentation control plan pursuant to Chapter 186 of the Middletown Township Code (Grading and Excavating, aka Soil Erosion and Sedimentation Control), including all reviews and approvals, as required by PADEP and/or Delaware County Conservation District.
- (19) Riparian corridor area and floodplain shall be shown on the plan.
- (20) A certification on the plan, signed by the landowner, acknowledging the stormwater management system to be a permanent fixture that may not be altered or removed without written approval of a revised plan by the Township, which shall be recorded with the stormwater operation and maintenance agreement, and which shall be applicable to all future owners of the property.
- (21) The following signature block for the certified design engineer:

"(Design engineer), on this date (date of signature), has reviewed and hereby certifies that the simplified stormwater management site plan meets all design standards and criteria of the Middletown Township Stormwater Management Ordinance, Township Code Chapter 198."

(22) Design professional signature.

- (a) The following signature block for the certified design professional:

"(Design professional), on this date (date of signature), has reviewed the project site, parcel(s) and surrounding areas and hereby certify that there are no wetlands, waters of the United States, regulated surface waters or areas subject to inundation by the 100-year frequency rainfall event, as defined by this chapter 198 and other applicable Township codes, within the parcel(s) being developed or within the minimum required setbacks from such features if such features are outside of the parcel(s) boundary."

- (b) Alternatively, if any of these features do exist on the property or in proximity to the development site, the plan shall show such features and must include a signed and dated statement from a qualified professional indicating date of identification of such features and certifying location and extent of features identified on the plan.

- (23) Locations of existing and proposed septic tanks and seepage areas and wells must be shown. A minimum separation distance of no less than 50 feet shall be provided between any septic system and any facility used for stormwater management. An analysis shall be required to verify that stormwater infiltration shall not affect groundwater elevations of the septic drain field site, if this distance is approved by the Township to be less than 50 feet. In no case shall this distance be less than 20 feet.

- (24) Steep and very steep slopes, as defined by Middletown Township Code Chapter 275, shall be shown on the plan.

- (25) Whenever stormwater management facilities will be located in an area underlain by limestone or in proximity to known sinkholes or other karst features, a geological evaluation of the proposed location shall be conducted to determine susceptibility to sinkhole formations. The design of all stormwater BMPs over karst/limestone formations or in proximity to known sinkholes shall include measures to prevent groundwater contamination and, where necessary, sinkhole formation. Installation of an impermeable liner shall be required in stormwater management BMPs to be constructed over or in close proximity (less than 150 feet) to limestone other known sinkholes, or karst features. The following note shall be attached to all simplified stormwater management site plans and signed and sealed by the applicant's professional engineer:

"I, \_\_\_\_\_, certify that the proposed stormwater management facilities (circle one) are/are not in close proximity to known sinkholes, karst features, underlain by limestone or in proximity to geology associated with the formation of voids and sinkholes."

D. Required supplemental information.

- (1) Operation and maintenance agreement for privately owned stormwater management facilities/BMPs must be executed by the applicant/owner and recorded at the Delaware County Recorder

of Deeds, pursuant to § 198-40 of this chapter, upon approval of the SSMSP, but prior to issuance of grading and excavating permit by the Township.

- (2) Highway occupancy permit from the PennDOT District Office when utilization of a PennDOT storm drainage system is proposed.
  - (3) Other information deemed necessary by the Township Engineer to determine compliance and eligibility of the exemption criteria contained in § 198-5B of this chapter.
- E. The following requirements of this chapter are not applicable to regulated activities eligible for the simplified stormwater management approach:
- (1) § 198-13, Stormwater management performance standards and peak rate control.
  - (2) § 198-15, Volume control and infiltration BMPs.
  - (3) § 198-16A through C, Water quality requirements.
  - (4) § 198-17, Stream bank erosion requirements.
  - (5) § 198-18, Calculation methodology.
  - (6) § 198-20G, peak discharge rates during land disturbance.
  - (7) § 198-42, Stormwater maintenance fund.

#### **§ 198-24. Plan submission.**

For all activities regulated by this chapter, the steps below shall be followed for submission of a stormwater management plan (SMSP or SSMSP). For any activities that require a PADEP permit regulated under Chapter 102 (Erosion and Sediment Control), Chapter 105 (Dam Safety and Waterway Management) or Chapter 106 (Floodplain Management) of PADEP's Rules and Regulations, a PennDOT highway occupancy permit, or any other permit under applicable local, state, or federal regulations, those permit(s) shall be part of the stormwater management plan.

- A. For subdivision and/or land development applications, the SMSP shall be submitted to the Township as part of any preliminary application (or final, if preliminary is not required). The number of copies of the SMSP and application fees and escrows shall be as stipulated by the Township's subdivision and land development application requirements. The SMSP will then be distributed by the Township for review by their staff and/or consultants as part of the subdivision/land development application.
- B. For all regulated activities that are not a subdivision and/or land development, a minimum of three copies of the plan [and required grading and excavating (aka soil erosion and sedimentation control) permit application form, fees and escrow] shall be submitted directly to the Township. The Township shall then distribute the stormwater management plan to its staff and/or consultants for review. Two copies of the stormwater management plan (and related plan/submission documentation) will be forwarded to the Township Engineer for review.

#### **§ 198-25. Review of stormwater management site plan and simplified stormwater management site plan.**

- A. The Township Engineer shall review the stormwater management plan for consistency with the requirements of this chapter, adopted Watershed Act 167 stormwater management plans and other applicable Township Code requirements. As a prerequisite to review of the plan by the Township, a

complete plan, required submission documentation/reports/calculations, and applicable forms, fee and escrow, as specified in this chapter, shall be required. Any stormwater management plan submission determined to be incomplete by the Township shall not be reviewed and will be returned to the applicant (except for those submitted with subdivisions or land development applications; in such cases, the Township Engineer will notify the applicant of deficiencies as part of the subdivision and/or land development review).

- B. For an SMSP submitted with a subdivision and/or land development, the Township Engineer shall review the plan for compliance with provisions of Township Code, Chapter 210, Subdivision and Land Development, where not superseded by this chapter.
- C. For all activities regulated by this chapter, the Township Engineer shall notify the Middletown Township Director of Planning and Development, in writing, whether the stormwater management plan is consistent with Township Code requirements and other relevant regulations, including the requirements of this chapter. Should the stormwater management plan submitted by the applicant be determined to be consistent with the Township Code and other relevant regulations, the Township Engineer will forward a review letter recommending approval of the plan (with conditions, as applicable) to the Township and a copy of this recommendation will also be forwarded to the applicant. Recommendation of approval of a stormwater management plan by the Township Engineer is not approval to commence construction. Refer to § 198-21 of this chapter for requirements that must be satisfied prior to commencement of construction. Any disapproved stormwater management plan may be revised by the applicant and resubmitted consistent with this chapter.
- D. The Township shall not approve any subdivision and/or land development or regulated activities specified in § 198-4E(1) and (2) of this chapter if the stormwater management plan has been found to be inconsistent with adopted Watershed Act 167 stormwater management plan(s) and the requirements of this chapter. All required permits or approvals from PADEP and/or PennDOT must be obtained prior to, or as a condition of, final approval of a subdivision or land development.
- E. For all regulated activities that are not a subdivision or land development, all required permits and approvals from PADEP, PennDOT or other regulatory agencies must be obtained prior to approval of the stormwater management plan and issuance of a permit by the Township to commence construction.
- F. The Middletown Township Building Code Official shall not issue a building permit for any regulated activity specified in § 198-4 of this chapter if the stormwater management plan has been found to be inconsistent with adopted Watershed Act 167 stormwater management plan(s) and the requirements of this chapter, as determined by the Township Engineer, or without considering the comments of the Township Engineer. All required permits and approvals from PADEP, PennDOT or other regulatory agencies must be obtained prior to issuance of a building permit.
- G. For regulated activities that are not a subdivision or land development, the Township's approval of a stormwater management site plan or simplified stormwater management site plan, submitted in conjunction with a grading and excavating (aka soil erosion and sedimentation control) permit application, shall be valid for the same time period as the grading and excavating (aka soil erosion and sedimentation control) permit issued in conjunction with the stormwater management plan. Expiration and extension of a grading and excavating permit shall be in accordance with Township Code, Chapter 186. If stormwater management facilities included in the approved plan have not been constructed, or if an as-built survey plan of these facilities (pursuant to § 198-28 of this chapter) has not been approved prior to expiration of the grading and excavating permit, the Township may consider the stormwater management plan disapproved and may revoke any and all related permits.

Plans that are considered disapproved by the Township shall be resubmitted in accordance with § 198-27 of this chapter.

- H. The Township's approval of a stormwater management site plan submitted in conjunction with an approved subdivision and/or land development shall remain valid and protected from any change in Township Codes and Ordinances for a period of time consistent with the provisions of the Pennsylvania Municipalities Planning Code.

#### **§ 198-26. Modification of plans.**

- A. A modification to a submitted stormwater management site plan or simplified stormwater management site plan for a development site that involves a change in stormwater management facilities or techniques, or that involves the relocation or redesign of stormwater management facilities, or that is necessary because soil or other conditions are not as stated on the plan as determined by the Township Engineer, shall require a resubmission of a modified stormwater management plan consistent with § 198-27 of this chapter and be subject to review as specified in § 198-25 of this chapter.
- B. A modification to an already approved or disapproved plan shall be submitted to the Township, accompanied by the applicable Township fees and escrow. A modification to a plan for which a formal action, in writing, has not been taken by the Township shall be submitted to the Township, accompanied by the applicable Township fees and escrow.

#### **§ 198-27. Resubmission of disapproved stormwater management site plans and simplified stormwater management site plans.**

A disapproved stormwater management site plan or simplified stormwater management site plan may be resubmitted, with revisions addressing the Township Engineer's concerns, documented in writing, to the Township Director of Planning and Development in accordance with § 198-24 of this chapter and be subject to review as specified in § 198-25 of this chapter. The applicable Township fees and escrow must accompany resubmission of a disapproved Plan.

#### **§ 198-28. As-built plans.**

- A. The applicant for any regulated activity requiring a stormwater management plan shall be responsible for completing an as-built survey, prepared and certified by a professional engineer or professional land surveyor licensed in the Commonwealth of Pennsylvania, of all stormwater management facilities/improvements included on the approved plan. The as-built survey and an explanation of any discrepancies between constructed improvements and the approved design plan shall be submitted to the Township Engineer for approval. In no case shall the Township approve the as-built survey until the Township receives a copy of an approved NPDES permit notice of termination (if applicable) from PADEP or the Delaware County Conservation District.
- B. Completed stormwater management facilities and BMPs, including but not limited to storm sewer, drainage pipe, collection and junction structures, detention/retention basins, underground basins, infiltration facilities and surface conveyance facilities (e.g., swales, berms, diversions, etc.) shall be surveyed by a professional land surveyor or engineer licensed in the Commonwealth of Pennsylvania, to verify compliance with the character of stormwater management facilities and proposed post-construction drainage areas (tributary to stormwater management BMPs) as depicted on the approved stormwater management plan. As-constructed plans shall be submitted to Middletown Township for review and approval, upon completion of construction of all facilities and prior to dedication of any

public facilities and/or approval of certificate of total completion (and release of financial security).

- C. Financial security required by the Township as part of a subdivision or land development, or security required pursuant to § 198-37 of this chapter, shall not be approved for release by the Township until the as-built survey plan of all completed stormwater management BMPs, as required by this chapter s been approved by the Township Engineer.
- D. As-built survey plans of all stormwater management detention/retention basins and/or underground basins must be submitted to the Township for review immediately upon completion of construction, and prior to collection and conveyance of stormwater runoff from impervious surfaces, to those facilities. For subdivisions and/or land developments, certificates of occupancy for any structure shall not be approved by the Township until stormwater management facilities that receive runoff from such structures are constructed and the as-built survey (of those facilities) is reviewed and approved by the Township Engineer.

#### **§ 198-29. Retention of plans at project site.**

A copy of the stormwater management plan approved by the Township shall be on file at the development site throughout the duration of the regulated development activity. Periodic inspections may be made by the Township or designee during development activities.

#### **§ 198-30. Adherence to approved plan.**

It shall be unlawful for any person to undertake any regulated activity on any property, except as provided for in the approved stormwater management plan and, if applicable, the grading and excavating (aka soil erosion and sedimentation control) permit plan, and pursuant to the requirements of this chapter. It shall be unlawful to alter or remove any stormwater management facility or BMP required by the stormwater management plan pursuant to this chapter or to allow the property to remain in a condition which does not conform to the approved stormwater management plan.

#### **§ 198-31. Certification of completion.**

At the completion of construction activity, and as a prerequisite for the release of the performance guarantee required pursuant to § 198-37, the applicant or their representatives shall:

- A. Provide a set of survey as-built drawings pursuant to § 198-28 of this chapter and/or, if applicable, Subdivision and Land Development Ordinance<sup>89</sup> requirements. The as-built submission shall include a certification statement (certification of completion) signed by a licensed, qualified professional verifying that all permanent stormwater management/BMP facilities have been constructed in accordance with the approved stormwater management plan and specifications. If stormwater management facilities/BMPs have been installed absent required inspection by the Township Engineer pursuant to § 198-33 of this chapter, the certification of completion shall also include material data sheets, proof of purchase of required materials and photo documentation verifying proper installation of all required facilities. The Township shall not be obligated to approve any certification of completion submitted for stormwater management facilities/BMPs that have been constructed without reasonable and required notice to the Township Engineer to schedule inspections.
- B. Contact the Township Engineer to request inspection of the site for completion of stormwater management facilities and compliance with the approved stormwater management plan and

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**89. Editor's Note: See Ch. 210, Subdivision and Land Development.**

provisions of this chapter. This final inspection shall be conducted by the Township Engineer after receipt of the certification of completion.

C. Certification of completion shall be reviewed and approved by the Township Engineer.

**§ 198-32. Certificate of occupancy approval for structures.**

A certificate of occupancy (CO) approval for any improvements constructed in conjunction with a subdivision and/or land development or other Township permit (requiring issuance of a CO) shall not be granted unless the certification of completion, pursuant to § 198-31 of this chapter, has been approved by the Township (in conjunction with regulated development activities requiring a stormwater management plan and stormwater improvements/BMPs).

## ARTICLE V

**Inspections****§ 198-33. Schedule of inspections.**

- A. The Township Engineer shall inspect all phases of the installation of the permanent stormwater management facilities/BMPs required pursuant to a stormwater management site plan and simplified stormwater management site plan. It shall be the responsibility of the applicant to notify the Township Engineer in advance of construction of stormwater management facilities/BMPs so that required inspections can be scheduled.
- B. During any stage of the work, if the Township Engineer determines that proposed improvements, temporary or permanent erosion and sedimentation control or stormwater management facilities are not being installed in accordance with the approved plan, the Township may revoke any existing permits until a revised plan is submitted and approved, as specified in this chapter.

**§ 198-34. Right-of-entry during construction.**

- A. During construction, duly authorized representatives of the Township may enter at reasonable times upon any property within the Township to inspect the implementation, condition, or operation and maintenance of the stormwater management facilities/BMPs to investigate whether construction activity is in compliance with this chapter.
- B. Stormwater management facility/BMP owners and operators shall allow persons working on behalf of the Township ready access to all parts of the premises for the purposes of determining compliance with this chapter.
- C. Persons working on behalf of the Township shall have the right to temporarily locate on any BMP in the Township such devices as are necessary to conduct monitoring and/or sampling of the facility's stormwater discharge.
- D. Unreasonable delay in allowing the direct access to stormwater management facilities/BMPs is a violation of this chapter.



ARTICLE VI  
**Fees and Expenses**

**§ 198-35. Stormwater management plan fees and escrow.**

The Township shall establish a fee schedule by resolution of the governing body to defray plan review, construction, inspection and administrative costs incurred by the Township from any outside agencies or entities (required to review the stormwater management plan) and the Township Engineer. The Township shall periodically update the fee schedule to ensure that incurred costs are adequately reimbursed. The applicant shall pay all such fees and escrows.

**§ 198-36. Expenses covered by fees and escrow.**

The fees established by resolution of Township Council for review and administration of stormwater management plans and construction of facilities/BMPs required by this chapter shall, at a minimum, cover the following:

- A. Administrative costs.
- B. Review of the plan by the Township and the Township Engineer.
- C. Site inspections by the Township staff, consultants and/or Township Engineer.
- D. Inspection of stormwater management facilities BMPs and stormwater management improvements during construction.
- E. Final inspection upon completion of the stormwater management facilities and stormwater management improvements shown on the stormwater management plan.
- F. Review of as-built survey plan of completed stormwater management facilities and BMPs.
- G. Any additional work required to enforce any provisions regulated by this chapter, correct violations, and ensure proper completion of stipulated remedial actions.

ARTICLE VII  
**Maintenance Responsibility**

**§ 198-37. Performance guarantee.**

- A. For all subdivision and land developments, the applicant shall provide a financial guarantee to the Township for the timely installation and proper construction of all stormwater management facilities and BMPs as required by the approved stormwater management plan and this chapter equal to the full construction cost of the required controls plus construction contingency and construction administration/inspection costs, which amount shall be calculated by the Township Engineer.
- B. For all regulated activities which are not a subdivision or land development and for which the Township has approved a stormwater management site plan or simplified stormwater management site plan and issued a grading and excavating (aka soil erosion and sedimentation control) permit and/or other building permit in connection therewith, the applicant shall provide a financial guarantee representing the Township's projected administration/inspections costs related to such regulated activities in accordance with the Township's fee schedule. (See § 198-35 of this chapter.) In the event that the regulated activities and related stormwater management improvements are not completed in accordance with the approved stormwater management plan and permits issued, or are not completed in accordance with all applicable requirements of this chapter prior to expiration of the permit(s), as defined in § 198-25G of this chapter or other applicable Township codes (under which a permit is issued), and have not otherwise been previously extended by the Township in its discretion upon written request by the applicant citing the reason(s) necessitating the extension request, the financial guarantee provided hereunder shall be forfeited by the applicant.

**§ 198-38. Maintenance responsibilities.**

- A. The stormwater management plan for the development site shall contain a BMP operation and maintenance plan (BMP O&M) prepared by the design engineer. The operation and maintenance plan shall outline required routine maintenance actions and schedules necessary to ensure proper operation of the BMPs and shall be subject to review and approval of the Township. For subdivisions and/or land developments, the Township Council upon recommendation of the Township Engineer, shall make the final determination on the continuing maintenance responsibilities prior to final approval of the stormwater management site plan.
- B. The BMP O&M plan shall establish responsibilities for the continuing operation and maintenance of all proposed stormwater control facilities, consistent with the following principles:
  - (1) If a development consists of structures or lots that are to be separately owned and in which streets, storm sewers, and other stormwater management public improvements are to be dedicated to the Township, stormwater control facilities may also be dedicated to and maintained by the Township, if accepted by the Township.
  - (2) If a development site is to be maintained in a single ownership or if storm sewers and other stormwater management improvements are to be privately owned and maintained, then the ownership and maintenance of stormwater control facilities shall be the responsibility of the owner or private management entity (e.g., homeowners' association) or individual lot owner.
- C. The stormwater facility and BMP O&M plan shall include the following:
  - (1) Description of how each stormwater facility and BMP will be operated and maintained, and the identity and contact information associated with the person(s) responsible for O&M.

- (2) Name of the project site, name and address of the owner of the property, and name of the individual or firm preparing the plan.
  - (3) A certification statement, signed by the property owner, acknowledging that stormwater management facilities and BMPs are permanent fixtures that cannot be altered or removed and that any revision to the approved stormwater management facilities and BMPs and stormwater management plan must be approved by Middletown Township through the submission of a revised stormwater management plan.
- D. Facilities, areas, or structures used as BMPs shall be enumerated as permanent real estate appurtenances and recorded as deed restrictions or easements that run with the land.
- E. If the stormwater management facilities and BMPs are to be privately owned, an operation and maintenance agreement that provides the maintenance and cost sharing among the affected property owners, consistent with the O&M plan, shall be recorded against every affected property as a restrictive deed covenant that runs with the land.
- F. The governing body shall have the right to require dedication of any or all of the stormwater management controls. The right of the Township to require dedication in the future shall be stated in the maintenance agreement. (Refer to § 198-40.)
- G. The Township may take enforcement actions against an owner for any failure to satisfy the provision of this chapter.
- H. In the event a property owner or other entity responsible for maintenance (e.g., homeowners' association) fails to honor their maintenance responsibilities set forth in the O&M plan, in any manner, Middletown Township shall have the right of entry upon and within the area of the easement (or area of BMP and access to stormwater BMPs as defined by the recorded declaration of covenants and restrictions) to undertake any required corrective or maintenance effort. The total cost of such, including administrative, engineering, and legal costs for enforcement, may be imposed upon the responsible party as determined by the O&M agreement. Failure to remedy all associated costs described above may be subject of the imposition of a lien by the Township against the property(s) in question, in the same manner as the Township might otherwise be empowered by law to assess or impose a lien against a property for municipal improvements.

**§ 198-39. Review of stormwater facilities and BMP operations and maintenance (O&M) plan.**

- A. The Township shall review the stormwater facilities and BMP O&M plan for consistency with the purposes and requirements of this chapter and any permits issued by PADEP.
- B. The Township shall notify the applicant, in writing, whether the stormwater facility and BMP O&M plan is approved.

**§ 198-40. Maintenance agreement for privately owned stormwater facilities.**

- A. Prior to final approval of the site's stormwater management plan, the applicant shall sign and record an O&M agreement prepared and approved by the Township Solicitor covering all stormwater control facilities that are to be privately owned. The form and substance of the agreement shall be consistent with the agreement in Appendix D of this chapter.<sup>90</sup> The signed O&M agreement shall be recorded against every affected property as a restrictive deed covenant that runs with the land.

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90. Editor's Note: Said appendix is included as an attachment to this chapter.

- B. Other items may be included in the agreement where determined necessary to guarantee the satisfactory maintenance of all facilities. The O&M agreement shall be subject to review and approval of the Township.
- C. The owner is responsible for the O&M of the SWM BMPs. If the owner fails to adhere to the O&M agreement, the Township may perform the services required and charge the owner appropriate fees. Nonpayment of fees may result in a lien against the property as described in § 198-38.

**§ 198-41. Stormwater management easements.**

- A. Stormwater management easements shall be granted by the property owner as necessary to provide for:
  - (1) Access to the property by the Township for facility inspections and emergency maintenance.
  - (2) Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event and those structures and surface features (e.g., embankments) containing the 100-year storm event.
- B. Stormwater management/BMP facilities easements are required for all areas used for off-site stormwater control, unless a waiver is granted by Middletown Township Council.
- C. All easements shall be recorded with the Delaware County Recorder of Deeds prior to issuance of a building permit or recordation of a subdivision or land development plan.
- D. The purpose of any easement shall be specified in the O&M Agreement signed by the property owner.
- E. The record plan and development agreement for an approved subdivision and/or land development shall define the ownership and maintenance responsibilities as well as access rights for all drainage-related easements and stormwater management facilities/BMPs. Specifically, the record plan shall contain a provision permitting access to such easement(s) and facility, at any reasonable time, for inspection and/or emergency repair/maintenance, by Middletown Township or its designee, of all facilities deemed critical to public welfare.
- F. Nothing shall be permitted to be placed, planted, set or put within the area of an easement unless necessary for the purpose of the easement.
- G. Easements shall be centered on or adjacent to rear or side lot lines to the maximum extent feasible.
- H. Easements shall have a minimum width of 30 feet unless otherwise approved by the Township.
- I. Where required by the Township, the applicant shall provide a method of physically delineating easements across private lots. Such method shall include shrubbery, trees, permanent markers or other method acceptable to the Township.

**§ 198-42. Stormwater Maintenance Fund.**

- A. If stormwater management facilities/BMPs are accepted by the Township for dedication, the applicant shall pay a specified amount to the Township Stormwater Maintenance Fund to help defray costs of periodic inspections and maintenance expenses. The amount shall be determined as follows:
  - (1) The amount shall include all estimated costs to inspect, maintain, and repair the facilities during a fifteen-year period, as calculated by the Township Engineer.

- (2) The amount shall be converted to present worth of the annual series values. The Township Engineer shall determine the present worth equivalents, which shall be subject to the approval of Township Council.
- B. If a stormwater management facility/BMP is proposed that also serves as a recreation facility (e.g., ball field, pond), the Township may, but is not required to, reduce or waive the amount of the maintenance fund deposit based upon the value of the land for public recreation purpose.
- C. If at some future time a stormwater management facility (whether publicly or privately owned) is eliminated due to the installation of storm sewers or other stormwater management facility, the unused portion of any maintenance deposit will be applied to the cost of abandoning the facility and connecting to the storm sewer system or other facility. Any amount of the deposit remaining after the costs of abandonment are paid will be returned to the depositor.
- D. For stormwater management facilities, storm sewer, culverts, or other such improvements required by PennDOT (to be constructed within the right-of-way of state highways or easement areas), for which Township Council agrees to long-term maintenance, the applicant shall pay a fee to the Township Stormwater Maintenance Fund. The fee shall cover the estimated cost for maintenance and inspections for 15 years. The Township Engineer will establish the estimated cost upon review of information submitted by the applicant. The amount of the fee shall be converted to present worth of the annual series values. The Township Engineer shall determine the present worth equivalents, which shall be subject to the approval of Township Council.

**§ 198-43. Post-construction maintenance inspections.**

- A. Stormwater management facilities and BMPs shall be inspected for proper operation by the owner of facilities as indicated on the O&M plan and agreement on the following basis:
- (1) Twelve months after completion of the facility and acceptance of completion of the facility by the Township;
  - (2) At least once every three years thereafter;
  - (3) During or immediately after the cessation of a ten-year frequency or greater storm; and/or
  - (4) As specified in the operations and maintenance (O&M) agreement.
- B. The entity conducting the inspection shall submit a report to Middletown Township summarizing observations of inspection and necessary repairs, if any.

ARTICLE VIII  
**Prohibitions**

**§ 198-44. Prohibited discharges.**

- A. Any drain or conveyance, whether on the surface or subsurface, that allows nonstormwater discharge, including, but not limited to, sewage, processed wastewater, and wash water, to enter the surface waters of the commonwealth is prohibited.
- B. No person shall allow or cause to allow stormwater discharges into the Township's municipal separate storm sewer system (MS4) which are not composed entirely of stormwater, except discharges allowed under a state or federal permit.
- C. Discharges which may be allowed under the Township's NPDES permit based on a finding by the Township that the discharge(s) do not significantly contribute to pollution to surface waters of the Commonwealth by the Township are:
  - (1) Discharges from firefighting activities.
  - (2) Potable water sources including waterline and fire hydrant flushing.
  - (3) Uncontaminated water from foundation or from footing drains.
  - (4) Flows from riparian habitats and wetlands.
  - (5) Lawn watering.
  - (6) Irrigation drainage.
  - (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) Routine external building wash down (which does not use detergents or other compounds).
  - (9) Air-conditioning condensate.
  - (10) Water from individual residential car washing.
  - (11) Dechlorinated swimming pool discharges (pursuant to PADEP requirements).
  - (12) Springs.
  - (13) Uncontaminated groundwater.
  - (14) Water from crawl space pumps or sump pumps.
  - (15) Diverted stream flows.
- D. In the event that the Township subsequently determines that any of the discharges identified in § 198-44C of this chapter degrade the quality of surface waters of the commonwealth or waters of the United States by the Township, then the Township will notify the responsible person to cease the discharge.
- E. Upon notice provided by the Township under § 198-44D, the discharger will have a reasonable time to cease the discharge consistent with the degree of pollution caused by the discharge.

F. Nothing in this section shall affect a discharger's responsibility under state or federal law.

**§ 198-45. Prohibited connections.**

A. The following connections are prohibited, except as provided in § 198-44C above:

- (1) 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 regulated small MS4 or the surface waters of the commonwealth, and any connections to the storm drain system from indoor waste water drains and sinks; and
- (2) Any drain or conveyance connected from a commercial or industrial land use to the regulated small MS4 or surface waters of the commonwealth which has not been documented in plans, maps, or equivalent records, and approved by the Township.

B. This prohibition expressly includes, without limitation, connections made in the past, regardless of whether the connection, drain or conveyance was previously allowed, permitted, or approved by a government agency, or otherwise permissible under law or practices applicable or prevailing at the time of connection.

**§ 198-46. Roof drains, sump pumps, and foundation drains.**

- A. Roof drains, sump pumps or foundation drains (or similar subsurface or surface drainage system) shall not be connected to streets or sanitary sewers and shall discharge to infiltration areas or vegetative BMPs to the maximum extent practicable to satisfy the criteria for and encourage disconnection of impervious surfaces. Roof drains may be connected to storm sewers or roadside swales only when those facilities ultimately discharge to stormwater management BMPs or water quality facilities, and only when approved by the Township Engineer.
- B. Roof drains, sump pumps or foundation drains shall not discharge water within 10 feet of a public road right-of-way, sidewalk, walkway, trail, or street and shall be constructed to discharge to a dry well/seepage pit or aboveground entirely on the subject property. Sump pump and roof drain discharge pipes shall not extend beyond the building envelope for the lot unless they are directly connected to an infiltration facility, detention basin, storm sewer pipe or as otherwise approved by the Township Engineer. In no case shall roof drains, sump pumps or foundation drains discharge to the surface in a manner such that water flows directly onto an adjoining property or across paved walking surfaces, streets, driveways or parking areas.

**§ 198-47. Waste disposal prohibitions.**

No person, owner or other entity shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, drainage swale, surface water of the commonwealth, stormwater runoff collection system, riparian corridor area, floodplain (area subject to inundation by the 100-year frequency storm event) or any component of the Township's municipal separate storm sewer system (MS4), any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Waste deposited in streets in proper waste receptacles for the purposes of collection is exempted from this prohibition.

**§ 198-48. Alteration of SWM BMPs.**

A. No person shall modify, remove, fill, landscape, or alter any existing stormwater management BMP,

unless part of an approved maintenance program, and written approval of the Township has been obtained.

- B. No person shall place any structure, fill, landscaping or vegetation into a stormwater management facility or BMP or within a drainage easement, without the written approval of the Township.



ARTICLE IX  
**Enforcement and Penalties**

**§ 198-49. Right of entry.**

Upon presentation of proper credentials, duly authorized representatives of Middletown Township may enter at reasonable times upon any property within the Township to inspect the condition of the stormwater structures and facilities in regard to any aspect regulated by this chapter.

**§ 198-50. Notification.**

In the event that a person fails to comply with the requirements of this chapter, or fails to conform to the requirements of any grading and excavating (aka soil erosion and sedimentation control) permit or stormwater management plan approval issued hereunder, the Township shall provide written notification of the violation. Such notification shall set forth the nature of the violation(s) and establish a time limit for correction of these violations(s). Failure to comply within the time specified shall subject such person to the penalty provision of this chapter. All such penalties shall be deemed cumulative. In addition, the Township may pursue any and all other remedies available under state or federal law. It shall be the responsibility of the owner of the real property on which any regulated activity is proposed to occur, is occurring, or has occurred, to comply with the terms and conditions of this chapter. In the case where the violation poses an immediate threat to the health, safety, and welfare of the community, no notice under this section shall be required.

**§ 198-51. Enforcement.**

Middletown Township Council is hereby authorized and directed to enforce all of the provisions of this chapter. All inspections regarding compliance with the stormwater management site plan or simplified stormwater management site plan shall be the responsibility of the Township Engineer or other qualified persons designated by the Township as directed by The Township.

- A. A set of design plans approved by the Township shall be on file at the site throughout the duration of the construction activity. Periodic inspections may be made by the Township or designee during construction.
- B. Adherence to approved plan. It shall be unlawful for any person, firm, or corporation to undertake any regulated activity under § 198-4 on any property except as provided for in the approved stormwater management site plan, simplified stormwater management site plan and pursuant to the requirements of this chapter. It shall be unlawful to alter or remove any control structure required by the plan pursuant to this chapter or to allow the property to remain in a condition which does not conform to the approved plan.
- C. Suspension and revocation of approved stormwater management plan.
  - (1) Any approval under this chapter may be suspended or revoked by the Township for:
    - (a) Noncompliance with, or failure to, implement any provision of the approved stormwater management plan.
    - (b) A violation of any provision of this chapter or any other applicable law, ordinance, rule, or regulation relating to the project.
    - (c) The creation of any condition or the commission of any act during construction or

development which constitutes or creates a hazard or nuisance, pollution or which endangers the life or property of others, or as outlined in Article VIII of this chapter.

- (2) A suspended approval of a stormwater management plan shall be reinstated by The Township when:
  - (a) The Township Engineer or his designee has inspected and approved the corrections to the stormwater management and erosion and sedimentation control measure(s), or the elimination of the hazard or nuisance; and/or
  - (b) The violation of this chapter, law, rule or regulation has been corrected.
- (3) A stormwater management plan approval cannot be reinstated. The applicant may apply for a new stormwater management plan approval under the procedures outlined in this chapter.
- (4) The decision to suspend or revoke a permit may be appealed to Township Council within 30 days of the date of suspension or revocation.

**§ 198-52. Violations deemed public nuisances.**

- A. The violation of any provision of this chapter is hereby deemed a public nuisance.
- B. Each day that a violation continues shall constitute a separate violation.
- C. Whenever the Township finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the Township may order compliance by written notice to the responsible person. Such notice may require without limitation:
  - (1) The performance of monitoring, analyses, and reporting;
  - (2) The elimination of prohibited discharges;
  - (3) Cessation of any violating discharges, practices, or operations;
  - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
  - (5) Reimbursement to Middletown Township to cover administrative and remediation costs;
  - (6) The implementation of stormwater management facilities/BMPs to correct a violation or prevent future violations; and
  - (7) Operation and maintenance of approved stormwater management facilities/BMPs.
- D. Failure to comply within the time specified shall also subject such person to the penalty provisions of this chapter. All such penalties shall be deemed cumulative and shall not prevent Middletown Township from pursuing any and all other remedies available in law or equity.

**§ 198-53. Violations and penalties.**

- A. Anyone violating the provisions of this chapter shall be guilty of a summary offense, and upon conviction shall be subject to a fine of not more than \$1,000 for each violation, recoverable with costs, or imprisonment of not more than 10 days, or both. Each day that the violation continues shall be a separate offense.

- B. In addition, Middletown Township, through its solicitor, may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this chapter. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

**§ 198-54. Appeals.**

- A. Appeals from the determination of the Township in the administration of this chapter as it relates to stormwater management of a project shall be made to the Middletown Township Council within 30 days of that determination or decision.
- B. Any person aggrieved by a decision of the Middletown Township Council may appeal to the Delaware County Court of Common Pleas within 30 days of the date of the decision.



## STREETS AND SIDEWALKS

### Chapter 204

## STREETS AND SIDEWALKS

ARTICLE I		§ 204-6.	Roads and driveways.
Construction Regulations		§ 204-7.	Application for permit.
§ 204-1.	Construction requirements for roads, streets, lanes, alleys and drainage facilities.	§ 204-8.	Fees.
		§ 204-9.	Approval and appeal.
		§ 204-10.	Protective devices required.
		§ 204-11.	Time limit on openings.
§ 204-2.	Road specifications.	§ 204-12.	Restoration requirements.
§ 204-3.	Concrete curb specifications.	§ 204-13.	Exceptions.
§ 204-4.	Curbless road specifications.	§ 204-14.	Costs of inspection.
		§ 204-15.	Violations and penalties.
ARTICLE II			
Highway Permits			
§ 204-5.	Highway openings.		

**[HISTORY: Adopted by the Board of Supervisors (now Township Council<sup>91</sup>) of the Township of Middletown as indicated in article histories. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Construction codes — See Ch. 89.

Subdivision and land development — See Ch. 210.

Littering — See Ch. 148.

Water — See Ch. 242.

Sewers — See Ch. 180.

Zoning — See Ch. 275.

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91. Editor's Note: The name of the Township's governing body became the Township Council as of 1-1-1978, the effective date of the Home Rule Charter.

## ARTICLE I

**Construction Regulations****[Adopted 7-2-1946 by Ord. No. 7 (Ch. V, Art. 1, of the 1976 Ordinance Book)]****§ 204-1. Construction requirements for roads, streets, lanes, alleys and drainage facilities.  
[Amended 3-7-1949 by Ord. No. 16]**

- A. Plan required. No person, partnership, association or corporation shall construct, open or dedicate any road, street, lane or alley, or any sewer or drainage facilities in connection therewith, for public use or travel in the Township of Middletown, without first submitting plans therefor to the Township Supervisors for their approval, and no road, street, lane or alley, nor sewer or drainage facilities in connection therewith shall be opened, laid or constructed except in strict accordance with plans approved by the Township Supervisors.
- B. Plan and construction specifications. Such plans shall show the profiles of such roads, streets, lanes or alleys, the course, structure and capacity of the drainage facilities, the method of drainage of the adjacent or contiguous territory and drainage profile of the streets and plan showing drainage of the whole property; and the size of the lots which shall conform with Chapter 275, Zoning. All roads and streets shall be of a width of not less than 33 feet, the cartway shall be no less than 18 feet, and all roads and streets connecting with existing streets so as to form a continuation or extension thereof, shall be not less in width than such existing roads and streets. All roads and streets, where possible, shall connect with existing roads and streets, or proposed roads and streets, so as to form as near as possible through road and streets, and a harmonious and systematic development of the Township. The names of the roads and streets shall not conflict with the names of existing roads and streets, and all roads and streets shall be designated by the names of existing roads and streets with which they connect as extensions thereof.
- C. Filing of plan and public hearing. All such plans shall be filed with the Township Secretary at least 10 days prior to regular meeting of the Township Supervisors, at which it is desired to seek approval thereof. Before acting upon any such plans, the Township Supervisors may, in their discretion, arrange for a public hearing, after giving such notice as they may deem desirable in each case.
- D. Modification of plan. The Township Supervisors reserve the right to alter such plans, and to specify any changes or modifications of any kind which they may deem necessary with respect thereto, and to make their approval of such plans subject to any such alterations, changes or modifications.
- E. Required signatures and filing. Any and all plans, when so approved, shall be signed by the Supervisors, and shall be filed in the office of the Secretary of the Township, where the same shall be available to public inspection.
- F. Recording by applicant. The action of the Township Supervisors in approving any such plans, and such plans, shall be recorded by the person applying for such approval.
- G. Road improvement. All roads and streets shown on the said plan shall be improved in accordance with the plans and specifications prescribed by the Township Supervisors.
- H. Sewer, gas and water mains. All sewers, sewer laterals, and sewer connections shall be laid on all improved streets before paving where connection with the Township sewers is practicable, and shall be required by the Township Supervisors, and all gas and water mains and all service connections shall be laid before the paving of the streets where water and gas is available, and all other mains, pipes and conduits and the like shall be installed before paving of the cartway where it is proposed to

install any such service mains in the streets.

- I. Requirements necessary for application of approval. All applications for the approval of such plans shall be in writing on a blank form to be furnished for that purpose, by the Township Supervisors, and signed by the owners of the property, which must be filed with the Secretary of the Township, setting forth in detail the character of the improvements to be made on the property shown on said plan, in accordance with the provisions of this article, and in such application the applicant shall agree to open, lay out and improve the roads, streets, lanes or alleys, and to construct all of the improvements, including sewers and drainage facilities upon the property, shown on the plan, within the time or times therein specified, and agree to enter into a contract in writing prepared by the Township Solicitor, to install, erect and construct said improvements. In addition, the applicant shall furnish a certificate of a reputable title insurance company, satisfactory to Township Supervisors, which as of the date of approval, shall set forth the name or names of the owner or owners of all property covered by such plans and shall show and shall contain a list of all mortgages, judgments, liens, easements, contracts and agreements of record in the Office of the Recorder of Deeds in and for Delaware County, Pennsylvania, which shall affect the property covered by such plans. If said certificates of title insurance company shall disclose that any such property shall be subject to any mortgage, judgment, easement, lien, contract or agreement, or other matters of record, then at the option of the Township Supervisors, the holders or owners of such mortgages, judgments, liens, easements, contracts or agreements shall be required to join in and approve said application before the same shall be acted upon by the Township Supervisors. The applicant shall furnish a bond in such amount, under such conditions, and form, and with surety as shall be approved by the Township Supervisor, to guarantee the performance of the said contract and to secure the completion of said improvements within the times therein specified. In lieu of a bond, the applicant may deposit cash to guarantee performance of said contract and to secure completion of the improvements upon an escrow agreement to be prepared by the Township Solicitor and approved by the Township Supervisors. The escrow agent for the deposits of such cash shall be designated and selected by the Township Supervisors.
- J. Costs. All applicants shall bear all costs of inspection of such roads, streets, lanes or alleys, and shall deposit with the Township Treasurer such sum, as the Township Supervisors determine, to guarantee payment of such costs; and applicant shall deposit a filing fee of \$35 when application is filed, or such sum as the Supervisors shall by resolution decide. In addition, all applicants shall bear all advertising costs in connection with said application and all applicants shall bear all fees of the Township Solicitor in connection with said application and in connection with any ordinance prepared for the acceptance or taking over of any road as a Township highway.<sup>92</sup> The applicant shall deposit an amount necessary to cover said costs, as determined by the Township Supervisors, with the Township Treasurer and upon the final conclusion of the consideration of said application and of the consideration of an ordinance to ordain and take over said roads as Township highways any part of said deposit not expended shall be refunded to the applicant.

#### **§ 204-2. Road specifications.**

- A. Preparation of subgrade. The subgrade shall be on undisturbed ground below the topsoil and properly graded and rolled with a 10 ton three-wheel roller to a bearing strength of 10,000 pounds per square foot. If fill is required, all topsoil and all organic material shall be removed. Fill shall be installed in layers not more than six inches thick and thoroughly compacted with a 10 ton three-wheel roller or installed in layers not more than 12 inches thick and compacted with a ten-ton sheep-foot roller or

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92. Editor's Note: See 53 P.S. § 67316 et seq.

compactor of the same weight. Fill shall be entirely mineral, shall not contain stumps, trees, brush, trash, or similar materials or objects, and shall be properly compacted to the above-mentioned strength. The subgrade shall be finished with a contour radially parallel to the finished road. Any old wells, cesspools, dump holes and trenches shall be bridged over with reinforced concrete or filled in to provide proper bearing strength at subgrade level. Such bridging or fill shall be noted on the as-built plans. The subgrade shall be inspected and approved by the Township Engineer before any stone is applied.

B. Base course.

- (1) The base course shall be applied in two layers.
- (2) The first layer shall be four inches thick when compressed. This layer shall be of Pennsylvania Department of Transportation No. 4 stone, spread uniformly on prepared subgrade. After ballast is placed and spread, it shall be checked with approved templates and straight edges and all irregularities corrected. The coarse material shall be compacted by rolling with an approved three-wheel ten-ton roller. The rolling shall be parallel with the center line of the roadway uniformly lapping each preceding track and shall continue until material does not creep or wave ahead of roller wheels. After the materials has been rolled satisfactorily, fine material for filling the voids shall be applied. The fine material shall be spread from piles off the road or from dumping boards, and in no case shall the fine material be dumped directly on the coarse material. The fine material shall be stone meeting the size and grading requirements for Pennsylvania Department of Transportation No. 1 screenings. Mechanical means of spreading fine material may be approved by the Township Engineer, provided such means prove satisfactory. The fine material shall be cast or spread in a series of thin applications parallel with the roadway until no more material can be forced into voids. Brooms shall be used to spread the fine material over the surface to ensure even distribution and filling of all voids. The rolling shall continue during the process of spreading the fine material and shall begin at the sides and progress towards the center of the road. Additional screenings shall be applied where necessary to fill voids and rolling shall continue until the base is thoroughly compacted and firmly set.
- (3) The first layer shall be inspected and approved by the Township Engineer before the second layer is started.
- (4) The second four-inch layer shall be installed in the same manner and with the same material as the first layer and the finished base shall have the contour of the final road. An inspection by the Township Engineer is required and approval of the work shall be obtained before any topping is applied.
- (5) With the approval or by the direction of the Township Engineer, four inches to five inches bituminous concrete base course may be substituted in place of the above-described stone base course. All work shall be in accordance with the current Pennsylvania Department of Transportation standards and specifications.

C. Surface.

- (1) Binder course.
  - (a) The binder course shall be installed only from April 15 to October 15. The base must be dry and hard and the air temperature at least 50° F. and rising.
  - (b) The binding course shall be asphalt concrete mixture in accordance with Pennsylvania



Department of Transportation specifications as described in Bulletin No. 27, as amended, laid with a paver approved by the Township Engineer and rolled with a tandem roller not less than 10 tons. Rolling is to be done in a direction parallel to the roadway properly compacting the course to a thickness of two inches. The binder course shall be rolled to the contour of the finished road and shall be straight and even. The Township must be notified 24 hours prior to installation of this course so that the Township Engineer can make an inspection.

(2) Surface course.

- (a) The same general provisions as set forth in Subsection C(1)(a) and (b) above shall apply to the installation of the surface course except that the material for the surface course shall be asphalt concrete in accordance with Pennsylvania Department of Transportation specifications as described in Bulletin No. 27 as amended, and shall be compacted to a thickness of 1 1/2 inches.
- (b) All work shall be done in a workmanlike manner and special care shall be exercised so that patching is not necessary. Where a road meets an existing road or portion of a road, the joint shall be straight and the old road shall be cut back so that feathering is not necessary.

**§ 204-3. Concrete curb specifications.**

- A. All concrete curbs shall be 18 inches deep, six inches wide at the top, eight inches wide at the bottom and shall have a batter of one inch from the top of the curbing to the surface of the road. Curbing shall be constructed in ten-foot lengths and a suitable joint shall be used every 10 feet with an expansion joint every 40 feet. All curbing shall have a minimum strength of 3,500 pounds per square inch.
- B. All concrete work shall be cured with a moist cloth or waterproof covering for sufficient time, depending on the temperature, to attain at least 50% of maximum strength before removal of forms. Forms shall remain in place in any event for a minimum of 72 hours.
- C. All form work shall be inspected and approved by the Township Engineer prior to the placing of any concrete or the work will not be approved. At least 24 hours' notice must be received by the Township prior to an inspection.
- D. Any cracked, shifted or honeycombed sections will not be approved by the Township Engineer and such sections shall be replaced before approval is given.

**§ 204-4. Curbless road specifications. [Amended 12-14-1981 by Ord. No. 302; 5-12-1986 by Ord. No. 388]**

- A. Curbless roads shall be permitted, when it can be demonstrated to the satisfaction of the Township Engineer that with the use of swales, holding ponds, and other drainage facilities which encourage maximum absorption into the ground, the calculated road drainage runoff is properly and adequately controlled. Curbless roads shall not be permitted in any instance where the longitudinal slope of the roadway exceeds 5%.
- B. Curbless roads shall be constructed with a stone shoulder with a minimum of two feet in width and 10 1/2 inches in depth. The shoulder should be level in reference to the cross slope of the road to facilitate interception of road drainage runoff. Shoulder material shall be Pennsylvania Department of Transportation No. 3 stone.

- C. The area adjacent to the two-foot stone shoulder shall have topsoil, six inches deep, over a stone seepage bed of width and depth as required to facilitate the calculated runoff.

## ARTICLE II

**Highway Permits**

**[Adopted 3-7-1949 by Ord. No. 15; amended in its entirety 11-8-1982 by Ord. No. 326 (Ch. III, Art. 2, Sec. 201, of the 1976 Ordinance Book)]**

**§ 204-5. Highway openings.**

On and after the passage of this article it shall be unlawful for any person, firm or corporation to open, break or excavate any highway of the Township by digging or otherwise to dig a tunnel under the surface of any highway for the purpose of laying wire, pipe, sewers, drains or conduits of any description or for making connections therewith or repairs thereto unless and until a permit to do so shall have first been obtained as herein provided.

**§ 204-6. Roads and driveways.**

On and after the passage of this article it shall be unlawful for any person, firm or corporation to construct any public or private driveway or road so as to open into any Township highway without first securing a permit as herein provided. The design and construction of such driveway or road shall be in accordance with the latest Township or PennDOT standards and specifications.

**§ 204-7. Application for permit.**

Application for a permit shall be made on a form prepared by the Township and shall be signed by a responsible applicant or by a fully authorized officer or employee of the applicant. The application shall set forth the purpose for which the highway is to be opened, excavated or occupied, the location of the proposed work, the portion of the highway to be occupied and such other information as may be required. The application shall likewise set forth that the applicant agreed to do all of the work to the satisfaction of the Township Engineer.

**§ 204-8. Fees.**

Fees for permits required by this article shall be calculated using the fee schedule adopted by resolution of Township Council of the Township of Middletown.

**§ 204-9. Approval and appeal.**

Application shall be submitted to the Township Engineer who shall either approve or disapprove the same. If he shall approve the same, then the permit shall be granted by the Township upon payment of the required fee. From the disapproval of the same, the applicant shall have the right of appeal to the Township Council whose action thereon shall be final.

**§ 204-10. Protective devices required.**

It shall be the duty of the person to whom the permit has been granted to protect all openings, materials and obstructions of any kind in the highway by the use of danger signals and red lanterns which shall be kept lighted from sunset to sunrise and by such fences, barricades or other protective devices as may properly protect the public as approved by the Township Engineer.

**§ 204-11. Time limit on openings.**

No opening, ditches or tunnels shall be kept open longer than 24 hours except upon the written approval of

the Township Engineer.

**§ 204-12. Restoration requirements.**

All openings or breaks shall be filled immediately with suitable materials thoroughly compacted in all respects satisfactory to the Township Engineer and the fill shall be compacted where required by the Engineer and any sidewalks, curbs and gutters shall be replaced with the same type of paving as it was prior to the opening. All work shall be done to the satisfaction and approval of the Township Engineer and shall be in accordance with all applicable Township and PennDOT standards and specifications.

**§ 204-13. Exceptions.**

This article shall not require any telephone, electric light or telegraph company to secure permits for erecting poles in the said highways.

**§ 204-14. Costs of inspection.**

All applicants shall bear all costs of inspections required hereunder. The costs of inspections shall be charged at the rate established by Township resolution, or actual costs incurred. The Township shall have the right to seek outside consultants to provide independent inspections, plan review and inspection reports.

**§ 204-15. Violations and penalties.**

Any person, firm or corporation violating any provisions of this article shall, upon summary conviction before any Magisterial District Judge, be fined an amount not exceeding \$300 and costs of prosecution, and in default thereof, may be imprisoned to the county jail for a term of not more than 30 days. Each and every day in which any person, firm or corporation shall be in violation of this article shall constitute a separate offense.



## MIDDLETOWN CODE

## Chapter 210

## SUBDIVISION AND LAND DEVELOPMENT

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§ 210-14.	Release from improvement bond.	§ 210-38.	Natural features preservation and tree planting.
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## SUBDIVISION AND LAND DEVELOPMENT

§ 210-47.	Requirements of construction codes and Zoning Ordinance.	§ 210-55.	Design standards and improvements in designated floodplain districts.
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### ARTICLE VII Street Number Regulations

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### ARTICLE VIII Special Provisions Applying to Subdivisions in Designated Floodplain Districts

§ 210-53.	Purposes.
§ 210-54.	Plan requirements.

### ARTICLE IX Steep Slope Conservation Districts

§ 210-59.	Purpose.
§ 210-60.	General provisions.
§ 210-61.	Use regulations.
§ 210-62.	Application procedure.
§ 210-63.	Supplemental information to accompany request for modification under § .

**[HISTORY: Adopted by the Board of Supervisors (now Township Council<sup>93</sup>) of the Township of Middletown 1-31-1961 by Ord. No. 62 (Ch. VIII of the 1976 Ordinance Book). Amendments noted where applicable.]**

## GENERAL REFERENCES

Construction codes — See Ch. 89.

Streets and sidewalks — See Ch. 204.

Sewers — See Ch. 180.

Water — See Ch. 242.

Soil erosion and sedimentation control — See Ch. 186.

Zoning — See Ch. 275.

Stormwater management — See Ch. 198.

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93. Editor's Note: The name of the Township's governing body became the Township Council as of 1-1-1978, the effective date of the Home Rule Charter.

ARTICLE I  
**General Provisions**

**§ 210-1. Short title.**

This chapter shall be known and may be cited as "The Subdivision and Land Development Ordinance of the Township of Middletown."

**§ 210-2. Purpose.**

This chapter is enacted for the following purposes, among others:

- A. To provide for the submittal and processing of plans, including provisions for approval of sketch, preliminary and final subdivision and land development plans.
- B. To provide for the processing of final approval by stages of development.
- C. To provide specifications for all sketch, preliminary and final subdivision and land development plans and standards for all public improvements installed as a condition precedent to final approval of plans.
- D. To ensure that the layout or arrangement of the subdivision or land development conforms to Chapter 275, Zoning.
- E. To provide standards for roads to facilitate the movement of traffic and fire protection.
- F. To provide standards for public improvements such as roads, walkways, curbs, gutters, streetlights, fire hydrants, water sewage facilities and other improvements and to ensure that such improvements are installed as a condition precedent to final approval of plans.
- G. To provide standards to ensure adequate easements for pedestrians, drainage and utilities.
- H. To promote the general health, safety and welfare of the residents of the Township.

**§ 210-3. Authority.**

This chapter is adopted pursuant to the provisions of the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, Art. V, as amended, 53 P.S. § 10501 et seq.

**§ 210-4. Application.**

The following are subject to the regulations of this chapter:

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving: 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 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; except that the addition of an accessory building, not to exceed 400 square feet in area, on a lot or lots subordinate to an existing principal building is exempt only from the aforementioned definition and plan review and requirements process of this chapter and not the building permit process and other applicable Township regulations.



- B. A subdivision of land, including 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. **[Added 1-8-1990 by Ord. No. 460]**

**§ 210-5. Sewer agreement. [Amended 11-20-1978 by Ord. No. 227; 12-14-1981 by Ord. No. 296]**

A separate sanitary sewer agreement shall be executed by the owner and the Middletown Township, Delaware County, Sewer Authority, providing for the approval of the plans and specifications by the Sewer Authority where sanitary sewers are to be installed and for an appropriate inspection during the course of said construction. The owner shall also provide a separate maintenance bond, approved by said Sewer Authority, for an amount that will insure adequate maintenance of said sewer system. The above-mentioned sanitary sewer agreement shall also include an appropriate method of conveying said sanitary sewer lines to the Middletown Township, Delaware County, Sewer Authority and for the payment of all engineering and legal fees incurred by said Sewer Authority in connection with said application, sanitary sewer agreement and/or the construction of the sanitary sewer lines.

ARTICLE II  
Definitions

**§ 210-6. Definitions. [Amended 4-10-1961 by Ord. No. 125; 12-14-1981 by Ord. No. 296; 5-27-1982 by Ord. No. 311; 1-8-1990 by Ord. No. 460; 6-25-2001 by Ord. No. 613]**

- A. Unless otherwise expressly stated, the terms set forth in this article shall have the meaning indicated. Words in the singular include the plural, and words in the plural include the singular. The word "person" includes a corporation, unincorporated association, partnership and individual. The word "building" shall be construed as if followed by the words "or part thereof." The word "watercourse" includes channel, creek, ditch, drain, dry run, spring and stream. The word "may" is permissive; the words "shall" and "will" are mandatory.

APPLICANT — A landowner or developer who has filed an application for development, including his heirs, successors and assigns.

CARTWAY — The paved portion of a road intended for vehicular use.

CLEAR SIGHT TRIANGLE — An area of unobstructed vision at road intersections defined by lines of sight between points at a given distance from the intersection of road center lines.

COUNCIL — The Council of the Township of Middletown.

CUL-DE-SAC — A minor road intersecting another road at one end and terminated at the other by a vehicular turnaround.

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 land development.

EASEMENT — A right-of-way granted but not necessarily dedicated for a limited use of land for public or private purposes.

HALF STREET — A road along the perimeter of a subdivision or land development which does not comply with the road width requirements contained in this chapter.

IMPROVEMENTS — Those physical additions and changes to the land that may be necessary to produce usable and desirable subdivisions and land developments, including but not limited to public improvements.

LAND DEVELOPMENT — Any of the following activities described in Subsections (1) and (2) below, but excluding any activities described in Subsection (3) below:

- (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.
- (2) A subdivision of land.
- (3) The addition of a single accessory building, including farm buildings, on a lot or lots

subordinate to an existing principal building if, and only if, all of the following criteria are met:

- (a) The use of the proposed accessory building will be other than residential; and
- (b) The lot area of the lot on which the accessory building is to be placed is 10 acres or larger; and
- (c) The proposed accessory building does not exceed 1,000 square feet in gross floor area and the total cumulative gross floor area of the proposed accessory building and all other accessory buildings previously exempted from the definition of land development pursuant to this section does not exceed 2,500 square feet; and
- (d) The height of the proposed accessory building does not exceed 35 feet.

**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 shall be deemed to be a "landowner" for the purpose of this chapter.

**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.

**MAJOR SUBDIVISION** — All subdivisions not classified as "minor subdivisions."

**MINOR SUBDIVISION** — A subdivision of four or fewer lots for residential use which will not involve the installation of public improvements.

**NEW RESIDENTIAL ACREAGE** — The total acreage in the development, minus the area devoted to roads and parking compounds.

**OPEN SPACE** — That area in a subdivision or land development intended for the use of enjoyment of its residents as a recreational area, including dedicated and undedicated parcels of land.

**PLAN** — The plan of a subdivision or land development, whether a sketch, preliminary or final.

- (1) **FINAL** — A complete and exact subdivision or land development plan prepared for final review as required by this chapter to define property rights, streets and other proposed improvements.
- (2) **PRELIMINARY** — A tentative subdivision or land development plan, in lesser detail than a final plan, prepared for preliminary review as required by this chapter.
- (3) **RECORD** — A copy of that portion of the final plan which contains the layout of the lots in the development and the location of all open space, existing and proposed public improvements and easements therefor and the original endorsement of Township Council and which is intended to be recorded with the Recorder of Deeds for the County of Delaware.
- (4) **SKETCH** — A subdivision or land development plan prepared for review prior to the more formal preliminary plan procedure.

**PLANNING COMMISSION** — The Planning Commission of Middletown Township, Delaware County, Pennsylvania.

**PUBLIC IMPROVEMENTS** — "Public improvements" shall include but not be limited to gutters, sidewalks and other pedestrian walkways, bicycle paths, public driveways driveway aprons, bridges

and culverts, drainage facilities, stormwater detention and retention basins, roadway underdrains, public sanitary sewers, public water distribution systems, fire hydrants, streetlighting, street and traffic signs, traffic control devices, shielding or protective fencing, guardrails, refuse collection stations, public parking areas, monuments, grading and clearing, landscaping and tree planting within public areas, dedicated recreational facilities, park areas and community facilities.

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

**PUBLIC SANITARY SEWERS** — Sewers owned and/or operated by the Township or a municipal authority.

**PUBLIC WATER AND PUBLIC WATER DISTRIBUTION SYSTEMS** — Water supplied through a system owned and/or operated by the Township, a municipality or a municipal authority.

**REVERSE FRONTAGE LOT** — A lot extending between and having frontage on two generally parallel roads with vehicular access from only one road.

**ROAD** — A strip of land, including the cartway and all unpaved areas between the cartway and adjacent lots, intended primarily as a means of vehicular and pedestrian travel which may also be used to provide space for sewers, public utilities and walkways. Roads shall be designed according to the volume of average daily traffic. The word "road" shall include a street.

**ROAD LINE** — The dividing line between the road and adjacent lots. The road line is the same as the right-of-way line in situations where an easement or a right-of-way has been provided for a road.

**SIGHT DISTANCE** — The length of a roadway visible to the driver of a vehicle at any given point on the roadway when the view is unobstructed by traffic.

**STORMWATER** — Drainage runoff from the surface of the land resulting from precipitation or snow or ice melt.

**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, conveyance or other 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 of any residential dwelling, shall be exempted.

**TOWNSHIP** — The Township of Middletown.

**TOWNSHIP ENGINEER** — A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the Engineer for the Township.

- B. Words not defined above shall have the meaning given in the Municipalities Planning Code,<sup>94</sup> Chapter 275, Zoning, or other Township codes and ordinances and, if not defined in the aforementioned documents, the most recent edition of Webster's Unabridged Dictionary.

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

## ARTICLE III

**Subdivision and Land Development Application****§ 210-7. General procedure.**

Whenever any subdivision of land or land development is proposed, the applicant shall apply for and secure approval of such proposed subdivision or land development in accordance with the following procedure:

**A. Types of plans required for subdivisions and land developments.****(1) Minor subdivision.**

- (a) Sketch plan not required.
- (b) Preliminary plan recommended but not required.
- (c) Final plan required.

**(2) Major subdivision or land development.**

- (a) Sketch plan recommended but not required.
- (b) Preliminary plan required.
- (c) Final plan required.

**B. Filing of application.**

- (1) An application is deemed formally filed when the required number of copies of sketch, preliminary or final plans, together with the required number of signed and completed applications, are submitted to the Township together with the required fee.
- (2) The presentation of a sketch, preliminary and final plan shall each be considered a separate submission and the review period set forth in the Pennsylvania Municipalities Planning Code shall be applicable to each submission.
- (3) Prior to any action by Township Council, an applicant may revise a sketch, preliminary or final plan. Upon the submission of a revised plan, the applicant shall sign a statement withdrawing the plan upon which the revised plan is based or grant an extension of time of the review period set forth in the Pennsylvania Municipalities Planning Code, and upon failing either, the plan and the revised plan shall be brought before Council for action.
- (4) For the purposes of these regulations, for both minor and major subdivisions and land development plans, the date of the regularly scheduled meeting of Township Planning Commission following the submittal of a complete application to the Township shall constitute the official filing date of the plan, at which the statutory period required for formal approval or denial of the plan shall commence to run. **[Added 1-24-2024 by Ord. No. 860]**

**§ 210-8. Sketch plan application procedure. [Amended 1-8-1990 by Ord. No. 460]**

- A. Purpose.** A sketch plan is intended to afford an applicant with the opportunity to consult with the Township of Middletown and the Delaware County Planning Commissions at an early stage, in an informal manner and prior to the more formal preliminary plan procedure. During the sketch plan procedure, an applicant may make use of the services of both Planning Commissions to help analyze

the problems of the development and plan more adequately for its sound coordination with the community. The sketch plan procedure also affords both Planning Commissions the opportunity to give informal guidance to the applicant at a stage when potential points of difference can be more easily resolved. It can also simplify official action and save unnecessary expense and delay.

- B. Application procedure. Where the sketch plan procedure is used, an application shall be submitted in accordance with the following requirements:
- (1) The application shall be made on forms available from the Township office and shall be designated as a sketch plan.
  - (2) All information requested in the application shall be supplied, and the application shall be signed by the applicant.
  - (3) The applicant shall submit to the Township Manager, or his designee, the required fee, the required number of copies of the sketch plan as determined by the Planning and Development Department, one digital plan, one signed and completed application, the Delaware County Planning Department review form and such additional plans, applications and copies thereof as are now or hereinafter required by reviewing agencies, regulatory agencies or the Township Council. It is recommended that the applicant provide one color rendering of the sketch plan as supplemental information to review. **[Amended 1-24-2024 by Ord. No. 860]**
  - (4) The Township Manager shall check the submission, which shall consist of the required number of completed and signed applications and site plans, the Delaware County Planning Department review form and the required fee. In the event that the submission is incomplete in any of the foregoing respects, the Township Manager shall so advise the applicant. The applicant may either submit the application as tendered, in which case it shall be processed even though not complete, or the applicant may withdraw the application for the purpose of correcting the deficiencies noted by the Township Manager. If the applicant chooses to withdraw the application, he shall sign a statement acknowledging that the application has been withdrawn.
- C. Upon receipt of the submission by the Township Manager, a copy of the application and sketch plan and the Delaware County Planning Department review form shall be forwarded to the Delaware County Planning Department for review and report.
- D. Review and action by council. The Township Council shall review and evaluate the applicant's submission and any reports submitted by the Middletown Township Planning Commission, Delaware County Planning Department and the Township Engineer.
- (1) The Township Council shall not approve any application until the Delaware County Planning Department's report is received or until expiration of 30 days from the date the application was forwarded to the county.
  - (2) After the Township Council's review and evaluation, the Township Council shall render its decision and communicate it to the applicant in the time, manner and form as provided in Section 508 of the Pennsylvania Municipalities Planning Code.<sup>95</sup>
- E. Effect of approval of sketch plan.
- (1) When a sketch plan is approved by the Township Council, the approval shall be:

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95. Editor's Note: See 53 P.S. § 10508.

- (a) Limited to only those items which are specifically and accurately shown on the sketch plan.
  - (b) Conditioned on meeting all requirements for preliminary plans, if a preliminary plan is required to be submitted or is submitted, and final plans.
  - (c) Conditioned on meeting all applicable Township ordinances, including but not limited to Chapter 275, Zoning.
- (2) When a sketch plan is approved by the Township Council, if any changes are required for preliminary or final approval, those changes shall be incorporated into the plan next to be submitted for approval.

**§ 210-9. Preliminary plan application procedure. [Amended 1-8-1990 by Ord. No. 460]**

A. Application procedure.

- (1) The application shall be made on forms available in the Township office and shall be designated as a preliminary plan.
- (2) All information requested in the application shall be supplied, and the application shall be signed by the applicant.
- (3) The applicant shall submit to the Township Manager, or his designee, the required fee, 11 copies of the preliminary plan, one digital plan, one signed and completed application, the Delaware County Planning Department review form and such additional plans, applications and copies thereof as are now or hereinafter required by reviewing agencies, regulatory agencies or the Township Council. It is recommended that the applicant provide one color rendering of the preliminary plan as supplemental information to review. **[Amended 1-24-2024 by Ord. No. 860]**
- (4) The Township Manager shall check the submission, which shall consist of the required number of completed and signed applications and site plans, the completed Delaware County Planning Department review form and the required fee. In the event that the submission is incomplete in any of the foregoing respects, the Township Manager shall so advise the applicant. The applicant may either submit the application as tendered, in which case it shall be processed even though not complete, or the applicant may withdraw the application for the purpose of correcting the deficiencies noted by the Township Manager. If the applicant chooses to withdraw the application, he shall sign a statement acknowledging that the application has been withdrawn.
- (5) After submitting the preliminary plan, the applicant shall be responsible for notifying the abutting property owners that a preliminary plan proposed for the subject lot has been filed, no less than 10 days prior to the first Planning Commission meeting for which the plan has been scheduled for review. **[Added 3-22-2010 by Ord. No. 711]**
- (6) Notice shall be made by certified mail, return receipt requested, or by other proof of notification satisfactory to the Township. Proof of such notification shall be presented to the Planning Commission at the first meeting for which the plan has been scheduled for review. **[Added 3-22-2010 by Ord. No. 711]**

B. Upon receipt of the submission by the Township Manager, a copy of the application and preliminary plan and the Delaware County Planning Department review form shall be forwarded to the Delaware

County Planning Department for review and report.

- C. Review and action by council. The Township Council shall review and evaluate the applicant's submission and any reports submitted by the Middletown Township Planning Commission, Delaware County Planning Department and the Township Engineer.
- (1) The Township Council shall not approve any application until the Delaware County Planning Department's report is received or until the expiration of 30 days from the date the application was forwarded to the county.
  - (2) After the Township Council's review and evaluation, the Township Council shall render its decision and communicate it to the applicant in the time, manner and form as provided in Section 508 of the Pennsylvania Municipalities Planning Code.<sup>96</sup>

**§ 210-10. Final plan application procedure.**

- A. Application procedure. The application for final plans shall be the same as the procedure for preliminary plans, unless otherwise provided.
- (1) The word "final" shall be substituted for the word "preliminary" whenever the latter appears.
- B. Final approval. Where a preliminary plan has been duly approved, the applicant shall be entitled to final approval in accordance with the terms of the approved preliminary plan, the provisions of the Pennsylvania Municipalities Planning Code and subject to the provision of this chapter relating to final plan approval.

**§ 210-11. Conditions on approval and performance standards. [Amended 1-8-1990 by Ord. No. 460]**

Every final approval shall be subject to the following conditions and the following performance standards:

- A. The applicant shall sign a development agreement on a form supplied by the Township, which shall include but not be limited to the following provisions where they are applicable, which provisions shall be the performance standards governing implementation of the approved subdivision or land development. The applicant shall agree:
- (1) To construct or cause to be constructed, at the applicant's own cost and expense and without any expense or cost whatsoever to the Township, in strict conformity with the Township's ordinances and resolutions, all public improvements contemplated by the final plan, including but not limited to all of the following: roads, curbs, gutters, sidewalks and other pedestrian walkways, bicycle paths, public driveways, driveway aprons, bridges and culverts, drainage facilities, stormwater detention and retention facilities, roadway underdrains, public sanitary sewer systems, public water distribution systems, fire hydrants, streetlighting, street and traffic signs, traffic control devices shielding or protective fencing, guard rails, refuse collection stations, public parking areas, monuments, grading and clearing, landscaping, and tree planting within public areas, and dedicated recreational facilities, park areas and community facilities.
  - (2) To install all gas mains, water mains, sewage systems, drainage systems, stormwater management systems and fire hydrants, as well as all service connections to the lots within the development which are to be installed under a road before paving such road.
  - (3) To install, at applicant's own cost and expense, all public improvements in a workmanlike

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96. Editor's Note: See 53 P.S. § 10508.



manner, in accordance with the approved plans and specifications and the Township's ordinances and resolutions. All public improvements shall be subject to final inspection by the Township Engineer.

- (4) To construct all public improvements according to the construction details in the approved final plan. Any contemplated change or rescission in the approved final plan shall be submitted to the Township Engineer for review and Township Council for approval.
- (5) To comply with Township ordinances concerning stormwater management and the Stormwater Management Act of 1978 as it may be amended from time to time.
- (6) To use construction materials which are in accordance with the Township's ordinances and resolutions.
- (7) To remove from public improvements, defective and unsuitable materials or materials not in accordance with Township ordinances and resolutions and replace such materials with approved materials at applicant's own cost and expense.
- (8) To acquire and construct, at applicant's own cost and expense, all easements for drainage and utility purposes over, through, along and across such portions of land as may be required to comply with the site plans and specifications. Such easements shall include all rights and privileges necessary to construct, maintain, restore, operate, repair, replace, reconstruct and alter such easements and the drainage and utility facilities constructed therein.
- (9) To install all electric and telephone utilities underground in accordance with the laws of the Commonwealth of Pennsylvania and the regulations and orders of the Pennsylvania Public Utility Commission. Applicant further agrees to install public sanitary sewers wherever practical in the cartway of a road.
- (10) To set monuments along all road lines the perimeter of the tract being developed and mark or stake the four major corners of each lot appearing on the final plan in accordance with the provisions of the Township's Subdivision Ordinance.
- (11) To provide public water and the necessary easements for the installation and maintenance of public water facilities in accordance with § 210-32 of this chapter.
- (12) To execute a separate sanitary sewer agreement with the Middletown Township, Delaware County, Sewer Authority in accordance with Ordinance No. 62, approved January 31, 1961, as amended by Ordinance No. 227, approved November 20, 1978.
- (13) To abide by an inspection schedule set forth in the Development Agreement. Any work covered before the inspection period has expired without an inspection shall be uncovered at applicant's own expense so that the Township Engineer can make the inspection.
- (14) To make the necessary arrangements, at applicant's own cost and expense, for the erection of streetlights and the furnishing of streetlighting until the Township has accepted the roads as part of the road system of the Township.
- (15) To remove snow or have snow removed by the Township, once a road or any portion thereof providing access to a building for which a use and occupancy permit has been granted, has been paved with a binder course. The development agreement shall specify whether or not the applicant or the Township is responsible for snow removal in the subdivision or land development up to the time of dedication. Snow shall be removed promptly by the applicant in

the event the applicant elects to provide for snow removal. Upon applicant's failure to promptly remove snow, and in no event any later than eight hours after the snow has stopped falling, the Township is authorized to do so upon notice to the applicant, and the applicant agrees that the Township may be reimbursed for the costs thereof from the funds held in escrow by the Township. In the event the Township provides for snow removal upon the applicant's failure to do so, the Township, in the absence of negligent or willful acts or omissions on the part of its agents, servants, workmen or employees, shall not be responsible for any damage or injury to roads and other public improvements and the applicant shall indemnify and hold the Township harmless for damage or injury occurring to the Township's equipment and to persons and other real and personal property. In the event the applicant elects to have the Township provide for snow removal, the applicant shall:

- (a) Provide the Township with an endorsement to its liability insurance policy;
  - (b) Indemnify and hold harmless the Township, in the absence of negligent or willful acts or omissions on the part of its agents, servants, workmen or employees, for damage or injury to roads and other public improvements, to the Township's equipment and to persons and other real and personal property; and
  - (c) Reimburse the Township for the reasonable cost of snow removal from the roads in the subdivision or land development.
- (16) To, during the course of construction, maintain such barricades, warning lights or flares as are necessary to give protection to the traveling public, to carry adequate liability insurance in an amount not less than \$1,000,000, and to indemnify the Township for negligent or willful acts or omissions in the event of loss to person or property.
- (17) To, during the course of construction, provide for adequate disposal of construction debris and other waste material. Applicant shall further agree not to bury or burn any waste material on the subdivision or land development site unless the applicant has complied with all regulations and standards of the Department of Environmental Protection and all applicable Township ordinances and resolutions.
- (18) To clean all roads within the subdivision or land development until such roads are dedicated to and accepted by the Township and to keep all roads adjoining the subdivision or land development during the period of construction free of mud and construction debris.
- (19) To hold the Township harmless against any suits or claims, which any adjoining property owner may bring against the applicant, its officers, directors, agents, servants, workmen, employees and assigns, for any conditions occurring on adjacent property, caused or alleged to be caused by conditions arising in the subdivision or land development, such conditions, including but not limited to injury or damage caused to person or property by drainage water, mud, dirt or dust and which were caused by the negligent or willful acts or omissions of the applicant, its directors, officers, agents, servants, workmen, employees or assigns.
- (20) To complete the work of all improvements in accordance with the time schedule set forth in the development agreement.
- (21) To comply fully with all Township ordinances and resolutions in regard to the construction of buildings and the inspection of buildings during the period of construction and when obtaining use and occupancy permits. Applicant shall agree that upon notice of a violation of the Subdivision Ordinance, the building, plumbing or electrical ordinances and codes,<sup>97</sup> or any other

applicable Township ordinances and resolutions, the Township has the right to revoke all building permits which have been issued in the subdivision or land development and to refuse to issue any additional building, plumbing or electrical permits or certificates of occupancy until such violations have been corrected.

- (22) To reimburse the Township for any and all costs incurred by the Township in connection with the review and approval of plans, the preparation of the development and related agreements, site inspections, the preparation of appropriate resolutions and ordinances. Such costs shall include engineering fees, legal fees and other costs incurred by the Township, including but not limited to the cost of recording any instruments required under the provisions of any ordinance or resolution of the Township, and all costs, fees and deposits required under the Township's ordinances or resolutions. The applicant shall further agree to deposit with the Township appropriate security for the payment of all costs, expenses, charges and fees.
- (a) Reimbursement by the applicant to the Township shall be based upon a schedule established by resolution. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the Township Engineer or consultant for work performed for similar service in the community, 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.
- [1] In the event that the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, within 10 working days of the date of billing, notify the Township that such expenses are disputed as unreasonable or unnecessary, in which case the Township shall not delay or disapprove a subdivision and/or land development application or any approval or permit related to development due to the applicant's request over disputed engineer expenses.
- [2] If, within 20 days from the date of billing, the Township and the applicant cannot agree on the amount of the expenses which are reasonable and necessary, then the applicant and Township shall jointly, by mutual agreement, appoint another professional engineer licensed as such in the Commonwealth of Pennsylvania to review said expenses and make a determination as to the amount thereof which is reasonable and necessary.
- [3] The professional engineer so appointed shall hear such evidence and review such documentation as the professional engineer in his or her sole opinion deems necessary and render a decision within 50 days of the billing date. The applicant shall be required to pay the entire amount determined in the decision immediately.
- [4] In the event that the Township and applicant cannot agree upon the professional engineer to be appointed within 20 days of the billing date, then, upon application of either party, the President Judge of the Court of Common Pleas (or, if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such engineer, who, in that case, shall be neither the Township Engineer nor any professional engineer who has been retained by or performed service for the Township or the applicant within the preceding five years.
- [5] The fee of the appointed professional engineer for determining the reasonable and

necessary expenses shall be paid by the applicant if the amount of payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by \$1,000 or more, the Township shall pay the fee of the professional engineer, but otherwise the Township and the applicant shall each pay 1/2 of the fee of the appointed professional engineer.

- (23) When requested by the landowner or developer, in order to facilitate financing, the Township Council shall furnish the 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 (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 Township Council. Such extension shall not be unreasonably withheld and shall be placed in writing at the request of the landowner or developer. Where the approved subdivision or land development plan requires installation of public improvements, the applicant shall agree to furnish the Township financial security in accordance with the Pennsylvania Municipalities Planning Code, to secure completion of all such improvements. Such security shall provide for and secure to the public the completion of any public improvements which shall be required within one year of the date fixed in the subdivision or land development plan for completion of such improvements. The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by a landowner or developer and prepared by a professional engineer licensed as such in this commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The Township, upon the recommendation of the Township Engineer, may refuse to accept such estimate for good cause shown. If the landowner or developer and the Township are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this commonwealth and chosen mutually by the Township and landowner or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Township and the landowner or developer. If the applicant requires more than one year from the date of the posting of the financial security to complete the required public improvements, the amount of financial security to complete the required public improvements may be increased by an additional 10% for each one-year period beyond the first anniversary date from the posting of the financial security or to an amount not exceeding 110% of the cost of completing the required public improvements as reestablished on or about the expiration of the preceding one-year period by using the foregoing bidding procedure. As the work of installing the required public improvements proceeds, the applicant may request the Township Council to release or authorize the release of, from time to time, such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing, addressed to the Township Council, and Township Council shall have 45 days from the receipt of such request within which to allow the Township Engineer to certify, in writing, to the Township Council that such portion of the work upon the improvements has been completed in accordance with the approved final plan. Upon such certification, the Township Manager shall authorize such interim releases by the bonding company or lending institution of an amount as estimated by the Township Engineer fairly representing the value of the improvements completed or, if the Township Council fails to act within said forty-five-day period, the Township Council shall be deemed to have approved the release of funds as requested. The Township Council shall, prior to the final release at the time of completion and certification by its engineer, require retention of 10% of the estimated cost of the aforesaid

improvements.

- (24) To offer to dedicate roads and other public improvements designated for dedication on the approved final plan. Any public improvements which are not to be dedicated to the Township shall be noted on the preliminary and/or final plan. The Township shall accept the offer of dedication provided:
- (a) The public improvements are completed to the satisfaction of the Township;
  - (b) Financial security is posted in accordance with Subsection A(27) hereof;
  - (c) As-built drawings are provided in accordance with § 210-13 hereof;
  - (d) Deeds of dedication or grants of easement, as the case may be, are provided for all public improvements. In the case of roads and open space, the offer dedicate shall be a fee simple title, insurable by a reputable title insurance company of Pennsylvania, and in all other instances, a perpetual easement. All documents pertaining to the dedication of roads and other public improvements shall be in a form approved by the Township Solicitor.
  - (e) A certificate of a reputable title insurance company, satisfactory to Township Council is provided which as of the date of approval, shall set forth the name or names of the owner or owners of all property covered by such plans and shall show and shall contain a list of all mortgages, judgments, liens, easements, contracts and agreements of record in Delaware County, Pennsylvania which shall affect the property covered by such plans. If said certificate of title insurance company shall disclose any such property to be subject to any mortgage, judgment, easement, lien, contract or agreement or other matters of record, then at the option of Township Council, the holder or owner of such mortgage; judgment, lien, easement, contract or agreement shall be required to join in and approve said offer of dedication before said offer shall be acted upon by Township Council, or to agree to release the area to be dedicated to the Township from the lien of said mortgage, judgment or other similar encumbrance. It is to be expressly understood that the Township does not accept any responsibility for the maintenance of any roads or other public improvements offered for dedication until such time as the Township shall officially and legally accept such roads or other public improvements.
- (25) To install all street signs, street name signs and traffic control devices in the subdivision or land development. At the option of the Township, the Township may require the applicant to enter into appropriate arrangements with the Township whereby the Township will erect street signs, street name signs and traffic control devices with the understanding that the costs and expenses for erecting such signs and devices shall be borne by the applicant and that all moneys advanced by the Township for erecting such signs and devices shall be reimbursed to the Township out of the developer's escrow fund.
- (26) To have approved and accepted by the Middletown Township, Delaware County, Sewer Authority all sewer lines and appurtenances located under roads and within easements for public improvements proposed for dedication to the Township before such public improvements are offered to the Township for dedication.
- (27) To post financial security to secure the structural integrity of the dedicated public improvements, as well as the functioning of said improvements, in accordance with the design and specifications as depicted on the approved final plans for a term of 18 months from the date of acceptance of dedication. Such financial security shall be in accordance with the

Pennsylvania Municipalities Planning Code and shall be equal to 15% of the actual cost of installation of such public improvements.

- (28) If financial security has been provided in lieu of the completion of improvements required as a condition for final plan approval, the Township shall not condition the issuance of building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as depicted upon the final plan upon actual completion of the improvements depicted upon the approved final plan. Moreover, if said financial security has been provided, occupancy permits for any building or buildings to be erected shall not be withheld following: the improvement of the streets providing access to and from existing public roads to such building or buildings, as required by this chapter and the developer's agreement, as well as the completion of all other improvements as depicted upon the approved final plan, either upon the lot or lots or beyond the lot or lots in question if such improvements are necessary for the reasonable use of or occupancy of the building or buildings.

#### **§ 210-12. Appeal procedure.**

Where a subdivision or land development plan requires the applicant to seek relief from the Zoning Hearing Board of Middletown Township, the applicant shall first file an application with the Township seeking approval of the subdivision or land development plan and then seek appropriate relief from the Zoning Hearing Board of Middletown Township. In the alternative, the applicant may proceed simultaneously before the Township Council and the Zoning Hearing Board of Middletown Township. In either case, the Township's approval of the subdivision or land development plan, whether sketch, preliminary or final, shall be conditioned upon the applicant obtaining the necessary zoning relief from the Zoning Hearing Board of Middletown Township. This section shall not apply to applications filed with the Zoning Hearing Board of Middletown Township pursuant to § 275-206 of Chapter 275, Zoning.

#### **§ 210-13. As-built plan.**

After final plan approval and upon completion of all required improvements and before the Township accepts dedication of such improvements, the developer shall submit, in duplicate, an as-built plan accurately showing the location, dimension and elevation of all improvements, including but not limited to underground utility lines, underground drains, storm drainage lines, sanitary sewer lines and permanent subdivision monuments. The as-built plan shall note all deviation from the previously approved final plan and drawings.

#### **§ 210-14. Release from improvement bond. [Amended 1-8-1990 by Ord. No. 460]**

- A. When the developer has completed all of the required improvements, the developer shall so notify Township Council, in writing, by certified or registered mail, and shall send a copy of the letter to the Township Engineer. The Township Council shall, within 10 days after receipt of such notice, direct and authorize the Township Engineer to inspect all of the required improvements. The Township Engineer shall, thereupon, file a report, in writing, with the Township Council and shall promptly mail a copy of the report to the developer by certified or registered mail. The report shall be made and mailed within 30 days after receipt by the Township Engineer of the aforesaid authorization from Township Council. The Township Engineer's report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements or any portion thereof shall not be approved or shall be rejected by the Township Engineer, said report shall contain a statement of reasons for such nonapproval or rejection.
- B. The Township Council shall notify the landowner or developer, within 15 days of receipt of the

Township Engineer's report, in writing, by certified or registered mail, of the action of the Township Council with relation thereto.

- C. If Township Council or the Township Engineer fails to comply with the limitation provisions contained herein, all improvements will be deemed to have been approved, and the developer shall be released from all liability, pursuant to its performance guaranty bond or other security agreement.
- D. If any portion of said improvements shall not be approved or shall be rejected by the Township Council, the developer shall proceed to complete the same, and, upon completion, the same procedure of notification, as outlined herein, shall be followed.
- E. Nothing herein, however, shall be construed in limitation of the developer's right to contest or question by legal proceedings or otherwise, any determination of the Township Council or the Township Engineer.

**§ 210-15. Remedies to effect completion of improvements.**

In the event that any required improvements have not been installed as provided in this chapter or in accordance with the approved final plan, the Township Council may enforce any corporate bond or other security by appropriate legal and equitable remedies. If the 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 Township Council may, at its 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 moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements covered by such security and not for any other municipal purpose.

**§ 210-16. Effect of ordinance change upon approved plans. [Amended 1-8-1990 by Ord. No. 460]**

From the time an application for approval of a plan, whether preliminary or final, is duly filed as provided in this chapter and while such application is pending approval or disapproval, no change or amendment of the Zoning or Subdivision Ordinance or other governing ordinance or plan shall affect the decision on such application adversely to the applicant, and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. In addition, when a preliminary application has been duly approved, the applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulations. When an application for approval of a plan, whether preliminary or final, has been approved or approved subject to conditions acceptable to the applicant, no subsequent change or amendment in the Zoning or Subdivision Ordinance or other governing ordinance or plan shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five years from such approval. Where final approval is preceded by preliminary approval, the five-year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in the light of the provisions of the governing ordinances or plans as they stood at the time when the application for such approval was duly filed.

**§ 210-17. Recording of final plan. [Amended 1-8-1990 by Ord. No. 460]**

- A. Within 90 days after approval of a final plan by the Township Council, a record plan shall be filed for

recording by the developer with the Delaware County Recorder of Deeds. The record plan shall also bear the signature of the County Planning Department indicating review of the plan and shall be filed with the County Recorder of Deeds before proceeding with the sale of lots or construction of buildings. The developer shall notify the Township Council, in writing, of the date of such recording and the plan book and page wherein such subdivision or land development plan is located.

**§ 210-18. Amendments to approved final plans. [Amended 12-14-1981 by Ord. No. 296]**

Proposed amendments to approved final plans shall be acted on in the same manner as the original approved plan.



ARTICLE IV  
**Plan Requirements**

**§ 210-19. Sketch plan requirements.**

The following shall be provided with every sketch plan application:

- A. An aerial photograph of the subdivision or land development at a scale of not less than one inch to 400 feet. The tract containing the proposed subdivision or land development shall be outlined so as to be clearly identifiable on the aerial photograph.
- B. A sketch plan, containing at least the following information, legibly drawn to a scale of not less than 200 feet to the inch:
  - (1) Name and address of record owner and equitable owner, if any;
  - (2) Name and address of applicant if different than the record owner and equitable owner, if any;
  - (3) A statement of the total acreage of the tract to be developed;
  - (4) The nature of all contemplated uses;
  - (5) The zoning district or districts in which the tract to be developed is located.
  - (6) North arrow, scale of plan and date of drawing;
  - (7) Location key for the purpose of locating the site to be subdivided or developed;
  - (8) Location of all proposed public improvements, including but not limited to roads;
  - (9) Proposed lot layout and, except for applications involving a subdivision or land development containing single-family detached dwellings, the location of proposed buildings;
  - (10) Location of existing public rights-of-way and easements;
- C. USGS topographical map and soil types based on USDA Soil Survey of Chester and Delaware Counties, Pennsylvania.

**§ 210-20. Preliminary plan requirements. [Amended 1-8-1990 by Ord. No. 460]**

The following shall be provided with every preliminary plan application:

- A. An aerial photograph of the subdivision or land development at a scale of not less than one inch to 400 feet. The tract containing the proposed subdivision or land development shall be outlined so as to be clearly identifiable on the aerial photograph.
- B. A preliminary plan, containing at least the following information, legibly drawn to a scale of not less than 50 feet to the inch:
  - (1) Name and address of record owner and equitable owner, if any;
  - (2) Name and address of applicant if different than the record owner and equitable owner, if any;
  - (3) Name and seal of the registered engineer and/or surveyor responsible for the plan;
  - (4) A statement of the total acreage of the tract to be developed and tract boundaries with bearings,

courses and distances;

- (5) The nature of all contemplated uses;
  - (6) The zoning district or districts in which the tract to be developed is located;
  - (7) North arrow, scale of plan and date of drawings and all revisions thereto;
  - (8) Location key for the purpose of locating the site to be subdivided or developed;
  - (9) Soil types based on the USDA Soil Survey of Chester and Delaware Counties, Pennsylvania;
  - (10) Contours at vertical intervals of not more than five feet. All elevations shall be based on USGS datum. The location of the USGS benchmark shall be noted;
  - (11) Location of all proposed lot lines with bearings, courses and distances and, except for applications involving a subdivision or land development containing single-family detached dwellings, the location of all proposed buildings;
  - (12) Location of all proposed public improvements and easements therefor, including but not limited to roads, utilities, walkways and bicycle paths (whether public or private and whether to be dedicated or not) with bearings, courses and distances. All public improvements to be dedicated to the Township shall be noted on the plan;
  - (13) Location of proposed open space and land to be dedicated to a public use or purpose;
  - (14) Location of existing rights-of-way and easements;
  - (15) Location of all existing watercourses, wetlands, ponds, lakes, floodways and drainage swales;
  - (16) Location of existing man-made improvements and existing public improvements, including but not limited to roads;
  - (17) An identification of all owners of adjacent land.
- C. Preliminary profiles along the center line of each proposed road shown on the preliminary plan.
- D. A plan for stormwater management, which may be based on preliminary engineering studies.
- E. A plan showing cuts and/or fills in excess of six feet, which may be based on preliminary engineering studies.
- F. Staged development. Where a subdivision or land development is to be developed in stages, a plan drawn to an appropriate scale showing the successive phases of development and a time schedule within which applications for final approval of all parts of the development are intended to be filed.
- G. Certification as to the accuracy of the plan and details of such plans shall be prepared in accordance with Act 367, known as the Professional Engineers Registration Law (P.L. 913, No. 367), (63 P.S. § 151), as amended.
- H. If the proposed lot(s) abut on a street under the jurisdiction of the state, a note shall be added to the preliminary plan to indicate that a highway occupancy permit is required before a driveway or street can access a state highway.

**§ 210-21. Final plan requirements. [Amended 12-14-1981 by Ord. No. 296; 8-26-1985 by Ord. No.**

**376; 1-8-1990 by Ord. No. 460]**

The final plan shall incorporate all modifications and revisions to the preliminary plan as specified by the Township Council and shall be in compliance with all applicable Township ordinances. The following shall be provided with every final plan application:

A. When a preliminary plan application containing all required information has been filed with and has been approved by the Township with or without conditions, the applicant shall be required to provide final plans, containing at least the following information, legibly drawn to a scale of not less than 50 feet to the inch:

- (1) The data, information and material required in § 210-20B(1) through (8), inclusive, and § 210-20B(11) through (17), inclusive, set forth in § 210-20 hereof, which shall be incorporated in the final plans and/or application as appropriate;
- (2) The boundary lines of the tract being developed, with accurate bearings, courses and distances verified by field survey;
- (3) The location and elevation of all monuments along the perimeter of the tract being developed, certified by a registered surveyor or registered engineer;
- (4) The area of each lot in the proposed subdivision or land development and all required front, side and rear yard lines;
- (5) The location of all existing roads intersecting the boundaries of the tract, including roads of record (recorded but not constructed), with names, rights-of-way widths and cartway widths;
- (6) With respect to all existing and proposed roads in the tract:
  - (a) The cartway and road widths.
  - (b) Complete curve data for all road center lines and road lines.
  - (c) Road center lines, curblines and road lines.
  - (d) If the subdivision or land development proposes a new intersection with a state legislative route, the permit number(s) issued by the Pennsylvania Department of Transportation. No plan which will require access onto a road under the jurisdiction of the Pennsylvania Department of Transportation shall be finally approved unless the plan contains a notice that a highway occupancy permit is required and has received preliminary approval from the Pennsylvania Department of Transportation pursuant to Section 420 of Act 428, known as the "State Highway Law" (P.L. 1242, No. 428), (36 P.S. § 670-420), as amended, before access to a state road is permitted. The Department of Transportation shall, within 60 days of the date of receipt of an application for a highway occupancy permit:
    - [1] Approve the permit, which shall be valid thereafter unless, prior to commencement of construction thereunder, the geographic, physical or other conditions under which the permit is approved change, requiring modification or denial of the permit, in which event, the Department shall give notice thereof in accordance with regulations;
    - [2] Deny the permit;
    - [3] Return the application for additional information or correction to conform to Department regulations; or

- [4] Determine that no permit is required, in which case, the department shall notify the Township and the applicant, in writing. If the Department shall fail to take any action within the sixty-day period, the permit will be deemed to be issued. The plan shall be marked to indicate that access to the state road shall be only as authorized by a highway occupancy permit. The Department shall not be liable in damages for any injury to persons or property arising out of the issuance or denial of a permit or for failure to regulate any access. Furthermore, the Township shall not be held liable for damages to persons or property arising out of the issuance or denial of a permit by the Department.
- (e) The location of all road monuments.
- (7) Names of roads within the subdivision or land development shall be shown and approved. The names of roads shall not conflict with the names of existing roads within the Township unless the road is a continuation of an existing named road.
- (8) With respect to subdivisions and land developments not involving single-family detached dwellings, such details to show compliance with applicable zoning, including but not limited to the following where required by applicable ordinances:
- (a) The location and height of all buildings and structures, including all freestanding signs, and distances between buildings and between buildings and streets and/or property lines;
  - (b) Square footage of floor space;
  - (c) Land coverage percentages; and
  - (d) The location and square footage of all parking areas and parking facilities and number of parking spaces in each.
- (9) Road profiles for all roads, whether existing or proposed. Such profiles shall show at least the following:
- (a) Existing grades along the proposed road center line;
  - (b) Proposed finished center line grade of each road, with percent of tangents and elevations at fifty-foot intervals, at grade intersection and at either end of curb radii.
  - (c) Vertical curve data, including length and elevation as required by the Township Engineer.
  - (d) Existing and proposed sanitary sewer mains and access holes, storm sewer mains, inlets, access holes culverts and headwalls, and any other underground utility crossings.
- (10) Road cross-sections for each proposed road shown on the plan;
- (11) An erosion and sediment control plan in compliance with applicable County and Township ordinances and regulations and applicable state laws, statutes, codes and regulations;
- (12) A plan showing the location, size and invert elevations of existing and proposed sanitary sewer mains and access holes, storm sewer mains, access holes, inlets and culverts, water distribution system and fire hydrants.
- (13) For subdivisions and land developments not involving the development of single-family detached dwellings:

- (a) Architectural renderings of typical structures; and
  - (b) A landscaping plan.
- (14) Plan for stormwater management in compliance with all applicable county and Township ordinances and regulations and all applicable state laws, statutes, codes and regulations.
- (15) Grading plan showing proposed contours at vertical intervals of not more than two feet. All elevations shall be based on USGS datum. The location of the USGS benchmark shall be noted.
- (16) A statement, duly acknowledged before an officer authorized to take acknowledgements of deeds and signed by the applicant that he is the record or equitable owner of the tract to be developed, that the subdivision or land development on the final plan is the act and deed of the applicant and that he desires the same to be recorded.
- (17) A ledger setting forth the zoning classification of classifications and dimensional area provision thereof or applicable thereto.
- (18) Applicant shall submit site investigation and percolation test report for on-lot disposal of sewage approved by the Sewage Enforcement Officer for Middletown Township reflecting approval for on site disposal of sewage for each lot in the subdivision application.
  - (a) The subdivision plan shall show the location of all deep holes and percolation tests.
  - (b) All existing on-site sewage systems shall be shown on the subdivision plan.
  - (c) In the event that any lot in the subdivision is not approved for conventional on-lot disposal of sewage, the subdivision plan shall reflect the lots which have not qualified.
- (19) Certification as to the accuracy of the plan and details of such plans shall be prepared in accordance with Act 367, known as the "Professional Engineers Registration Law" (P.L. 913, No. 367), (63 P.S. § 151), as amended.
- B. When a preliminary plan application has not been filed with the Township, in addition to the items set forth in Subsection A above, the applicant shall also provide with the final plan application:
  - (1) Soil types based on the United States Department of Agriculture's Survey of Chester and Delaware Counties, Pennsylvania;
  - (2) An aerial photograph of the subdivision or land development at a scale of not less than one inch to 400 feet. The tract containing the proposed subdivision or land development shall be outlined so as to be clearly identifiable on the aerial photograph.
- C. Documents showing ownership and proposed maintenance of undedicated land, common recreation areas or facilities and open space.

ARTICLE V  
**Standards**

**§ 210-22. Application.**

All subdivision and land development plans approved by Township Council shall comply with the following standards. The standards outlined herein shall be considered minimum requirements for the promotion of the public health, safety and general welfare.

**§ 210-23. General standards.**

- A. All subdivisions and land developments shall be developed in conformance with Township ordinances and resolutions.
- B. The design of subdivisions and land developments shall preserve, insofar as possible, the natural terrain, natural drainage, existing topsoil and trees.
- C. The design of subdivisions and land developments shall take into consideration natural and man-made features of adjacent land.
- D. Land subject to hazards of life, health or property, such as may arise from fire, floods, disease or other causes, shall not be developed for building purposes unless such hazards have been eliminated or unless the plan shall show adequate safeguards against them, which shall be approved by appropriate governmental regulatory agencies.
- E. All portions of a tract being developed shall be taken upon in lots, roads, public lands or other proposed uses so that there are no remnants of land after development.
- F. Lot lines shall, where possible, follow Township boundary lines rather than cross them.

**§ 210-24. Lots.**

- A. All lots within the tract of land being developed shall conform to Chapter 275, Zoning.
- B. All lots shall abut on a public road or have access to a public road.
- C. Reverse frontage lots shall be required to provide separation of residential development from major roads or to overcome specific disadvantages of topography or other natural features of the tract being developed. All residential reverse frontage lots shall have a rear yard with a minimum of 75 feet and within such rear yard and immediately adjacent to the road line of the major road, shall have a landscape screen consisting of hedges, walls, trees or earth berms arranged so as to create a continuous visual barrier.

**§ 210-25. Lot access.**

- A. No residential lot shall have direct access to an urban extension road or an urban minor arterial road. Where a residential lot has access to a state road or highway, authorization shall be obtained from the Pennsylvania Department of Transportation.
- B. Driveways.
  - (1) Driveways to single-family residences shall intersect roads at angles of no less than 60°. All other driveways shall intersect roads at right angles, where practicable and in no case less than

75°. Where a single-family residence is situated at the intersection of two roads, the driveway shall intersect the road with the lower volume of average daily traffic.

- (2) The width of driveways shall be in accordance with the following standards:
  - (a) Driveways for multifamily residential and all nonresidential subdivisions and land developments shall be no less than 20 feet in width, and shall be clearly defined.
  - (b) Driveways for single-family residential subdivisions shall not exceed 20 feet in width at the road line.
- (3) To provide safe and convenient ingress and egress, the curbs of driveway entrances for multifamily residential developments and all nonresidential subdivisions and land developments shall be rounded at a minimum radius of 20 feet, and driveway entrances for single-family residential subdivisions shall be rounded at a minimum radius of 10 feet.
- (4) The grade of all driveways shall not exceed 2% within 25 feet of the driveway's intersection with a road. Driveway grades beyond the 25 feet shall not exceed the following:
  - (a) Fourteen percent in single-family subdivisions;
  - (b) Ten percent in multifamily subdivisions;
  - (c) Eight percent in nonresidential subdivisions.
- (5) The center line of a driveway at the point of access to a road shall not be located closer to another road intersection than the following distances:
  - (a) For single-family residential subdivisions:
    - [1] One hundred feet if the intersecting road is an urban minor arterial road.
    - [2] Fifty feet if the intersecting road is an urban collector or local primary road.
  - (b) For multifamily residential developments and nonresidential subdivisions and land developments:
    - [1] Two hundred feet if the intersecting road is an urban extension or urban minor arterial road.
    - [2] One hundred feet if the intersecting road is an urban collector or local primary road.

**§ 210-26. Roads. [Amended 4-10-1961 by Ord. No. 125; 5-27-1982 by Ord. No. 311; 9-25-1989 by Ord. No. 454; 3-26-1990 by Ord. No. 463]**

**A. General standards.**

- (1) An easement for all roads shall be conveyed to the Township. Where a subdivision or land development abuts an existing road which the Township does not own in fee simple, if the applicant owns the underlying fee in the road or a portion thereof, the applicant may offer to dedicate such easement to the Township in the same manner as new roads in a subdivision or land development are offered for dedication.
- (2) Proposed roads shall be coordinated with existing Township roads and county and state roads and highway plans. Roads shall be designed to provide adequate vehicular access to all lots with

regard to topographic conditions, projected volumes of traffic and further subdivision possibilities in the area.

- (3) If a portion of a tract of land is not subdivided or developed, suitable access and road openings for future subdivision or land development shall be provided.
- (4) In the R-4B Residence District, the main access road or roads in the development shall be public roads, shall comply with all Township specifications and shall be offered to the Township by deed of dedication. Access roads to units in the development from the main access road, driveways and parking areas in R-4B Residence Districts shall remain private.
- (5) Proposed roads which are in alignment with existing and named roads shall bear the names of the existing roads. In no case shall the name of proposed road duplicate or be similar to an existing road name. All road names shall be subject to the approval of the Township Council. Road name signs, approved by the Township Council, shall be provided at all intersections.
- (6) Where a subdivision abuts a railroad right-of-way, roads crossing the railroad shall be kept to a minimum and shall be located to facilitate grade separation.
- (7) Roads shall be designed according to the volume of average daily traffic and defined as follows:
  - (a) Major roads.
    - [1] Urban extension. Primarily designated for the movement of heavy and mixed traffic volumes; not interrelated to adjacent land use; access is almost always limited.
    - [2] Urban minor arterial. Principally designated for the movement of heavy and mixed traffic volumes; residential land use is not encouraged along these roadways; access to abutting land uses should be controlled, but not limited.
    - [3] Urban collector. Principally designated for the collection and/or distribution of moderate to heavy traffic volumes to the intersecting street system; residential land use is not encouraged along these roadways.
  - (b) Minor roads.
    - [1] Local primary. Principally designated for the collection and/or distribution of moderate traffic volumes; all types of adjoining land use can be considered.
    - [2] Local secondary. Primarily designated for serving adjacent land use and adjoining development. All types of land use can be served, but industrial and commercial development are not encouraged along these roadways.
    - [3] Local: other.
      - [a] Local loop. Exclusively designated to serve adjacent land use; predominant land use is residential.
      - [b] Local cul-de-sac. Exclusively designated to serve adjacent land use; predominant land use is residential.
- (8) Township Council shall, in the interest of highway safety and the safety of the area residents and in order to promote orderly community development, require the owner/developer of any large commercial complex, such as shopping centers, industrial parks or plants, housing



projects, apartment complexes, major educational or recreational facilities and other significant traffic generators, to have prepared a traffic study by a competent traffic engineer registered in the Commonwealth of Pennsylvania and to meet with a representative of the Township Engineer's office and the Pennsylvania Department of Highways to achieve a high level of design from the standpoint of traffic.

B. General design standards.

- (1) Roads shall be finished graded to their full width, and improved to the grades and dimensions shown on the plans, profiles and cross-sections submitted by the developer and approved by Township Council.
- (2) All roads shall be constructed in accordance with Township road specifications.
- (3) Roads shall be designed to conform with the natural features of the land to reduce excessive cuts and fills.
- (4) Road cuts shall be provided with side slopes no steeper than one-foot vertical to each 1 1/2 foot horizontal, and the same shall apply to fill slopes. Such slopes shall be suitably planted with perennial grasses or other vegetation to prevent erosion.
- (5) All unpaved portions of roads shall be planted with perennial grass seed at the same time and with the same varieties as the front lawns of improved lots.
- (6) Hedges, fences and walls or other obstructions shall not be planted or placed in the area between the paved cartway and the road line.
- (7) Whenever standards for required road improvements are not specified herein, the applicable standards of the American Association of State Highway and Transportation Officials (AASHTO), contained in A Policy of Urban Highways and Arterial Streets (1973 edition), as it may be amended from time to time, shall govern and all work shall be performed in the manner prescribed therein.

C. Road grades.

- (1) The minimum grades on all roads shall be 1%.
- (2) The maximum grades on all roads, all vertical curves and the grade of all roads at the approach to an intersection shall be in conformance with AASHTO standards.
- (3) No cul-de-sac or turnaround area shall have a grade which exceeds 5%.

D. Road alignment.

- (1) The minimum radius at the center line of all roads and the super-elevation for horizontal curves for all roads and the super-elevation for horizontal curves for all roads shall be in conformance with AASHTO standards.
- (2) Proper sight distance with respect to both horizontal and vertical alignment shall also be in conformance with AASHTO standards.

E. Intersections.

- (1) No more than two roads shall intersect at the same point.

- (2) Right-angle intersections shall be used whenever possible. The minimum angle of intersection of the road center lines shall not be less than 75°.
- (3) Road curb intersections shall be rounded by a tangential arc with a minimum radius of 20 feet for minor roads and 30 feet for intersections which include a major road or a local primary secondary road.
- (4) Radius corners shall be provided on the road lines substantially concentric with the curb radius.
- (5) There shall be provided and maintained at all intersections clear sight triangles based upon the posted speed of vehicles on the through road and in conformance with AASHTO standards for corner sight distance. Sight distances shall be indicated on the plans. The Township shall be provided with easements for all clear sight triangles. Plantings no higher than one and 1 1/2 feet shall be permitted in the area of the clear sight triangle. No hedge, fence, wall or other obstruction that would obscure the vision of a motorist shall be permitted in the area of the clear sight triangle and the grant of easement to the Township shall so provide. The grant of easement shall further provide that the Township has the right, but not the responsibility, to enter upon such easements to remove obstructions or plantings that obscure the vision of motorists.
- (6) Intersections involving urban extension or urban minor arterial roads with urban collector local primary roads shall be located not less than 1,000 feet apart, measured from center line to center line. Intersections involving minor roads with major or local primary roads shall be located not less than 800 feet apart, measured from center line to center line.
- (7) Two roads intersecting from opposite sides shall intersect at their center line or their center lines shall be offset at least 200 feet.
- (8) Intersections shall be graded to permit proper drainage in conformance with AASHTO standards.

F. Road widths.

- (1) The widths of roads and the widths of cartways where there is parking on both sides of the road, parking on one side of the road and no parking on the road shall be as follows:

Road Type	Range of Average Daily Traffic	Road Widths (feet)	Cartway Widths			Design Speed (mph)
			With Parking Both Sides (feet)	Parking on 1 Side (feet)	Without Parking (feet)	
Urban						
Extension	25,000 to 40,000	150	92 to 116	80 to 104	68 to 92	60
Minor arterial	10,000 to 25,000	100	68 to 78	58 to 68	48 to 58	50
Collector	5,000 to 10,000	80	40	32	24	40
Local						

<b>Road Type</b>	<b>Range of Average Daily Traffic</b>	<b>Cartway Widths</b>				<b>Design Speed (mph)</b>
		<b>Road Widths (feet)</b>	<b>With Parking Both Sides (feet)</b>	<b>Parking on 1 Side (feet)</b>	<b>Without Parking (feet)</b>	
Primary	1,500 to 5,000	70	38 to 40	30 to 32	22 to 24	30
Secondary	500 to 1,500	60	36 to 40	28 to 32	20 to 24	30
Loop	500	50	32	26 to 28	20 to 24	25
Cul-de-sac	300	50	32	26 to 28	20 to 24	25

- (2) Provisions for additional cartway widths may be required by the Township Council in specific cases for:
  - (a) Public safety and convenience;
  - (b) Access to off-street parking in commercial and industrial areas and in areas of high-density residential development.
- (3) Where a subdivision or land development contains an existing road with inadequate road or cartway widths, additional road and cartway widths in conformance with the above standards shall be required.
- (4) Where a subdivision fronts on an existing road having a right-of-way of less than the minimum width required in this chapter, a road line shall be established. The distance of the road line from the center line of the existing road shall be 1/2 of the width of the required minimum road width, if possible, and the subdivider may dedicate sufficient land to accomplish this standard.
- (5) Cartways shall be measured from the face of one curb measured perpendicularly across the road to the face of the other curb. If the road has no curbs, the road shall be measured from the edge of the flexible pavement structure on the other side of the road. Any flexible stone base beyond the edge of the flexible pavement structure shall not be considered when measuring the width of a road with no curbs. Where ditched gutters are used, the width of such gutters shall not be used to calculate the width of the cartway.

G. Culs-de-sac and turnarounds.

- (1) Dead-end roads are prohibited, except where designated as temporary turnarounds because of authorized stage development or when designed as culs-de-sac.
- (2) All temporary turnarounds and culs-de-sac shall not exceed 500 feet in length and shall furnish access to not more than 10 dwelling units in the case of residential development or 400,000 square feet of building area in the case of commercial or industrial development.
- (3) All culs-de-sac shall be provided at the closed end with a paved turnaround. The minimum radius to the pavement edge or curbline shall be 40 feet, and the minimum radius to the road line shall be 60 feet.
- (4) Temporary turnarounds.

- (a) A temporary turnaround permitted at the end of a road because of authorized staged development shall have a minimum turning radius of 40 feet for the cartway and shall be constructed of temporary all-weather material. Curbs and gutters need not be constructed around the temporary turnaround.
  - (b) The turnaround shall be completely within the subdivision or land development and the use of such turnaround shall be guaranteed to the public until such time as the road is extended;
  - (c) A road ending in a temporary turnaround which has not been extended within three years from the date of final subdivision approval, shall be constructed to full specifications of a permanent cul-de-sac, including installation of curbs and gutters. Township Council may approve the continuance of a temporary turnaround beyond the three-year period if it finds that staged development is continuing and it is likely that the road will be extended. The financial security furnished the Township shall include the estimated costs of completing the temporary turnaround to full specifications.
  - (d) When a road is extended and the temporary turnaround is no longer necessary, all evidence of the turnaround shall be eliminated.
- (5) When a subdivision or land development contemplates the extension of an existing cul-de-sac, the cul-de-sac may be extended provided:
- (a) The developer, when extending the cul-de-sac, eliminates all evidence of the turnaround, including its curbs, gutters and the paved portions thereof which are beyond the cartway of the proposed road;
  - (b) The developer extends the driveways of all lots abutting the turnaround to the cartway of the proposed road, grades the paved portion of the turnaround which has been eliminated and plants such area with the same variety of perennial grass seed as exists on the front lawns of the lots abutting the turnaround; and
  - (c) The developer constructs curbs, gutters, driveway aprons and inlets where necessary for proper drainage, where the cul-de-sac has been eliminated.

**§ 210-27. Monuments and markers.**

- A. Monuments shall be of concrete or stone, shall be a minimum of six inches square and at least 30 inches in length and shall contain a copper or brass dowel scored with an "x" to mark the reference point.
- B. Monuments shall be placed so that the marked point shall coincide exactly with the intersection of lines to be marked and shall be set so that the top of the monument is level with the finished grade of the surrounding ground.
- C. Monuments shall be set for all roads on the road lines at the following locations:
  - (1) At least one monument at each intersection.
  - (2) At changes in direction of road lines, excluding curb area at intersections.
  - (3) An intermediate monument wherever topographical or other conditions make it impossible to sight between two otherwise required monuments.

- (4) At each other places along the road line as the Township Engineer deems necessary to readily define the road.
- D. Monuments shall also be set along the perimeter of the tract being developed, sufficient to establish the boundaries of such tract.
- E. Where public sanitary sewers are installed and capped, a monument shall be set at the end of each capped lateral.
- F. The four major corners of each lot appearing on the subdivision plan shall be marked with iron pins, not less than 2 1/2 feet in length, embedded or driven to a depth of not less than two feet. Nothing shall prevent the use of granite or some other suitable or appropriate marker.

**§ 210-28. Curbs, dished gutters, curbless road and sidewalks.**

- A. Curbs, dished gutters and curbless roads.
  - (1) Curbs or dished gutters shall be provided on all new roads in subdivisions. Curbless roads shall be permitted in subdivisions if the applicant complies with Township specifications pertaining to curbless roads.
  - (2) Curbs shall be provided on all new roads and parking compounds in land developments.
  - (3) Curbs and dished gutters shall be constructed in accordance with Township specifications.
- B. Pedestrian walkways.
  - (1) Pedestrian walkways shall be provided along both sides of new roads and along parking compounds in all land developments, except subdivisions involving single-family dwellings.
  - (2) Pedestrian walkways shall be required in any subdivision where it is desirable to continue sidewalks that are existing in adjacent developments, or to provide access to community facilities such as schools, shopping areas or recreation areas, or to ensure the safety of pedestrians in unusual conditions involving vehicular traffic.
  - (3) All pedestrian walkways shall conform to specifications for Class A concrete, as specified by the Pennsylvania Department of Transportation, with a minimum compressive strength of 3,500 pounds per square inch after 28 days.
  - (4) Pedestrian walkways shall be a minimum of four feet wide.
  - (5) Pedestrian walkways shall have a minimum thickness of four inches where used solely for pedestrian traffic and a minimum thickness of six inches at all driveways.

**§ 210-29. Streetlights.**

Streetlights shall be provided at the intersection of roads with roads and driveways leading from land developments, at the intersection of roads with urban extension and urban minor arterial roads, and at such intersections as Township Council shall deem necessary in the interest of public safety. Streetlights shall be of such intensity as approved by Township Council.

**§ 210-30. Street name signs, street signs and traffic control devices.**

- A. Street signs, identifying the names of intersecting roads, shall be erected at the intersection of all

roads.

- B. Street signs and traffic control devices shall be erected in accordance with the Pennsylvania Motor Vehicle Code, as amended, and all applicable PennDOT standards.

**§ 210-31. Sanitary sewers.**

- A. Public sanitary sewers shall be required in all subdivisions or land developments where public sanitary sewer facilities are available to the site, either in the road or in easements accessible to the site. If public sanitary sewers are not available to the site, but will become available within a reasonable time, as defined below, such sewers, together with all necessary laterals extending from the main sewer line to a point inside the lot, five feet from the road line, shall be installed and capped. In such event, the owner shall also install on-site sewage disposal facilities in approved locations. All sanitary sewers as mentioned herein shall be installed in accordance with the latest specifications of the Middletown Township, Delaware County, Sewer Authority and shall be tested and pass such tests as may be required by said Sewer Authority. "Reasonable time," for purposes of this subsection, shall mean the following: where the Sewer Authority has designed a plan for the installation of public sanitary sewers for a part or parts of Middletown Township, public sanitary sewers in such part or parts of Middletown Township shall be deemed to be available within a reasonable time. Where a plan for the installation of public sanitary sewers has not been designed by the Sewer Authority for a part or parts of Middletown Township, if it is determined by the Sewer Authority that public sanitary sewers will be designed and installed within a period of 10 years in such part or parts of Middletown Township, then public sanitary sewers shall be deemed to be available within a reasonable time.
- B. Where connection to a public sanitary sewer is not required, a separate on-site sewage disposal facility shall be provided for each lot in accordance with the rules and regulations of the Department of Environmental Protection and applicable Township ordinances and resolutions.

**§ 210-32. Water supply. [Amended 1-8-1990 by Ord. No. 460]**

- A. Public water shall be required in subdivisions and land developments in accordance with the following:
- (1) Single-family residential developments:
- (a) Public water shall be required in all single-family residential developments containing lots less than 40,000 square feet unless the developer can demonstrate that public water is not required by virtue of the provisions set forth in Subsection A(1)(c) below. Notwithstanding the provisions in Subsection A(1)(c) below, public water shall be required where public water is made available to the site by the Township, at the Township's sole discretion and expense.
- (b) Public water shall also be required in all single-family residential developments containing lots of 40,000 square feet or more where:
- [1] Public water is available to the site; or
- [2] The development contains from five to nine dwelling units and the distance from the development to the nearest accessible public water line is 1/10 of a mile; or
- [3] The development contains 10 to 19 dwelling units and the distance from the development to the nearest accessible public water line 1/5 of a mile; or

- [4] The development contains from 20 to 29 dwelling units and the distance from the development to the nearest accessible public water line is  $\frac{2}{5}$  of a mile; or
  - [5] The development contains from 30 to 39 dwelling units and the distance from the development to the nearest accessible public water line is  $\frac{3}{5}$  of a mile; or
  - [6] The development contains from 40 to 74 dwelling units and the distance from the development to the nearest public water line is  $\frac{4}{5}$  of a mile; or
  - [7] The development contains 75 or more dwelling units and the distance from the development to the nearest accessible public water line is one mile; or
  - [8] The nearest accessible public water line is farther than the distances set forth in Subsection A(1)(b)[2] through [7] hereof and the Township, at its sole discretion, constructs or has constructed at Township expense the public water line to the points referenced in Subsection A(1)(b)[2] through [7] above.
- (c) Public water shall not be required in any single-family residential development where it can be demonstrated by the developer that an on-site water system can supply an adequate and safe supply of water to the residential development in conformance with all regulations of the Department of Environmental Protection, that the cost of installing the on-site water system will be less expensive than providing public water such that there will be an appreciable cost saving to future purchasers of lots in the residential development and that the public safety in terms of fire protection will not be adversely affected by the installation of an on-site water system.
- (2) Public water shall be required in all other subdivisions and land developments. Wherever a public or community water system is provided, applicants shall present evidence to the Township Council that the subdivision or land development is to be supplied by a certificated public utility, a bona fide cooperative association of lot owners or by a municipal authority or utility. A copy of a certificate of public convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence.
- B. The design and installation of the public water distribution system shall be subject to the approval of the appropriate operating authority of the water system.
- C. Where public water is not required, each lot in a subdivision shall be provided with an individual water supply system in accordance with all applicable standards of the Pennsylvania Department of Environmental Protection. Common wells supplying water to more than one lot shall be prohibited.
- D. Fire hydrants shall be provided as an integral part of any public system. Hydrants shall be located in such a manner as to provide complete accessibility and to minimize the possibility of damage from vehicles of injury to pedestrians. Fire hydrants shall be installed under the direction of the Township Fire Marshal, who shall fix the location of such hydrants. In fixing the locations of fire hydrants, the Township Fire Marshal shall be guided by the standards established by the Pennsylvania Insurance Service Organization.

### **§ 210-33. Stormwater management systems.**

- A. Purpose. A stormwater management system shall be provided in order to:
- (1) Permit unimpeded flow of natural watercourses;

- (2) Ensure adequate drainage of all low points along the lines of roads;
  - (3) Intercept stormwater runoff along roads at intervals related to the extent and grade of the area drained;
  - (4) Provide positive drainage away from on-site sewage disposal and structures;
  - (5) Remove surface water from the bottom of vertical grades, lead water from springs and avoid the use cross-gutters at road intersections and elsewhere.
  - (6) Ensure that the peak discharge from the development site is no greater than the peak discharge prior to development.
- B. A site drainage plan for the proposed subdivision or land development tract which illustrates the following information shall be prepared for review.
- (1) Mapping of the watershed area in which proposed subdivision or land development is located;
  - (2) Calculations of runoff for all points of runoff concentrations;
  - (3) Complete drainage systems for the subdivision or land development including storage facilities where required. All existing drainage features which are to be incorporated in the design shall be also so identified;
  - (4) Identification of all soil classifications in the watershed area;
  - (5) Letter of approval by the Pennsylvania Department of Transportation when drainage structures are to be located on state highway rights-of-way;
  - (6) If the subdivision or land development is to be developed in stages, a general drainage plan for the entire subdivision or land development shall be presented with the first stage, and appropriate development stages for the drainage system shall be indicated.
- C. Runoff computations.
- (1) All storm sewer design shall be based on the rational formula  $Q = CiA$ , where:  
  

**Q**    =    **Rate of flow in cubic feet per second**  
**C**    =    **Runoff coefficient**  
**i**    =    **Intensity of rainfall in inches per hour**  
**A**    =    Watershed area in acres
  - (2) In setting the value of the runoff coefficient "C", consideration shall be given to the physical features of the drainage basin and the best available data on the future density of development of the drainage basin. The value chosen should conform to the percentage of runoff versus total rainfall as determined by the soil cover complex method.
  - (3) The intensity of the storm shall be based on a one-hundred-year frequency storm with the inlet time of concentration equal to the storm duration for any given point. The inlet time of concentration may be determined by any standard engineering method.
  - (4) The Rainfall-Intensity-Duration-Frequency Curve for Philadelphia presented in Technical Paper



No. 25, prepared by U.S. Department of Commerce Weather Bureau, shall be used.

- D. Pipeline design. All storm sewer pipelines shall be reinforced concrete pipe and shall be designed by either of the following two methods, both of which shall be based on the Manning equation, shall utilize the "n" factor of 0.015, and require a minimum allowable pipe size of 15 inches:

(1) Pipeline submerged.

- (a) This method is based on the assumption that when the storm sewer system is under maximum load, the hydraulic gradient will be at or above the crown of the pipe and that flow in the lines will be controlled by head differentials between structures or other locations where the system is open to the ground surface, such as inlets or outlets, manholes and stream inlets and outlets. The head of water above the crown of any pipe can range from zero feet to a point which will not cause surface flooding.
- (b) The slope of the hydraulic gradient in any section of storm sewer between openings to the surface shall be calculated on the assumption that the pipe is flowing full at a constant velocity and at the required capacity.
- (c) The elevation of the hydraulic gradient at any point in the pipe shall be no lower than the crown of the pipe and no higher than the surface of the ground.
- (d) The elevation of the hydraulic gradient at any point where the system opens to the surface, such as an inlet or manhole, shall be three feet below the surface of the ground.
- (e) At all structures such as manholes, inlets and culverts where the pipe size does not change, the elevation of the hydraulic gradient shall be dropped 0.2 foot to allow for losses therein. Where the inlet and outlet pipe sizes are not the same, the elevation of the hydraulic gradient shall be dropped by an amount based on the following formula:

$$H = 0.2 \text{ foot} + 0.8 (D1 - D2)$$

$$D1 = \text{Diameter of inlet pipe}$$

$$D2 = \text{Diameter of outlet pipe}$$

$$\text{If } D1 \text{ is larger than } D2 \text{ head loss} = 0.2 \text{ foot}$$

- (f) The minimum slope of any pipe shall be such that a minimum velocity of 2.5 fps shall be maintained when the pipe is flowing 1/4 full.

(2) Pipeline flowing full.

- (a) This method is based on the assumption that the hydraulic gradient will match the inside top of the pipe when the system is under maximum hydraulic load.
- (b) For this method, head losses through manholes, inlets and culverts shall be ignored.
- (c) The minimum slope of any pipe shall be such that a minimum velocity of 2.5 fps shall be maintained when the pipe is flowing 1/4 full.
- (d) When the pipe sizes change, the inside tops of the pipes shall be matched.

- E. Profile requirements. Continuous profiles for each reach of pipe shall be plotted along with the

hydraulic information pertinent to each reach within the system. This information shall include the pipe size and type, the "n" factor, slope of the pipe, the design capacity, and the velocity at the design capacity.

- F. Endwalls. Standard PennDOT endwalls shall be installed on all influent and effluent pipes.
- G. Inlets.
  - (1) Inlets conforming to PennDOT Standards shall be utilized in all applications. The type to be used shall depend on the particular application.
  - (2) Sufficient inlets shall be located and constructed so as to collect all of the flow in the contributory drainage area. In roadways the inlets shall be spaced to allow a maximum gutter flow 4.0 cfs. Calculation of inlet capacities shall be in accordance with PennDOT guidelines.
  - (3) The gutter of all inlets shall be set not less than two inches, nor more than four inches, below the gutter grade. The surface of the paving adjacent to the inlets shall be constructed to blend into the lowered gutter grade at the inlet in such a manner that sudden dropoff or dip at the inlet will not be created.
  - (4) Where surface water is collected from two directions at one road corner, inlets shall be placed at, or near, the tangent points of both ends of the radius. The use of an inlet in the radius shall not be allowed.
- H. Manholes. Manholes shall be located at intervals of approximately 400 feet where pipe sizes of 24 inches or less are used, and 600 feet apart for larger sizes. Inlets should be substituted for manholes where they will serve a useful purpose. Manholes or inlets shall be placed at all changes of direction.
- I. Open channel design. Open channel design shall be based on the following hydraulic considerations:
  - (1) Manning's equations
    - (a) n values.

**n = 0.015 — best concrete lined ditch**

**n = 0.025 — best unlined ditch**

n = 0.03 to 0.15 — fair to poor natural streams and watercourses.

- (b) Allowable velocities.

<b>Excavation Material</b>	<b>Allowable Velocity</b>
Fine sand and firm loam	2.50 to 3.5 fps
Stiff clay and hardpan	3.75 to 6.0 fps
Concrete-lined ditch	15 fps

- (2) Ample freeboard shall be provided on all channels.
- (3) The channel shall be designed to conform, wherever possible, to the adjacent ground conditions. This means that it should not be projecting excessively above the surrounding ground or placed excessively below the surrounding ground.

- (4) Continuous profiles for each reach of open channel shall be plotted along with the adjacent average ground and the hydraulic information pertinent to each reach within the system. This information shall include the type of channel lining, the "n" factor, the width of the channel bottom, the side slopes, the water depth, the design capacity and the velocity at the design capacity.
  - (5) Open channels shall have a maximum side slope of three to one and shall have adequate slope protection.
  - (6) No open watercourses shall be permitted within the road lines of any road.
- J. Bridges and culverts. Single opening culverts are desirable. The design of culverts shall be such as to minimize the probability of debris accumulation. Bridges and culverts shall be designed to meet current PennDOT standards to support expected loads and carry expected flows. They shall be constructed for the full width of the road.
- K. Permit requirements. The Pennsylvania Department of Environmental Protection Bureau of Water Quality Management, Division of Dams and Encroachments requires a permit for construction or changes in a watercourse which drains an area of more than 1/2 square mile. No open watercourses shall be permitted within the road lines of any road.
- L. Location of sewers. Wherever practicable, storm sewers shall be located behind the curb and within the road lines of the road. They shall be protected by a cover of at least 18 inches.
- M. Change in direction. In lieu of manholes or inlets, special concrete pipe sections with a minimum radii of 10 times the inside pipe diameter (10 x ID) may be used where changes are made in direction.
- N. Stormwater roof drains. Stormwater roof drains and pipes immediately adjacent to a sidewalk shall not discharge water over a sidewalk but shall extend under the sidewalk to the gutter. Where accessible, the roof drain shall be connected with the storm drainage system of the Township.
- O. Detention facilities.
  - (1) Storage requirements.
    - (a) Whenever an increase in runoff will occur as the result of development, the developer will be required to provide permanent stormwater management facilities to attain zero increase during peak runoffs. The storage requirements of all stormwater management facilities shall be computed in accordance with the soil cover complex method and must be submitted to the Township Engineer for review and, when required, to the Pennsylvania Department of Environmental Protection or the United States Department of Agriculture, Natural Resources Conservation Service.
    - (b) In addition to the permanent storage facilities, the developer shall provide adequate erosion and sedimentation control measures in accordance with the Pennsylvania Clean Stream Act, as amended, and applicable Township ordinances.
    - (c) All storage computations shall be based on a one-hundred-year frequency, twenty-four-hour duration storm. The storage required may be based on "after" construction flows rather than "during" provided that the development is property staged or other measures are taken to retard the higher "during" construction flows. An additional storage allowance of 0.06 acre-inches must be provided to compensate for sediment accumulation.

## (2) Discharge piping.

- (a) Discharge piping shall be reinforced concrete pipe and shall be sized to maximize use and efficiency of the storage provided. Specifically, the most critical duration one-hundred-year storm should fill the storage facility to the spillway level without utilizing the spillway. In no case shall the spillway be utilized in the design routing of one-hundred-year storms.
- (b) The sizing of the discharge piping will therefore require detailed analysis rather than a random sizing correlating to a "before" construction standard frequency storm, such as a ten-year storm. The design engineer's submittal to the Township must include calculations on the methodology of sizing the piping. The capacity of all discharge piping shall be based on "inlet control" or where conditions warrant "outlet control." PennDOT charts may be utilized for this purpose.
- (c) Once the discharge piping is sized, a storage versus elevation versus discharge curve should be prepared and included with the submittal, along with a routing of the most critical one-hundred-year storm. Both ends of the discharge piping shall be provided with headwalls.
- (d) Erosion protection shall be provided in the form of rip-rap or other means in accordance with acceptable engineering standards.
- (e) Anti-seep collars shall be provided for all discharge pipes. The collars shall be a minimum of six inches thick and shall extend a minimum of two feet in all directions from the outside walls of the pipe.
- (f) A concrete-lined emergency spillway shall be provided for all storage facilities. Although the storage facility is designed so that the spillway will not be used in a one-hundred-year storm, the possibility exists whereby the outlet pipe could be totally blocked during a storm. For this reason, it is required that the spillway be sized to accommodate the peak flow rate into the pond when the pond would be completely full during a one-hundred-year storm assuming a totally blocked discharge pipe.

[1] The spillway capacity should be calculated by the following formula:

$$Q = 3.087 \times D^3 \times L$$

Where:

**Q** = Capacity in cubic feet per second

**D** = Depth of spillway in feet

**L** = Length of spillway in feet

[2] The minimum depth of spillway shall be two feet.

## (3) Storage area.

- (a) Side slopes in storage areas shall be no steeper than three horizontal to one vertical. Every effort should be made to "blend" the storage area into the natural topography of its surroundings.

- (b) The bed of the storage area shall slope towards the discharge pipe from all directions at a minimum slope of 1%.
  - (c) Prior to grading in the storage area, the topsoil shall be stripped and stockpiled. Upon the completion of grading, the topsoil shall be redistributed over the storage area (minimum six-inch thick) and should then be seeded.
  - (d) All fill material to be utilized in embankment areas shall be selected from the impervious materials available at the site and shall be compacted to a minimum of 95% of the materials' maximum dry density as determined by a standard protector test. Where necessary, embankment fill materials shall be keyed into virgin soil. Where embankment berms are used, a minimum ten-foot-wide flat area shall be provided at the top of the berm.
  - (e) A fence four feet in height with a self-closing gate surrounding the retention basin shall be required in the interest of public safety.
  - (f) All storage areas must be located outside of the one-hundred-year floodplain as indicated on the Township floodplain mapping.
  - (g) Underground storage beds will be given consideration in lieu of conventional storage facilities. Specifications for such storage beds shall be submitted to the Township shall be submitted to the Township Engineer for review. The design for such storage beds shall be such that the stormwater management requirements of this chapter are satisfied.
- P. Spring heads. All spring heads uncovered during construction shall be treated as if the water flowing therefrom were stormwater except where it can be demonstrated that the water flowing from such source can be satisfactorily induced back into the ground as if the spring had never been uncovered. In the event there is piping of other facilities to conduct spring water from whatever source to the nearest dedicated portion of the stormwater management system, or other facilities pass in favor of the property owners served thereby, giving said property owners the right to construct, maintain, operate, repair, replace, reconstruct and alter such piping and facilities. Such easement shall name the Township as a third-party beneficiary with the right, but not the obligation, to enter upon the easement to repair, alter or replace such piping or other facilities in the event the property owners benefited thereby fail to do so. The Township shall have the further right to impose the cost of repairing, altering or replacing such piping or other facilities upon the property owner or owners responsible therefor, but who failed to do so.

#### **§ 210-34. Erosion and sediment control.**

Measures used to control erosion and reduce sedimentation shall, as a minimum, meet the standards and specifications of the Delaware County Soil and Water Conservation District, the Pennsylvania Department of Environmental Protection and applicable Township ordinances.

#### **§ 210-35. Underground utilities.**

- A. All electric and telephone utility lines shall be installed underground in accordance with the laws of the Commonwealth of Pennsylvania and the regulations and orders of the Pennsylvania Public Utility Commission. In the event underground installation of utilities is not practical or not required by law, regulation or order, installation of electric, telephone and cable television utilities shall be, when possible, along the rear portion of the lots.
- B. Trenches through utility easements shall be occupied, whenever practical, jointly by electric, gas,

water, sewer, telephone and cable television lines.

- C. A plan for providing utility service to the proposed subdivision or land development shall be prepared by the developer in cooperation with appropriate utility companies and governmental agencies.

**§ 210-36. Utility and drainage easements.**

- A. When easements are required for utilities and/or drainage, the following minimum widths shall be required for such easements:
- (1) When the easement is contiguous to a road, a minimum easement width of 10 feet shall be required;
  - (2) In all other cases, a minimum width of 20 feet shall be required. When the easement is along a rear or side lot line, the easement shall be to the fullest extent possible centered on such lot line;
  - (3) Township Council may require easements with widths of greater than 20 feet when greater widths are necessary for utility installation or servicing.
- B. Where a subdivision or land development is traversed by a watercourse, drainage way, channel, or stream, a drainage easement may be required which conforms substantially with the line of such watercourse, drainage way, channel or stream and of such width as will be adequate to preserve the unimpeded flow of natural drainage. Such easement shall give the Township the right but not the responsibility to enter upon the easement for the purpose of widening, deepening, relocating, improving, or protecting such drainage facilities or for the purpose of installing a stormwater sewer. Such easement shall also comply with floodplain requirements contained in applicable Township ordinances.
- C. Nothing permanent shall be constructed, placed, planted or set within the area of a drainage or utility easement. Such areas shall be kept as lawn.
- D. Metes and bounds shall be provided and iron pins shall be installed so that the location of all utility and drainage easements may be accurately determined.

**§ 210-37. Gas, petroleum and petroleum product pipelines.**

- A. The minimum distance from a natural gas line to a dwelling unit shall be 75 feet or as may be required by the applicable transmission or distributing company, or as may be required by the applicable regulations issued by the Department of Transportation under the Natural Gas Pipe Line Safety Act of 1968, as amended, whichever is greater.
- B. When any petroleum or petroleum products transmission line traverses a subdivision or land development, the developer shall confer with the applicable transmission or distribution company to determine the minimum distance which shall be required between each proposed dwelling unit and the petroleum or petroleum products transmission lines. In no case shall there be a distance of less than 75 feet between a dwelling unit and a petroleum or petroleum products transmission line.
- C. No petroleum, petroleum products or natural gas transmission line shall be constructed in a subdivision or land development on less than a fifty-foot easement. Such lines shall be installed in the center of the easement and shall comply with all applicable federal and state laws and regulations.

**§ 210-38. Topography and grading.**

- A. The natural terrain of the proposed subdivision or land development shall be retained wherever possible. Cuts and/or fills should be kept to the minimum necessary to achieve acceptable road grades, parking areas, or building sites where no feasible alternative exists or where they will be used to enhance the site, such as berms or swales which add visual interest or perform a function such as drainage or screening.
- B. No excavation shall be made with a cut face steeper in slope than two horizontal to one vertical except under one or more of the following conditions:
  - (1) The excavation is located so that a line having a slope of two horizontal to one vertical and passing through any portion of the cut face will be entirely inside of the property lines of the property in which the excavation was made; or
  - (2) A concrete or stone masonry wall is provided which adequately supports the face of the excavation.
- C. No fill shall be made which creates any exposed surface steeper in slope than two horizontal to one vertical, except under one or more of the following conditions:
  - (1) The fill is located so that settlement, sliding or erosion will not result in damage to property, driveway or buildings; or
  - (2) A concrete or stone masonry wall is provided which adequately supports the face of the excavation.
- D. The top or bottom edge of slopes shall be a minimum of two feet from property lines or road lines in order to permit the normal rounding of the edge without encroaching on the abutting property.

**§ 210-39. Natural features preservation and tree planting.**

- A. General standards. The design and development of all subdivisions and land developments shall preserve, whenever possible, natural features such as the natural terrain of the site, woodland areas, large trees, natural watercourses and bodies of water, wetlands, rock outcroppings and scenic views.
- B. Floodplain protection. Any areas located in a designated floodplain shall be subject to all the requirements pertaining thereto in applicable Township ordinances.
- C. Tree preservation and planting.
  - (1) Trees, with a caliper of 10 inches or more, shall not be removed unless they are located within the proposed cartway, or the area of a proposed sidewalk, within 15 feet of the foundation area of a new building, within a utility easement, within a proposed parking area, or within an area where regrading is necessary to achieve acceptable site development. Where possible, existing open areas should be utilized for such facilities to minimize necessary disturbance of existing wooded areas. Areas in which trees are retained shall remain undisturbed and at the original grade level whenever possible.
  - (2) Trees, with a minimum caliper of 1 1/2 inches, shall be planted along road lines where suitable trees do not exist. Such trees shall be planted not less than 50 feet apart, or an equivalent number shall be planted in an informal arrangement acceptable to the Township.
  - (3) Trees shall not be planted within three feet of road lines or pedestrian walkways. Trees may be planted between the curb of the road and pedestrian walkways if there is a minimum distance of

six feet between the curb and walkway.

- (4) Trees shall not be planted within 30 feet of the intersection of road lines and within 15 feet of a driveway entrance.
  - (5) Road trees and other required plants shall be of nursery stock grown under climatic conditions comparable to those of Middletown Township. They shall be of symmetrical growth, free of insects, pests and disease, suitable for road use and durable under the maintenance contemplated.
  - (6) For all subdivisions or land developments not involving single-family detached dwellings, a landscape plan prepared by a registered landscape architect shall be submitted. The plan shall show the plant cover which exists, and on the same or separate sheet, that which will exist when the landscaping is completed, including trees, shrubs, and ground cover. A landscape plan shall be prepared and submitted prior to approval of a building permit. In the case of staged development or developments of individual parcels by separate owners, the landscape plan may be submitted in stages coinciding with the application for final plan approval for each stage.
- D. Topsoil protection. Topsoil shall not be removed from the development site or used as fill. Topsoil shall be removed from the areas of construction and stored separately. The topsoil shall be stabilized to minimize erosion during storage. Upon completion of construction, the topsoil shall be uniformly redistributed on the site.

**§ 210-40. Open space. [Amended 8-13-2001 by Ord. No. 615]**

Open space shall be in accordance with § 210-41, Recreational facilities and open space.

**§ 210-41. Recreational facilities and open space. [Amended 8-13-2001 by Ord. No. 615; 9-25-2023 by Ord. No. 854]**

- A. The public dedication of suitable land shall be provided for the use intended; and, upon agreement with the applicant or developer, the construction of recreational facilities, the payment of fees in lieu thereof, the private reservation of the land, or a combination, for park or recreation purposes as a condition precedent to final plan approval shall be required in accordance with the provisions of this section.
- B. The following general provisions shall apply:
  - (1) Each subdivision and/or land development proposed to be improved for a residential dwelling unit shall set aside land to be used for park or recreational purposes in an amount which shall equal at least 2,200 square feet of land for each residential dwelling unit in the proposed development; or make a payment of a fee in lieu of the public dedication of land in the amount as determined from time to time by resolution of the Township Council, in accordance with the Recreation and Open Space Plan, dated March 28, 2022, as may be amended or updated from time to time.
  - (2) Each subdivision and/or land development proposed to be improved for use other than for a residential use (nonresidential use) shall set aside land to be used for park or recreational purposes in an amount which shall equal at least 500 square feet of land per 1,000 square feet of nonresidential building area; or make a payment of a fee in lieu of the public dedication of land in the amount as determined from time to time by resolution of the Township Council, in accordance with the Recreation and Open Space Plan, dated March 28, 2022, as may be



amended or updated from time to time.

- (3) The provisions of this section shall not apply to a development plan approved and developed pursuant to the planned residential development provisions of Article XI of Chapter 275, Zoning; or approved and developed pursuant to the cluster subdivision option provisions of Chapter 275, Zoning, in the R-1 Residential District or R-2 Residential District; or approved and developed pursuant to the open space requirements for townhouses and/or apartments in the R-4 or R-5 District; or that is pending, whether preliminary or final, at the time of enactment of this section.
- C. If it is determined that the land proposed to be dedicated is not suitable for the use intended by reason of its size, shape and/or location or if park or recreational lands are already available and accessible to the proposed development, or if the Township and the applicant or developer agree otherwise, the applicant or developer shall either make payment of a fee in lieu of dedication of land or provide sufficient and suitable land for dedication within the Township, but which is not part of the proposed development. Such determination shall also be made in accordance with the following provisions:
- (1) Where the open space requirement is 2.00 acres or less, the fee option shall be preferred; however, the set-aside of less than 2.00 acres of land may be acceptable to the Township if that land is contiguous to an existing area of permanent open space, has been identified by the Township for acquisition, or is otherwise deemed acceptable by Council.
  - (2) Where the land to be set aside is less than the amount required, the Township may accept payment of a fee in lieu of the balance of the requirement.
- D. The determination of the suitability of land which is acceptable for dedication, or use for park or recreational purposes, shall include its overall size, shape, location, and natural features, and shall also be based on the following additional criteria:
- (1) The dedicated land must be easily accessible to all inhabitants of the development by virtue of at least one side of each parcel of dedicated land abutting an existing or proposed public street for a minimum distance of 50 feet.
  - (2) The park or recreational land shall be located so that it serves all inhabitants of the subdivision and/or land development.
  - (3) The shape of the land shall be suitable to accommodate those park or recreational activities appropriate to the location and needs of the inhabitants of the development.
  - (4) Any parcel of park or recreation land to be dedicated to the Township shall be comprised of at least one acre in size and no less than 50 feet in width.
  - (5) The parcels to be dedicated, comprising the intended park or recreational land, shall be contiguous.
  - (6) Soils and drainage shall be suitable for the intended park or recreational uses and shall conform to all Township ordinances.
  - (7) Such land, taken in the aggregate, shall have an average slope of less than 8%, and shall have no more than 20% of the land contained within the boundaries of a floodplain, or steep slope area greater than 15%, or a combination of floodplain and steep slope.
  - (8) Vehicular parking shall be in accordance with Article XXXI of the Middletown Township

Zoning Ordinance,<sup>98</sup> and shall be designed, constructed, and maintained such that any site can be adequately served and accessed.

- (9) Provisions shall be made for trails, footpaths, and other pedestrian circulation systems and accessways.
- E. In the event any applicant or developer of land proposes to dedicate land and/or construct recreational facilities, the applicant or developer shall make provision for such dedication and/or the permanent ownership and maintenance of such facilities, as applicable. Acceptable means of such provisions include:
- (1) The proposed recreational facilities and/or improvements are not duplicative of those park and/or recreational facilities already available to the inhabitants of the proposed subdivision and/or land development.
  - (2) The proposed recreational facilities and/or improvements will be properly owned, managed, and maintained by a responsible entity such as a homeowners' association, the governing documents for which shall be acceptable to the Township Solicitor.
  - (3) The proposed park and/or recreational area shall be subject to a declaration of covenants, easements, and restrictions which shall be acceptable to the Township Solicitor.
  - (4) The proposed park or recreational area shall be suitably landscaped as depicted on a landscape plan which shall be submitted as part of the applicant's or developer's subdivision and/or land development plan and which shall be reviewed by the Township as part of the applicant's or developer's final plan.
  - (5) Land to be publicly dedicated to the Township shall be by fee-simple deed of special warranty. At the time of dedication, title to said land shall be good and marketable, free and clear of all liens and encumbrances. The applicant or developer shall supply a title report evidencing the foregoing to the Township prior to final approval of the subdivision and/or land development plan. The executed deed of dedication shall be delivered to the Township at the time of final subdivision and/or land development approval and prior to the signing of the approved plan by the Township Council and recorded at the time of recording of the final plan. All costs associated with said dedication shall be borne by the applicant or developer.
  - (6) If public dedication of the land is rejected by the Township, the land may alternatively be conveyed to a legally constituted homeowners' association or retained by and managed by such private ownership or other such suitable entity, all subject to approval by the Township Council and upon the condition that the use remains open to the residents of the proposed development. In the event that the recreational land is to be privately owned, adequate provision shall be made for its maintenance and the posting of adequate financial security in accordance with Section 509 of the Pennsylvania Municipalities Planning Code.<sup>99</sup> The Township may further require such limited rights of entry onto the proposed land for maintenance and similar purposes, should the owner(s) of said land fail to do so, and such failure shall, in the opinion of the Township, pose a threat to the health, safety and welfare of the Township or its residents.
- F. All moneys paid to the Township pursuant to the provisions of this section shall be placed in a Park and Recreation Development Fund as established by Township Council clearly identifying the

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98. Editor's Note: See Ch. 275, Zoning.

99. Editor's Note: See 53 P.S. § 10509.

specific recreational facilities for which the fee was received. Said fund shall be used by the Township for the acquisition and improvement of park or recreational sites and land in accordance with the Township Open Space and Recreation Plan, recognizing that funds shall be expended only on properly allocated portions of the cost incurred to acquire land or construct the specific recreational facilities for which the funds were collected.

**§ 210-42. Inspections. [Amended 12-14-1981 by Ord. No. 296]**

- A. The Township shall have the right to inspect erosion and sediment control facilities and all roads, curbs, stormwater management facilities and other public improvements during the course of construction in all subdivisions and land developments.
- B. The Township shall also have the right to make a final inspection of all public improvements prior to acceptance of such improvements by the Township.
- C. In the event that any work on a public improvement is not constructed in accordance with Township ordinances, resolutions or specifications and the approved final plan or is not performed in a good and workmanlike manner, the Township Engineer shall have the right to require the developer, at his own expense, to correct all faulty construction. The Township shall also have the right to refuse to accept any public improvement offered for dedication which is not constructed in accordance with Township ordinances, resolutions or specifications and the approved final plan or is not performed in a good and workmanlike manner.
- D. When work in public improvements is covered prior to the Township having an opportunity to inspect, the developer shall uncover the work at his own expense so that the Township Engineer can make the inspection.

ARTICLE VI  
**Administration**

**§ 210-43. Modifications. [Amended 1-8-1990 by Ord. No. 460]**

- A. The provisions of this chapter are the minimum standards for the protection of the public welfare.
- B. One or more provisions of this chapter may be modified by the Township Council, upon recommendation of the Planning Commission, if the literal enforcement of the provisions will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of this chapter is observed.
- (1) All requests for a modification shall be in writing and shall accompany and be a part of the preliminary or final plan application for subdivision and/or land development. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of this chapter involved and the minimum modification necessary.
  - (2) The Township shall keep a written record of all action on all requests for modifications.
  - (3) The Township Council may authorize a waiver of these regulations. In granting any modification, the Township Council shall prescribe any conditions that it deems necessary to or desirable for the public interest. In making its findings, the Township Council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the probable effect of the proposed subdivision upon traffic conditions and/or fire and police protection and other utilities and services in the vicinity. No modification shall be granted unless the Township Council finds that:
    - (a) There are special circumstances or conditions affecting said property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land.
    - (b) The modification is necessary for the preservation and enjoyment of a substantial property right of the applicant.
    - (c) The granting of the modification will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

**§ 210-44. Reconsideration.**

Any applicant aggrieved by a finding, decision or recommendation of the Township Council may request to appear before the Township Council, present additional relevant information and request reconsideration of the Township Council's original findings, decision or reconsideration. The applicant's request shall be in writing and made within 30 days of notification of the Township Council's decision. The applicant's request for reconsideration shall not extend the time for appeal to a court of competent jurisdiction.

**§ 210-45. Records.**

- A. The Township shall keep a record of its findings, decisions and recommendations relative to all subdivision and land development plans filed with it for review.
- B. All such records shall be public records.

**§ 210-46. Fees.**

Application fees for major and minor subdivisions and land developments shall be in accordance with the fee schedule as established by the Township Council.

**§ 210-47. Requirements of construction codes and Zoning Ordinance.**

Nothing herein contained shall be interpreted to permit any waiver of any of the requirements of the Middletown Township Building, Electrical, Plumbing, Fire and Zoning Codes, as each may have been amended or will from time to time be amended.<sup>100</sup>

**§ 210-48. Amendments.**

Township Council may, from time to time, revise, modify, and amend this chapter by appropriate action taken at a scheduled public meeting, all in accordance with the applicable provisions of the Pennsylvania Municipal Planning Code.

**§ 210-49. Remedies. [Amended 1-8-1990 by Ord. No. 460]****A. Preventive remedies.**

- (1) In addition to other remedies, the Township may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description 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 transformer from such penalties or from the remedies herein provided.
- (2) The Township 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 any ordinance provisions. This authority to deny such a permit or approval shall apply to any of the following applicants:
  - (a) The owner of record at the time of such violation.
  - (b) 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.
  - (c) 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.
  - (d) 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.
- (3) 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 may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

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100. Editor's Note: See Chs. 89, Construction Codes, and 275, Zoning.

- B. Jurisdiction. Magisterial District Judges shall have initial jurisdiction in proceedings brought under Subsection C.
- C. Enforcement remedies.
- (1) Any person, partnership or corporation who or which has violated the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500, plus all court costs, including reasonable attorneys' fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the 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, unless the Magisterial District Judge determining that there has been a violation further determines that there was a good-faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the Magisterial District Judge, and thereafter, each day that a violation continues shall constitute a separate violation.
  - (2) 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.
  - (3) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this section.

#### **§ 210-50. Appeals.**

The decision of Township Council with respect to the approval or disapproval of plans may be appealed directly to court as provided for in the Pennsylvania Municipalities Planning Code, as amended.

#### **§ 210-51. Saved from amendment.**

Chapter VII, Subdivision Regulations, Article 1, Section 105.D.2.d.(4), which is Ordinance No. 62, approved January 31, 1961, as amended by Ordinance No. 227, approved November 20, 1978, is not amended by anything stated herein and said section shall remain in full force and effect.<sup>101</sup>

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**101.Editor's Note: This section refers to original ordinance numbering.**

ARTICLE VII  
Street Number Regulations

**§ 210-52. Street number regulations. [Added 4-10-1961 by Ord. No. 63; amended 6-9-1969 by Ord. No. 125; 4-10-1961 by Ord. No. 125]**

- A. Definition. The word "building," as used in this chapter, shall mean any structure used or intended to be used as a dwelling or place of business or industry, or any other use requiring a location identity, but shall not include any accessory building located upon a lot where there is also a main building.
- B. Street number plan. The map known as "Middletown Township Street Number Plan" bearing the same date as this chapter is hereby incorporated into this chapter. Said map shall be maintained current, by the addition of new buildings as constructed, by the Township Manager.
- C. Notification and compliance. It shall be the duty of the Township to notify present owners of properties of the new number which has been assigned to said properties, and to notify the owners of all newly improved properties which will require a number, and it shall be the duty of such owner so notified within 30 days to comply with the further provisions of this chapter.
  - (1) Notwithstanding Section C, any subdivision of land made after the date of this chapter shall have the engineer responsible for the subdivision plan provide house numbers on said subdivision plan in accordance with the rules and regulations adopted April 10, 1961, which will be consistent with the present plan and reflect the proper coordination with future development of adjoining land.
- D. Depiction of numbers. Numbers, as assigned to each building in the Township according to the provisions of this chapter, shall be affixed to or painted upon or carved upon such building or upon a permanent standard, base or support between such building and street. Each number shall be at least three inches high, shall be of such color and material as to be visible from the street and shall be constantly maintained in complete and legible form. The property owner shall reaffix or renew all numbers that shall not continue to conform to the requirements of this section; provided, in the case of buildings occupied by other than by the owner thereof, the occupant, rather than the owner, shall be responsible for maintaining numbers upon such buildings as hereby required.
- E. Application for a building number. Whenever a building shall hereafter be erected in the Township, the owner thereof shall forthwith apply to the Township Manager for the official number thereof. The number shall be assigned by the Township Manager in conformity with the requirement set forth in this chapter for numbers for existing buildings and shall, within 30 days after being assigned to such building, be affixed by the owner thereof in the manner required by this chapter in the case of existing buildings, and shall thereafter be maintained as hereby required for the numbers of existing buildings.
- F. Violations and penalties. Any person, firm or corporation who or which shall violate any of the provisions of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$10 and costs of prosecution; provided, each week's continuance of a violation of this chapter shall constitute a separate offense.

## ARTICLE VIII

**Special Provisions Applying to Subdivisions in Designated Floodplain Districts****§ 210-53. Purposes. [Amended 10-25-1993 by Ord. No. 528]**

In order to prevent excessive damage to buildings and structures due to flooding conditions, the following provisions supplement the provisions of Article I of this chapter and shall apply to all proposed subdivisions and land developments occurring in any of the floodplain districts designated in Chapter 275, Zoning, and as delineated in the Flood Insurance Study (FIS) dated September 30, 1993, and Flood Insurance Rate Map (FIRM) prepared for the Township of Middletown by the Federal Emergency Management Agency (FEMA), including any further amendments or supplements thereto.<sup>102</sup> Said study and map are available at the Township offices during normal business hours. Specific purposes of these provisions are as follows:

- A. To regulate the subdivision and/or development of land within any designated floodplain district in order to promote the general health, welfare and safety of the community.
- B. To require that each subdivision lot in flood-prone areas be provided with a safe building site with adequate access, and that public facilities which serve such uses be designed and installed to preclude flood at the time of initial construction.
- C. To protect individuals from buying lands which are unsuitable for use because of flood by prohibiting the improper subdivision and/or development of unprotected lands within the designated floodplain districts.

**§ 210-54. Plan requirements.**

In addition to the maps and information required in § 210-5 of this chapter, the following maps and information, prepared by a registered engineer or surveyor, shall be submitted as indicated for preliminary and final plans.

- A. Preliminary plans.
  - (1) A map showing the location of the proposed subdivision and/or land development with respect to any designated floodplain district, including information on, but not limited to, the one-hundred-year flood elevations, boundaries of the floodplain districts, proposed lots and sites, fills, flood or erosion protective facilities and areas subject to special deed restrictions.
  - (2) Where the subdivision and/or land development lies partially or completely within any designated floodplain districts, or where the subdivision and/or land development borders on a floodplain district, the preliminary plan map shall include detailed information giving the location and elevation of proposed roads, public utilities, and contours at intervals of two feet if the slope is less than 15% or five feet if the slope exceeds 15%, and identify accurately the boundaries of the floodplain districts.
- B. Final plans.
  - (1) A map showing the exact location and elevation of all proposed buildings, structures, roads, and public utilities to be constructed within any designated floodplain district. All such maps shall show contours at intervals of two feet if the slope is less than 15% and five feet if the slope

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**102. Editor's Note: See also § 89-8.**



exceeds 15%, and identify accurately the boundaries of the flood-prone areas.

- (2) All required permits and related documentation from the Department of Environmental Protection, and any other commonwealth agency, or local municipality where any alteration or relocation of a stream or watercourse is proposed. In addition, documentation shall be submitted indicating that all affected adjacent municipalities, the Department of Community and Economic Development, and the Federal Insurance Administrator have been notified of the proposed alteration or relocation.

**§ 210-55. Design standards and improvements in designated floodplain districts.**

**A. General.**

- (1) Where not prohibited by this or any other laws or ordinances, land located in any designated floodplain district may be platted for development with the provision that the developer construct all buildings and structures to preclude flood damage in accordance with this and any other laws and ordinances regulating such development.
- (2) Building sites for residences or any other type of dwelling or accommodation shall not be permitted in any floodway area. Sites for these uses may be permitted outside the floodway area if the sites or dwelling units are elevated up to the regulatory flood elevation. If fill is used to raise the elevation of a site, the fill area shall extend out laterally for a distance of at least 15 feet beyond the limits of the proposed structures.
- (3) Building sites for structures or buildings other than for residential uses shall also not be permitted in any floodway area. Sites for structures or buildings outside the floodway shall be protected as provided for in Subsection A(2) above. However, the Township Council may allow the subdivision and/or development of area or sites for commercial and industrial uses at an elevation below the regulatory flood elevation if the developer otherwise protects the area to that height or assures that the buildings or structures will be floodproofed at least up to that height.
- (4) If the Township Council determines that only a part of a proposed plat can be safely developed, it shall limit development to that part and shall require that development proceed consistent with this determination.
- (5) When a developer does not intend to develop the plat himself and the Township Council determines that additional controls are required to insure safe development, it may require the developer to impose appropriate deed restrictions on the land. Such deed restrictions shall be inserted in every deed and noted on every recorded plat.

- B. Excavation and grading.** Where any excavation or grading is proposed or where any existing trees, shrubs or other vegetative cover will be removed, the developer shall consult the County Conservation District representative concerning plans for erosion and sediment control and to also obtain a report on the soil characteristics of the site so that a determination can be made as to the type and degree of development the site may accommodate. Before undertaking any excavation or grading, the developer shall obtain a grading and excavation permit as required by the Township.

- C. Drainage facilities.** Storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The system shall insure drainage at all points along streets, and provide positive drainage away from buildings and on-site waste disposal sites. The Township Council may require a primarily underground system to accommodate frequent floods and a

secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

- D. Streets. The finished elevation of proposed streets shall not be more than the one foot below the regulatory flood elevation. Profiles and elevations of streets shall be submitted to determine compliance with this requirement. Drainage openings shall be sufficient to discharge flood flows without unduly increasing flood heights.
- E. Sewer facilities. All sanitary sewer systems located in any designated floodplain district, whether public or private, shall be floodproofed up to the regulatory flood elevation.
  - (1) Sewage disposal facilities requiring soil absorption systems which will not function due to high ground water, flooding, or unsuitable soil characteristics are prohibited. In such areas, the developer shall note on the face of the plat and in any deed of conveyance that soil absorption fields are prohibited.
  - (2) If a sanitary sewer system is located on or near the proposed subdivision and/or land development, the developer shall connect to this system where practical, in accordance with the requirements of Article V of this chapter.
- F. Water facilities. All water systems located in any designated floodplain districts, whether public or private, shall be floodproofed up to the regulatory flood elevation. If there is an existing public water supply system on or near the subdivision, the developer shall connect to this system where practical, in accordance with the requirements of Article V of this chapter.
- G. Other public utilities and facilities. All other public and/or private utilities and facilities, including gas and electric, shall be elevated or floodproofed up to the regulatory flood elevation.
- H. Permit requirements. In addition to meeting the permit requirements for subdivisions (this chapter), Chapter 275, Zoning, and Chapter 89, Construction Codes, Article II, Building Standards, development permits are required for any man-made changes to improved or unimproved real estate within the one-hundred-year floodplain, where permits for such changes are not required by any of the above regulations. Such changes shall include, but are not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavations, or drilling operations. Application for development permits shall be made on such forms and in accordance with such procedures as may be prescribed by the Township.

#### **§ 210-56. Definitions.**

For purpose of this article, the following definitions shall apply.

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

**DESIGNATED FLOODPLAIN DISTRICTS** — Those floodplain districts specifically designated in Chapter 275, Zoning, as being inundated primarily by the one-hundred-year flood. Included would be areas identified as the Floodway District (FW), the Flood-Fringe District (FF), and the General Floodplain District (FA).

**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 and the subdivision of land.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of mobile homes, streets and other paving, utilities, mining, dredging, filling, grading, excavation, or drilling operations and the subdivision of land.

**DWELLING** — A building designed and constructed for residential purposes in which people live. This includes a mobile home which is 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" shall include trailers used for human habitation which meet the above definition.

**FLOODWAY** — The channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood of the one-hundred-year magnitude.

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

**REGULATORY FLOOD ELEVATION** — The one-hundred-year flood elevation plus a freeboard safety factor of 1 1/2 feet.

**STRUCTURE** — Anything constructed or erected on the ground or attached to the ground, including but not limited to buildings, factories, sheds, cabins, mobile homes, and other similar items.

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

#### **§ 210-57. Abrogation and greater restrictions.**

This article supplements Article I hereof and supersedes any ordinances pertaining to subdivision and land development currently in effect in flood areas which are less restrictive than this chapter. Any other applicable ordinances shall remain in full force and effect to the extent that those provisions are more restrictive.

#### **§ 210-58. Municipal liability. [Amended 4-10-1961 by Ord. No. 125; 2-12-1979 by Ord. No. 12]**

The grant of a permit or approval of a plan for any proposed subdivision and/or land development to be located within any designated floodplain district shall not constitute a representation, guarantee or warranty of any kind by the municipality or by any official or employee thereof of the practicability or safety of the proposed use and shall create no liability upon Middletown Township, its official or employees.

ARTICLE IX  
**Steep Slope Conservation Districts**  
**[Added 6-27-1994 by Ord. No. 541]**

**§ 210-59. Purpose.**

The purpose of this article is to expand upon the community development objectives associated with environmental protection and the preservation of natural resources expressed in Article I of Chapter 275, Zoning, and to complement the provisions in Article XXXV thereof relating to open space. Further, the provisions of this article are designed to encourage the sensitive treatment of hillsides and their related soil and vegetation resources in an effort to minimize adverse environmental impacts. The following objectives serve to complement these specific purposes and the overall purposes of this article:

- A. To conserve and protect steep and very steep slopes from inappropriate development such as excessive grading, land form alteration and extensive vegetation removal.
- B. To avoid potential hazards to property and the disruption of ecological balance which may be caused by increased runoff, flooding, soil erosion and sedimentation, blasting and ripping of rock and landslide and soil failure.
- C. To encourage the use of steep and very steep slopes for open space and other uses which are compatible with the preservation of natural resources and protection of areas of environmental concern.

**§ 210-60. General provisions.**

- A. Compliance. No area within the Steep Slope Conservation District shall hereafter be used without full compliance with the terms of this article and other applicable regulations.
- B. Preservation of other restrictions. It is not intended by this article to repeal, abrogate or impair any regulations set forth in any other articles herein, any regulations of Chapter 275, Zoning, except as therein provided, and or any easements, restrictive covenants or deed restrictions, except that, where this article imposes greater restrictions, its provisions shall prevail. Further, nothing contained in this article shall diminish in any way the provisions of the Clean Streams Law<sup>103</sup> and/or Chapter 102 of the Department of Environmental Protection Rules and Regulations, or any other applicable state, federal, county or Township regulations, codes, ordinances and the like.
- C. Boundary definition and mapping.
  - (1) The Steep Slope Conservation District is comprised of areas of steep and very steep slopes, as shown on the Steep Slope Conservation District Map<sup>104</sup> which is attached to and made part of this chapter. The map constitutes only a general representation of steep and very steep slopes, based on the analysis of the contours displayed on the most recent United States Geological Survey (USGS) Quadrangles for Media, Pennsylvania, and Marcus Hook, Pennsylvania. As such, refined mapping will be required to more accurately define the district, as specified in Subsection C(5) below.
  - (2) Areas of steep slope are characterized by a change in elevation from 15% to 25% over the

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

104.Editor's Note: A copy of said map is on file in the office of the Township Secretary and may be examined there during regular office hours.

distance and contour interval specified in Subsection C(5) below.

- (3) Areas of very steep slope are characterized by a change in elevation greater than or equal to 25% over the distance and contour interval specified in Subsection C(5) below.
- (4) The Steep Slope Conservation District Map shall be considered as an overlay to the Middletown Township Zoning Map subject to the following:
  - (a) The District shall have no effect on the permitted use in the underlying zoning district, except where said uses, intended to be located within the boundaries of the District, are in conflict with the permitted uses set forth in this section.
  - (b) In those areas of the Township where the district applies, the limitations of the Steep Slope Conservation District as set forth herein shall be in addition to the requirements of the underlying zoning district(s).
  - (c) Should the district boundaries be revised as a result of the judicial decision, the zoning requirements applicable to the area in question shall revert to the requirements of the underlying zoning district(s) without consideration of this section.
- (5) Interpretation of district boundaries.
  - (a) The applicant shall use an actual field topographic survey as the source of contour information and the basis for depicting steep and very steep slopes as described below.
  - (b) The Steep Slope Conservation District Map (based on the ten-foot contour interval from USGS) shall be used as a general guide for determining the boundaries of the district. In any application for subdivision and/or land development, the applicant shall, using the contour interval as required in this chapter, delineate slopes from 15% to 25% and greater than or equal to 25%.
  - (c) Mapping of steep and very steep slope shall be performed using a tick-strip or other suitable measuring device.
  - (d) Whenever five-foot contour intervals are required by this Subdivision and Land Development Ordinance for minor subdivisions, the applicant shall delineate all steep and very steep slopes on this basis. However, the use regulations of this article will be invoked only when there is a cumulative steep or very steep slope over a ten-foot or more vertical change in grade. Thus, the representative sample of steep and/or very steep slope for minor subdivisions will be 10 or more feet of vertical grade change.
  - (e) Whenever two-foot contour intervals are required by this Subdivision and Land Development Ordinance for major subdivisions and/or land developments, or as required for an environmental impact assessment under Article 31 of Chapter IX, Zoning, the applicant shall delineate all steep and very steep slopes on this basis. However, the use regulations of this article will be invoked only when there is a cumulative steep or very steep slope over a six-foot or more vertical change in grade. Thus, the representative sample of steep and/or very steep slope for major subdivisions and/or land developments will be six or more feet of vertical grade change.
  - (f) The mapping by the applicant will be reviewed by the Township Engineer. The applicant will be required to follow all regulations of this article for those areas which reflect steep slope and very steep slope conditions as determined through the Township Engineer's

review.

**§ 210-61. Use regulations. [Amended 8-22-1994 by Ord. No. 543]**

**A. Areas of very steep slope (greater than 25%).**

**(1) Permitted principal uses.**

- (a) Agricultural uses that do not require cultivation or structures.
- (b) Conservation and recreation uses not requiring structures.
- (c) Front, rear or side yards of any lot or tract.
- (d) Structures existing prior to the effective date of this chapter.

**(2) Uses permitted if a modification is granted pursuant to § 210-43 hereof.**

- (a) Conservation and recreation uses requiring structures.
- (b) Agricultural structures and cultivation.
- (c) Utility lines for public utilities such as, but not limited to, water, sewer, gas, telephone, electrical and cable television.
- (d) Accessory structures to any uses permitted in Subsection A(1) and/or (2)(a), (b) and/or (c) above.
- (e) Roads and driveways only when no viable alternative alignment or location is feasible, provided that such roads and driveways are aligned predominantly parallel to the contours.
- (f) Uses permitted in the underlying zoning district.

**(3) Prohibited uses and activities.**

- (a) Cut and fill, other than in association with any uses related to Subsection A(1) and/or (2) above.
- (b) Soil, rock and mineral extraction and/or removal, other than in association with any uses related to Subsection A(1) and/or (2) above.
- (c) Removal of topsoil, other than in association with any uses related to Subsection A(1) and/or (2) above.
- (d) Stormwater management facilities other than in association with any of the uses related to Subsection A(1) and/or (2) above.

**B. Areas of steep slope (15% to 25%).**

**(1) Permitted principal uses.**

- (a) Any principal use permitted in Subsection A(1).

**(2) Use permitted by modification granted pursuant to § 210-43 hereof.**

- (a) Any uses identified in Subsection A(2) and the following:

- [1] Stormwater management facilities.
  - [2] Sanitary sewers and sewage pumping stations.
  - [3] Accessory uses and structures customarily incidental to the foregoing.
- (3) Prohibited uses and activities.
- (a) Cut and fill other than in association with any uses related to Subsection B(1) and/or (2) above.
  - (b) Soil, rock or mineral extraction and/or removal other than in association with any uses related to Subsection B(1) and/or (2) above.

**§ 210-62. Application procedure.**

- A. All applicants for any use of land within the Steep Slope Conservation District shall include the submission of the following materials and information:
- (1) Plans drawn to a scale of at least one inch equals 50 feet sealed by a registered professional engineer, depicting the following:
    - (a) The location, dimensions and elevation of the property.
    - (b) Existing and proposed uses and development.
    - (c) Existing and proposed contours at five-foot intervals for minor subdivisions or two-foot intervals for major subdivisions or land developments.
    - (d) The location and boundaries of steep slopes and very steep slopes as described in § 210-60C.
    - (e) Typical cross-sections and elevations of the property and proposed structures at intervals prescribed by the Township Engineer.
    - (f) Existing land cover characteristics of that portion of the property within the Steep Slope Conservation District indicating wooded areas, open areas and their ground cover type and any areas with impervious surfaces. The modifications proposed to the existing land cover shall also be indicated.
    - (g) Photographs showing existing uses, vegetation and topography of areas within the Steep Slope Conservation District.
    - (h) A report describing the slope, soil and vegetation characteristics of that portion of the property within the subject district. Such report shall also describe the proposed type and methods of proposed building construction, the type of foundation system(s) to be employed and proposals for landscaping, sewage disposal and water supply. Further, the report shall describe all sediment and erosion control measures to be used as required by Middletown Township, the Department of Environmental Protection and/or the Delaware County Conservation District and any and all additional engineering and conservation techniques designed to alleviate environmental impacts which may be created by proposed development activities.

**§ 210-63. Supplemental information to accompany request for modification under § 210-43.**

- A. In addition to information described in § 210-43, the Township Council shall require a written report addressing the following which, together with the foregoing required information and information required by the said § 210-43, shall be considered by Township Council in rendering its decision on the requested modification.
- (1) The degree of modification, proposed within the district, to the topographic, soil and vegetation resources and the techniques proposed to mitigate potential adverse environmental impacts.
  - (2) The effect the development of the subject district would have on adjacent properties.
  - (3) The relationship of the proposed uses to the objectives described in § 210-59.
- B. In addition, the applicant shall have the burden of providing evidence that:
- (1) The Steep Slope Conservation District is being proposed for development since no other alternative location is feasible or practical.
  - (2) Earthmoving activities and vegetation removal will be conducted only to the extent necessary to accommodate proposed uses and structures and in a manner that will not cause excessive surface water runoff, erosion, sedimentation and unstable soil conditions.
  - (3) Mitigation techniques will be utilized, including but not limited to retaining walls, tree wells, the establishment of ground cover and/or low-spreading shrubs, the use of erosion control fabric and the like. Such techniques shall be evidenced through the submission of plans and construction details which depict, delineate and otherwise describe the land developmental proposal.
  - (4) Proposed buildings and structures will be of sound engineering design and footings will be designed in response to the site's slope, soil and bedrock characteristics. Such design shall be evidenced through the submission of plans and construction details which depict, delineate and otherwise describe the land development proposal.





## MIDDLETOWN CODE

## Chapter 215

## TAXATION

ARTICLE I  
Mercantile Tax

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**[HISTORY: Article I adopted by the Board of Supervisors (now Township Council<sup>105</sup>) of the Township of Middletown as indicated in article histories. Subsequent articles adopted by the Township Council of the Township of Middletown as indicated in article histories. Amendments noted where applicable.]**

GENERAL REFERENCES

**Peddling and soliciting — See Ch. 167.**

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**105. Editor's Note: The name of the Township's governing body became the Township Council as of 1-1-1978, the effective date of the Home Rule Charter.**

## ARTICLE I

**Mercantile Tax****[Adopted 3-3-1975 by Ord. No. 182 (Ch. II, Art. 1, of the 1976 Ordinance Book)]****§ 215-1. Title.**

This article shall be known and may be cited as the "Mercantile Tax Ordinance."

**§ 215-2. Definitions.**

- A. The following words and phrases when used in this article shall have the meanings ascribed to them unless the context clearly indicates a different meaning:

COLLECTOR — The Township Secretary of the Township of Middletown, or his designated representative.

GROSS VOLUME OF BUSINESS — Includes both cash and credit transactions, and trade-in transactions as provided by law.

LICENSE YEAR —

- (1) As to 1975, the period beginning April 2, 1975, and ending December 31, 1975;
- (2) As to 1976, and each calendar year thereafter, the twelve-month period beginning January 1 and ending December 31.

PERSON — Any individual, partnership, limited partnership, association or corporation (except such as are wholly exempt from taxation under the Act of Assembly No. 511, as amended).

RETAIL DEALER or RETAIL VENDOR — Any person who is a dealer in or vendor of goods, wares and merchandise who is not a wholesale dealer or vendor, or a wholesale and retail dealer or vendor as hereinafter defined.

TEMPORARY, SEASONAL OR ITINERANT BUSINESS — Any business that is conducted at one location for less than 60 consecutive calendar days.

TOWNSHIP — The Township of Middletown.

WHOLESALE AND RETAIL DEALER or WHOLESALE AND RETAIL VENDOR — Any person who sells to dealers in or vendors of goods, wares and merchandise and to other persons.

WHOLESALE DEALER or WHOLESALE VENDOR — Any person who sells to dealers in, or vendors of goods, wares and merchandise and to no other persons.

- B. The terms "person," "wholesale dealer" or "wholesale vendor" and "wholesale and retail dealer" or "wholesale and retail vendor" shall not include nonprofit corporations or associations organized for religious, charitable or educational purposes, agencies of the Government of the United States or of the Commonwealth of Pennsylvania, or any person vending or disposing of articles of his own manufacture for shipment or delivery away from the place of the manufacture thereof, or any farmer vending or disposing of his own produce, or other transaction exempted by law.

**§ 215-3. License.**

- A. For the license year beginning April 2, 1975, every person desiring to continue to engage in, or hereafter to begin to engage in, the business of wholesale, or retail, or wholesale and retail, vendor or dealer in goods, wares and merchandise and any person conducting a restaurant or other place where

food, drink or refreshment are sold in the Township shall, on or before the first day of July 1975, or prior to commencing business in said license year, apply for and procure a mercantile license for his place of business, or if more than one, for each of his places of business in the Township, from the Collector who shall issue same upon payment of a fee of \$10 for a wholesale or retail license or for a wholesale and retail license for his place of business, or if more than one, for each of his places of business in the Township for such license year.

- B. For the license year beginning January 1, 1976, and each license year thereafter, every person desiring to continue to engage in, or hereafter to begin to engage in, the business of wholesale, or retail, or wholesale and retail, vendor or dealer in goods, wares and merchandise and any person conducting a restaurant or other place where food, drink or refreshment are sold in the Township, shall on or before the first day of January, 1976, and each license year thereafter, or prior to commencing business in any such license year, apply for and procure a mercantile license for his place of business, or if more than one, for each of his places of business in the Township, from the Collector who shall issue the same upon payment of a fee of \$10 for a wholesale or retail license or for a wholesale and retail license for his place of business, or if more than one, for each of his places of business in the Township for such license year.
- C. Each application for a license shall be signed by the applicant, if a natural person, and in the case of an association or partnership, by a member or partner thereof, and in the case of a corporation, by an officer thereof. Such licenses shall not be assignable and shall be conspicuously posted at the place of business or each of the places of business of every such person at all times.
- D. In the case of loss, defacement or destruction of any license, the person to whom the license was issued shall apply to the Collector for a new license for which a fee of \$1 shall be charged.

**§ 215-4. Imposition of tax. [Amended 12-15-1980 by Ord. No. 265; 2-17-1987 by Ord. No. 401]**

A tax to provide revenue for general Township purposes is hereby levied, assessed and imposed upon every person engaging in any of the following occupations or businesses in the Township at the rate hereinafter set forth, and such persons shall pay a mercantile tax for each license year, at such rate, subject to the exemptions hereinafter set forth:

- A. Wholesale vendors or dealers in goods, wares and merchandise of every kind, at the rate of 1 1/2 mills on each dollar of the gross volume of business transacted by him during the license year.
- B. Retail vendors or dealers of goods, wares and merchandise of every kind, and all persons engaged in conducting restaurants or other places where food, drink or refreshments are sold, at the rate of 2 1/4 mills on each dollar of the gross volume of business transacted by him during the license year.
- C. Wholesale and retail vendors or dealers in goods, wares and merchandise of every kind at the rate of 1 1/2 mills on each dollar of the gross volume of wholesale business transacted by him, and 2 1/4 mills on each dollar of the gross volume of retail business transacted by him during the license year.
- D. The tax imposed by this section shall not apply to the dollar volume of annual business covering the resale of goods, wares or merchandise taken by a dealer at 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.
- E. The first \$25,000 of gross volume of business shall be exempt from and not subject to the rates of taxation specified above and herein.

**§ 215-5. Computation of tax estimated.**

The following subsections refer to the computation of the estimated gross volume of business:

- A. Every person subject to the payment of the tax hereby imposed, who has commenced his business at least nine full months prior to April 2, 1975, shall compute the gross volume of business upon the actual gross amount of business transacted by him during the nine months preceding April 2, 1975.
- B. Every person subject to the payment of the tax hereby imposed, who has commenced his business less than nine full months prior to April 2, 1975, shall compute the gross volume of business by multiplying by nine the monthly average of the actual gross amount of business transacted by him during the months he was engaged in business prior to April 2, 1975.
- C. Every person subject to the payment of the tax hereby imposed, who commences his business subsequent to April 2, 1975, shall compute the gross volume of business for the license year upon the gross volume of business transacted by him during the first month of his engaging in business, multiplied by the number of months remaining in the license year.
- D. Every person subject to the payment of the tax hereby imposed who engages in business, temporary, seasonal or itinerant by its nature, shall compute the gross volume of business upon the actual gross amount of business transacted by him during the license year.

**§ 215-6. Taxpayer returns. [Amended 2-28-1983 by Ord. No. 338]**

- A. General. Every return, as hereinafter required by this subsection, shall be made upon a form furnished by the Collector. Every person making such return shall furnish all information requested therein and shall furnish such additional information, including copies of tax returns, forms and schedules, filed for state and federal taxes, as may be required by the tax collector to determine or verify the tax due under this article. Every person making such return shall certify the correctness thereof under the penalties of perjury.
- B. First return.
  - (1) For the license year 1975, every person subject to the tax imposed by this article who has commenced business prior to the beginning of said license year, shall on or before the first day of July 1975, file with the Collector a return setting forth his name, his business and business address, and such other information as may be necessary to compute the actual gross volume of business transacted by him during the license year and the amount of tax estimated to be due.
  - (2) Every person subject to the tax imposed by this article who commences business subsequent to the beginning of the license year shall within 60 days from the date of commencing such business file a return with the Collector setting forth his name, his business and business address and such information as may be necessary to compute the actual gross volume of business transacted by him during the license year and the amount of tax estimated to be due.
  - (3) Every person subject to payment of the tax imposed by this article who engages in a business, temporary, seasonal or itinerant by its nature, shall within seven days from the day he completes such business file a return with the Collector setting forth his name, his business and business address, and such information as may be necessary in arriving at the actual gross amount of business transacted by him during such period and the amount of the tax due.
- C. Final tax return.

- (1) On or before April 15 of each year, every person subject to the tax hereby imposed shall make a final return to the Collector showing the actual volume of business transacted by the taxpayer during the preceding license year. Such final return shall state the amount of the gross volume of business as set forth in the first tax return, the amount of tax paid at the time of filing the first tax return, and the amount of tax due upon the final computation. **[Amended 11-13-2008 by Ord. No. 679; 5-10-2021 by Ord. No. 830<sup>106</sup>]**
- (2) Any person ceasing to do business during the license year shall, within 14 days from the date of ceasing to do business, file a final return showing the actual gross volume of business conducted during that portion of the license year in which said person was actually in business, and pay the tax due as computed thereon.

#### **§ 215-7. Payment of tax.**

- A. At the time of filing the first tax return, the person making the same shall pay the amount of the tax estimated to be due.
- B. At the time of the filing of the final tax return, if the full amount of the tax due by the taxpayer for the license year has not been paid, the taxpayer shall pay the remaining balance of the tax which will be the difference between the amount of the tax paid at the time of making the first return on the estimated computation, and the amount of the tax finally shown to be due.

#### **§ 215-8. Duties of Collector. [Amended 2-28-1983 by Ord. No. 338]**

- A. It shall be the duty of the Collector to collect and receive the fees, taxes, fines and penalties imposed by this article. It shall also be his duty to keep a record showing the amount of the tax received by him and the date of payment.
- B. If the Collector is not satisfied with the return and payment of tax made by any taxpayer or supposed taxpayer under the provisions of this article, he is hereby authorized and empowered to make a determination of the tax due by such person, based upon the facts contained in the return, or upon any information within his possession, or that shall come into his possession and for this purpose, the Collector, or his authorized agent are authorized to examine the books, papers and records of any such person to verify the accuracy of any return or payment made under the provisions thereof or to ascertain whether the taxes imposed by this article have been paid. The Collector is hereby authorized and directed to make and keep such records, prepare such forms and take such other measures as may be necessary or convenient to carry this article into effect, and may, in his discretion, require reasonable deposits to be made by licensees who engage in a business temporary, seasonal or itinerant by its nature. The tax collector is hereby authorized to require any person making a return under this article to provide, with the return, copies of such tax returns, forms and schedules, filed for federal and state taxes, as the tax collector shall, in his discretion, require to determine or verify the tax due under this article.
- C. If any taxpayer or supposed taxpayer shall neglect or refuse to make any return and payment of tax required by this article, or if, as a result of an investigation by the Collector, a return is found to be incorrect, the Collector shall estimate the tax due by such person, and determine the amount due by him for taxes, penalties and interest thereon.

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**106. Editor's Note: This ordinance grants an extension of the deadline for the required filing date of the final tax return for the 2020 tax year only from April 15, 2021 to May 17, 2021. This extension shall not apply to any future tax year final return required filing dates set forth in Chapter 215, Article I of the Code of the Township of Middletown.**



- D. The burden is hereby imposed upon any person, firm or corporation claiming an exemption from the payment of the tax hereby imposed to convince the Collector of his legal right to such exemption.
- E. If the final return of the taxpayer shows an overpayment of the tax by reason of the fact that the gross volume of business as stated in the estimated computation was less than the actual volume of business for the year or by reason of the fact that the taxpayer did not continue to engage in business throughout the year, the Collector shall refund to the taxpayer, without interest, the amount of such overpayment, which shall be the difference between the amount of tax paid upon the filing of the first return and the amount of the tax finally shown to be due.

**§ 215-9. Confidential nature of returns.**

Any information gained by the Collector or any other Township employee or official from the administration of this tax shall be confidential, except in accordance with proper judicial order or as otherwise provided by law, and divulgence of any information so gained is hereby declared to be a violation of this article.

**§ 215-10. Recovering unpaid taxes.**

All taxes due and unpaid under this article shall be recoverable by the Township Solicitor as other debts due the Township are now by law recoverable.

**§ 215-11. Interest and penalty.**

All taxes due under this article shall bear interest at the rate of 1% per month or fractional part of a month, from the day they are due and payable until paid. If any taxpayer shall neglect or refuse to make any return or payment as herein required, an additional 10% of the amount of the tax shall be added by the Collector and collected.

**§ 215-12. Receipts to be paid into treasury.**

All taxes, interest and penalties received, collected or recovered under the provisions of this article shall be paid into the Treasury of the Township of Middletown for the use and benefit of the Township of Middletown.

**§ 215-13. Construction.**

The provisions of this article are severable and if any of its provisions or exemptions shall be held to be illegal, invalid or unconstitutional, or invalid or unconstitutional as to any part of the period designated herein as the license year, the decisions of any Court shall not affect or impair any of the remaining provisions of this article, or affect or impair its application upon any other part of the said license year, and the requirements as to the license shall operate as of the effective date of this article and the computation of tax and payment thereof shall be applied and adjusted accordingly.

**§ 215-14. Violations and penalties.**

Any person, as defined in this article, or any officer, agent, servant or employee thereof, who shall fail, neglect or refuse to comply with any of the terms of provisions of this article, shall, upon conviction thereof before a Magisterial District Judge, be sentenced to pay a fine of not less than \$25 nor more than \$300 and costs and prosecution, for each offense, to be collected as other fines and costs are by law collectible, and in default of payment of said fine and costs, shall be imprisoned in the Delaware County Jail for a period

not exceeding 30 days. The fine imposed by this section shall be in addition to any other penalty imposed by any other section of this article.

**§ 215-15. Effect on other provisions.**

It is the intent of the Township Council that any ordinance now in effect which imposes a special license fee or tax on specific types or kinds of business not covered by the provisions of this article shall be and remain in full force and effect.

**§ 215-16. When effective.**

This article shall become effective immediately after its passage and advertisement subject to the time limitations of the "Local Tax Enabling Act."

## ARTICLE II

**Business Privilege Tax****[Adopted 12-15-1980 by Ord. No. 266 (Ch. II, Art. 2, of the 1976 Ordinance Book)]****§ 215-17. Title.**

This article shall be known as "The Middletown Business Privilege Tax Ordinance."

**§ 215-18. Definitions.**

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**BUSINESS** — All business, trades, occupation, professions and activities carried on or exercised for gain or profit, including without limitation those enterprises engaged in by hotel operators, motel operators, parking lot and garage operators, warehouse operators, lessors of real and/or tangible personal property, social workers, consultants, teachers, nurses, health services, therapists, physicians and surgeons, osteopaths, podiatrists, chiropractors, veterinarians, optometrists, pharmacists, lawyers, dentists, engineers, architects, chemists, certified public accountants, public accountants, funeral directors, promoters, factors, commission merchants, agents brokers, manufacturer's representatives, advertising and public relations agencies, real estate brokers, insurance brokers and agents, cable television operators, operators of places of amusement providing either passive or active recreation, vending machine operators, barbershop operators, and beauty shop operators, cleaning, pressing and dyeing establishment operators, laundry operators, shoe repair shop operators, tailors, upholsterers, electrical, plastering, bricklaying, carpentry, heat, ventilating, plumbing and painting, contractors engaged in the class of heavy building or other construction of any kind or in the alteration, maintenance or repair thereof, repairers of electrical, electronic and automotive machinery and equipment or other machinery and equipment and other wares and merchandise and other businesses, trades, occupations and professions in which there is offered any service or services to the general public or a limited number thereof.

**CALENDAR YEAR** — The period January 1 to December 31, inclusive, except that for 1981, "calendar year" shall mean the period February 1 to December 31, inclusive.

**ESTIMATED RETURN** — Tax return to be filed on or before April 15th of the tax year and based upon the estimated gross volume of business.**[Amended 11-13-2008 by Ord. No. 679; 5-10-2021 by Ord. No. 830<sup>107</sup>]**

**FINAL RETURN** — Tax return to be filed on or before April 15th of the year following the tax year and based upon the actual gross volume of business.**[Amended 11-13-2008 by Ord. No. 679; 5-10-2021 by Ord. No. 830<sup>108</sup>]**

**LICENSE YEAR** — The period from January 1 to December 31, inclusive, except that for 1981, "license year" shall mean the period February 1 to December 31, inclusive.

**PERSON** — Any individual, partnership, limited partnership, association, firm, or corporation. Whenever used in any clause prescribing or 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.

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107. Editor's Note: This ordinance grants an extension of the deadline for the required filing date of the final tax return for the 2020 tax year only from April 15, 2021 to May 17, 2021. This extension shall not apply to any future tax year final return required filing dates set forth in Chapter 215, Article II of the Code of the Township of Middletown.

108. Editor's Note: This ordinance grants an extension of the deadline for the required filing date of the final tax return for the 2020 tax year only from April 15, 2021 to May 17, 2021. This extension shall not apply to any future tax year final return required filing dates set forth in Chapter 215, Article II of the Code of the Township of Middletown.

RETAIL DEALER — Retail vendors or of dealers in goods, wares and merchandise; that is, those vendors or dealers who are not wholesale vendors or dealers.

TAX ADMINISTRATOR — The person or firm contracted with to collect said tax.

TAXPAYER — A person subject to the payment of the tax imposed by this article.

TAX YEAR — The period from January 1 to December 31, inclusive.

TREASURER — The Finance Director of the Township of Middletown.

WHOLESALE DEALER or WHOLESALE VENDOR — Any person who sells to dealers in or vendors of goods, wares and merchandise and to no other persons.

**§ 215-19. Method of levy. [Amended 2-17-1987 by Ord. No. 401]**

There is hereby levied for the tax year 1981 and annually thereafter a tax for general revenue purposes on the privilege of doing business as herein defined in the Township of Middletown as follows:

- A. The rate of the tax on each and every dollar of the whole gross volume of business transacted within the territorial limits of the Township of Middletown shall be 2 1/4 mills, 2 1/4 mills shall mean \$2.25 per \$1,000 of gross volume of business; except that the rate of tax on each and every dollar of the whole or gross volume of business transacted by wholesale dealers or the wholesale vendors within the territorial limits of the Township of Middletown shall be 1 1/2 mills. All non-wholesale business or such wholesale dealers or wholesale vendors shall be taxed at the general rate of 2 1/4 mills.
- B. Computation of volume of business.
  - (1) Every person subject to the payment of the tax hereby imposed who has commenced his business prior to the full calendar year prior to the tax year shall compute his annual estimated gross volume of business upon the actual gross amount of business transacted by him during said immediately preceding calendar year. (As example, for the tax year 1981, if a person is in business as of January 1, 1981, and continues to be in business for the full calendar year, then the figures for 1980 shall be the basis for the computation for his annual estimated gross volume of business.)
  - (2) Every person subject to the payment of the tax hereby imposed who has commenced or who commences his business before the beginning of the tax year but after the beginning of the full calendar year prior to the tax year, shall compute his estimated annual gross volume of business for the tax year upon the gross volume of business transacted by him during prior calendar year, taking the monthly average during said period and multiplying the same by 12. In the event that he shall be in business fewer than 90 days in the prior calendar year, he shall be permitted to use sufficient days in calendar year in which the tax year begins to equal 90 successive days after commencement of business, to take a monthly average thereon, and to multiply the average by 12.
  - (3) Every person subject to the payment of the tax hereby imposed who has commenced or commences his business subsequent to the beginning of the tax year, if there shall be less than three months from the commencement of his business to the end of the tax year, shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the tax year; if there shall be more than three months from the commencement of his business to the end of the tax year, he shall compute his estimated gross volume of business for such tax year upon the gross volume of business transacted by him during the period from the commencement of his business to the end of the tax year, taking the monthly average during the

first three months of business and multiplying the same by the number of months from the commencement of business to the end of the tax year.

- (4) Every person subject to the payment of the tax hereby imposed who engages in a business temporary, seasonal or itinerant by nature, shall compute his estimated gross of business to be transacted by him for the period said person engages in such temporary, seasonal or itinerant business within the Township by a method to be determined by the Tax Administrator.
- (5) The Tax Administrator is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the Township in any case where the taxpayer disputes the validity or amount of the Township's claim for tax. If it is thereafter judicially determined by a court of competent jurisdiction that the Township has been overpaid, the amount of the overpayment shall be refunded to the taxpayer. The provisions of this section shall be applicable to cases in which the facts are similar to those in a case litigated in a court of competent jurisdiction.
- (6) Payments made under Article I, Mercantile Tax, for business to which this tax is applicable shall be credited to this tax and vice versa. Any person required to pay both a business privilege tax and a mercantile license tax may file one joint return.

C. Persons, business and receipts exempted.

- (1) Persons and business. Persons employed for a wage or salary, nonprofit corporations or associations organized for religious, charitable or educational purposes, agencies of the Government of the United States or of the Commonwealth of Pennsylvania and the business of any political subdivision, or of any authority created or organized under and pursuant to any act of assembly are exempt from the provisions of this article.
- (2) No such tax shall be assessed and collected on a privilege, transaction, subject, or occupation which is subject to a state tax or license fee or which has been held by the Courts of Pennsylvania to be the basis for the exemption from the imposition of a privilege tax by a municipality and specifically all businesses or occupations being presently taxed under Article I, Mercantile Tax, being Ordinance No. 182, approved March 3, 1975.
- (3) Utilities. No such tax shall be assessed and collected on the gross receipts from utility service of any person or company whose rates of service are fixed and regulated by the Pennsylvania Public Utility Commission; or on any public utility service rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.
- (4) State tax on tangible property. No such tax shall be assessed and collected on the privilege of employing such tangible property as is subject to a state tax except on sales of admission to places of amusement or on sales or other transfers of title or possession of property.

D. Gross or whole volume of business upon which the tax hereunder is computed shall include the gross consideration credited or received for or on account of sales made, rentals and/or services rendered, subject only to the following allowable deductions and exemptions:

- (1) 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 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.

- (2) Refunds, credits, or allowances given by a taxpayer to a purchaser on account of defects in goods, wares or merchandise sold, or on account of goods, wares or merchandise returned.
  - (3) Any commissions paid by a broker to another broker on account of a purchase or sales contract initiated, executed or cleared with such other broker.
  - (4) Bad debts where the deduction is also taken in the same year for federal income taxation purposes.
  - (5) Taxes collected as agent for the United States of America, Commonwealth of Pennsylvania or the Township of Middletown.
- E. Where gross or whole volume of business in its entirety cannot be subjected to the tax imposed by this article by reason of the provision of law, the Tax Administrator with the approval of the Township Council of the Township of Middletown shall establish rules and regulations and methods of allocation and evaluation so that only the part of the gross or whole volume of business which is properly attributable and allowable to doing business in the Township of Middletown shall be taxed hereunder.
- F. If any person is liable for the same tax on the same subject imposed under the Local Tax Enabling Act of 1965, December 21, Pamphlet Law 1257,<sup>109</sup> and its amendments, to the Township and one or more political subdivisions of the state, then and in that event the tax shall be apportioned by such percentage as may be agreed upon by such political subdivisions, but, in no event shall the combined taxes of both subdivisions exceed a maximum rate of tax as fixed by the Enabling Act permitting the imposition of such taxes.
- G. The taxpayer, to obtain the foregoing enumerated exclusions and deductions, shall keep books and records of his business so as to show clearly, accurately, and separately the amount of such sales and services as are excluded from the tax and the amounts of such sales and services which he is entitled to deduct from the gross volume of business as hereinbefore provided.

**§ 215-20. Returns. [Amended 2-28-1983 by Ord. No. 338]**

- A. Every return shall be made upon a form furnished by the Tax Administrator. Every person making a return shall certify the correctness thereof by affidavit. Every person making a return shall furnish such additional information, including copies of tax returns, forms and schedules, filed for federal and state taxes, as the Tax Administrator shall, in his discretion, require to determine or verify the tax due under this article.
- B. Every person subject to the tax imposed by this article shall be required to file two tax returns each year: an estimated return and a final return unless otherwise provided for in this article. Each time an estimated return is required to be filed, the following year, if it is determined that the amount of tax paid in the estimated return was greater than required by the final return, the taxpayer shall be entitled to either apply the overpayment to the estimated return for the year in which the final return in question is being filed or, in the alternative, is entitled to a refund. In the event that the estimated tax was less than the amount finally determined to be owed in the final return, the taxpayer shall be liable to pay said tax upon the filing of the final return plus interest at the rate of 6% per annum. In the event that the amount paid at the time of the filing of the estimated return is 80% of the total tax due for the entire tax year, including the estimated tax paid as well as the final tax paid. **[Amended 5-10-2021 by Ord. No. 830<sup>110</sup>]**

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<sup>109</sup>.Editor's Note: See 53 P.S. § 6901 et seq.

- (1) Every person subject to the tax imposed by this article who commenced his business on or before January 1 of the full calendar year previous to the beginning of any tax year shall on or before March 31 of the tax year file with Tax Administrator an estimated return setting forth his name, his business, his business address, and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the preceding calendar year, and the amount of tax due.
  - (2) Every person subject to the tax imposed by this article who has commenced his business before the beginning of the tax year but after January 1 of the full calendar year previous to the beginning of the tax year shall on or before March 31 of the tax year file with the Tax Administrator an estimated return setting forth his name, his business, business address, and such other information as may be necessary in arriving at the estimated gross amount of business transacted by him as calculated under § 215-19B(2) hereof and the amount of tax due.
  - (3) Every person subject to the tax imposed by this article who commences business subsequent to the beginning of any tax year shall, within 100 days from the date of commencing said business, file with the Tax Administrator either an estimated return or a final return, in accordance with § 215-19B(2) hereof, setting forth his name, his business and business address, and such other information as may be necessary in arriving at the estimated or actual gross amount of business transacted by him as calculated under § 215-19B(3) hereof in the amount of tax due.
  - (4) Every person subject to the payment of the tax imposed by this article who engages in a business temporary, seasonal or itinerant by its nature shall, at the time application is made for the business privilege license, file a return with the Tax Administrator setting forth his name, his business, his business address, and such other information as may be necessary in arriving at the estimated gross amount of business to be transacted by him as calculated in accordance with § 215-19B(4).
  - (5) Any person going out of or ceasing to do business shall, within seven days from the date of ceasing to do business, file a return showing the actual gross volume of business conducted and done by such person during that tax year in which said person ceased doing business, and pay the tax due as computed thereon at the rate herein provided for at the time of filing said return. If such tax has been previously paid based upon estimated gross receipts, the taxpayer shall be entitled to a refund, without interest, of any excess tax paid for the tax year in which business was terminated.
- C. The business privilege tax levied pursuant to this article shall be due and payable on the date on which the taxpayer is required to file a return as set forth above and if the same is not paid on said date, 5% shall be added thereto, plus an additional 1% per month or fractional part of a month until paid.
- D. The Treasurer shall, upon payment to him of the business privilege tax, give the person paying the same a receipt thereof.

### § 215-21. License.

After the effective date of this article, any person desiring to conduct, or to continue any business, as herein defined, within the Township of Middletown, shall file with the Tax Administrator an application for a business privilege license and shall pay a fee of \$10 for each renewal thereof. Taxpayers who pay a license

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110. Editor's Note: This ordinance grants an extension of the deadline for the required filing date of the final tax return for the 2020 tax year only from April 15, 2021 to May 17, 2021. This extension shall not apply to any future tax year final return required filing dates set forth in Chapter 215, Article II of the Code of the Township of Middletown.

fee under Article I, Mercantile Tax, shall not be required to pay the fee for the business privilege license issued hereunder.

**§ 215-22. Posting.**

The license shall be conspicuously posted in the place of business for which the such license is issued, and shall remain in effect for the license year or fraction of year for which said license was issued. In cases where more than one place of business is conducted, a separate license shall be issued for each place of business. Any taxpayer who is in default in payment of tax due hereunder shall be refused a license until such tax is paid in full.

**§ 215-23. Violations and penalties.**

Any person who shall conduct, transact or engage in any of the businesses subject to the tax imposed by this article, without having first secured a business license for the year, or any person who shall fail to file a tax return as required by the provisions of this article, or any person who shall willfully file a false return, shall, upon summary conviction before any Magisterial District Judge of Delaware County, be sentenced to pay a fine not to exceed the sum of \$300 for any one offense, recoverable with costs, or imprisonment not exceeding 90 days, if the amount of said fine and costs shall not be paid.

**§ 215-24. Continuing offense.**

Each day on which such person violated this article may be considered as a separate offense and punishable as such as aforeprovided.

**§ 215-25. Duties of Tax Administrator and Treasurer.**

- A. The Treasurer is charged with the duties of collecting and receiving the taxes, fines and penalties imposed by this article. It shall be his duty to keep a record showing the amount received by him from each person paying the tax and the date of such receipt.
- B. The Tax Administrator and his duly appointed deputies, under the direction of the Treasurer, are hereby empowered to collect and receive the taxes, fines and penalties imposed by this article, to keep records relating to same, to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination and correction of returns, and payments alleged or found to be incorrect, or as to which an overpayment is claimed, or found to have occurred, and charged with enforcing the provisions of this article and any rules and/or regulations promulgated pursuant hereto.
- C. In the event the person to be assessed neglects or refuses to make a return, then in such case the Tax Administrator or his duly appointed deputies shall assess said person on such an amount of whole or gross volume of business as said Tax Administrator or his deputies deem reasonable and appropriate. In all cases of assessment, the Tax Administrator or his duly appointed deputies shall give the parties assessed a notice in which shall be stated the trade, business, occupation or class, and the amount of the business privilege tax imposed or levied.
- D. The taxpayer shall maintain such records and books of account as will enable him to make a true and accurate return in accordance with the provisions of this article. Such accounts and records must disclose in detail the gross volume of business, and must be sufficiently complete to enable the Tax Administrator or his deputies to verify all transactions. The Tax Administrator or his deputies are hereby authorized to examine the books, papers, and records of any person or persons subject to or



supposed to be subject to the tax imposed by this article, in order to verify the accuracy of the return made, or if no return was made, ascertain the tax due.

- E. Any person aggrieved by any decision of the Tax Administrator shall have the right to appeal to the Court of Common Pleas, as in other cases.

**§ 215-26. Confidential nature of returns.**

Any information gained by the Tax Administrator or any other official, agent or employee of the Township, as a result of any returns, investigations, hearings, or verifications required or authorized by this article, shall be confidential except in accordance with proper judicial order or as otherwise provided by law.

**§ 215-27. Suit on collection and penalty.**

- A. The Tax Administrator or his duly appointed deputies shall have the power in the name of the Township to institute proceedings against any and all persons who violate the provisions of this article after first advising Township Council of the Township of Middletown of such action.
- B. If for any reason the tax is not paid when due and 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 interest and penalties herein imposed.

**§ 215-28. Savings; severability.**

- A. Nothing contained in this article shall be construed to empower the Township to levy and collect the taxes hereby imposed on any person, or any business, or any portion of any business not within the taxing power of the Township under the Constitution of the United States and the laws and Constitution of the Commonwealth of Pennsylvania.
- B. If the tax, or any provision thereof, imposed upon any person under the provisions of this article shall be held by any court of competent power or jurisdiction to be violation of the Constitution of the United States or of the Commonwealth of Pennsylvania or any other provision of the law, the decisions of the court shall not affect or impair the right to impose the taxes, or the validity of the taxes so imposed upon other persons as herein provided.

**§ 215-29. When effective.**

This article is enacted pursuant to the authority of the Local Tax Enabling Act, 1965, December 31, Pamphlet Law 1257,<sup>111</sup> as amended, and shall become effective on the 31st day after it has been passed by the Township Council of the Township of Middletown and shall continue thereafter unless amended or repealed.

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<sup>111</sup>.Editor's Note: 53 P.S. § 6901 et seq.

## ARTICLE III

**Enforcement and Collection Procedures****[Adopted 9-28-1981 by Ord. No. 292 (Ch. II, Art. 3, of the 1976 Ordinance Book)]****§ 215-30. Definitions.**

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

TAXING DISTRICT — The Township of Middletown.

**§ 215-31. Allocation of business done and gross volume of business.**

- A. General. Generally, receipts will be considered allocable to the place of business in the taxing district if any significant aspect of the transaction arises out of the place of business located in the taxing district.
- B. Lessors of tangible personal property. Persons doing business within the taxing district who own and hold title to tangible personal property which is leased to others are required to report the gross receipts from the rental of or license to use such property according to the following rules:
  - (1) Where the original situs of the property is within the taxing district, the receipts from tangible personal property leased to others are deemed to be:
    - (a) Wholly taxable receipts, if the property is delivered to lessees inside of Pennsylvania.
    - (b) Nontaxable receipts, if the property is delivered to lessees outside Pennsylvania.
  - (2) Where the original situs of the property is outside Pennsylvania, the receipts from tangible personal property leased to others are deemed to be:
    - (a) Allocable receipts, if the property is delivered to lessee within the taxing district.
    - (b) Nonallocable and nontaxable receipts, if the property is delivered to lessees outside the taxing district within or without the United States.
    - (c) The term "original situs," as used herein, means the place at which the property is warehoused when not leased to others and to which place the property is returned upon termination of the lease. Where there is no such established place, the term "original situs" shall mean the principal office of the taxpayer.
    - (d) This subsection does not apply to conditional sales of tangible, personal property.
- C. Lessors of real property. Persons doing business within the taxing district who own and hold title to real property which is leased to others are required to report the gross receipts from the rental of all such property which is situated in the taxing district. This subsection does not apply to conditional sales of real property. Where a lessor has no more than two rental units in his principal place of residence such rentals are excluded from taxable receipts, provided he has no other rental units of realty located within the taxing district.
- D. Place of origin and delivery outside of the taxing district. Where the place of origin of goods, wares and merchandise in a sales transaction is a location owned or leased by the seller outside of the taxing district and the place of delivery is a location outside of the taxing district regularly maintained by the other party to the transaction, the receipts are nonallocable and nontaxable.

- E. Location of vendee. Receipts from the sale of goods, wares and merchandise delivered to a vendee located outside of the taxing district by an employee of the taxpayer who works in or from, or is attached to the taxing district place of business of the taxpayer, is fully taxable if the vendee is located within Pennsylvania and nontaxable if the vendee and place of delivery is located outside of Pennsylvania.

**§ 215-32. What constitutes doing business in the taxing district.**

- A. Whether or not a person carries on a taxable activity within the meaning of the Business Privilege and/or Mercantile Tax Act is essentially a question of fact. In general, taxable activity includes any trade, business, profession, vocation or commercial activity that is carried on in the taxing district. The tax is imposed on any person who exercises the privilege of carrying on certain activities in the taxing district and on any wholesale or retail vendor in goods, wares or merchandise, and is measured by receipts received.
- (1) Inter- and intrastate business. Doing business includes any trade, business, profession, vocation or commercial activity of an intrastate or interstate character.
  - (2) Residence or domicile. A person who engages in a taxable activity in the taxing district is subject to this tax whether or not he is a resident and whether or not he has a permanent place of business in the taxing district.
  - (3) Foreign corporation. A foreign corporation is subject to this tax if it carries on a taxable activity in the taxing district whether or not it is licensed to do business in Pennsylvania.

**§ 215-33. Interstate commerce.**

- A. General. Receipts from transactions involving more than one state are not exempt from tax, but are to be included in the tax base either in their entirety or excluded in their entirety as provided in these regulations. Transactions defined below as interstate commerce are exempt from the tax. Those which do not constitute interstate commerce are taxable in full.
- B. What constitutes "interstate commerce"? Transactions will be deemed to involve interstate commerce only when they directly involve the sale, exchange or transportation of commodities between the states, the transportation of passengers between states, or the transmission of intelligence or communications between the states. The citizenship or residence of the parties to the transaction is of no significance. Where a sale transaction is involved, it is of no importance in which state title to the goods passes, or whether the goods are shipped FOB one state or another.
- C. Sale and delivery in Pennsylvania. Interstate commerce is not deemed to be involved in sales made by a taxing district seller to customers located outside of Pennsylvania where the property is delivered directly to the purchaser or his agent within Pennsylvania, notwithstanding the fact that the purchaser or his agent intends to, and later does, transport the property to a point outside Pennsylvania.
- D. Shipment from taxing district by seller. Sales will be considered as having been made in interstate commerce when the seller, as a necessary incident to the contract of sale, agrees to, and does, deliver the property to the purchaser at a point outside of Pennsylvania, or delivers the property to a common carrier consigned to the purchaser at a point outside Pennsylvania.
- E. Shipment into the taxing district from seller's out-of-state place of business. With respect to sales made by a taxing district seller, the transaction will be considered to be one in interstate commerce. If, by the express terms of the contract of sale, or the established practice of doing business, the seller

is required to deliver by transporting or shipping the property from his place of business situated outside of Pennsylvania directly to the purchaser at a point within the taxing district.

- F. Shipments into the taxing district from a third party's out-of-state place of business. Interstate commerce is not deemed to be involved if the taxing district seller causes direct delivery to be made to the purchaser at a point in the taxing district from an out-of-state source of supply owned or operated by a third party (one from whom the seller buys).
- G. Delivery from the seller's out-of-state place of business via his office. Interstate commerce is not deemed to be involved with respect to sales made to a Pennsylvania purchaser if the property is shipped from the seller's place of business located outside of Pennsylvania to the seller's place of business in the taxing district from which point the goods are delivered to the purchaser.

**§ 215-34. Contractors performing building or construction work outside the taxing district.**

- A. Contractors with field offices. Taxing district contractors or subcontractors engaged in the performance of building and construction contracts as a point outside the territorial limits of the taxing district may exclude from the measure of the tax the receipts derived therefrom, provided that a field office was maintained on the premises of the project during the performance of the contract to such an extent as to constitute doing local business at the situs of the job.
- B. Alterations and repairs. The provisions of this section apply only to contractors engaged either in the erection of new buildings or in the complete alteration and remodeling of old buildings. They do not apply to contractors who engage in alteration and repair jobs of a limited scope, such as a roofer repairing a damaged roof of a building situated outside the taxing district, or a painter renovating an apartment in an apartment house located outside the taxing district.
- C. Engineers and technicians. The exemption provisions of this section do not apply to engineers and other technicians rendering personal services outside the taxing district.
- D. Qualifications for exemptions. To qualify hereunder, the contractor must show that he established a place of business at the situs of the job by setting up a field office thereat with machinery and equipment for use in the fulfillment of the contract, and performed such other act as to constitute doing local business at the situs of the job.

**§ 215-35. Brokers and agents with out-of-taxing district offices.**

- A. Where a general agent or broker of an insurance, real estate, or other firm maintains a branch office outside of the taxing district, the commissions attributable to such branch office may be excluded from gross receipts. If any significant aspect of the transaction occurs in the taxing district as a result from the efforts of brokers, subagents or employees who work in, or from, or are attached to the taxing district, such commissions shall be included in gross receipts.

**§ 215-36. Persons, business and receipts exempted.**

- A. Nonprofit corporations or associations, religious, charitable and educational institutions, persons, entities, transactions and other matter exempted by the provisions of the act or other applicable law. Business income not excluded. The exclusion from taxation of receipts from the business of nonprofit religious, charitable or educational organizations is limited to those receipts derived from activities which are connected with the noncommercial operations of the organization. Commercial activities carried on by such an organization are taxable. All business income of nonprofit religious charitable and educational organizations is taxable.

- B. Receipts from sales to governmental agencies and nonprofit organizations. Sales to institutions, receipts from sales made or services rendered to governmental bodies, and to religious charitable and educational corporations and associations shall not be excluded from the tax base. The statute does not grant any exemption to taxpayers transacting business with such agencies or institutions.

**§ 215-37. State tax or license.**

- A. Nominal or registration fees. The fact that a taxpayer receives a certificate or other document which is designated a "license" from the Commonwealth of Pennsylvania for which the taxpayer pays a sum of money does not exempt the taxpayer from the business privilege and/or mercantile tax. Flat annual fees, fees which are not related to gross income or amount of production, or fees that are nominal in nature are not considered true license fees and hence, payment of such fees will not exempt the taxpayer from the business privilege and/or mercantile tax.
- B. Payment to the taxing district for housing permits, building and plumbing permits, etc. will not exempt the taxpayer from the business privilege and/or mercantile tax.
- C. Nonlicensed functions taxable. The reports of any person who falls within the state tax or license fee exemption which are derived from any activity which if conducted separate and apart from other business activities would be subject to the state tax or license fee shall not be excluded from the tax base.
- D. Local tax under state authority. Local taxes by counties, municipalities or other public bodies though authorized by state legislation are not considered state taxes or license fees.
- E. Monies returned to municipalities by the state. Any tax which is collected by the state but which, with the exception of administrative costs, is returned to the municipalities, is not considered a state tax or license fee. Such taxes include, but are not limited to:
- (1) Gross receipt taxes of non-Pennsylvania Fire and Casualty Insurance Companies.
  - (2) License fees for hotel, restaurant and club liquor licenses.
- F. State license fees which exempt receipts earned thereunder include but are not limited to those fees levied under the following acts:
- (1) The Pennsylvania Securities Act of June 24, 1939, P.L. 748, as reenacted and amended (70 P.S. § 31 et seq.).<sup>112</sup>
  - (2) Small loan companies, Act of June 17, 1915, P.L. 1012, as amended (7 P.S. § 6151 et seq.).<sup>113</sup>
  - (3) Consumer discount companies, Act of April 8, 1937, P.L. 262 as amended (7 P.S. § 6201 et seq.).

**§ 215-38. Utilities.**

- A. Nonutility functions taxable. The receipts of any public utility, operating under the rules and regulations of the Pennsylvania Public Utility Commission, derived from supplying services at rates specified in its tariffs shall be excluded from the tax base. Public utilities shall not exclude from their tax base receipts derived from sales of appliances, equipment, advertising, etc. A contract carrier is

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112. Editor's Note: Said act was repealed 4-12-1978 by P.L. 202, No. 53, effective 6-27-1980.

113. Editor's Note: Said act was repealed 3-3-1976 by P.L. 40, No. 18.

not a public utility.

**§ 215-39. Terminology.**

- A. "Gross receipts" means gross consideration received in, or by reason of, any sale made, or services rendered or commercial or business transaction occurring in or attributable to the taxing district including cash, credits, and property of any kind of nature without deduction on account of the cost of materials, labor, services, or other costs, interest or discount paid, or any other expenses whatsoever.
- B. In general, the word "sale" is used in the definition of the term "gross receipts" includes, but is not limited to any transfer of title for a consideration. It includes exchange, barter, and bailments.
- C. Products manufactured or grown in the taxing district.
  - (1) Gross volume of business derived from the above mentioned is not subject to the tax.

**§ 215-40. Real estate brokers.**

- A. Generally, real estate brokers and agents are required to report as taxable receipts the commissions and fees received for services rendered as agent in promoting the purchase and sale of real property for others. Brokers and agents not having an office in the taxing district shall report as taxable receipts commissions received on the sale of properties within the taxing district. Such amount does not include the gross selling price of property, except as set forth in Subsection C.
- B. Deduction of shared fee. A real estate broker, or agent may exclude from his tax base, any commissions paid by him to another broker, or agent, on account of a contract or purchase or sale initiated, executed, or cleared in conjunction with the broker, salesman or agent to whom the commission or part of the commission is paid. Commissions paid to a salesman by a broker or agent when the salesman is affiliated with the broker or agent are not excludable from the broker's or agent's tax base.
- C. Broker's sale of owned property. If a person is in the business of taking title to real property and selling the property, he is required to include the gross selling price of the property taxable receipts. The same person may be taxed both as a broker and as a seller, depending on the nature of the transactions. If he acts as a broker, salesman or agent, his tax is based on commissions.
- D. If he buys and sells real estate, whether in his own name or in the name of a straw party, he is taxed on the gross selling price of the real estate.

**§ 215-41. Traveling expenses.**

- A. Reimbursement of traveling expenses excluded from gross receipts only if the taxpayer incurred such traveling expenses as agent for another from whom the taxpayer receives reimbursement for such expenses.

**§ 215-42. Trade discounts.**

- A. Deductions allowed. Trade discounts allowed to customers may be deducted from the gross amount charged in ascertaining the amount to be reported as receipts from sales. Trade discounts include:
  - (1) Discounts deducted from the face amount of the bill as a method of adjusting the list price.

- (2) Discounts unconditionally deducted by customers at settlement of their bills and allowed as a matter of established custom of the trade without regard to the due date of such bills or the form or terms in which such discounts are described or stated on bills.

**§ 215-43. Other discounts.**

- A. Deductions allowed. Discounts allowed to customers as cash discounts for prompt payment of their bills may be deducted from gross receipts.

**§ 215-44. Freight, delivery, or other transportation charges.**

- A. If seller contracts to deliver. If the seller contracts to deliver the property sold to some designated place, or is obligated under the terms of the contract to pay transportation charges to some designated place, the transportation services are rendered to the seller and the freight, delivery or other transportation charges so incurred by the seller may not be deducted from gross receipts.
- B. If buyer deducts cost of delivery from payment. If property is sold on terms requiring the seller to deliver such property to a designated place but the purchaser pays the amount of freight, delivery or other transportation charged in the first instance, and deducts such charges from the invoice price in making remittance to the seller, no deduction from gross receipts may be taken therefor by the seller.
- C. If seller advances charges. Where the seller advances the freight, delivery or other transportation charges for the account of the purchaser in accordance with the terms of the contract of sale, such charges may be excluded from the gross receipts of the seller, provided:
  - (1) That such charges are the actual charges incurred and are billed as such to the purchaser; and
  - (2) That the books and records of the taxpayer clearly indicate such facts.

**§ 215-45. Principal and agent.**

- A. General. Receipts from sales made, or services rendered, by an agent for the account of his principal are to be reported by the principal. It is immaterial in such cases whether the customer or client remits directly to the principal, or to the agent for transmittal to the principal. The agent is required to report as gross receipts only the commission withheld by him as compensation for his services before remitting to his principal and any commission paid to him after remitting to his principal. No deduction from gross receipts may be taken by the principal for commission paid to, or withheld by, the agent. A manufacturer's representative is taxable on his gross commissions unless his relationship to his principal is that of employer and employee. This relationship of employer and employee exists if the principal pays social security and unemployment compensation taxes on behalf of the person claiming exemption and if, in the event of an accident in the course of unemployment, the manufacturer's representative might become entitled to workmen's compensation.
- B. Undisclosed principal. A person selling property, including real property or rendering services for an unknown or undisclosed principal, is subject to tax as a principal unless there is disclosed in the agent's return the identity of the principal and the amount of the sale made on his behalf.
- C. Condition as to recognition of agency. A person will be regarded as acting as agent or broker in promoting or soliciting sales or rendering services for the account of a principal when it appears:
  - (1) That the contract or agreement between such persons clearly establishes the relationship of principal and agent;

- (2) That the books and records of the agent or broker show the name of the actual owner of the property on whose behalf the sale is made;
  - (3) That the books and records of the agent or broker show the amount of gross sales and the amounts of commission due thereon.
- D. Collection by agent. Money or property received by a taxpayer, as agent, for transmittal to a third party is not to be reported by such taxpayer as gross receipts, but any commission received by him for his services as agent must be included in gross receipts.
- E. This section shall apply to advertising agencies, public relations, and any other service business which meets the agency criteria.

**§ 215-46. Conditional and installment sales.**

- A. Reported as cash sales. A person making conditional sales or other installment sales of property is required to report the total selling price of such sales as gross receipts for the tax year in which the contracts of sale are entered into, without regard to the fact that the seller may arrange to receive payment from the purchaser on an installment basis or that such contracts may be discounted or pledged with, or sold to, a finance company.
- B. Property repossessed. Where tangible personal property, sold under a conditional or other installment sales contract, is repossessed by the seller, and the repossessed property is subsequently sold, the receipts from such sales are to be included in the measure of the tax only to the extent that the amount of the sale exceeds the balance due on the original sale at the time of repossession. No deduction from gross receipts may be taken for any unpaid balance due at the time of repossession. Such deduction shall be allowed upon resale, if the resale price is less than the unpaid balance.

**§ 215-47. Exchanges between dealers in similar lines.**

Where dealers engaged in similar lines of business exchange articles of tangible personal property and one of them makes payment to the other in addition to the property exchanged by him, the transactions constitute sales to each other. The receipt of each dealer is measured by the gross value of the consideration received by him. Where a dealer transfers property, such as an automobile, to another dealer with the understanding that property of identical description will be returned at a subsequent date, such transaction does not constitute a sale and the value of the property exchanged need not be included in the gross receipts of either dealer. Receipts by dealers from sales to other dealers in the same line where the dealer transfers title or possession at the same price for which he acquired the merchandise may be excluded from gross receipts.

**§ 215-48. Leased departments.**

- A. Return by lessor. Where a person leases a department of his business to another, such person may include in his return the gross receipts from business done and sales made by lessee. When the business of such leased department is included in the return made by the lessor, a schedule must be attached to the return containing the name of the lessee, a description of the department operated, and a statement to the effect that the lessor assumes liability for reporting the gross receipts and paying the tax accruing against the lessee of such department. The lessee, however, is not relieved from his liability for business privilege taxes if the lessor fails to make a proper return or fails to pay the tax due. Should a change occur in the ownership or status of any leased department, the lessor shall notify the Collector of Taxes promptly.



- B. Return by lessee. If the lessee wishes to file returns independently, such lessee is required to include in his return the entire gross receipts of said lessee whether collected by the lessor, or the lessee without deducting any expense or commissions charged to him by the lessor. To expedite the examination and audit of returns filed by such lessee, the Collector of Taxes may require the lessor to furnish a statement of the entire gross receipts collected on behalf of the lessee.

**§ 215-49. Persons erecting buildings or otherwise altering, repairing or improving real property.**

- A. General. A contractor or subcontractor, resident or nonresident, engaged in the business of erecting buildings, or otherwise altering, repairing or improving real property, or other major construction work, is required to report as gross receipts all receipts derived from the performance of such contract. The amount of receipts to be included in the tax base shall be the full contract price, that is, the total amount received or receivable by way of a fixed or determinable amount under the terms of the contract. The contract price will be considered to include all charges made by a contractor, or subcontractor, for materials, labor, supervision, overhead costs, and profit. In the case of the general contractor, prime contractor or subcontractor employing lower-tier subcontractors, no deduction may be made with respect to amounts paid to subcontractors and materialmen, unless it can be shown that the subcontractor has paid the business privilege tax to the taxing district on the same gross receipts stemming from the same contract.
- B. Cost-plus contracts. A general contractor performing contracts on the basis of a "cost-plus-a-fixed-fee" or "cost-plus-a-percentage" is required to report as gross receipts the full contract price as explained above, unless he has no connection whatsoever with the purchase of materials and/or the hiring of labor. In cases where the owner of the property buys the materials and hires all labor in his own name and pays the general contractor a fixed fee, or a percentage of the total cost to supervise and direct the construction project, the general contractor will be required to report only the gross amount of the fee or percentage received. Where the owner authorizes the general contractor to make for him such purchases of tangible personal property, or hire such labor or engage such subcontractors as are necessary for the performance of the contract and pledges his credit and is liable in the first instance to the materialmen, suppliers, laborers or subcontractors, as distinguished from merely guaranteeing payment of them or undertaking to reimburse the general contractor for the cost of such materials, services or subcontracts, and agrees to make payment directly to the materialmen, suppliers, laborers and subcontractors, such sales or services will be regarded as made directly to the owner, and the general contractor will not be required to include such items in his gross receipts.
- C. Contractors or subcontractors permanently or temporarily doing business in the taxing district shall register and file a tax return. (General contractors are required to withhold final payment to subcontractors, temporarily doing business in the taxing district, until proof of payment of the tax is furnished to them by such contractors.)
- D. Contractors or subcontractors with an office in the taxing district who are engaged in the performance of building, construction or engineering contracts at a point outside the territorial limits of the taxing district may exclude from the measure of the tax the gross receipts derived therefrom, provided that a bona fide field office was maintained on the premises of the project during the performance of the contract wherein all control over such project was exercised to the extent that it constituted the doing of local business at the situs of the job. Receipts for services performed outside the taxing district may also be excluded if it can be shown that no part of the service was performed in the taxing district.

**§ 215-50. Contractors who repair, alter and improve tangible personal property.**

Persons engaged in business in the taxing district as contractors who repair, alter and improve tangible

personal property for the account of others are subject to tax under the provisions of this article. When contractors perform labor or services on articles of tangible personal property furnished by the other party to the contract, such contractors are required to report only the amount due them for labor or services rendered.

**§ 215-51. Buildings, hotels, motels, apartment houses, boarding houses, nursing homes, etc.**

- A. Persons operating hotels, apartment houses, boarding houses, nursing homes, rooming houses and all other such establishments are taxable on receipts from renting of rooms, furnishing of meals and any other services rendered.
- B. Any person carrying on the business of renting buildings, offices, space, stores, dwelling houses, etc., shall include gross rentals received in the tax base. No deductions may be made for depreciation, cost of maintenance, repairs, etc.
  - (1) Persons who have obtained real property with no affirmative action on their parts, that is, fortuitously through inheritance, gift, reverter, or other legal processes, and who furnish only those elementary services and maintenance which are required by law, are not subject to the tax unless the property was received from a person who engaged in the business of renting the property and that business is continued by the recipient.
  - (2) Business corporations which hold rental property as a source of income in addition to their regular business, which may or may not be real estate, are subject to the tax whether or not services are rendered.
  - (3) Persons, corporations or partnerships holding rental property in the taxing district, who employ rental agents or other such assistance in administering such property are doing business and are subject to the tax whether or not they provide services.
  - (4) Agencies or entities which manage and/or operate cooperatives and/or condominiums must pay the tax based on all receipts received for maintenance, cleaning, and other service provided, including insurance. Receipts received from owner-tenants for taxes, interest and principal payments may be excluded from the taxable gross receipts.

**§ 215-52. Insurance agents, brokers, and underwriters.**

- A. General agents. General agents for insurance companies are required to report as gross receipts the entire commissions received as compensation for their own efforts on policies sold by them directly and the overriding commissions received by them upon business produced by brokers or subagents.
- B. Brokers or subagents. Brokers or subagents are required to report as gross receipts the commissions received as compensation for their service.
- C. Employee of single company. A person who represents a single insurance company is subject to tax hereunder unless he:
  - (1) Devotes his entire time to the company,
  - (2) Is considered by the company to be its employee, and the company pays social security and unemployment compensation taxes on behalf of the person claiming the exemption and in the event of an accident in the course of employment, said person is entitled to workmen's compensation; and

- (3) Does not employ solicitors, subagents, or other persons to whom he pays salaries, commissions or other compensation in connection with insurance business solicited.

**§ 215-53. Particular business or transactions.**

Administrative or executive offices. Receipts of a taxpayer whose only office in the taxing district is an administrative or executive office may or may not be taxable depending on the activity performed in the office. The general rule is that receipts for services will not be taxable in the taxing district if no part of the service is performed in the taxing district. If the activity at such an office relates only to internal bookkeeping functions of the taxpayer, then those activities are not part of the "service" which is being rendered to customers. However, administrative matters which do relate to the service rendered, e.g., processing of orders, arranging shipments, making telephone calls to customers or clients, or overseeing or controlling employees engaged in performing such services, are generally part of the service for which payment is received. Accordingly, if any of these kinds of services are performed at the place of business in the taxing district, then the entire receipt for that service is a taxable receipt unless an allocation is appropriate.

**§ 215-54. Persons engaged in professions, or vocations, or in rendering personal services.**

- A. General. A person who is engaged in a profession or vocation or in rendering personal services in the taxing district in any capacity, except as an employee of another, is subject to the tax. All compensation, however characterized, received in such capacity must be included in the tax base.
- B. Attorneys. An attorney may exclude that portion of the receipts from legal services which are distributed directly to or on behalf of a client such as a distribution of a sum of money recovered in a lawsuit, the sale of real estate, or a collection matter. An attorney may exclude any fee or portion of a fee paid to another attorney where a matter has been forwarded either from or to the first attorney to or by the second attorney except where either is an employee of the other.
- C. Accountants. An accountant may exclude services rendered to clients outside of the taxing district only if all activity connected with the rendering of such services, including the audit, summary and completion of the financial statement, takes place at the client's business situs outside the taxing district.
- D. Physicians and surgeons.
  - (1) A physician with offices in the taxing district must include in his gross receipts all revenues derived from such offices, i.e., place of business.
  - (2) A physician with offices located outside the taxing district may exclude from gross receipts revenues derived from such offices, i.e., place of business.
  - (3) A physician with hospital affiliations within the taxing district must include in his gross receipts all revenue derived or generated by his connection with such hospitals.
  - (4) A physician with hospital affiliations outside the taxing district may deduct from gross receipts all revenues derived or generated by his connection with such hospitals.

**§ 215-55. Theaters and motion picture houses.**

Persons operating theaters or motion picture houses and other places of amusement where admission is charged in the taxing district, whether owner or lessee, are subject to the business privilege tax on the

gross receipts from house or film rentals and from commissions received on vending machine sales, public telephone booths and sources of revenue other than sale of tickets of admission (which are exempt from tax by state law).

**§ 215-56. Social and recreational clubs.**

- A. Under state law, the taxing district may not tax "membership in or membership dues, fees, or assessments of charitable, religious, beneficial or nonprofit organizations including but not limited to sportsmen's, recreational, golf, and tennis clubs, girl and boy scout troops and councils." Accordingly, receipts from such sources are not subject to the tax.
- B. Many such organizations, however, sell food, beverages and recreational equipment to, or perform noncharitable services (such as catering services) for members as a regular part of their activities. Although such items may be exempt from federal income tax, they are not exempt from the taxing district taxes. Accordingly, any such organization which does offer its members such goods or services must register and pay the tax. (This rule does not apply to religious, charitable or educational organizations, which are entirely exempt from tax.)

**§ 215-57. Public officials.**

Persons who act as agents or officials of the United States, Commonwealth of Pennsylvania or any political subdivision thereof are not subject to the tax with respect to their activities as such agents or officials. For this purpose, notaries public are considered agents of the commonwealth.

**§ 215-58. Public utilities.**

The taxing district may not tax the gross receipts of a public utility subject to the Pennsylvania Public Utility Commission which are derived from supplying services at rates specified in tariffs authorized or approved by the PUC. Receipts derived from advertising and rentals or charges levied for services not subject to PUC regulations are subject to tax.

**§ 215-59. Government contracts.**

Receipts from the performance of contracts entered into with the taxing district, or the Commonwealth of Pennsylvania, or the United States of America or any subdivision of such governments are to be included in the measure of the tax.

**§ 215-60. Undertakers, morticians, and funeral directors.**

Persons engaged in business as undertakers, morticians or funeral directors are required to report as gross receipts the total charges made to clients, without deducting therefrom any costs or expenses whatsoever. Both the sale of tangible personal property and a charge for rendering service must be included in the tax base.

**§ 215-61. Sale of capital assets.**

- A. Generally. The profits (not gross proceeds) resulting from the sale of capital assets, such as plant machinery and equipment, furniture, fixtures, delivery equipment, etc., are to be included in the tax base. If a loss is sustained on such sales, it may not be offset against gross receipts from other sources. In computing the profits to be included in the tax base, the costs of the asset, less allowable depreciation, is to be deducted from the gross proceeds of the sale.

- B. Asset located outside taxing district. Where the capital asset sold was located at an established place of business of the taxpayer outside the taxing district, the profit realized on the sale thereof may be excluded from the tax base.
- C. Bulk sale or exchange, merger. Where a corporation realizes a gain as the result of a sale or exchange of substantially all of its assets, or as the result of a merger or consolidation with another corporation, the amount of such gain must be included in the tax base.

**§ 215-62. Deposit on container.**

A person making a sale of products in a container on which there is a deposit to insure the return of the container is required to report only the gross selling price of the product in the container.

**§ 215-63. Vending machines.**

The entire gross receipts of vending machines and other mechanical devices which dispense goods, wares, and merchandise are to be included in the gross volume of business of the owner or lessor thereof. No deduction may be made therefrom for splits, rentals, commissions or other remuneration to persons in charge of the machines and/or to the lessee of the premises upon which the machines are located.

**§ 215-64. Intercompany transactions.**

Receipts from transactions between affiliated companies, other than those of a purely accommodation nature, are subject to inclusion in gross volume of business.

**§ 215-65. Interdepartmental transactions.**

Where one department, branch or division of a corporation or other business entity, furnishes goods, wares, and merchandise to another department, branch or division of the same corporation or business entity, the amounts recorded on the books to reflect such interdepartmental transactions shall not be included in the gross volume of business of the taxpayer.

**§ 215-66. Property traded in.**

In the case of a trade-in or part payment in goods, wares and merchandise in a transaction in which goods, wares and merchandise are sold and allowances made, the taxpayer may at his option deduct the value of the trade-in or part payment from gross receipts so long as done on the face of the invoice at the time of the original transaction as a medium for adjusting the price of the goods, wares or merchandise; provided, however, that if no such deduction is taken by the merchant, then the value allowed for the trade-in or part payment in goods, wares or merchandise must be deducted by the dealer at the time of resale of the trade-in or part payment so that no tax is levied or collected on the dollar volume of business 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 retail price exceeds the trade-in allowance.

**§ 215-67. Refunds or credits.**

Refunds or credits will be issued upon appropriate verification of overpayment.

**§ 215-68. Commissions paid by brokers.**

Any broker, agent or salesman who splits or otherwise divides a commission with another broker, agent

or salesman in the same type of business by reason of the fact that the second broker initiated, executed, cleared or completed a portion of the transaction for which the fee is paid shall be permitted to exclude from the gross receipts that portion of the fee paid to the other broker, agent or salesman. This section does not exempt so-called finders' fees, kickbacks, commissions, or other remuneration paid by the broker, agent or salesman to another individual not in the same type of business as the broker, agent or salesman. Nor does this section exempt from the gross receipts of a broker or agent a commission paid by said broker or agent to a salesman affiliated with him.

**§ 215-69. Bad debts.**

Bad debts may be taken from the gross volume of business where the deduction is also taken in the same year for IRS purposes.

**§ 215-70. Taxes collected as agent for United States of America, Commonwealth of Pennsylvania, or taxing district.**

Taxes collected as agent for the United States of America, Commonwealth of Pennsylvania, or the taxing district are excludable from taxable receipts.

**§ 215-71. Partial exemption.**

Where gross or whole volume of business in its entirety cannot be subjected to the tax imposed by this article by reason of the provisions of the Constitution of the United States or any other provision of law, the Collector of Taxes, with the approval of the taxing district, shall establish rules and regulations and methods of allocation and evaluation so that only that part of the gross or whole volume of business which is properly attributable and allowable to doing business in the taxing district shall be taxed hereunder.

**§ 215-72. When same tax is imposed by two taxing bodies.**

If any person is liable for the same tax on the same subject imposed under the Local Tax Enabling Act of 1965, December 31, Pamphlet Law 1257 and its amendments, to the taxing district and one or more political subdivisions of the state, then and in that event the tax shall be apportioned by such percentage as may be agreed upon by such political subdivisions, but, in no event, shall the combined taxes of both subdivisions exceed a maximum rate of tax as fixed by the said Enabling Act permitting the imposition of such taxes.

**§ 215-73. Records.**

The taxpayer shall keep books and records of his business so as to show clearly and accurately the amount of taxable gross receipts minus any allowable deductions pertaining to the business privilege and/or mercantile tax.

**§ 215-74. Partnerships.**

A partnership is considered to be a taxable unit. The respective partners are not required to file separate returns as individuals, but they are jointly and severally liable for payment of the tax.

**§ 215-75. Signature.**

If the taxpayer is an individual, he shall sign the return. If the taxpayer is a partnership, the return should be signed by at least one of the general partners. If the taxpayer is a corporation, the return should be signed

by an officer of the corporation.

**§ 215-76. Multiple places of business.**

If a taxpayer maintains more than one place of business in the taxing district, he is required to file only one return and may include therein the receipts from transactions occurring in all of his places of business in the taxing district.

**§ 215-77. Refund.**

Any tax payment made under protest which the taxing district thereafter determines to have been improperly paid shall be refunded to the taxpayer upon request and with the filing of proper forms.

**§ 215-78. Posting registration form and mercantile license.**

- A. Generally, the registration form and/or license must be posted conspicuously at each place of business of licensee at all times.
- B. Vending machine owners. A person who sells goods, wares or merchandise by means of vending machines and who has not otherwise procured a license under this article, shall procure one license covering all of his vending machines and shall post it at its principal place of business.
- C. Persons with no place of business in the taxing district. Persons conducting business within the taxing district but having no place of business there shall not be required to post their registrations. But if such time as such person establishes a place of business within the taxing district, he shall notify the Collector of Taxes of the location of such place of business and shall thereafter post his registration at such place business.
- D. Contractors. Contractors, regardless of the number of field offices maintained within the taxing district, shall be considered to have one place of business for the purpose of registering.

**§ 215-79. Construal of provisions.**

This article shall be a supplement to Ordinance No. 266, known as the "Middletown Business Privilege Tax Ordinance," and Ordinance No. 182, known as the "Mercantile Tax Ordinance,"<sup>114</sup> and shall be interpreted as providing rules and regulations for the collection of facts as imposed by said ordinances. In the event of any conflict between this article and Ordinance Nos. 266 and 182, the provisions of Ordinance Nos. 266 and 182 shall control.

**§ 215-79.1. Waiver of additional charges for real estate taxes. [Added 10-24-2022 by Ord. No. 845]**

- A. Definitions. As used in this subsection, the following terms shall have the meanings indicated, unless the context clearly indicates otherwise.
  - (1) Additional charge or additional charges. Any interest, fee, penalty, or charge accruing to and in excess of the face amount of the real estate tax as provided in the real estate tax notice.
  - (2) Qualifying event.
    - (a) For the purposes of real property, the date of transfer of ownership.

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<sup>114</sup>Editor's Note: See Arts. I and II of this chapter.

- (b) For manufactured or mobile homes, the date of transfer of ownership or the date a lease agreement commences for the original location or relocation of a manufactured or mobile home on a parcel of land not owned by the owner of the manufactured or mobile home. The term does not include the renewal of a lease for the same location.
- (3) Tax Collector. The elected tax collector for the Township of Middletown, Delaware County, any authorized or designated delinquent tax collector, the Delaware County Tax Claim Bureau, or any alternative collector of taxes as provided for in the act of July 7, 1947 (P.L. 1368, No. 542), known as the "Real Estate Tax Sale Law,"<sup>115</sup> an employee, agent or assignee authorized to collect the tax, 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 tax or amounts, liens or claims derived from the real estate tax.
- B. Waiver. The Tax Collector, for tax years beginning on and after January 1, 2023, grant a request to waive additional charges for real estate taxes if the taxpayer does all of the following:
  - (1) Provides a waiver request of additional charges, on a form provided by the Pennsylvania Department of Community and Economic Development, or successor commonwealth agency, to the Tax Collector in possession of the claim within 12 months of the qualifying event;
  - (2) Attests that the tax notice was not received;
  - (3) Provides the Tax Collector in possession of the claim with one of the following:
    - (a) A copy of the deed showing the date of real property transfer; or
    - (b) 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
- C. Pays the face value of the amount of the tax notice for the real estate tax with the waiver request.

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115. Editor's Note: See 72 P.S. § 5860.101 et seq.



## ARTICLE IV

**Realty Transfer Tax****[Adopted 12-15-1986 by Ord. No. 398 (Ch. II, Art. 4, of the 1976 Ordinance Book)]****§ 215-80. Short title.**

This article shall be known as the "Realty Transfer Tax Ordinance of Middletown Township."

**§ 215-81. Authority.**

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within Middletown Township, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer took place as authorized by Article XI-D, "Local Real Estate Transfer Tax," 72 P.S. § 8101-D et seq.

**§ 215-82. Definitions.**

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

**ASSOCIATION** — A partnership, limited partnership, or any other form of unincorporated enterprise owned or conducted by two or more persons other than a private trust or decedent's estate.

**CORPORATION** — A corporation, joint-stock association, business trust, or banking institution which is organized under the laws of this commonwealth, the United States, or any other state, territory, foreign country or dependency.

**DOCUMENT** — Any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments or like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest or confirm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording under § 215-87 of this article.

**FAMILY FARM CORPORATION** — A corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the same family. The business or agriculture shall not be deemed to include:

- A. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
- B. The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities;
- C. Fur farming;
- D. Stockyard and slaughterhouse operations; or
- E. Manufacturing or processing operations of any kind.

**MEMBERS OF THE SAME FAMILY** — Any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing. Individuals

related by the half-blood or legal adoption shall be treated as if they were related by the whole blood.

**PERSON** — Every natural person, association, or corporation, whenever used in any clause prescribing and imposing a fine or imprisonment, or both. The term "person," as applied to associations, shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

**REAL ESTATE** —

- A. All lands, tenements or hereditaments within this Township, including without limitation buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees, and other improvements, conveyance or land, but excluding permanently attached machinery and equipment in an industrial plant.
- B. A condominium unit.
- C. A tenant-stockholder's interest in an cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

**REAL ESTATE COMPANY** — A corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, 90% or more of the ownership interest in which is held by 35 or fewer persons and which:

- A. Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or
- B. Holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

**TITLE TO REAL ESTATE** —

- A. Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years, including without limitation an estate in fee simple, life estate, or perpetual leasehold; or
- B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend to term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold, including without limitation a leasehold interest or possessory interest under a lease or occupancy agreement for a term of 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

**TRANSACTION** — The making, executing, delivering, accepting, or presenting for recording of a document.

**VALUE** —

- A. In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate: provided, that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale;

- B. In the case of a gift, sale by execution upon a judgment or upon the foreclosure or a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations;
- C. In the case of an easement or other interest in real estate the value of which is not determinable under clause 1. or 2., the actual monetary worth of such interest; or
- D. The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

**§ 215-83. Imposition of tax; interest.**

- A. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.
- B. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder/other designee whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.
- C. It is the intent of this article that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. § 6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer, then the tax levied by the Township under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be 1/2 of the rate and such 1/2 rate shall become effective without any action on the part of Middletown Township; provided, however, that the Township and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to 1/2 of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.
- D. Any tax imposed under this section that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53 P.S. § 7101 et seq.) as amended, known as "The Municipal Claims and Tax Liens Act." The interest rate shall be the lesser of the interest rate imposed upon delinquent commonwealth taxes as provided in Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176) (72 P.S. § 806), as amended, known as "The Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims. **[Amended 11-13-2006 by Ord. No. 678]**

**§ 215-84. Exempt parties.**

The United States, the commonwealth, or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this article. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

**§ 215-85. Excluded transactions.**

The tax imposed by § 215-83 shall not be imposed upon:

- A. A transfer to the commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner or record at the time of condemnation, which reconveyance is made within one year from the date of condemnation.
- B. A document which the Township is prohibited from taxing under the Constitution or statutes of the United States.
- C. A conveyance to a municipality, Township, school district or county pursuant to acquisition by the municipality, Township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.
- D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
- E. A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.
- F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer.
- G. A transfer fee for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- I. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- J. A transfer for no or nominal actual consideration from trustee to successor trustee.
- K. A transfer for no or nominal actual consideration between principal and agent or straw party; or from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be

imposed under this article. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.

- L. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this article.
- M. A transfer from a corporation or association or real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years.
- N. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt or the grantee or a transfer to a nonprofit industrial development agency or authority.
- O. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if:
  - (1) The grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and
  - (2) The agency or authority has the full ownership interest in the real estate transferred.
- P. A transfer from a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
- Q. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
- R. A transfer to a conservancy which possess a tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code or 1954 [68A Stat. 3, 26 U.S.C. 501(c)(3)] and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.
- S. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.
- T. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
- U. A transaction wherein the tax due is \$1 or less.
- V. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof. In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax

Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this article.

**§ 215-86. Documents relating to associations or corporations and members, partners, stockholders or shareholders thereof.**

Except as otherwise provided in § 215-85, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purpose of this article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

**§ 215-87. Acquired company.**

- A. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company, and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of three years.
- B. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance of transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this article.
- C. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

**§ 215-88. Credits against tax.**

- A. Where there is a transfer of a residential property by a licensed real estate broker which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.
- B. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.
- C. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.
- D. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
- E. If the tax due upon the transfer is greater than the credit given under this section, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover credit shall

be allowed.

**§ 215-89. Extension of lease.**

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

**§ 215-90. Proceeds of judicial sale.**

The tax herein imposed shall be fully paid, and have priority out of the proceeds or any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made except the state realty transfer tax, and the sheriff, or other officer, conducting said sale, shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

**§ 215-91. Duties of recorder of deeds.**

- A. As provided in 16 P.S. § 11011-6, as amended by Act of July 7, 1983 (P.L. 40, No. 21), the recorder of deeds shall be the collection agent for the local realty transfer tax, including any amount payable to Middletown Township based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from Middletown Township.
- B. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.
- C. On or before the tenth of each month, the recorder shall pay over to Middletown Township all local realty transfer taxes collected, less 2% for use of the county together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The 2% commission shall be paid to the county.
- D. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the recorder shall rerecord the deed or record the additional realty transfer tax form only when both the state and local amounts and a rerecording or recording fee have been tendered.

**§ 215-92. Statement of value.**

Every document lodged with or presented to the recorder of deeds for recording shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this subsection shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article.

**§ 215-93. Civil penalties.**

- A. If any part of any underpayment of tax imposed by this article is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.
- B. In the case of failure to record a declaration required under this article on the date prescribed therefor, unless it is shown that such failure is due to reasonable causes, there shall be added to the tax 5% of the amount of such tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

**§ 215-94. Lien.**

The tax imposed by this article shall become a lien upon the lands, tenements, or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the Township, which lands, tenements, hereditaments, or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this article, said lien to begin at the time when the tax under this article is due and payable, and continue until discharge by payment, or in accordance with the law, and the solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Delaware County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. § 7101 et seq., its supplements and amendments.

**§ 215-95. Enforcement.**

All taxes imposed by this article, together with interest and penalties prescribed herein, shall be recovered as other debts of like character are recovered.

**§ 215-96. Administration. [Amended 11-13-2006 by Ord. No. 678]**

The tax imposed under § 215-83 and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965 (P.L. 1257, No. 511), known as "The Local Tax Enabling Act"; provided that if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Township of Middletown, pursuant to Section 1102-D, authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax, interest and penalties.



ARTICLE V  
**Local Services Tax**  
**[Adopted 11-25-2013 by Ord. No. 741]**

**§ 215-97. Title.**

This article shall be known as the "Local Services Tax Ordinance of Middletown Township."

**§ 215-98. Definitions.**

As used in this article, the following terms, words and/or phrases shall have the meanings indicated, except where the context or language clearly indicates or requires a different meaning:

ACT — The Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, 53 P.S. § 6924.101 et seq., as amended.

COLLECTOR — The person, public employee or private agency designated by Middletown Township to collect and administer the tax herein imposed.

DCED — The Department of Community and Economic Development of the Commonwealth of Pennsylvania.

EARNED INCOME — Compensation as this term is defined in Section 501 of the Act, 53 P.S. § 6924.501, as amended.

EMPLOYER — An individual, partnership, association, limited-liability corporation, limited-liability partnership, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.

HE, HIS or HIM — Indicates the singular and plural number, as well as male, female and neuter genders.

INDIVIDUAL — Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the political subdivision.

NET PROFITS — The net income from the operation of a business, profession, or other activity, as this term is defined in Section 501 of the Act, 53 P.S. § 6924.501, as amended.

OCCUPATION — Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, earned on or performed within the corporate limits of the political subdivision for which compensation is charged or received; whether by means of salary, wages, commission or fees for services rendered.

POLITICAL SUBDIVISION — The area within the corporate limits of the Township of Middletown, County of Delaware, Pennsylvania.

SCHOOL DISTRICT — The Rose Tree Media School District.

TAX — The local services tax levied by this article.

TAX YEAR — The period from January 1 until December 31 in any year; a calendar year.

**§ 215-99. Levy of tax.**

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2014, upon the privilege of engaging in an occupation with a primary place of employment within Middletown Township during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax of that year in the amount of \$52, assessed on a pro rata basis, in

accordance with the provisions of the Act and this article. This tax may be used solely for the following purposes as the same may be allocated by the Township Council from time to time: 1) emergency services, which shall include emergency medical services and/or fire services; 2) road construction and/or maintenance; 3) reduction of property taxes; or 4) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S.A. Ch. 85, Subchapter F (relating to homestead property exclusion). If required, Middletown Township shall remit to the School District the School District's share of any tax, if any, in accordance with provisions of the Act. Middletown Township shall use no less than 25% of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by Middletown Township. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

#### **§ 215-100. Exemption and refunds.**

A. Exemption. Any person whose total earned income and net profits from all sources within the political subdivision is less than \$12,000 for any calendar year in which the tax is levied is exempt from the payment of the tax for that tax year. In addition, the following persons are exempt from payment of the tax:

- (1) Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one-hundred-percent disability.
- (2) Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subsection, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

B. Procedure to claim exemption.

- (1) A person seeking to claim an exemption from the tax may annually file an exemption certificate with Middletown Township and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than \$12,000 in the tax year for which the exemption certificate is filed. In the event Middletown Township utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by Middletown Township or except as required by Subsection B(2), the employers shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by Middletown Township.
- (2) With respect to a person who claimed an exemption for a given tax year from the tax, upon

notification to an employer by the person or by Middletown Township that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of \$12,000 in that tax year or that the person is otherwise ineligible for the tax exemption for that tax year, or upon an employer's payment to the person of earned income within Middletown Township in an amount equal to or in excess of \$12,000 in that tax year, an employer shall withhold the tax from the person under Subsection B(3).

- (3) If a person who claimed an exemption for a given tax year from the tax becomes subject to the tax for the tax year under Subsection B(2), the employer shall withhold the tax for the remainder of that tax year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under Subsection B(2), a lump sum equal to the amount of the tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per-payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that tax year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this subsection is subsequently severed in that tax year, the person shall be liable for any outstanding balance of tax due, and Middletown Township may pursue collection under this article.
  - (4) Except as provided in Subsection B(2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the tax.
- C. Refunds. Middletown Township, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a tax year that do not exceed \$1. Middletown Township or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

#### **§ 215-101. Duty of employers to collect.**

- A. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the political subdivision.
- B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the tax year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax collected shall be made on a payroll-period basis for each payroll period in which the person is engaging in an occupation, except as provided in Subsection D of this section. For purposes of this subsection, "combined rate" shall mean the aggregate annual rate of the tax levied by the school district and Middletown

Township.

- C. No person shall be subject to the payment of the tax by more than one political subdivision during each payroll period.
- D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.
- E. The tax shall be no more than \$52 on each person for each tax year, irrespective of the number of political subdivisions within which a person may be employed. Middletown Township shall provide a taxpayer a receipt of payment upon request by the taxpayer.
- F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to Middletown Township if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Subsection B of § 215-100 of this article and this section and remits the amount so withheld in accordance with this article.
- G. Employers shall be required to remit the taxes 30 days after the end of each quarter of a tax year.

#### **§ 215-102. Returns.**

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commission paid by him or her to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

#### **§ 215-103. Dates for determining tax liability and payment.**

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the Collector on or before the 30th day following the end of each calendar quarter of each such tax year.

#### **§ 215-104. Self-employed individuals.**

Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within the political subdivision shall be required to comply with this article and pay the pro rata portion of the tax due to the Collector on or before the 30th day following the end of each quarter.

#### **§ 215-105. Individuals engaged in more than one occupation or employed in more than one political subdivision.**

- A. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that

is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the tax shall be in the following order:

- (1) First, the political subdivision in which a person maintains his or her principal office or is principally employed;
- (2) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision; and
- (3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

- B. In case of dispute, a tax receipt of the taxing authority for that tax year declaring that the taxpayer has made a prior payment constitutes prima facie certification of payment to all other political subdivisions.

**§ 215-106. Nonresidents subject to tax.**

All employers and self-employed individuals residing or having their places of business outside of the political subdivision but who perform services of any type or kind or engage in any occupation or profession within the political subdivision 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 political subdivision. Further, any individual engaged in an occupation within the political subdivision and an employee of a nonresidential employer may, for the purpose of this article, be considered a self-employed person, and in the event his or her tax is not paid, Middletown Township shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

**§ 215-107. Administration of tax.**

- A. The Collector shall be appointed by resolution of Middletown Township. It shall be the duty of the Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer 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, subject to approval by Middletown Township, to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal consistent with the Local Taxpayers Bill of Rights under Act 50 of 1998.<sup>116</sup>
- 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.

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<sup>116</sup>Editor's Note: See 53 Pa.C.S.A. § 8421 et seq.

**§ 215-108. Suits for collection.**

- A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.
- B. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

**§ 215-109. Violations and penalties.**

Whoever makes any false or untrue statement on any return required by this article, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.

**§ 215-110. Interpretation.**

- A. Nothing contained in this article shall be construed to empower the Middletown Township to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Middletown Township under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.
- B. If the tax hereby imposed under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.



**Chapter 220****TREE MAINTENANCE**

<b>§ 220-1.</b>	<b>Maintenance required.</b>	<b>§ 220-3.</b>	<b>Emergency removal.</b>
<b>§ 220-2.</b>	<b>Notice of violation.</b>	<b>§ 220-4.</b>	<b>Violations and penalties; cost of removal.</b>

**[HISTORY: Adopted by the Township Council of the Township of Middletown 6-8-2020 by Ord. No. 823. Amendments noted where applicable.]**

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**§ 220-1. Maintenance required.**

- A. The maintenance, care or removal of any tree, including all costs related thereto, and the required compliance with any provision of this chapter shall be the responsibility of the owner(s) of the property upon which the tree is located, inclusive of any area of public right-of-way extending to the paved cartway of any public street.
- B. The condition of any tree, or portion thereof, is declared to constitute a public nuisance wherever and whenever the same shall cause or contribute to the causing of any of the following conditions to exist:
  - (1) Upon inspection by a certified arborist, a determination that the tree creates a hazardous or dangerous condition or poses a threat to the health and safety of the public;
  - (2) The lowest branch or limb of any tree or other overhanging part thereof is maintained less than eight feet from the surface of any sidewalk or less than 11 feet from the surface of any public roadway; or
  - (3) Irrespective of height, a determination is made that the tree interferes with or obstructs the illumination or view of any public streetlight, traffic signal or other traffic control device.
- C. In the event it is determined that the condition of a tree, or any part thereof, constitutes a public nuisance, the Township shall notify the property owner(s), in writing, of said determination, and the property owner(s) shall remediate the condition within 30 days of the notice. If the property owner(s) fails to remediate the nuisance within the required time, a notice of violation will be provided to the property owners(s) in accordance with § 220-2 of this chapter.

**§ 220-2. Notice of violation.**

In the event that the Code Enforcement Officer of the Township determines that an apparent violation of this chapter exists, the Code Enforcement Officer shall provide the property owner(s) with a written notice of violation, by certified and regular mail, containing the following minimum information:

- A. The name(s) of the property owner(s) of record of the property in violation;
- B. The address of the property in violation;
- C. A description of the specific violation under this chapter;
- D. The steps necessary for compliance and the date by which the compliance must be completed; and



§ 220-2

TREE MAINTENANCE

- E. That failure to comply within the time and manner specified constitutes a violation of this chapter, and the Township shall invoke one or both of § 220-4A or B of this chapter necessary to enforce the provisions hereof.

**§ 220-3. Emergency removal.**

- A. In the event that the Township shall determine that a violation of this chapter is occurring within a public right-of-way and poses an immediate or imminent threat to the health, safety or general welfare of the public, and the written notice required in § 220-2 hereof is not possible given the emergency nature of the violation, the Township may, without prior notice, correct the violation.
- B. The Township may charge the costs of such emergency action under this section to the property owner(s) responsible for the violation. If such costs are not paid in full within 90 days, such costs may be filed as a lien against the property and collected in the same manner as other municipal liens or by personal action commenced in the Court of Common Pleas of Delaware County.
- C. In the event that the Township corrects a violation under this section, the Township shall leave all logs, cordwood, branch wood or other forms of wood resulting from the emergency action on the property. It is the responsibility of the property owner(s) to remove the logs, cordwood, branch wood or other forms of wood resulting from the emergency action on the property left within the public right-of-way within 10 days of the Township's emergency action taken hereunder.
- D. Nothing in this chapter shall prevent the Township from removing obstructions or roadside trees or vegetation which may be thrown down by wind or weather or lodged in a position so as to be a nuisance to public travel or which by reason of any other cause may become a source of danger to the public. The Township shall leave all logs, cordwood, branch wood or other forms of wood resulting from the emergency action on the property. It is the responsibility of the property owner(s) to remove the logs, cordwood, branch wood or other forms of wood resulting from the emergency action on the property left within the public right-of-way within 10 days of the Township's emergency action taken hereunder.

**§ 220-4. Violations and penalties; cost of removal.**

In the event that said notice of violation is not complied with as directed, the Township shall take any of the following actions as it may deem necessary to enforce the provisions of this chapter:

- A. Commence a summary enforcement proceeding before the Magisterial District Justice against the property owner(s), and upon conviction thereof, be punishable by a fine of up to \$200 for each violation thereof. Violators shall also be responsible for court costs and reasonable attorneys' fees of the Township, as permitted by law.
- B. Cause the condition to be removed or abated by the Township, the costs for which removal plus a service fee will be charged to the property owner(s). If such costs are not paid in full within 90 days, such costs may be filed as a lien against the property and collected in the same manner as other municipal liens or by personal action commenced in the Court of Common Pleas of Delaware County. Any voluntary action taken by the Township pursuant to this section shall not create any obligations on the part of the Township to continue such action, nor shall it limit, ameliorate or change the obligation of the property owner(s).

**Chapter 227****VEHICLES, ALL-TERRAIN**

§ 227-1.	<b>Definitions.</b>	§ 227-4.	<b>Exceptions.</b>
§ 227-2.	<b>Compliance with state law.</b>	§ 227-5.	<b>Violations and penalties.</b>
§ 227-3.	<b>Prohibited operation of ATVs.</b>		

**[HISTORY: Adopted by the Township Council of the Township of Middletown 11-10-2003 by Ord. No. 650. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Noise — See Ch. 155.

Vehicles and traffic — See Ch. 235.

Parks and recreation areas — See Ch. 161.

Zoning — See Ch. 275.

**§ 227-1. Definitions.**

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

**ALL-TERRAIN VEHICLE** — Any motor-propelled, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain, which has a net weight of less than 800 pounds, a width of less than 50 inches, which is designed to be straddled by the operator and steered by handle bars and which is designed to travel on three or more low-pressure tires.

**ATV** — Includes an all-terrain vehicle or motorcycle.

**LAW ENFORCEMENT OFFICER** — Any person charged with enforcement of this chapter, including, but not limited to, any member of the Pennsylvania State Police, the Middletown Township Code Enforcement Officer, Zoning Officer or Township Manager, or any other person or agency authorized by law to enforce the provisions of this chapter.

**MOTORCYCLE** — A two-wheeled motor-propelled vehicle which is designed to be straddled by the operator and steered by handle bars, and which is designed or manufactured primarily for off-road use.

**OPERATE** — To use an ATV in any manner within Middletown Township, whether or not the ATV is moving.

**PRIVATE PROPERTY** — Any land, rights-of-way, roads or other real property owned, maintained or otherwise under the control of any person or entity other than Middletown Township, Delaware County and not available for general use by the public.

**STATE LAW** — Any law, statute ordinance, rule or regulation of the Commonwealth of Pennsylvania, or any agency, department or instrumentality thereof.

**TOWNSHIP PROPERTY** — Any land, rights-of-ways or roads owned, maintained or otherwise under the control of Middletown Township, Delaware County, Pennsylvania.

**§ 227-2. Compliance with state law.**

Any person who operates an ATV within Middletown Township shall do so only in full compliance with applicable state law, including but not limited to registration and licensing.

**§ 227-3. Prohibited operation of ATVs.**

- A. No person shall operate an ATV in Middletown Township except in full compliance with all applicable state laws.
- B. No person shall operate an ATV on any Township property (see also § 161-1E).
- C. No person shall operate an ATV on any private property except with the written consent of the owner of the private property which consent shall be kept in the possession of the ATV operator at all times during the operation of the ATV. The operator of an ATV shall stop and identify himself and produce the written consent to operate the ATV on private property upon the request of the owner of the private property or his representative or a Law Enforcement Officer.
- D. No person shall operate an ATV in any manner which may endanger any person (including the operator of the ATV) or property.
- E. No person shall operate an ATV at a speed greater than that reasonable and prudent considering the existing conditions.
- F. No person shall operate an ATV without an effective and suitable muffling device on its engine which effectively deadens or muffles the noise of the exhaust.
- G. No person shall operate an ATV within 50 feet of any dwelling or other occupied building or structure, except as provided in § 227-4A of this chapter.
- H. No person shall operate an ATV in violation of the provisions of § 155-2G.
- I. No person shall operate an ATV from sunset until 9:00 a.m. of the following day.

**§ 227-4. Exceptions.**

- A. The operation of an ATV on private property owned by the owner of the ATV shall not require the written permission of the property owner and the ATV may, in such case, be operated within 50 feet of the property owner's dwelling or other occupied building or structure on the owner's property and within 50 feet of a dwelling on an adjacent property if the owner of the ATV has the written consent of the adjacent property owner.
- B. Motorcycles, when duly registered and licensed for operation on public roads and highways, shall be permitted on Township property, but only in areas designated for use by motor vehicles, such as Township roads and parking facilities.
- C. Operation of an ATV shall be permitted on Township property by Township personnel in connection with Township business or by any Law Enforcement Officer or emergency personnel in the performance of official duties.
- D. The operation of an ATV for snow plowing or yard maintenance or by a farmer in connection with agricultural operations shall not be subject to the prohibitions of this chapter.

**§ 227-5. Violations and penalties.**

Any violation of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$600, plus costs of prosecution, and, in default of such fine and costs, by imprisonment in the county jail for a term not exceeding 30 days. Each violation of any provision of this chapter shall be deemed to be a separate and distinct offense.

VEHICLES AND TRAFFIC

Chapter 235

VEHICLES AND TRAFFIC

ARTICLE I  
Traffic Regulations

- § 235-1. Truck and trailer traffic prohibited.
- § 235-2. Trucks and trailers weighing 10 tons prohibited.
- § 235-3. Maximum speed limits.
- § 235-4. One-way streets.
- § 235-5. Stop signs.
- § 235-6. Three-way and four-way stop intersections.

ARTICLE II  
Parking Regulations

- § 235-7. No parking permitted on either side of road.
- § 235-8. No parking permitted on one side of road.
- § 235-9. Parking prohibited specific hours.
- § 235-10. No parking/tow-away zones.
- § 235-11. Creation of positions of parking enforcement officers.

[Adopted by the Board of Supervisors (now Township Council<sup>117</sup>) of the Township of Middletown as Ch. V, Arts. 2 and 3, of the 1976 Ordinance Book. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 204.

All-terrain vehicles — See Ch. 235.

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117. Editor's Note: The name of the Township's governing body became the Township Council as of 1-1-1978, the effective date of the Home Rule Charter.

ARTICLE I  
Traffic Regulations

**§ 235-1. Truck and trailer traffic prohibited.**

- A. Specific highways denied to truck and trailer traffic.<sup>118</sup> Hereafter it shall be unlawful for any person or persons to operate or drive any truck, trailer, semitrailer or any commercial vehicle upon the following designated highways within the Township of Middletown except for local deliveries:

<b>Name of Street</b>	<b>Location</b>
Church Road	From Elwyn Avenue to Indian Lane
Clothier Road	From Indian Lane to Ridley Creek Road
Darlington Road	From New Darlington Road to Old Forge Road
Elm Avenue	From Lenni Road to the end of Elm Avenue
Harvard Drive	From Middletown Road (Route 352) to Mount Alverno Road
Highland Avenue	From Lenni Road to Pennell Road
Indian Lane	From Middletown Road to Elwyn Road
Oak Avenue	From Elm Avenue to Highland Avenue
Old Forge Road	From Forge Road to Middletown Road
Painter Road	From Rose Tree Road to Barren Road
Pembroke Drive	From Middletown Road (Route 352) to Mount Alverno Road
South Middletown Road	Between New Middletown Road and Duttons Mill Road
Valley Road	From New Darlington Road (Leg. Route 23022) to Baltimore Pike (U.S. Route 1)
Wynmoor Road	From Mount Alverno Road to Pembroke Drive
Yearsley Mill Road	Entire length

- B. Signs. The Township Road Superintendent is hereby authorized and directed to erect and to maintain official signs designating the provisions of this section at each end of the several highways affected hereby and at the intersections thereof.
- C. Violations and penalties. Any person, firm or corporation violating any of the provisions of this section shall be sentenced to pay a fine of not more than \$50 to be collected by summary conviction before any Magisterial District Judge as fines and penalties are now by law collected and in the event of nonpayment of fines and cost of prosecution the Magisterial District Judge may sentence any person convicted of violating this section to undergo imprisonment in the County Jail for a period of not exceeding 10 days,<sup>119</sup> provided, however, that said person shall have all of the rights conferred by

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118.Editor's Note: See 75 Pa.C.S.A. § 4902 et seq.

119.Editor's Note: Ordinance No. 188, which added the schedule entry for South Middletown Road between new Middletown Road and Duttons Mill Road, provided that any person convicted of violating this ordinance to undergo imprisonment in the county jail for a

the Act of 1929, P.L. 905, Section 1212, as amended. All fines and bail forfeited shall be payable to the Treasurer of the Township of Middletown for the construction, repair and maintenance of the highways thereof.

**§ 235-2. Trucks and trailers weighing 10 tons prohibited.**

- A. The Township Supervisors find as a fact that it is necessary for the protection of the following roads and for the safety of traffic thereon to prohibit the operation of motor vehicles, trailers or semitrailers in excess of a combined gross weight of 10 tons (20,000 pounds). It shall be unlawful for any person, firm or corporation to operate any motor vehicle, trailer or semitrailer on the following roads when such motor vehicle, trailer or semitrailer shall be in excess of a gross weight of 10 tons (20,000 pounds).

<b>Name of Street</b>	<b>Location</b>
Forge Road	From Valley Road (also known as Ashbridge Road) to Middletown Road
Forge Road	From Valley Road (also known as Ashbridge Road) to entrance of General Crush Stone Company
Mount Alverno Road	Entire length

- B. Signs. It shall be the duty of the Township Road Superintendent to cause to be erected and maintained official signs designating the provisions of this section at each end of Forge Road and at each end of Mount Alverno Road and at any intersection thereof.
- C. Violations and penalties. Any person, firm or corporation who or which shall violate the provisions of this section shall be sentenced to pay a fine of not less than \$10 nor more than \$50 to be collected by summary conviction before a Magisterial District Judge as fines and penalties are now by law collected under the Vehicle Code of Pennsylvania; and in the event of nonpayment of fines and costs of prosecution, the Magisterial District Judge may sentence any person so convicted of violating this section to undergo imprisonment in the County Jail for a period not exceeding 10 days and further provided that any person so convicted shall have the right of appeal or of giving bond and waiving hearings as provided in the Vehicle Code.

**§ 235-3. Maximum speed limits.**

- A. Schedule of speed limits.

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period not exceeding five days as provided in Section 908 of The Pennsylvania Motor Vehicle Code. In the event of some subsequent amendment or alteration to Section 908, Pennsylvania Motor Vehicle Code, the penalty here provided shall be similarly changed.

<b>Name of Street</b>	<b>Speed Limit (mph)</b>	<b>Location</b>
East Old Baltimore Pike [Amended 5-21-1979 by Ord. No. 233; 11-9-1998 by Ord. No. 591]	25	From Middletown Road (Route 352) to School Lane
East St. Andrews Drive (T-541) [Added 11-26-2007 by Ord. No. 688]	25	Entire length
Fox Road [Amended 8-26-2013 by Ord. No. 740]	25	Between Old Middletown Road and Knowlton Road
Highmeadow Drive (Route 352) [Added 6-12-2000 by Ord. No. 601]	25	Between Middletown Road (Route 352) and Ridley Creek Drive
Howarth Road	25	From Mount Alverno Road to Glen Riddle Road
Knowlton Road	35	Between Middletown Road and Bortondale Road or Wellcrest Road
Mount Alverno Road	35	Between Glen Riddle Road and Township Line at Chester Creek
Nelson Drive (T-454) [Added 6-12-2000 by Ord. No. 601]	25	Between Ridley Creek Drive and Meadowglen Lane
Olde Farm Road (T-507) [Added 6-12-2000 by Ord. No. 601]	25	Between East Knowlton Road and Linda Lane
Old Forge Road	35	Between Forge Road and Middletown Road
Painter Road (T-31) [Added 12-13-1965 by Ord. No. 93; amended 3-25-2002 by Ord. No. 622]	25	Between Rose Tree Road and East Forge Road
Riddlewood Drive [Added 10-17-1977 by Ord. No. 212]	25	From War Trophy Lane to Pennell Road
Ridge Avenue [Added 2-21-1977 by Ord. No. 205]	25	Between Spring Street and East Knowlton Road
Ridley Creek Drive (T-453) [Added 6-12-2000 by Ord. No. 601]	25	Between East Knowlton Road and Ridley Creek Drive cul-de-sac
St. Andrews Drive (T-539) [Added 11-26-2007 by Ord. No. 688]	25	Entire length



<b>Name of Street</b>	<b>Speed Limit (mph)</b>	<b>Location</b>
South Old Middletown Road [Added 1-23-2023 by Ord. No. 849]	25	Between Bortondale Road and (T-429) South New Middletown Road
South Old Middletown Road (T-429) [Amended 9-10-2001 by Ord. No. 616]	25	Between Elwyn Avenue and Bortondale Road
South Old Middletown Road [Amended 11-24-1997 by Ord. No. 579]	25	Between Middletown Road (Route 352) and Dutton's Mill Road
Spring Valley Road (T-494) [Amended 6-12-2000 by Ord. No. 601]	25	Between Mount Alverno Road and Linvill Road
Valley Road	35	Between Baltimore Pike and Forge Road
West St. Andrews Drive (T-540) [Added 11-26-2007 by Ord. No. 688]	25	Entire length

- B. Speed signs. The Road Superintendent is hereby directed to erect speed signs in accordance with the provisions of the Pennsylvania Motor Vehicle Code.
- C. Violations and penalties. Any person violating the provisions hereof, upon summary conviction, shall be sentenced to pay a fine of \$10 and the cost of prosecution and, in default of payment thereof, shall undergo imprisonment in the county jail for a period not exceeding 10 days (Ordinance Nos. 54, 69 and 80) or five days (Ordinance Nos. 93, 97, 158, 174 and 186).

#### § 235-4. One-way streets. [Amended 7-25-1983 by Ord. No. 341]

- A. Schedule of one-way streets.<sup>120</sup>

<b>Name of Street</b>	<b>Direction of Travel</b>	<b>Limits</b>
South Old Middletown Road	North	Between Rhoads Lane and New Middletown Road
Spur Street	South	From Middletown Township-Brookhaven Borough line to Meadowcroft Lane

- B. Signs and road plan. The Township Engineer be and is hereby authorized to mark the road plan of the said Township in accordance with the provisions hereof and is hereby authorized and directed to erect appropriate signs indicating one-way traffic on the aforesaid streets.

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120. Editor's Note: See 75 Pa.C.S.A. § 3308.

- C. Violations and penalties. Any person violating the provisions of this section upon summary conviction before a Magisterial District Judge shall be subject to a fine of no more than \$10 and the costs of prosecution, or upon failing and refusing to pay said fine and costs, to undergo imprisonment for a period of five days.

**§ 235-5. Stop signs.**

- A. Stop sign locations. Stop signs shall be erected in the Township at the following locations:

<b>Stop Sign on</b>	<b>At Intersection of</b>
Brooke Lane	Forge Road
Chestnut Avenue	Highland Avenue
East Forge Road [Added 6-8-2020 by Ord. No. 818]	Painter Road
East Glen Circle	Pinetree Drive
Fair Acres Drive	Old Forge Road
Fox Road	Cook Avenue (three-way stop)
Fox Road	Entrance to Delaware County Sportman's Club (three-way stop)
Georgetown Road	Forge Road
Highmeadow Drive	Ridley Creek Drive
Linda Lane [Added 11-25-1991 by Ord. No. 494]	Old Farm Road
Meadowbrook Lane	Highmeadow Drive
Meadowburn Lane	Highmeadow Drive
Meadowcroft Lane	Highmeadow Drive
Meadowhurst Lane	Highmeadow Drive
Meadowpark Lane	Highmeadow Drive
Meadowvale Lane	Highmeadow Drive
Mt. Alverno Road	Hidden Hills Drive (3-way)
North-South Old Middletown Road [Added 1-23-2023 by Ord. No. 850]	Fox Road
Oak Avenue [Added 11-21-1977 by Ord. No. 216]	Highland Avenue
Painter Road [Added 6-8-2020 by Ord. No. 818]	East Forge Road
Patricia Place	Highmeadow Drive
Ridley Creek Drive	Nelson Drive
St. Andrews Drive	Mt. Alverno Road

**Stop Sign on****At Intersection of**

School Lane [Added 2-2-1992 by Ord. No. 503]

East Baltimore Pike, except for right-turn movements onto East Baltimore Pike

South-South Old Middletown Road [Added 1-23-2023 by Ord. No. 850]

Fox Road

West Glen Circle

Arrowhead Trail

West Glen Circle

Pinetree Drive

Willowgate Lane

Mt. Alverno Road

- B. Signs. The Township Road Master be and is hereby directed to install the signs forthwith.
- C. Penalty. Any person violating the terms of this section, upon conviction thereof before a Magisterial District Judge, shall be sentenced to pay a fine not exceeding \$10 and the cost of prosecution.

**§ 235-6. Three-way and four-way stop intersections. [Amended 7-11-1988 by Ord. No. 424; 1-9-1989 by Ord. No. 435; 8-28-1989 by Ord. No. 451; 2-26-1990 by Ord. No. 462; 2-25-1991 by Ord. No. 486; 9-23-1991 by Ord. No. 491; 11-25-1991 by Ord. No. 494]**

- A. Three-way stop intersections.

**Three-Way Stop Intersection**

Moore Drive and Elizabeth Drive

North Old Middletown Road and Blacksmith Lane [Added 4-13-2009 by Ord. No. 703]

Olde Farm Road and Farm House Lane

Old Forge Road and Rushley Way [Added 7-22-2002 by Ord. No. 628]

Old Forge Road and Yearsley Mill Road [Added 8-26-2013 by Ord. No. 739]

Old Forge Road and West Forge Road [Added 6-23-2008 by Ord. No. 693]

Painter Road and Vineyard Lane. [Added 3-25-2002 by Ord. No. 623]

Paul Lane and Acorn Way

Pembroke Drive at Wynmoor Road [Added 6-11-2018 by Ord. No. 792]

Paul Lane and Glenmore Road

Ridley Creek Drive and Nelson Drive

South Middletown Road and entrance to property owned by Christian Academy.<sup>121</sup>

Spring Street and Ridge Avenue

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121. Editor's Note: This intersection was further explained as follows: "Stop signs shall be erected on and for South Middletown Road at and near the entrance to the property owned by the Christian Academy on the west side of South Middletown Road immediately south of its intersection with Rhoads Lane. Three separate stop signs shall be erected for the control of traffic, which stop signs shall be positioned as follows: one sign on the west side of South Middletown Road immediately north of the driveway to the Christian Academy property, controlling traffic moving in a southerly direction on South Middletown Road; one sign on the east side of South Middletown Road immediately south of the point where the driveway to the Christian Academy property intersects that road, controlling traffic moving in a northerly direction on South Middletown Road; and a third sign on the westerly side of South Middletown Road immediately south of the driveway leading to the Christian Academy driveway, controlling traffic exiting from that driveway onto South Middletown Road."

**Three-Way Stop Intersection**

Spring Street and Smedley Avenue

War Admiral Lane at Man O'War Drive [**Added 4-13-2015 by Ord. No. 756**]**B. Four-way stop intersections.****Four-Way Stop Intersection**Highland Avenue and Chestnut Avenue [**Added 7-24-1995 by Ord. No. 553**]

Highmeadow Drive and Meadowbrook Drive and Meadowburn Drive

Highmeadow Drive and Patricia Place and Meadowbrook Drive

Iris Lane and Iris Lane [**Added 7-9-2012 by Ord. No. 730**]

Linville Road at Clover Circle and Spring Valley Road

Mt. Alverno Road, Linville Road and Catchpenny Lane

Riddlewood Drive and War Trophy Lane

Valley Road and Darlington Road [**Added 10-17-1977 by Ord. No. 213**]

- C. Signs.** The Township Road Superintendent be and is hereby directed to install such signs accordingly.
- D. Violations and penalties.** Any person violating the provisions of this section, upon conviction thereof before a Magisterial District Judge, shall be sentenced to pay a fine of \$5 and the cost of prosecution and, in default thereof, shall undergo imprisonment for not more than three days, as provided in Section 1016, Pennsylvania Motor Vehicle Code.<sup>122</sup> In the event of some subsequent amendment or alteration to Section 1016, Pennsylvania Motor Vehicle Code, the penalty herein provided shall similarly change. [**Amended 7-11-1988 by Ord. No. 424; 1-9-1989 by Ord. No. 435; 8-28-1989 by Ord. No. 451; 2-26-1990 by Ord. No. 462; 2-25-1991 by Ord. No. 486; 2-23-1991 by Ord. No. 491; 11-25-1991 by Ord. No. 494**]

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**122. Editor's Note: See now 75 Pa.C.S.A. § 3323.**

ARTICLE II  
Parking Regulations

**§ 235-7. No parking permitted on either side of road.<sup>123</sup> [Amended 11-21-1977 by Ord. No. 217; 8-22-1983 by Ord. No. 342]**

A. Parking schedule.

<b>Name of Street</b>	<b>Location</b>
Baltimore Pike (U.S. Route 1) <b>[Amended 11-21-1977 by Ord. No. 217; 8-22-1983 by Ord. No. 342]</b>	From the Township boundary line at Ridley Creek to the Township boundary line at Chester Creek
Blacksmith Lane	Entire length
Creek Road	Between Dutton Mill Road and Knowlton Road
Elwyn Avenue <b>[Added 2-21-1977 by Ord. No. 206; repealed 9-11-2006 by Ord. No. 677]</b>	
Iris Drive <b>[Added 2-27-2017 by Ord. No. 775]</b>	From the intersection with Mt. Alverno Road east for a distance of 400 feet
North Old Middletown Road	North and south of Blacksmith Lane and Middletown Road
Pennell Road	Between Township Line and bridge over Pennsylvania Railroad
South Old Middletown Road <b>[Added 7-28-1997 by Ord. No. 577]</b>	Between South New Middletown Road and Rhoads Lane

- B. Signs. The Township Council of the Township of Middletown is hereby authorized and empowered to direct that any and all signs that may be required by law in order to make effective the provisions of this section be obtained, erected, and maintained.
- C. Violations and penalties. Any person who shall violate the provision of this section shall, upon conviction thereof before a Magisterial District Judge, be subject to a fine of \$5, and the costs of prosecution, and in default of payment thereof, shall be subject to imprisonment for not more than five days. **[Amended 11-21-1977 by Ord. No. 217; 8-22-1983 by Ord. No. 342]**

**§ 235-8. No parking permitted on one side of road.**

A. Parking schedule.

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<sup>123</sup>Editor's Note: See 75 Pa.C.S.A. § 101 et seq.

Name of Street	Side	Location
Baltimore Pike	North	From the intersection of Route 452 (Pennell Road) west for a distance of 500 feet
Bortondale Road [ <b>Amended 6-21-1976 by Ord. No. 198; 7-11-1989 by Ord. No. 424; 3-26-1990 by Ord. No. 465; 6-11-1990 by Ord. No. 467</b> ]	East	From East Knowlton Road north to bridge crossing Ridley Creek
East Knowlton Road	East	From a point 800 feet east of Long Point Lane to its intersection with Bortondale Road
East Old Baltimore Pike	North	From its intersection with the cloverleaf ramp east for a distance of 600 feet
Highland Avenue	East	Between Oak Avenue and Lenni Road
Highland Avenue	North	Between Pennell Road and Oak Avenue
Howarth Avenue [ <b>Added 2-21-1977 by Ord. No. 207</b> ]	North	From Bortondale Road to Apple Avenue
Oriole Avenue [ <b>Added 5-21-1979 by Ord. No. 232</b> ]	East	Between Baltimore Pike (Route 1) and Middletown Road (Route 352)
Ridley Creek Drive	East	From a point 100 feet south of Knowlton Road to a point 100 feet north of Nelson Drive
Ridley Creek Drive	West	Between Nelson Road and Knowlton Road
South Old Middletown Road [ <b>Added 3-13-2023 by Ord. No. 851</b> ]	West	From a point of 45 feet south from the edge of the exit lane at the Roosevelt Community Center at 464 South Old Middletown Road
Woodland Avenue	One side only	From Park Avenue to Knowlton Road
Yearsley Road	Both	From Middletown Road to Old Forge Road

- B. Signs. The Road Superintendent is hereby directed to erect no-parking signs, as required by the Vehicle Code of Pennsylvania,<sup>124</sup> where designated by the Township Council.
- C. Violations and penalties. Any person violating the provisions of this section, upon conviction thereof before a Magisterial District Judge, shall be sentenced to pay a fine of \$5 and costs of prosecution or undergo imprisonment for a period of not more than five days. [**Amended 4-16-1979 by Ord. No. 230**]

#### § 235-9. Parking prohibited specific hours.

- A. Parking schedule.

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124.Editor's Note: See 75 P.S. § 101 et seq.

Name of Street	Side	Hours/Days	Location
Blackhorse Lane [Added 11-10-2008 by Ord. No. 700]	West	From 8:00 a.m. to 3:00 p.m./Mondays through Fridays	From its intersection with East Baltimore Pike north for a distance of 450 feet.
Deer Run [Added 7-27-1998 by Ord. No. 586]	Both	From 8:00 a.m. to 3:00 p.m./Mondays through Fridays	
Devon Lane [Added 7-27-1998 by Ord. No. 586]	Both	From 8:00 a.m. to 3:00 p.m./Mondays through Fridays	Entire length
Hunting Hills Lane [Added 7-27-1998 by Ord. No. 586]	Both	From 8:00 a.m. to 3:00 p.m./Mondays through Fridays	From Rose Tree Road to Deer Run
Middletown Road	Both	From 8:00 a.m. to 9:00 a.m., and from 2:00 p.m. to 4:00 p.m./weekdays	From Pine Tree Drive to Bortondale Road

- B. Signs. The Road Superintendent is hereby directed to erect signs as required by the Pennsylvania Vehicle Code<sup>125</sup> at this location.
- C. Violations and penalties. Any person violating the provisions hereof, upon summary conviction, shall be sentenced to pay a fine not exceeding \$10 and the costs of prosecution or undergo imprisonment in the county jail for a period not exceeding 10 days.

**§ 235-10. No parking/tow-away zones. [Added 9-11-2006 by Ord. No. 677]**

- A. The parking of vehicles is prohibited along the following areas of Middletown Township:

Name of Street	Side	Location
Darlington Road [Added 10-14-2019 by Ord. No. 812]	Both	Darlington Road from the bridge over Chester Creek to the Southeastern Pennsylvania Transportation Authority bridge
Elwyn Avenue	Both	From Middletown Road to Church Lane

- B. Signs. The Council of the Township of Middletown is hereby authorized and empowered to direct that any and all signs that may be required by law, in order to make effective the provisions of this section, be obtained, erected and maintained. Official signs shall be erected and maintained on both sides of Darlington Road from the bridge over Chester Creek to the Southeastern Pennsylvania Transportation Authority bridge in accordance with rules and regulations of the Pennsylvania Department of Transportation and the Pennsylvania Vehicle Code to warn the public that no parking at any time is permitted and that any vehicles parked in violation of this section will be towed. [Amended 10-14-2019 by Ord. No. 812]

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<sup>125</sup>.Editor's Note: See 75 P.S. § 101 et seq.

- C. Penalties and towing authorized for violations. Any police officer or parking enforcement officer may remove or cause to be removed to a nearby garage or other place of safety any vehicle found to be parked in violation of the terms of § 235-10, and the costs of such removal and any related storage costs shall be borne by the owner of said vehicle as determined by the registration records of the Pennsylvania Department of Transportation, or similar office of any other state, province or territory. Notice of such removal shall be given to the registered owner by United States Mail within 48 hours of the removal, which notice shall set forth the place where the vehicle can be recovered, the costs of the removal and where such costs can be paid. In addition, any person, firm or corporation who shall violate § 235-10 shall, upon conviction thereof before a Magisterial District Judge, be subject to a fine of \$15 plus the costs of prosecution and in default of payment thereof, shall be subject to imprisonment for not more than five days. **[Amended 10-14-2019 by Ord. No. 812]**

**§ 235-11. Creation of positions of parking enforcement officers. [Added 11-10-2008 by Ord. No. 699]**

The Township Council hereby creates the positions of parking enforcement officers and the positions of parking enforcement officers shall be included in the Township Manning Table. Parking enforcement officers are hereby granted full law enforcement powers to enforce the provisions of any Township ordinances regulating the parking of vehicles, including but not limited to the issuance of parking tickets for violations of the provisions of this chapter, the institution of criminal proceedings through the filing of citations, and the participation in any summary proceedings or appeals involved in the enforcement of the provisions of any Township ordinances regulating the parking of vehicles.





MIDDLETOWN CODE

**Chapter 242**

**WATER**

ARTICLE I  
**Connection to System**

**§ 242-1. Connection requirement for  
Water District No. 5.**

**[HISTORY: Adopted by the Board of Supervisors (now Township Council<sup>126</sup>) of the Township of Middletown as indicated in article histories. Amendments noted where applicable.]**

GENERAL REFERENCES

Construction codes — See Ch. 89.

Subdivision and land development — See Ch. 210.

Sewers — See Ch. 180.

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**126.Editor's Note: The name of the Township's governing body became the Township Council as of 1-1-1978, the effective date of the Home Rule Charter.**

## ARTICLE I

**Connection to System****[Adopted 5-17-1976 by Ord. No. 195<sup>127</sup> (Ch. VI, Art. 3, of the 1976 Ordinance Book)]****§ 242-1. Connection requirement for Water District No. 5.**

All abutting property owners of Water District No. 5 shall hereby connect with and use the water lines provided herein. In the event that any owner of said property shall neglect or refuse to connect with and use said water system for a period of 90 days after notice to do so has been served upon him by the Township of Middletown, either by personal service or registered mail, the Supervisors or their agents may enter upon said property and construct such connection. In such case, the Supervisors shall forthwith, upon completion of the work, send an itemized bill for the cost of construction of such connection to the owner of the property to which connection has been made, which bill shall be payable forthwith, or the Supervisors may authorize the payment of the cost of construction of connection in equal monthly installments, said installments bearing interest at a rate not to exceed 7% per annum. In case of the neglect or refusal by the owner of a property required to connect to said system to pay said bill or installment payment, the Township Supervisors shall file a municipal lien for the said construction within six months of the date of completion of said connection, the same to be subject in all respects to the general law providing for the filing and recovering of municipal liens.

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127.Editor's Note: Sections 1, 2, and 3 of this ordinance pertain to the actual agreement with the Borough of Media for water service.

Middletown Township, PA

§ 242-1

MIDDLETOWN CODE

**Chapter 266****WEEDS AND VEGETATION**

<b>§ 266-1.</b>	<b>Instances of public nuisance.</b>	<b>§ 266-3.</b>	<b>Notice of violation.</b>
<b>§ 266-2.</b>	<b>Land subject to regulations.</b>	<b>§ 266-4.</b>	<b>Violations and penalties; cost of removal.</b>

**[HISTORY: Adopted by the now Township Council of the Township of Middletown 6-8-2020 by Ord. No. 822.<sup>128</sup> Amendments noted where applicable.]**

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**§ 266-1. Instances of public nuisance.**

It is the responsibility of the property owner(s) to inspect and maintain the vegetative growth on the owner's property within the Township of Middletown, including the vegetative growth located within the right-of-way of a public street on the owner's property. The growth or accumulation of weeds, grasses, trees, vines, bushes and other vegetative growth is declared to constitute a public nuisance, wherever and whenever the same shall cause or contribute to the causing of any of the following conditions to exist:

- A. Encroachment upon any sidewalk, street, alley or roadway to the danger or impediment of persons passing on said streets or sidewalks;
- B. Preventing the clear view of operators of motor vehicles by users of the adjoining streets;
- C. Being of such a nature as to cause or aggravate hay fever or other allergy diseases;
- D. Causing or tending to cause the breeding, growth or harboring of mosquitoes, flies or other insects;
- E. Causing or tending to cause the breeding, growth or harboring of rats, mice or other rodents;
- F. Causing or creating a fire hazard;
- G. Being in any way detrimental to the health or safety of the public; or
- H. Grasses, weeds and/or other similar vegetation not edible or planted for a useful or ornamental purpose that shall have grown or are maintained at a height in excess of 10 inches on any property within any developed area.

**§ 266-2. Land subject to regulations.**

- A. The provisions of this chapter shall apply to the following:
  - (1) Lots in a platted subdivision with a structure;
  - (2) Vacant lots within platted residential subdivisions in which buildings have been erected upon 60% or more of the lots, except lots which are naturally wooded areas; or
  - (3) On lots along improved streets to a depth of 165 feet or the depth of the lot, whichever is less.

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**128.Editor's Note: This ordinance also repealed former Ch. 266, Weeds and Vegetation, adopted by the Board or Supervisors 9-14-1959 by Ord. No. 49 (Ch. IV, Art. 2, of the 1976 Ordinance Book).**

B. The provisions of this chapter shall not apply to:

- (1) Land used for agricultural purposes including weeds in fields devoted to growing any small grain crops such as wheat, oats, barley or rye;
- (2) Portions of lots used for flower gardens, shrubbery or vegetable gardens;
- (3) Naturally wooded areas, wetlands or meadows; or
- (4) Areas designated as undeveloped open space.

**§ 266-3. Notice of violation.**

In the event that the Code Enforcement Officer of the Township determines that a violation of this chapter exists, the Code Enforcement Officer shall provide the property owner(s) with a written notice of violation, by certified and regular mail, containing the following minimum information:

- A. The name(s) of the property owner(s) of record of the property in violation;
- B. The address of the property in violation;
- C. A description of the specific violation under this chapter;
- D. The steps necessary for compliance and the date by which the compliance must be completed; and
- E. That failure to comply within the time and manner specified constitutes a violation of this chapter and the Township shall invoke one or both of § 266-4A or B of this chapter necessary to enforce the provisions hereof.

**§ 266-4. Violations and penalties; cost of removal.**

In the event that said notice of violation is not complied with as directed, the Township shall take any of the following actions as it may deem necessary to enforce the provisions of this chapter:

- A. Commence a summary enforcement proceeding before the Magisterial District Justice against the property owner(s), and upon conviction thereof, be punishable by a fine of up to \$200 for each violation thereof. Violators shall also be responsible for court costs and reasonable attorneys' fees of the Township, as permitted by law.
- B. Cause the condition to be removed or abated by the Township, the costs for which removal plus a service fee will be charged to the property owner(s). If such costs are not paid in full within 90 days, such costs may be filed as a lien against the property and collected in the same manner as other municipal liens or by personal action commenced in the Court of Common Pleas of Delaware County. Any voluntary action taken by the Township pursuant to this section shall not create any obligations on the part of the Township to continue such action, nor shall it limit, ameliorate or change the obligation of the property owner(s).

## ZONING

## Chapter 275

## ZONING

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<b>§ 275-243.</b>	<b>Standards for variances and</b>	<b>§ 275-248.</b>	<b>Amendment standards.</b>
	<b>special exceptions.</b>		

**[HISTORY: Adopted by the Township Council of the Township of Middletown 9-8-1986 by Ord. No. 395 (Ch. IX of the 1976 Ordinance Book). Amendments noted where applicable.]**

## GENERAL REFERENCES

Construction codes — See Ch. 89.

Stormwater management — See Ch. 198.

Soil erosion and sedimentation control — See Ch. 186.

Subdivision and land development — See Ch. 210.

ARTICLE I  
**Preamble**

**§ 275-1. Short title. [Amended 1-8-1990 by Ord. No. 461]**

This chapter shall be known as and may be cited as the "Middletown Township Zoning Ordinance of 1986," as amended.

**§ 275-2. Amendment of previous zoning provisions.**

This chapter amends Chapter IX of the Township Code of Ordinances by replacing all of the previous provisions.

**§ 275-3. Applicability.**

No building, sign or other structure or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, enlarged or structurally altered unless in conformity with the regulations of this chapter. This chapter shall apply to the applications for subdivision and/or land development approvals and conditional use and special exception approvals to the extent allowed by the Municipalities Planning Code. (See 53 P.S. §§ 10508(4) and 10603.2.1.<sup>129</sup>)

**§ 275-4. Purpose. [Amended 1-8-1990 by Ord. No. 461]**

- A. The regulations and districts established by this chapter are designed to advance the following general purposes:
- (1) To promote, protect and facilitate the following: the public health, safety, morals and general welfare, coordinated and practical community development, appropriate population densities, emergency management preparedness and operations, provision of adequate light and air, adequate vehicle parking and loading space and to provide for public needs such as transportation, sewage, water and recreational facilities.
  - (2) To prevent the following: overcrowding of land, blight, danger and congestion in travel and transportation, threats to health, life or property from fire, flood or other dangers.
  - (3) To prevent inappropriate use and development of scenic and natural resources such as floodplains, wetlands, aquifers, steep slopes and forests.
  - (4) To encourage the preservation of historic and cultural resources.
  - (5) To encourage the preservation of prime agricultural and farm land and open spaces.
  - (6) To require that development and land use reflect appropriate use of the topography, soils and other natural features.
  - (7) To provide a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial uses.
  - (8) To accommodate reasonable overall community growth, including population and employment growth, and provide opportunities for development of a variety of residential dwelling types and nonresidential uses.

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129.Editor's Note: 53 P.S. § 10603(c)(2.1) was repealed 6-23-2000 by P.L. 495, No. 68.

**§ 275-5. Conflicts.**

- A. The provisions of this chapter are intended to be the minimum requirements for the promotion of the health, safety and general welfare in the Township. However, this chapter is not intended to interfere with or abrogate or annul or modify directly or by implication any covenants in deeds, easements or other agreements affecting real estate; provided, however, that where this chapter imposes a greater restriction, the provisions of this chapter shall control.
- B. Where the provisions of any applicable statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, ordinance or regulation shall be controlling.
- C. The Township has prepared a Comprehensive Plan to identify policies and actions to implement the general purposes stated in § 275-3. In accordance with the goals and objectives of the Comprehensive Plan, this chapter shall be interpreted in accordance with the following community development objectives:
  - (1) To preserve the semirural nature of the Township's northern agricultural, botanical, institutional and recreational areas.
  - (2) To provide an appropriate setting for the expansive institutional and commercial uses in the central portion of the Township and to buffer those intense uses from other less intense uses.
  - (3) To protect and encourage the preservation of the agricultural, residential and recreational resources in the southern sections.
  - (4) To maintain and promote attractive, safe, healthy and stable residential areas and to enhance and encourage rehabilitation of existing neighborhoods.
  - (5) To remedy the sewage disposal, water supply or drainage problems.
  - (6) To require maintenance and adequate provisions for circulation, screening, parking and related needs.
  - (7) To permit various housing types and intensities in suitable areas which can support new development with efficient water supply and sewage disposal systems; and to limit the intensity of development in relation to the efficient expansion of such systems.
  - (8) To promote a complementary relationship among land uses in order to: protect property values, maintain a unified character and minimize traffic, noise and visual conflicts.
  - (9) To protect natural and cultural resources in particular: natural or artificial bodies of water; places of steep and very steep slope; areas with sensitive geological or topographic features and floodplain areas.
  - (10) To protect the integrity of places having a special character or use affecting and affected by their surrounding, such as areas along the Ridley and Chester Creeks and their tributaries, and places having historical interest or value.
  - (11) To encourage the provision and preservation of usable and functional open spaces areas: to aid in natural and cultural resource protection; to provide increased opportunities for recreational use and activities; to create visual buffers and to promote high-quality design and land development.

- (12) To control and improve the character of commercial and industrial development so that it will be compatible with and complementary to surrounding land uses and circulation systems.
- (13) To promote traffic safety and minimize congestion along major roads and highways by allowing planned business, office and commercial uses with limited access, few curb cuts and moderate campus-like settings.
- (14) To encourage safe and convenient access throughout the Township: to help insure the compatibility of major roads, residential streets, parking areas and driveways for existing and planned uses; and to promote the safe and efficient movement of people and goods.
- (15) To provide for development which will be designed to provide effective buffer areas and landscaped areas along roads, particularly major traffic thoroughfares, and between uses and development areas.
- (16) To require that all development and uses have the necessary utility systems and infrastructure such as public water, public sewer, storm sewers, permanent erosion and sedimentation control structures and other facilities.
- (17) To encourage the provision of recreational, cultural and educational facilities and services to meet the needs of those who live and/or work in the Township.
- (18) To promote effective soil conservation practices, to prevent soil erosion and increased stormwater runoff.

**§ 275-6. Repealer.**

Any provisions of the Township Code which are inconsistent with this chapter are hereby repealed. This repeal shall not affect the following:

- A. Any offense or act committed or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this chapter.
- B. The administrative ordinances or resolutions of the Township which are not in conflict or inconsistent with the provisions of this chapter.
- C. Any ordinance or resolution concerning subdivision or zoning matters filed prior to the effective date of this chapter.
- D. The terms of any final subdivision or land development approval or any development agreement.



## ARTICLE II Terminology

### § 275-7. Interpretation.

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

- A. The present tense includes all other tenses; the singular includes the plural and the plural includes the singular; the masculine gender includes the feminine and the neuter; the word "used" includes the words designed or arranged; the word "person" includes any individual, estate, trust, fiduciary, partnership, association, corporation or any other organization or entity, including the principal officers thereof or any person or entity acting directly or indirectly by, through or under any of the foregoing; the word "occupied" includes the words designed, or intended to be occupied; the word "structure" includes building; the word "shall" is always mandatory; the word "may" is always permissive and the word "will" is always directory. The words "as amended" as applied to any statute, ordinance, code, regulation, plan or map, include replacements, supplements or restatements thereof; and reference to a particular article, section or subsection which inherently refers to other articles, sections or subsections, includes all articles, sections or subsections referred to.
- B. The word "Township" means Middletown Township, Delaware County, Pennsylvania; the term "Township Council" means the Township Council of Middletown Township; the term "Planning Commission" means the Planning Commission of the Township; and the term "Zoning Hearing Board" means the Zoning Hearing Board of the Township.
- C. The terms "such as", "including" and the like are intended to introduce matters which are illustrative of the meaning of the sentence, clause or phrase in which such terms appear without limiting or derogating from the general application of the sentence, clause or phrase in which such terms appear.

**§ 275-8. Definitions. [Amended 7-24-1989 by Ord. No. 448; 1-8-1990 by Ord. No. 461; 7-23-1990 by Ord. No. 470; 4-27-1992 by Ord. No. 506; 10-25-1993 by Ord. No. 527; 6-27-1994 by Ord. No. 542; 7-24-1995 by Ord. No. 554; 8-14-1995 by Ord. No. 556; 6-25-2001 by Ord. No. 612; 8-28-2000 by Ord. No. 605]**

- A. In this chapter, words, terms and phrases shall have the following meanings:

**ABANDONMENT** — The cessation of a use of a property (land and/or structures) by the owner, with the intention of neither resuming the use or transferring rights to the property to another who will so use the property.

**ABUTTING OWNER** — The owner of record of a parcel of land which is contiguous at any point to the parcel in question or which is contiguous to a section of road or street (public or private) on which the subject parcel has frontage, i.e., a lot across from the subject parcel.

**ACCESSORY BUILDING or ACCESSORY STRUCTURE** — Any building or other structure subordinate to and separate from the principal permitted building or other structure on the lot and designed and used for purposes which are accessory to the principal permitted use of the lot, including but not limited to buildings, sheds, garages, stables, swimming pools and tennis courts. "Accessory buildings or accessory structures" shall be divided into three classes or classifications, as follows:

- (1) Class A accessory building or accessory structure: an "accessory building or accessory structure" which has a floor area of 240 square feet or less and a height of 14 feet or less, and which does not exceed one story.

- (2) Class B accessory building or accessory structure: an "accessory building or accessory structure" which has a floor area of more than 240 square feet and/or a height of more than 14 feet and/or which exceeds one story.
- (3) Class C accessory building or accessory structure: an "accessory building or accessory structure" which is not a Class A or Class B accessory building or accessory structure, including but not limited to hot tubs, spas, swimming pools, fences, walls and communication structures such as ham radio antennas.

**ACCESSORY USE** — A use which is clearly incidental to and customarily conducted in connection with the particular use of the parcel and on the same lot as a principal use.

**ACCESSWAY** — In the context of an interior lot, that narrow portion of the lot, the width of which is regulated by Section 3003J,<sup>130</sup> on which the driveway is situated to provide a means of ingress and egress for the dwelling located on the balance of the lot to the street or road. An accessway may, but need not, contain a shared drive to provide ingress and egress for adjacent interior lots.

**ADVERSE EFFECTS** — Results contributing to a harmful or degraded condition and/or producing an unfavorable result, such as environmental harm or degradation. Adverse effects may include: a negative impact on surrounding land uses; negative impacts which are contrary to the Comprehensive Plan and the intent of this chapter; and negative impacts which may create a threat to the public health, safety and general welfare.

**AGRICULTURAL USE; AGRICULTURE** — A principal use involving the cultivating of the soil, the raising and keeping of livestock and poultry and the harvesting of the products of the soil, including horticulture and forestry, but excluding commercial greenhouses, garden centers, garden marts or nurseries.

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

**ALTERATION OF BUILDING OR STRUCTURE** — See "structural alteration."

**ALTERNATIVES** — Choices between or among two or more plans, layouts, approaches, solutions and/or results.

**AMBIENT NOISE** — The all-encompassing noise associated with a given environment, being usually a composite of sounds from any sources, near and far.

**ANCHOR STORE** — A building within the B-2 Major Shopping Center Zoning District occupying 100,000 square feet or greater gross floor area, such as a department store or supermarket, which is prominently located in a shopping mall to attract customers who are then expected to patronize the other shops in the mall. **[Added 5-24-2010 by Ord. No. 713]**

**ANTIQUE CAR** — Cars for which a current antique or classic license plate has been issued by the State of Pennsylvania.

**APPLICANT** — A landowner or developer, including heirs, successors, assigns and grantees, who has filed an application for subdivision and/or land development, as hereinafter defined, or an application for a special exception, variance or conditional use.

**A-WEIGHTED SOUND LEVEL** — The sound pressure level, in decibels, as measured on a sound level meter using the A-weighted network. The level so read is designated dB(A).

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130. Editor's Note: Section 3003J was repealed by Ordinance No. 510, approved October 26, 1992.

**BASE FLOOD** — A flood which has a one-percent chance of being equaled or exceeded in any given year (also called the "one-hundred-year flood").**[Added 11-8-2010 by Ord. No. 715]**

**BASE FLOOD ELEVATION (BFE)** — The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH and A1 to 30 that indicates the water surface elevation resulting from a flood that has a one-percent-or-greater chance of being equaled or exceeded in any given year.**[Added 11-8-2010 by Ord. No. 715]**

**BASEMENT** — For Pennsylvania Uniform Construction Code (PA UCC) purposes, "basement" shall be held to mean that portion of a building partly or completely below grade; for floodplain management purposes, "basement" shall be held to mean any area of the building having its floor below ground level on all sides; for Zoning Code purposes, "basement" shall be considered a story for the purpose of height measurement if the basement ceiling is five feet or more above the average ground level around the building.**[Amended 11-8-2010 by Ord. No. 715]**

**BENEFICIAL EFFECTS** — Results contributing to an improvement in condition and/or producing a favorable result such as making a use more compatible with the intent of this chapter and the goals of the Comprehensive Plan and promoting the public health, safety and general welfare.

**BILLBOARD** — A structure erected, operated and maintained as the principal commercial use on a lot for the purpose of advertising a product, activity or business not conducted on the lot.**[Added 9-14-2009 by Ord. No. 707]**

**BIOLOGICAL RESOURCES** — Characteristics of the natural environment manifest in its flora and fauna. The disposition of these characteristics is typically expressed in vegetation and/or wildlife units such as tree, woodland or forest stands and related understory and ground cover growth; and aquatic and terrestrial wildlife and/or their habitats.

**BUFFER AREA** — A pervious area with natural ground cover which does not contain any structures, except for those permitted by § 275-213 of this chapter, and which is landscaped and maintained as required by Article XXXIV of this chapter. The width of the buffer area shall be as provided in the applicable zoning district regulations. The buffer area shall be measured from the street line for that portion of a lot abutting a street and from the lot line for those portions of a lot which do not abut a street.**[Added 8-28-2000 by Ord. No. 605]**

**BUFFER PLANTING STRIP** — A strip of land within the required buffer area which is landscaped with trees and shrubs and maintained as required by this chapter and in a manner as required in Article XXXIV, Special Provisions, and the applicable district regulations.

**BUILDING** — Any structure used or intended for supporting or sheltering any use or occupancy.

**BUILDING AREA** — The net lot area after subtracting the area of the accessway.

**BUILDING COVERAGE** — The coverage of the lot area by buildings.

**BUILDING LINE** — The line parallel to the street line at a distance therefrom equal to the depth of the required front yard.

**BUILDING SETBACK LINE, FRONT YARD** — The line normally parallel to the public or private street right-of-way line at a distance equal to the minimum depth of the required front yard. All yards adjacent to a public or private street right-of-way normally shall be considered front yards. However, in the case of an interior lot, such setback line shall coincide with the front lot line.

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

**BUILDING SETBACK LINE, SIDE YARD** — The line normally parallel to the front lot line and

equal to the required minimum depth of the rear yard.

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

**CALIPER** — The diameter of a tree trunk measured at a point 4 1/2 feet from the ground surface at the center of the base of the tree for all existing trees; and at a point six inches from the ground surface at the center of the base of the tree for all trees to be planted.**[Added 11-8-2004 by Ord. No. 658]**

**CAMPUS MIXED USE DEVELOPMENT** — A combination of single-family attached dwellings and related community-related business uses built and maintained according to regulations of § 275-38.1.**[Added 12-23-2013 by Ord. No. 744]**

**CAMPUS MIXED USE DEVELOPMENT TRACT** — One or more contiguous lots assembled for the purpose of development in accordance with the regulations of a campus mixed use development.**[Added 12-23-2013 by Ord. No. 744]**

**CAMPUS-TYPE SETTING** — A unified development whereby buildings are grouped together around open space areas in the form of greens, parks, quadrangles, plazas, squares and other public/pedestrian gathering areas, and complies with the design and development standards of § 275-38.1E and F.**[Added 12-23-2013 by Ord. No. 744]**

**CANOPY STRUCTURE** — A structure or portion thereof with a roof, but no outer walls, providing cover for that portion of a lot upon which there are motor vehicle fueling positions for the dispensing of motor vehicle fuel.**[Added 11-8-2004 by Ord. No. 658]**

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

**CENTER LINE, STREET** — A line in the center of a street which is equidistant from and parallel to the street lines.

**CHARITABLE USE** — A use conducted by a nonprofit organization, as a service to the general public or to a significant portion of the public, for no fee or at a fee which is less than would be charged by a profit-making organization.

**CHURCH** — A building or group of buildings including customary accessory buildings, designed or intended for organized religious services. The word "church" includes chapels, cathedrals and temples.

**CLEAR CUTTING** — The felling of all trees on a tract of land or any portion thereof at one time.

**CLUB or LODGE** — A social, professional or philanthropic organization characterized by the payment of dues, regular meetings and a constitution and bylaws. A building is used for a club or lodge purposes when it serves as a meeting place for such organization and is not an adjunct to or operated by or in connection with a public tavern, cafe or other public place, although it may be used for recreational and/or dining facilities for the membership and their guests.

**COMMERCIAL SECTION** — The area within a campus mixed use development designated for community-related business uses.**[Added 12-23-2013 by Ord. No. 744]**

**COMMON OPEN SPACE** — A parcel or parcels of land or an area of water, or a combination of land and water within a land development or subdivision, designed and intended for the use or enjoyment

of residents or occupants thereof, not including streets, off-street parking areas and areas set aside for public facilities. (See Article XXXV and "designated open space.")

**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.**[Added 9-14-1998 by Ord. No. 588]**

**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.**[Added 9-14-1998 by Ord. No. 588]**

**COMMUNICATIONS TOWER** — A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support communications antennas.**[Added 9-14-1998 by Ord. No. 588]**

**COMMUNITY CENTER** — A facility operated principally by a nonprofit entity and used as a community center and for community-based activities, that includes, but is not limited to, facilities for community meetings, gatherings and conferences, child-care facilities, gymnasiums, exercise facilities, swimming pool, locker rooms, tracks, playing fields for various sports, recreational facilities and such other accessory facilities and uses as are normal and customary for a community center.**[Added 2-23-1998 by Ord. No. 582]**

**COMMUNITY FACILITIES** — The services which provide for various community health, education, safety, leisure and like needs and the locations at which these services are provided. Typical community facilities include: schools, parks and recreation areas, libraries, hospitals and other health care facilities, fire protection, police, ambulance and rescue service and postal services.

**COMMUNITY-RELATED BUSINESS USES** — Commercial uses enumerated in § 275-38.1B(2) that are part of a campus mixed use development in the R-4 District.**[Added 12-23-2013 by Ord. No. 744]**

**COMPLETELY DRY SPACE** — A space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.**[Added 12-14-2009 by Ord. No. 709]**

**COMPREHENSIVE PLAN** — The Middletown Township Plan, as may be amended from time to time, including maps, tables and text which constitute a policy guide for decisions regarding land use, circulation, community facilities and utilities within the Township.

**CONDITIONAL USE** — A use which may be approved or denied by the Township Council after recommendation by the Planning Commission, when in compliance with all applicable standards and criteria set forth in this chapter.

**CONSTRUCTION OPERATION OR ACTIVITY** — The erection, repair, renovation, demolition, removal, rehabilitation or other work performed for, to, on or with regard to any building or structure; including the excavation, filling and grading of lots in connection therewith or in preparation thereof.

**CONTINUING CARE RETIREMENT COMMUNITY** — A development that provides a continuum of accommodations and care for senior persons, including a combination of independent living units, personal care units, a skilled nursing facility and accessory uses.**[Added 12-13-2004 by Ord. No. 659]**

CONTINUOUS VISUAL BUFFER — A visually impenetrable screen created with plant materials, fencing, walls and/or earthen berms.

CONVENIENCE STORE — A retail store of not less than 3,000 square feet or more than 8,000 square feet of gross floor area for the sale of food and beverages for off-premises consumption, personal care items and other similar items and which may include an ATM banking machine. **[Added 11-8-2004 by Ord. No. 658]**

CUL-DE-SAC — A street having vehicular access to and from the public street system at one end and terminating in a circular vehicular turnaround at the other end. Such street provides access to abutting properties but is not or may not be intended to provide traffic circulation through a tract.

CULTURAL, RELIGIOUS OR CHARITABLE USE — See "cultural use, religious use and/or charitable use."

CULTURAL USE — A use which promotes art, music, science and history in the form of a museum, botanical garden or like facility.

DAY-CARE CENTER — Any premises in which child day care is provided for children who are not relatives of the operator, including nursery schools.

DECIBEL (DB) — A unit for measuring the sound pressure level, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure.

DENSITY — Unless otherwise provided, the term "density" means gross density, which is determined by dividing the total number of dwelling units by the total amount of land in the tract minus all land within the rights-of-way or easements of streets or utilities.

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

DEVELOPER — Any landowner, equitable owner or authorized agent of such landowner or tenant with permission of the landowner who formally proposes or makes, or causes to be made, a subdivision, land development or any other development.

DEVELOPMENT — Any man-made change to improved or unimproved land, 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. **[Amended 11-8-2010 by Ord. No. 715]**

DEVELOPMENT PLAN — The documents and maps and other graphics outlining a proposal for development of a planned residential development, prepared in accordance with this chapter, including a plat of subdivision, location of various uses, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, parking facilities, common open space, public facilities and the like.

DWELLING — A building designed for residential use by a family or occupied as a residence of a family.

DWELLING, MULTIFAMILY — A building designed for and occupied exclusively as a residence for two or more households living independently of each another.

- (1) APARTMENTS — A multifamily dwelling, where individual dwelling units share a common outside access and share a common yard area. Apartments or garden apartments contain three or more dwelling units in a single structure, and each individual apartment, i.e., having a minimum total floor area of 600 square feet.

- (2) RETIREMENT RESIDENCE — A dwelling or group of dwellings specifically designed for retired or elderly persons. Retirement dwellings may be of any dwelling type defined, but are only allowed in accordance with the specific terms and conditions of this chapter.

DWELLING, SINGLE-FAMILY ATTACHED — A dwelling with party walls separating two or more single-family dwelling units including duplex, quadruplex, multiplex and townhouse buildings.

- (1) DUPLEX OR TWIN HOUSE — A single-family, semidetached dwelling having two individual dwelling units separated by one common party wall from ground to roof with no communicating openings.
- (2) MULTIPLEX — An attached dwelling in a building with more than two dwelling units where each dwelling unit has independent outside access. Such dwelling units may be arranged in a variety of configurations such as side by side, back to back or vertically and may involve a quadruplex configuration, where four dwelling units are attached in a structure or group.
- (3) TOWNHOUSE — A single-family, attached dwelling within a building with more than two other single-family attached dwelling separated by any portion of the one or two unpierced party walls from ground to roof.

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

- (1) MOBILE HOME — A transportable, single-family detached dwelling unit intended for permanent occupancy 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 is constructed as permitted in Article XX, so that it may be used without a permanent foundation, but with the same, or equivalent, electrical, plumbing and sanitary facility as for a conventional single-family detached dwelling. A mobile home shall include any addition or accessory structure such as porches, sheds, decks or additional rooms, which is attached to it. For the purpose of floodplain management, the words "mobile home" shall be replaced with the words "manufactured home" within any delineated floodplain area.

DWELLING UNIT — A dwelling or portion thereof, forming a single habitable unit with a private access and facilities which are used or intended to be used for living, sleeping, cooking and eating exclusively by one family.

EASEMENT — The right to use or prevent use of another's land for a particular purpose.

ELECTRICAL CHANGEABLE COPY DISPLAY — The portion of a sign whose message copy or content can be changed by means of remote through an electrically energized, on-off switching combination of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices from an internal light source.**[Added 3-25-2013 by Ord. No. 737]**

EMERGENCY — Any occurrence or set of circumstances involving actual or imminent physical or mental trauma to persons or significant property damage, typically unforeseen and sudden in nature.

EMERGENCY WORK — Any work performed for the purpose of preventing or mitigating the

physical/mental trauma or property damage threatened or caused by an emergency.

**ENLARGEMENT** — An addition to the floor area or increase in size of an existing structure, an increase in the area of a parcel which is occupied by an existing use, or an increase in the intensity of a use as a result of increased parking, traffic generation or alternate sewage disposal system or other impacts on surrounding land uses, existing or zoned.

**ENVIRONMENT** — The conditions, resources and/or characteristics which exist within and surround the area to be affected by a proposed subdivision and/or land development, including natural elements such as land, water, air, minerals, natural flora and natural fauna; and man-made components such as objects of historic or aesthetic significance, infrastructure and man-related attributes of a social and economic nature.

**ENVIRONMENTAL CONTROLS** — The performance standards set forth in Article XXXIII pertaining to environmental quality and environmental degradation.

**ENVIRONMENTAL IMPACT ASSESSMENT REPORT** — An assessment which objectively describes, analyzes and documents both the beneficial and adverse environmental effects of a proposed subdivision and/or land development and the measures to be undertaken to mitigate adverse effects in accordance with the provisions set forth in this chapter.

**ESSENTIALLY DRY SPACE** — A space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water. **[Added 12-14-2009 by Ord. No. 709]**

**FAMILY** — One or more individual living together in a dwelling unit as a single, nonprofit housekeeping unit, i.e., a household; excluding occupants of a club, fraternity house, lodge, or rooming house, or group quarters not owned or leased by the individuals.

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

**FLAG FRONT LINE** — A line which is parallel to the public street from which a flag lot gains access; extends the full width of such flag lot; and intersects the point nearest such public street at which the flag lot first achieves a width equal to 75% of the applicable lot width requirement. **[Added 7-13-2020 by Ord. No. 817]**

**FLOOD** — Stormwater that temporarily inundates land areas not normally covered by water.

**FLOOD FRINGE** — That portion of the floodplain of the one-hundred-year flood which is outside the floodway.

**FLOOD HAZARD AREA** — Those areas as described in Article XXIX and delineated on the Floodplain Conservation District Map.

**FLOOD INSURANCE RATE MAP (FIRM)** — The official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. **[Added 11-8-2010 by Ord. No. 715]**

**FLOOD INSURANCE STUDY (FIS)** — The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood. **[Added 11-8-2010 by Ord. No. 715]**

**FLOOD, ONE-HUNDRED-YEAR** — A flood that, on the average, is likely to occur only once every 100 years, that is, one that has as one-percent likelihood of occurring each year, but may occur more



than once in any one-hundred-year period.

**FLOODPLAIN** — A relatively flat or low land area, adjoining a river, stream, watercourse or body of water, which area is subject to partial or complete inundation; an area subject to the unusual and rapid accumulation of surface waters from any source, e.g., stormwater drainage courses and basins.

**FLOOD-PRONE AREA** — Those areas as described in Article XXIX and delineated on the Floodplain Conservation District Map.

**FLOODPROOFED** — Watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydraulic and hydrodynamic loads and effects of buoyancy.

**FLOODPROOFING** — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. **[Added 11-8-2010 by Ord. No. 715]**

**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. **[Amended 11-8-2010 by Ord. No. 715]**

**FLOOR AREA** — See "gross floor area" and "net floor area."

**FLOOR AREA RATIO** — The total floor area divided by the net area of that lot.

**FOREST** — See "woodland and forest."

**FRONT PROPERTY LINE** — That line which, in the case of a normal lot, is the front street line; in the case of a corner lot, is the street line of both abutting streets; and, in the case of an interior lot, the property line toward which the building faces or is to face. (See the definitions for "normal lot," "lot, interior," and "lot, corner.")

**FRONT YARD** — The required open space extending along the street line of any street on which the lot abuts; or, in the case of an interior lot, along the front property line. In the case of a corner lot, there shall be two front yards and two side yards.

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

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

**GOVERNMENTAL USES** — Buildings, facilities or activities used or conducted for a governmental, as opposed to a proprietary, purpose.

**GROSS DENSITY** — See "density."

**GROSS FLOOR AREA** — The sum of the gross horizontal areas of all floors of a building, measured from the exterior face of exterior walls or from the center line of a common wall separating two buildings, including interior parking spaces, interior loading space for motor vehicles and any space where the floor-to-ceiling height is more than six feet.

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

in calculating the height.

**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.**[Added 9-14-1998 by Ord. No. 588]**

**HIGHEST ADJACENT GRADE** — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.**[Added 11-8-2010 by Ord. No. 715]**

**HISTORIC RESOURCES** — Sites, areas, structures, trails and/or routes which are valued due to their significance as locations of events and/or examples of architecture, customs, skills or arts of the past.

**HISTORIC STRUCTURE** — Any structure that is:**[Added 12-14-2009 by Ord. No. 709]**

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

**HOME OCCUPATION** — An activity conducted within a dwelling unit by the residents, including occupations such as: manufacturer's representative, insurance salesperson, dressmaker, teacher, artist and the like; but shall not include: morticians, barbers, beauticians and the like or uses such as commercial kennels, tearooms, tourist rooms and the like.

**HOME PROFESSIONAL OFFICE** — An office for the personal use of a physician, dentist, lawyer, engineer, architect or other learned professional practitioner, provided that such office is located within the residence of such professional.

**HORTICULTURE** — The art and practice of propagating and cultivating plants for their procedure or for ornament.

**HOSPITAL** — An institution providing primary health services and medical and/or surgical care to persons, some of whom are inpatients, suffering from illness, disease, injury, deformity and other physical or mental problems. When conducted as an integral part of the hospital, related accessory facilities, such as laboratories, outpatient or training facilities or offices for doctors and other medical personnel affiliated with the hospital may be an accessory use to the hospital.

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

**HOUSEHOLD PETS** — Domestic animals normally considered to be kept in or in conjunction with

a dwelling unit for the pleasure of the resident family, such as dogs, cats, small birds, gerbils and other similar pets normally sold by retail pet stores.

**ILLUMINATED or ILLUMINATION** — To be lightened up or to give light to, by means of either an internal or external light source other than by natural light.

**IMPACT** — The power of an event or condition to produce changes in other conditions. In the context of impact exerted on the environment, changes which affect existing conditions and/or quality are of greatest concern.

**IMPERVIOUS SURFACE COVERAGE** — The coverage of the lot area by materials that normally shed most rainfall, e.g., buildings, paved areas, including streets, parking lots and similar surfaces, and other improvements that generate significant stormwater runoff.

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

**IMPULSIVE SOUND** — Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of "impulsive sound" include explosions, drop-forge impacts and the discharge of firearms.

**INDEPENDENT LIVING UNIT** — An apartment dwelling unit in a multifamily dwelling apartment building used exclusively for occupancy by one or more senior persons in a continuing care retirement community.**[Added 12-13-2004 by Ord. No. 659; amended 11-28-2005 by Ord. No. 667]**

**INFRASTRUCTURE** — The basic installations and facilities on which the continuance and growth of a community depend, such as roads, schools, electrical transmission facilities and transportation, communication, sewer and water systems.

**INTERIOR LOT** — See "lot, interior."

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

**KENNEL** — An establishment where six or more dogs, cats or like domesticated animals, more than one-year old, are kept, boarded, groomed, trained, raised or bred for compensation.

**LAND DEVELOPMENT** — Any of the following activities described in Subsections (1) and (2) below, but excluding any activities described in Subsection (3) below:

- (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.

- (2) A subdivision of land.
- (3) The addition of a single accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building if, and only if, all of the following criteria are met:
  - (a) The use of the proposed accessory building will be other than residential; and
  - (b) The lot area of the lot on which the accessory building is to be placed is 10 acres or larger; and
  - (c) The proposed accessory building does not exceed 1,000 square feet in gross floor area and the total cumulative gross floor area of the proposed accessory building and all other accessory buildings previously exempted from the definition of land development pursuant to this section does not exceed 2,500 square feet; and
  - (d) The height of the proposed accessory building does not exceed 35 feet.

**LANDOWNER** — The legal or beneficial owner or owners of land; the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition) or a lessee if he is authorized under the lease to exercise the rights of the owner.

**LANDSCAPED AREA** — That portion of a tract or lot in which plantings have been installed in accordance with the special provisions for landscaping in Article XXXIV. The "landscaped area" includes the buffer planting strip and those plantings which serve a functional and/or aesthetic purpose and are located around and between buildings, roads, parking areas, sidewalks, walkways, sitting areas, service or maintenance structures, courtyards and the like.

**LANDSCAPING PLAN** — A plan for the installation and maintenance of plantings, prepared according to the provisions of Article XXXIV.

**LIFE CARE COMMUNITY** — A land development which includes residential units within a planned retirement community and accessory uses for the continuing care of the residents.

**LIVESTOCK** — Animals of any kind raised for sale, resale or agricultural field production. For the purposes of this chapter, the keeping of common household pets such as dogs, cats and the like shall not be considered as keeping of livestock.

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

**LONG-TERM EFFECTS** — Results which are manifest for or extended over a long period of time.

**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.

**LOT AREA** — For purposes of determining compliance with the minimum lot area requirements of this chapter, the area of a lot shall be measured to the street line only; and areas subject to driveway, drainage and permanent utility easements and areas separated from the proposed principal use by a street right-of-way shall not be counted unless this chapter expressly provides otherwise.

**LOT, CORNER** — A lot abutting upon two or more streets or upon two parts of the same street, including shared driveways, forming an interior angle of less than 135°. A corner lot has two front yards and two side yards.

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

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

**LOT, EXISTING INTERIOR** — A lot existing as of the date of this amendment<sup>131</sup> with an existing separate tax folio number, which meets all of the R-1 or R-1A Residential District zoning regulations except the minimum lot width at the street line.**[Added 7-13-2020 by Ord. No. 817]**

**LOT, FLAG** — A lot which is connected to a street by an access strip of required minimum width at the street line per the applicable zoning district. Minimum lot area and other dimensional requirements shall be met on that portion of the lot exclusive of the minimum access strip.**[Added 7-13-2020 by Ord. No. 817]**

**LOT, INTERIOR** — A lot created through the subdivision process, after the date of this amendment, which does not front on a street and has access to a street only by way of an easement or right-of-way.**[Amended 7-13-2020 by Ord. No. 817]**

**LOT LINE** — A property boundary line shown on a recorded plan or described in a recorded deed.

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

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

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

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

**LOWEST FLOOR** — The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood-resistant, partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable nonelevation design requirements of this chapter.**[Added 12-14-2009 by Ord. No. 709]**

**MANUAL CHANGEABLE COPY DISPLAY** — The portion of a sign whose message copy or content is changed manually through placement of letters or symbols on a panel mounted in or on a track system.**[Added 3-25-2013 by Ord. No. 737]**

**MANUFACTURED/MOBILE HOME** — A transportable, single-family detached dwelling unit intended for permanent occupancy 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 is constructed as permitted in Article XX, so that it may be used without a permanent foundation, but with the same, or equivalent, electrical, plumbing and sanitary facility as for a conventional single-family detached dwelling. A mobile home shall include any addition or accessory structure such as porches, sheds, decks or additional rooms, which is attached to it. For the purpose of floodplain management, the words "mobile home" shall be replaced with the words "manufactured home" within

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131.Editor's Note: This amendment was adopted 7-13-2020.

any delineated floodplain area. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days. **[Added 12-14-2009 by Ord. No. 709]**

**MENU BOARD OR MENU SIGN** — A freestanding sign which depicts the menu of food for sale at the drive-through section of a fast-food restaurant. Such sign shall not exceed 25 square feet.

**MITIGATION** — The act of precluding a potentially adverse effect and/or making a potentially adverse effect less severe through measures which will improve a condition and/or lessen the impact.<sup>132</sup>

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

**MOBILE HOME PARK** — A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes. For the purpose of floodplain management, the words "mobile home park" shall be replaced with the words "manufactured home park" within any delineated floodplain area.

**MOTEL** — See "hotel, motel or inn."

**MOTOR VEHICLE SERVICE STATION** — A building or place of business where gasoline and automobile accessories are dispensed directly to the motor vehicle trade and/or where automotive repair services may be rendered.

**MUFFLER or SOUND-DISSIPATIVE DEVICE** — A device designed or used for decreasing or abating the level of sound escaping from an engine, machinery or like system.

**MUNICIPAL USE** — A use conducted on a lot and/or in a building or structure by Middletown Township, the Middletown Township Sewer Authority or a fire company or library supported by Township tax revenues. **[Amended 6-25-2018 by Ord. No. 794]**

**NATURAL ENVIRONMENT** — A composition of land, water and/or air represented by its inherent physical and biological resources.

**NET FLOOR AREA** — The total of all horizontal floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after the effective start date of this floodplain management ordinance and includes any subsequent improvements to such structures. Any construction started after February 15, 1979, and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance. **[Added 12-14-2009 by Ord. No. 709; amended 8-24-2015 by Ord. No. 758]**

**NO-IMPACT HOME-BASED BUSINESS** —

- (1) 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, and which satisfies all of the following requirements: **[Added 5-24-2010 by Ord. No.**

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132. Editor's Note: The former definition of "mobile home," which immediately followed this definition, was repealed 12-14-2009 by Ord. No. 709. See now the definition of "manufactured/mobile home."

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- (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.

**NOISE** — Any sound which annoys or disturbs humans or animals or which causes or tends to cause an adverse psychological or physiological effect on humans or animals.

**NOISE DISTURBANCE** — Any sound which endangers or injures the safety or health of humans or animals, endangers or injures personal or real property or is in excess of the sound levels by zoning districts established in Article XXXIII.

**NONCONFORMING BUILDING OR STRUCTURE** — A building or structure which does not comply with the provisions of this chapter, as amended, where such building or structure lawfully existed prior to the enactment of this chapter or amendment.

**NONCONFORMING LOT** — A lot of record lawfully existing at the passage of this chapter or amendment hereto, which does not have the minimum width or other requirements set forth in this chapter, as amended.

**NONCONFORMING SIGN** — A sign which does not conform to the sign regulations in this chapter, as amended, but which was in existence lawfully before the regulation creating the nonconformity was enacted.

**NONCONFORMING USE** — A use, whether of land or of a structure, which does not comply with the applicable use provisions of this chapter, as amended, where such use was in existence lawfully prior to the enactment of the regulation(s) creating the nonconformity.

**NORMAL LOT** — A lot which abuts on only one street and when developed will have a front yard along the street.

**OPEN SPACE** — Natural, cultivated or landscaped areas restricted in perpetuity to natural resource conservation, recreation, buffer or other uses as authorized in the open space provisions, Article XXXV. To determine the areas which may be counted as required open space, see Article XXXV.

**OPEN SPACE OPTION** — The choice which may be exercised in the R-1 and R-2 Residence Districts, on tracts greater than 15 acres, to arrange lots with particular consideration of a sensitivity toward environmental resources in exchange for allocating open space for various conservation and recreational purposes. Under this approach, the minimum net lot size requirement could be less than otherwise would be required and the relative density could be greater than otherwise permitted.

**PAD LOT** — A fee simple parcel created for financing and/or conveyancing purposes within a tract qualifying for a mall conversion. **[Added 11-9-2015 by Ord. No. 760]**

**PARENT TRACT** — The area of land from which parcels are subdivided. **[Added 7-13-2020 by Ord. No. 817]**

**PARK** — A tract of land designated and used by the public primarily for recreation of an active or

passive nature.

**PARKING SPACE** — A reasonably level space, available for the temporary parking of one motor vehicle, exclusive of passageways, driveways or other means of circulation or access. A parking space shall include either covered garage spaces or uncovered parking lot space located off the street right-of-way and in back of the front yard building setback line. The size of parking spaces shall be as required in Article XXXI and in the PRD and SU districts.

**PERSON** — Any individual, association, trust, partnership or corporation, including any members, directors, officers, employees, partners or principals thereof. Whenever used in any clause prescribing and imposing a penalty, "person" includes the members, trustees, partners, directors, officers, managers and supervisors, or any of them, of partnerships, associations, corporations or other form of entity.

**PERSONAL-CARE FACILITY** — A premises operated by a legal entity holding a certificate of compliance document issued by the Pennsylvania Department of Health (license) permitting the operation of a personal-care home (PCH), at the location of said premises, according to appropriate Pennsylvania Department of Health program licensure or approval regulations, in which food, shelter and personal assistance or supervision are provided for a period of at least 14 days for four or more aged adults who do not require the services in or of a Pennsylvania Department of Health licensed long-term care facility, but who do, because of their advanced age, require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation of a residence in the event of an emergency or medication prescribed for self-administration.

**PERSONAL-CARE UNIT** — A dwelling unit in a building of multiple dwelling units for occupancy by one or more senior persons in a personal care facility in a continuing care retirement community. **[Added 12-13-2004 by Ord. No. 659]**

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

**PHYSICAL RESOURCES** — Characteristics of the natural environment manifest in its landforms, soils, geological structure of surface and/or subsurface rock, minerals, natural bodies of water and/or man-made impoundments, watercourses, groundwater and the like. The disposition of these characteristics is typically expressed in physiographic, topographic and/or hydrologic units such as: rock formations, slopes, elevations, soil types, watersheds, surface water types, wetlands, floodplains, aquifers or aquifer recharge areas and the like.

**PLANNED RESIDENTIAL DEVELOPMENT** — A contiguous area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units the development plan complying with the provisions of Article XI.

**PLANNING CODE** — The Pennsylvania Municipalities Planning Code, Act 247, of 1968, 53 P.S. §§ 10101 to 11202, as amended by Act 170 of 1988.

**PLANTINGS** — Trees, shrubs and ground cover which are installed and maintained in accordance with a landscaping plan approved by the Township Council.

**PRIMARY EFFECTS** — Results of a direct nature which have a principal influence on a particular condition.

**PRINCIPAL OCCUPANT** — A tenant space within the B-2 Major Shopping Center Zoning District with a gross floor area of 20,000 square feet or greater gross floor area within a multi-occupancy building. **[Added 5-24-2010 by Ord. No. 713]**



**PRIVATE ALLEY LINE** — The dividing line between a lot and a privately owned alley easement line.**[Added 12-23-2013 by Ord. No. 744]**

**PRIVATE GARAGE** — See "garage, private."

**PRIVATE STREET LINE** — The dividing line between a lot and a privately owned street easement line.**[Added 12-23-2013 by Ord. No. 744]**

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

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

**PUBLIC IMPROVEMENT ENHANCEMENTS** — Functional and aesthetic improvements pertaining to vehicular and pedestrian circulation; pedestrian gathering areas; and the positioning of open spaces and pedestrian amenities in a campus-type setting as part of a campus mixed use development as specified in § 275-38.1F.**[Added 12-23-2013 by Ord. No. 744]**

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

**PUBLIC SEWER and PUBLIC SANITARY SEWER SYSTEM** — Sewers owned and/or operated by the Township, a municipality, a municipal authority or a public utility company.

**PUBLIC UTILITY TRANSMISSION TOWER** — A structure, owned and operated by a public utility company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead transmission lines.**[Added 9-14-1998 by Ord. No. 588]**

**RECORDED** — Properly recorded at the office of the Delaware County Recorder of Deeds.

**RECREATION, ACTIVE** — Leisure-time activities, usually of a more formal nature and performed with others, often requiring equipment and taking place at prescribed sites or fields.

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

**RECREATIONAL VEHICLE** — **[Amended 12-14-2009 by Ord. No. 709]**

- (1) A vehicle which is:
  - (a) Built on a single chassis;
  - (b) Not more than 400 square feet, measured at the largest horizontal projections;
  - (c) Designed to be self-propelled or permanently towable by a light-duty truck;
  - (d) Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (2) Snowmobiles, minibikes, all-terrain vehicles, go-carts and boat trailers are also deemed recreational vehicles.

RECREATION, PASSIVE — Any leisure time activity not considered active.

REFORESTATION — The restocking of an area with forest trees, including natural regeneration as well as tree planting.

REGIONAL RAIL FACILITY — A passenger railroad transit operation including, but not limited to, a railroad station, passenger platform, parking facilities within a parking garage or parking deck or surface parking lot, passenger pickup and drop-off areas, railroad tracks, bridges, tunnels, accessory retail (including the sale of transportation tickets/passes, parking permits, newspapers, periodicals and any miscellaneous items related to public transportation operations) administrative and operational control buildings, crew facilities and maintenance buildings owned by a regional transportation authority and erected within the authority's right-of-way.**[Added 7-25-2011 by Ord. No. 720]**

RELIGIOUS AREA — A use involving a structure or place at which religious worship and ceremonies are held regularly by a group which practices the religion.

REPETITIVE LOSS — Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25% of the market value of the structure before the damages occurred.**[Added 11-8-2010 by Ord. No. 715]**

RESERVE PARKING — A parking space or spaces which the Township Council, in its sole discretion, permits a landowner or developer or any other person to defer the construction, installation, paving or completion of until such time as the Township Council requires the construction, installation, paving or completion thereof or until such time as the parking space or spaces are otherwise satisfactorily constructed, installed, paved and completed.**[Added 8-24-1998 by Ord. No. 587]**

RESIDENTIAL GROUP HOME — A dwelling unit operated by a responsible individual, family, entity, or organization with a program to provide a supportive living arrangement for persons and attendant staff, living together in a dwelling unit and functioning as a single housekeeping unit under a common housekeeping management plan based upon an intentionally structured relationship providing organization and stability. The resident of a residential group home must be limited to persons who need specialized housing because of age, disability or illness, and may include, but not necessarily be limited to, children, the mentally or physically handicapped and elderly, but shall not include drug and alcohol rehabilitation facilities, or adult prerelease correctional facilities such as work release, halfway houses or similar uses. This definition shall expressly include facilities for the supervised care of persons with disabilities subject to protection under the Federal Fair Housing Act,<sup>133</sup> as amended. Residency shall be on a nontransient basis. This definition shall not apply to a club, lodge, fraternity house, nursing or day-care facility or similar use.**[Added 11-27-2023 by Ord. No. 856]**

RESIDENTIAL SECTION — The area within a campus mixed use development designated for single-family attached dwellings.**[Added 12-23-2013 by Ord. No. 744]**

RESTAURANT — A building used for the purpose of furnishing food to the public to be consumed within the building and in outdoor dining space adjoining the building.**[Amended 12-23-2013 by Ord. No. 744]**

RESTAURANT, DRIVE-THROUGH SERVICE — A fast-food restaurant or section of such a restaurant which is designed to allow for the serving and pickup of food, without leaving the vehicle, for off-premises consumption.

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133.Editor's Note: See 42 U.S.C. § 3601 et seq.

**RESTAURANT, FAST-FOOD** — A building used for the propose of furnishing food to the public for consumption on the premises and within the building. Such a restaurant may include drive-through service.

**RETIREMENT COMMUNITY** — A land development which is designed and constructed in accordance with the provisions of Article X.

**RIGHT-OF-WAY** — Any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned by a governmental entity and/or the general public.

**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, laundry tubs, washing machines, sinks, dishwashers or any other source of water-carried waste of human origin.

**SANITARY SEWER** — A pipe that conveys sanitary sewage.

**SECONDARY EFFECTS** — Results of an indirect nature which have an influence on a particular condition or state derived from a primary effect.

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

**SEWAGE** — The total of organic waste and wastewater generated by residential, industrial, commercial, institutional or other establishments.

**SEWER** — Any pipe or conduit used to collect and carry away sewage or stormwater runoff from the generating source to treatment plants and to a receiving stream or other drainageway.

**SEWERAGE** — All effluent carried by sewers whether it is sanitary sewage, residential, commercial or industrial wastes or stormwater runoff.

**SEWER AUTHORITY** — The Sewer Authority of the Township.

**SHORT-TERM EFFECTS** — Results which are manifest for, or extended over, a short period of time.

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

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

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

**SIGN, CHANGEABLE** — A freestanding sign containing a portion of display with the capability of

content change by means of manual or remote input, including manual changeable copy display and electrical changeable copy display. **[Added 3-25-2013 by Ord. No. 737]**

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

**SIGN, FREESTANDING** — A sign supported by, or suspended from, a freestanding column or other support(s) located in or upon the ground surface.

**SIGN, GROUND** — A sign supported by uprights or braces placed upon the ground, and not attached to any building. A ground sign shall be considered a freestanding sign. **[Amended 3-25-2013 by Ord. No. 737]**

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

**SIGN, MANUAL CHANGEABLE COPY** — A sign or portion thereof on which the copy or symbols are changed manually through placement of letters or symbols on a panel mounted in or on a track system. **[Added 3-26-2012 by Ord. No. 727]**

**SIGN, MENU** — See "menu board or menu sign."

**SIGN, MULTI-PURPOSE VISUAL DISPLAY** — A sign that uses digital light-emitting diodes (LEDs), or similar technology, to create a visual display area composed of images, characters, and/or messages for advertising and communication purposes, which sign is capable of frequent display area changes. **[Added 8-28-2017 by Ord. No. 783]**

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

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

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

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

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

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

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

**SIGN, WALL** — See "sign, parallel."

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

**SITE RESTORATION** — Measures taken following completion of land disturbance activities which will stabilize the land surface and minimize exposure to possible erosion or sedimentation.

**SKILLED NURSING FACILITY** — A facility which provides for personal health care in a continuing care retirement community and is licensed to provide skilled nursing care by the Commonwealth of Pennsylvania. **[Added 12-13-2004 by Ord. No. 659]**

**SLOPE** — See "steep slope" and "very steep slope."

**SOIL SURVEY** — The soil survey of Chester and Delaware Counties, prepared by the United States Natural Resources Conservation Service.

**SOUND** — An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristics of such sound, including duration, intensity and frequency.

**SOUND LEVEL** — The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or D, as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1974 or the latest revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

**SOUND LEVEL METER** — An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and any applicable weighting network used to measure sound pressure levels which meets or exceeds the requirement for a Type I or Type II sound level meter as specified in ANSI Specification S1.4-1974 or the latest revision thereof. The manufacturer's published indication of compliance with such specifications shall be prima facie evidence of such compliance.

**SPECIAL EXCEPTION** — A use which may be authorized by the Zoning Hearing Board, in accordance with Article XXXVII of this chapter, when the applicant establishes that the ordinance allows the proposed use by special exception and that the use complies with all applicable specific standards and criteria.

**SPECIAL FLOOD HAZARD AREA (SFHA)** — An area in the floodplain subject to a one-percent-or-greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1 to A30, AE, A99, or AH. **[Added 11-8-2010 by Ord. No. 715]**

**SPECIAL PERMIT** — Special approval which is required for hospitals, nursing homes, jails and new manufactured home parks or subdivisions and substantial improvements to such existing manufactured home parks or subdivisions when such development is located partially or entirely within a designated floodplain.

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

**START OF CONSTRUCTION** — Includes substantial improvement and other proposed new development and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of

temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.[Added 11-8-2010 by Ord. No. 715]

**STEEP SLOPE** — The area of land which is characterized by a change in elevation of 15% or more but not exceeding 25% over a specified distance as set forth in Article XXX.

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

**STREET** — A publicly or privately owned right-of-way serving as a means of vehicular travel furnishing access to three or more abutting lots.

**STREET LINE** — The dividing line between a lot and the right-of-way line of an opened or officially platted public street or between a lot and a privately owned street easement line.

**STRUCTURAL ALTERATION** — Any change in or addition to the supporting or structural members of a building or other structure such as the bearing walls, partitions, columns, beams or girders or any change to adapt a structure to a different use.

**STRUCTURE** — Any man-made object or improvement having an ascertainable stationary location on land or in the water, whether or not affixed to the land. This term includes anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, sheds, gas or liquid storage tanks that are principally above ground, manufactured homes, signs and other similar items.[Amended 12-14-2009 by Ord. No. 709; 8-24-2015 by Ord. No. 758]

**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, conveyance or other 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 residential dwellings, shall be exempted.

**SUBDIVISION PLAN** — A sketch or preliminary or final plan which complies with Chapter 210, Subdivision and Land Development. See also "land development plan."

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

**SUBSTANTIAL IMPROVEMENT** — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," 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.[Amended 12-14-2009 by Ord. No. 709; 8-24-2015 by Ord. No. 758]<sup>134</sup>

**USE** — An activity or the specific purpose for which land or a building is designed, arranged,

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134. Editor's Note: The former definition of "travel trailer," which immediately followed this definition, was repealed 11-8-2010 by Ord. No. 715.

intended or improved or for which it is or may be occupied or used.

**VARIANCE** — Permission, approval or authorization granted by the Zoning Hearing Board, constituting a modification or deviation from the provisions of this chapter, as applied to a specific property, in accordance with the provisions of Article XXXVII and Pennsylvania Municipalities Planning Code Section 912.<sup>135</sup>

**VERY STEEP SLOPE** — The area of land which is characterized by a change in elevation of 25% or more over a specified distance as set forth in Article XXX.

**VIOLATION** — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the Code of Federal Regulations 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. **[Added 11-8-2010 by Ord. No. 715]**

**VISUAL RESOURCES** — Characteristics of the natural and/or cultural environment which are visible. The visual resources of a particular area are typically expressed in terms of their visibility, character and/or attractiveness relative to their amenity value and/or quality.

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

**WOODLAND and FOREST** — Those areas of extensive vegetation in which the dominant plants are healthy trees that are indigenous to the area.

**WOODLAND MANAGEMENT PLAN** — A description, by means of text and maps, of proposed actions involving the removal of trees from a tract of land. Such plan shall be prepared by a person(s) with demonstrable expertise in forest management and shall document measures to be taken to protect water quality; to minimize impacts from skid trails and logging roads, landing areas and the tree-removal process; and to assure site restoration.

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

**YARD, FRONT** — A yard extending the full width of the lot along the front lot line and extending in depth from where a building is permitted. In the case of corner lots or reverse frontage lots, front yards of the required depth shall be provided along all streets. In the case of an interior lot, the front yard shall extend along the front lot line the entire width of the lot and shall not include any portion of the right-of-way or accessway connecting the lot with the street.

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

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

- B. Words not defined above shall have the meaning given in the Municipalities Planning Code, Chapter 210, Subdivision and Land Development<sup>136</sup> or other Township codes and ordinances and, if not defined in the aforementioned documents, the most recent edition of Webster's Unabridged Dictionary.

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<sup>135</sup>.Editor's Note: See now 53 P.S. § 10910.2.

<sup>136</sup>.Editor's Note: See 53 P.S. § 10101 et seq.

ARTICLE III  
**Districts**

**§ 275-9. Establishment of districts.**

- A. The Township is divided into different districts, each with a specified purpose and intent to implement the purpose and intent to implement the purpose of this chapter and the goals and objectives of the Comprehensive Plan.
- B. Whenever federal or state-owned property is included in one or more zoning districts, it shall be subject to the provision of this chapter to the maximum extent permitted by the Constitution and laws of the United States of America and the Commonwealth of Pennsylvania.
- C. Every parcel of land and every building or other structure in the Township, except as otherwise provided by law or by the ordinance, shall be subject to the provisions specified for the district in which it is located.
- D. A building may be erected or used and a lot may be used or occupied only for the uses permitted by right, accessory uses, or conditional uses which adhere to explicit standards and criteria and the uses permitted by special exception or variance, when approved, in the zoning district in which the building or lot is located. No other use shall be permitted unless the Township Council approves an amendment to this chapter either permitting another use in the zoning district or rezoning the lot to permit another use.

**§ 275-10. Classes of districts. [Amended 5-8-1989 by Ord. No. 442; 2-23-1998 by Ord. No. 582; 1-23-2012 by Ord. No. 725; 11-9-2015 by Ord. No. 760]**

For the purposes of this chapter, the Township of Middletown is hereby divided into 21 districts and four overlay districts as follows:

R-1A	Residence District
R-1	Residence District
R-2	Residence District
R-3	Residence District
R-4	Residence District
R-5	Residence District
PRC	Planned Retirement Community District
PRD	Planned Residential Development District (Overlay District)
I-1	Institutional District
I-2	Institutional District
I-3	Institutional District
OR-1	Outdoor Recreation District
OR-2	Outdoor Recreation District
OR-3	Outdoor and Indoor Recreation District



SU-1	Special Use District
SU-1-A	Mixed Use District
SU-2	Special Use District
B	General Business District
B-1	Neighborhood Shopping Center District
B-2	Major Shopping Center District
MCO	Mall Conversion Overlay District
PBC	Planned Business Center District
O	Office District
OC-2	Office Campus 2 District
OC	Office Campus Overlay District
M	Manufacturing and Industrial District
FP	Floodplain Conservation District (Overlay District)
SS	Steep Slope Conservation District (Overlay District)

### **§ 275-11. Zoning maps.**

The boundaries of said districts shall be as shown on the maps attached to and made a part of this chapter, which shall be designated "Middletown Township Zoning Map," "Middletown Township Floodplain Conservation District Map" and "Middletown Township Steep Slope Conservation District Map." Said maps and all the notations, references and other data shown thereon are hereby incorporated by reference into this chapter and shall be as much a part of this chapter as if all were fully described herein.<sup>137</sup>

### **§ 275-12. Rules for interpreting district boundaries.**

- A. In the case of the Floodplain Conservation District and the Steep Slope Conservation District, the rules for interpretation of district boundaries are contained in Articles XXIX and XXX. For all other districts, the boundaries between districts are, unless otherwise indicated, either the center lines of streets as indicated, either the center lines of streets as existing at the effective date of this chapter, or railroad rights-of-way or such lines projected or lines parallel thereto. Where dimensions are shown on the Zoning Map between a street and a district boundary line, they indicate that the district boundary line runs parallel to the center line of the street at a distance therefrom equivalent to the number of feet so indicated.
- B. Where there is uncertainty as to the location of boundaries, the following rules shall apply:
  - (1) Where a district boundary is indicated as approximately following the center line of a street, right-of-way or watercourse, such center line shall be construed to be such boundary.
  - (2) Where a district boundary is indicated as approximately following a lot or other property line as of the effective date of this chapter, such lot or property line shall be construed to be such boundary.

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**137.Editor's Note: Said maps are available in the online version of the Township Code or in the Township offices.**

- (3) Where a district boundary divides a lot or runs through undivided property, the location of such boundary, unless specified by figures on the Zoning Map, shall be determined by the use of the scale appearing on said map.
- (4) Where dimensions are shown on the Zoning Map, such dimensions shall be used even if scaled distances may not agree with the figures.
- (5) Where physical features existing on the ground vary with those shown on the Zoning Map, or in other circumstances not covered by Subsection A or Subsection B(1) through (4), the Township Council shall interpret the district boundaries.

**§ 275-13. Indication of streets on Zoning Map.**

The depiction of any street, road, lane or alley on the Zoning Map or any reference to a street, road, lane or alley shall not constitute any acceptance of dedication of any such street, road, lane or alley if said street, road, lane or alley has not been otherwise accepted in accordance with law, nor shall the depiction of a street on the map be construed as a commitment to construct such a street if one does not already exist.

ARTICLE IV  
**R-1A Residence District**

**§ 275-14. Purpose.**

The R-1A Residence Districts are designed primarily to regulate residential development so that it will be compatible with and promote conservation of existing farmlands and other agricultural areas; to protect the rural character of existing residential development; and to protect and conserve groundwater and other natural resources by encouraging planned development which will not require public sewer systems.

**§ 275-15. Use regulations.**

- A. Permitted principal uses. A building may be erected, altered or used and land may be used, subject to the provisions of Articles XXIX and XXX, for any of the following purposes and no other:
- (1) Single-family detached dwelling.
  - (2) Municipal use.
  - (3) Agricultural uses and buildings, subject to the provisions of Article XXXIII.
  - (4) Silviculture, wildlife and nature preserve or other conservation uses.
  - (5) Communications antennas mounted on an existing communications tower and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV.  
**[Added 9-14-1998 by Ord. No. 588; amended 3-8-1999 by Ord. No. 595]**
- B. Accessory uses to permitted principal uses.
- (1) Accessory uses on the same lot and customarily incidental to the principal uses permitted in Subsection A herein and as governed by the general provisions for accessory uses in Article XXXIII.
  - (2) The sale of farm products, provided that such products are produced on the property, subject to the general provisions for accessory uses in Article XXXIII.
  - (3) Private parking space and private garage, in accordance with Article XXXI, related to off-street parking and loading.
  - (4) Private stable.
  - (5) Private (noncommercial) swimming pools, tennis courts or other private recreational facilities, for the use and enjoyment of residents and their guests, subject to the general provisions for such accessory uses in Article XXXIII.
  - (6) Signs, in accordance with Article XXXII, related to sign regulations.
- C. Conditional uses.
- (1) Cultural, religious and charitable uses.
  - (2) Cemeteries.
  - (3) Conversion of single-family detached dwellings to apartments, subject to the general provisions for conversions in Article XXXIII.

- (4) Home professional offices and home occupations, subject to the provisions in Article XXXIII.
- (5) Public utility and governmental uses, subject to the provisions in Article XXXIII.
- (6) Community tennis courts and swimming pools operated for the use and benefit of the members of the community association and their guests.
- (7) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV and all other standards and criteria for approval of conditional uses in this chapter. **[Added 3-8-1999 by Ord. No. 595]**

**§ 275-16. Height regulations.**

The maximum height of dwellings and other structures shall be 35 feet, except as provided in Article XXXIV. The height of structures designed for agricultural use may be increased to a maximum of 65 feet, provided that for every foot of height in excess of 35 feet there shall be added to each yard requirement two feet of depth or width.

**§ 275-17. Area and bulk regulations. [Amended 4-27-1992 by Ord. No. 506]**

Except as restricted under Articles XXIX and XXX, the following area and bulk regulations shall apply:

A. Residential dwelling units and municipal use.

- (1) Minimum lot area: one acre for each principal permitted building.
- (2) Minimum lot width at building line: 120 feet.
- (3) Minimum lot width at street line: 50 feet.
- (4) Maximum impervious surface area and building coverage: Not more than 40% of the area of any lot shall be covered by impervious surfaces and not more than 20% of any lot area shall be occupied by buildings.
- (5) Minimum depth of each front and rear yard: 50 feet.
- (6) Minimum width of side yards: Each lot shall have at least two side yards having a minimum average width of 30 feet and neither side yard shall have a width of less than 25 feet. On each corner lot there shall be two front yards; the yards abutting the street shall have a width of not less than 50 feet; and the side yard not abutting the street shall have a width of not less than 25 feet.

B. Other uses. The area and bulk regulations for the following conditional uses shall be as follows:

- (1) Cemeteries.
  - (a) Minimum lot area: 10 acres.
  - (b) Minimum lot width at building line: 400 feet.
  - (c) Minimum lot width at street line: 300 feet.
  - (d) Maximum total impervious surface area: 40%.

- (e) Maximum building coverage: 20%.
  - (f) Minimum depth of each front and rear yard: 150 feet.
  - (g) Minimum width of each side yard: 75 feet.
- (2) Cultural, religious and charitable uses.
- (a) Minimum lot area: five acres.
  - (b) Minimum lot width at building line: 200 feet.
  - (c) Minimum lot width at street line: 150 feet.
  - (d) Maximum total impervious surface area: 35%.
  - (e) Maximum building coverage: 15%.
  - (f) Minimum depth of each front and rear yard: 100 feet.
  - (g) Minimum width of each side yard: 50 feet.
- (3) Governmental, including municipal and public utility, uses except for easements, land used for pumping stations, land in the OR-2 District and land in open space in accordance with Article XXXV.
- (a) Minimum lot area: two acres.
  - (b) Minimum lot width at building line: 200 feet.
  - (c) Minimum lot width at street line: 150 feet.
  - (d) Maximum total impervious surface area: 35%.
  - (e) Maximum building coverage: 15%.
  - (f) Minimum depth of each front and rear yard: 100 feet.
  - (g) Minimum width of each side yard: 100 feet.

ARTICLE V  
**R-1 Residence District**

**§ 275-18. Purpose.**

The R-1 Residence District is designed primarily to make provisions for low-density, suburban-type, single-family residential development and to encourage the preservation of open space, green space and natural resources through cluster development in areas planned for or accessible to public sewer and water systems.

**§ 275-19. Use regulations. [Amended 1-8-1990 by Ord. No. 461]**

A. Permitted principal uses. A building may be erected, altered or used and land may be used, subject to the provisions of Articles XXIX and XXX, for any of the following purposes and no other:

- (1) Single-family detached dwelling.
- (2) Municipal use.
- (3) Agricultural uses and buildings, subject to the provisions of Article XXXIII.
- (4) Silviculture, wildlife and nature preserve.
- (5) Open space for recreation and conservation purposes.
- (6) Communications antennas mounted on an existing communications tower and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588; amended 3-8-1999 by Ord. No. 595]**

B. Permitted accessory uses.

- (1) Accessory uses on the same lot and customarily incidental to the principal uses permitted in Subsection A, subject to the provisions in Article XXXIII.
- (2) Sale of farm products, provided that such products are produced on the property and subject to the provisions in Article XXXIII.
- (3) Private parking space and private garages, in accordance with Article XXXI.
- (4) Private stables.
- (5) Private (noncommercial) swimming pools, tennis courts or other private recreational facilities for the use and enjoyment of residents and their guests, subject to the general provisions for such accessory uses in Article XXXIII.
- (6) Signs, in accordance with Article XXXII.

C. Conditional uses.

- (1) Single-family detached dwellings where the cluster option is exercised, subject to § 275-22.
- (2) Cultural, religious and charitable uses.
- (3) Conversion of single-family detached dwellings to apartments, subject to the provisions in Article XXXIII.

- (4) Home professional office and home occupation, subject to the provisions in Article XXXIII.
- (5) Public utility and governmental uses, subject to the provisions in Article XXXIII.
- (6) Community tennis courts and swimming pools operated for the use and benefit of the members of the community association and their guests.
- (7) Communications Antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-16 of Article XXXIV and all other standards and criteria for approval of conditional uses in this chapter. **[Added 3-8-1999 by Ord. No. 595]**
- (8) Regional rail facilities. **[Added 7-25-2011 by Ord. No. 720]**

**§ 275-20. Height regulations.**

The maximum heights of the dwellings and other structures erected, enlarged or used shall be 35 feet, except as provided in Article XXXIV. The heights of structures designed for agricultural use may be increased to maximums of 65 feet, provided that for every foot of height in excess of 35 feet there shall be added to each yard requirement two feet of depth or width.

**§ 275-21. Area and bulk regulations. [Amended 4-27-1992 by Ord. No. 506]**

Except as restricted under Articles XXIX and XXX, the following area and bulk regulations shall apply:

A. Residential dwelling units and municipal use.

- (1) Minimum lot area: one acre for each principal permitted building.
- (2) Minimum lot width at building line: 120 feet.
- (3) Minimum lot width at street line: 50 feet.
- (4) Maximum impervious surface area and building coverage: not more than 40% of the area of any lot shall be covered by impervious surfaces, and not more than 20% of any lot area shall be occupied by buildings.
- (5) Minimum depth of each front and rear yard: 50 feet.
- (6) Minimum width of side yards: Each lot shall have at least two side yards having a minimum average width of 30 feet and neither side yard shall have a width of less than 25 feet. On each corner lot there shall be two front yards; the yard abutting the street shall have a width of not less than 50 feet and the side yard not abutting the street shall have width of not less than 25 feet.

B. Other uses. For certain conditional uses, the area and bulk regulations shall be as follows:

- (1) Cultural, religious and charitable uses.
  - (a) Minimum lot area: five acres.
  - (b) Minimum lot width at building line: 200 feet.
  - (c) Minimum lot width at street line: 150 feet.

- (d) Maximum total impervious surface area: 35%.
  - (e) Maximum building coverage: 15%.
  - (f) Minimum depth of each front and rear yard: 100 feet.
  - (g) Minimum width of each side yard: 50 feet.
- (2) Governmental, including municipal and public utility, uses except for easements, land used for pumping stations, land in the OR-2 District and land in open space in accordance with Article XXXV.
- (a) Minimum lot area: two acres.
  - (b) Minimum lot width at building line: 200 feet.
  - (c) Minimum lot width at street line: 150 feet.
  - (d) Maximum total impervious surface area: 35%.
  - (e) Maximum building coverage: 15%.
  - (f) Minimum depth of each front and rear yard: 100 feet.
  - (g) Minimum depth of each side yard: 50 feet.
- (3) Regional rail facilities located within SEPTA right of way. **[Added 7-25-2011 by Ord. No. 720]**
- (a) There shall be no minimum tract or lot area requirements.
  - (b) Setbacks for parking garages, parking lots, station buildings and other occupied buildings shall be located no closer than 50 feet from adjacent residential property lines.
  - (c) There shall be no minimum setbacks from the street line.

**§ 275-22. Cluster subdivision option.**

- A. As a conditional use, a landowner or developer may be allowed to reduce the requirements of § 275-21A, provided the following conditions are met:
- (1) The area of the tract to be subdivided must be at least 15 acres.
  - (2) A minimum of 30% of the tract shall be designated as restricted to open space uses, subject to the provisions in Article XXXV.
  - (3) Designated open space areas shall be owned, maintained and administered in accordance with the provisions in Article XXXV.
  - (4) The cluster subdivision shall be served by public sewer, which shall be constructed and operational at the time when residential occupancy begins, except as hereinafter provided:
    - (a) Single-family detached dwellings on lots of one acre or more may be served by an on-lot sewage disposal system.
  - (5) The proposed development must conform to all standards and criteria for in Article XXXVI and



all other articles, sections, ordinances and regulations referred to therein. If, in the opinion of Township Council, the proposed development does not conform to such standards and criteria or to the requirements of this section, the application for the approval of the conditional use may be denied.

- B. When the cluster subdivision option is exercised, the area and bulk regulations for single-family detached dwellings with public sewer service may be reduced as follows, provided that the gross density shall not be greater than that permitted for a single-family detached unit under Subsection A(1):
- (1) Minimum lot area: 1/2 acre.
  - (2) Minimum lot width at building line: 100 feet.
  - (3) Minimum lot width at street line: 50 feet.
  - (4) Maximum impervious surface area and building coverage: 45%.
  - (5) Maximum building coverage area: 20%.
  - (6) Minimum depth of each front and rear yard: 35 feet.
  - (7) Each lot shall have a minimum of two side yards.
  - (8) Minimum aggregate width of side yards: 40 feet.
  - (9) Minimum width of each side yard: 15 feet.
  - (10) For corner lots, the minimum width for yard abutting a street shall be 35 feet and the minimum for the other side yard shall be 15 feet.

ARTICLE VI  
**R-2 Residence District**

**§ 275-23. Purpose. [Amended 7-24-1995 by Ord. No. 554]**

The R-2 Residence District is designed primarily to make provisions for single-family residential development at low and moderate suburban-type densities; to relate residential density to environmental and health concerns by limiting development to low-density when water and sewer service are to be on-lot, but allowing moderate suburban-type densities when public sewer service is used; to encourage the preservation of open space and natural resources through cluster development; to maintain the identity and character of existing suburban-type residential neighborhoods; and to allow for campus-like, low-intensity uses which serve as a transition from existing higher intensity development fronting along those portions of Route 352 and Route 452, which are on or north of Route 1, to the lower-intensity development beyond the properties fronting on Route 352 and Route 452, north of Route 1.

**§ 275-24. Use regulations. [Amended 1-8-1990 by Ord. No. 461; 7-24-1995 by Ord. No. 554]**

A. Permitted principal uses. A building may be erected, altered or used, and land may be used or occupied, subject to the provisions of Articles XXIX and XXX, for any of the following uses and for no other:

- (1) Single-family detached dwelling.
- (2) Municipal use.
- (3) Agricultural uses and buildings, subject to the provisions in Article XXXIII.
- (4) Park or recreation area.
- (5) Open space for recreation and conservation purposes.
- (6) Woodlands, silvaculture, wildlife and nature preserve or other conservation use.
- (7) Communications antennas mounted on an existing communications tower and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV.  
**[Added 9-14-1998 by Ord. No. 588; amended 3-8-1999 by Ord. No. 595]**

B. Accessory uses.

- (1) Accessory uses on the same lot and customarily incidental to the principal uses permitted in Subsection A herein, and as governed by the general provisions for accessory uses in Article XXXIII.
- (2) Sale of farm products, produced in the property, subject to Article XXXIII.
- (3) Private parking space and private garage, in accordance with the off-street parking and loading regulations in Article XXXI.
- (4) Private stable.
- (5) Private (noncommercial) swimming pool, tennis court or other private recreational facility, for the use and enjoyment of the residents and their guests, subject to the general provisions for such accessory uses in Article XXXIII.

- (6) Signs, in accordance with the sign regulations in Article XXXII.
- (7) Accessory uses must comply with the general provisions for accessory uses in Article XXXIII.

C. Conditional uses.

- (1) Single-family detached dwellings where the cluster subdivision option is exercised, subject to § 275-27.
- (2) Cultural religious and charitable uses.
- (3) Conversion of single-family detached dwellings for apartments, subject to the general provisions for conversions in Article XXXIII.
- (4) Home professional offices and home occupations, subject to the general provisions for home professional offices and home occupations in Article XXXIII.
- (5) Public utility and governmental uses, subject to the provisions in Article XXXIII.
- (6) Personal-care facility, subject to the regulations in §§ 275-26B(2) and 275-28.
- (7) Day-care center, subject to the regulations in §§ 275-26B(2) and 275-29.
- (8) Communications antennas mounted on an existing public utility transmission tower, building, or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV and all other standards and criteria for approval of conditional uses in this chapter. **[Added 3-8-1999 by Ord. No. 595]**

**§ 275-25. Height regulations.**

The maximum height of dwellings and other structures erected, enlarged or used shall be 35 feet, except as provided in Article XXXIV.

**§ 275-26. Area and bulk regulations. [Amended 4-27-1992 by Ord. No. 506; and 7-24-1995 by Ord. No. 554]**

Except as restricted under Articles XXIX and XXX, the following area and bulk regulations shall apply:

A. Residential dwelling units and municipal use.

- (1) Lots without public sewer (with on-lot sewage disposal systems) shall meet or exceed the following standards:
  - (a) Minimum lot area: one acre for each principal permitted building.
  - (b) Minimum lot width at building line: 120 feet.
  - (c) Minimum lot width at street line: 50 feet.
  - (d) Maximum impervious surface area: 40% of the area of the lot.
  - (e) Maximum building coverage: 20% of the area of the lot.
  - (f) Minimum depth of each front and rear yard: 50 feet.
  - (g) Minimum aggregate width of side yards: 60 feet.

- (h) Minimum width of each individual side yard: 25 feet.
    - (i) Minimum yard abutting the street on a corner lot: 50 feet.
  - (2) Lots with public sewer shall meet or exceed the following standards:
    - (a) Minimum lot area: 1/2 acre for each principal permitted building.
    - (b) Minimum lot width at building line: 100 feet.
    - (c) Minimum lot width at street line: 50 feet.
    - (d) Maximum impervious surface area: 45% of the area of the lot.
    - (e) Maximum building coverage: 20% of the area of the lot.
    - (f) Minimum depth of each front and rear yard: 35 feet.
    - (g) Minimum aggregate width of side yards: 45 feet.
    - (h) Minimum width of each individual side yard: 20 feet.
    - (i) Minimum yard abutting the street on a corner: 35 feet.
- B. Other uses. For certain conditional uses, the area and bulk regulations shall be as follows:
  - (1) Cultural, religious and charitable uses.
    - (a) Minimum lot area: five acres.
    - (b) Minimum lot width at building line: 200 feet.
    - (c) Minimum lot width at street line: 150 feet.
    - (d) Maximum total impervious surface area: 35%.
    - (e) Maximum building coverage: 15%.
    - (f) Minimum depth of each front and rear yard: 100 feet.
    - (g) Minimum width of each side yard: 50 feet.
  - (2) Personal-care facilities and day-care centers.
    - (a) Minimum lot area: 2 1/2 acres.
    - (b) Minimum lot width at building line: 200 feet.
    - (c) Minimum lot width at street line: 200 feet.
    - (d) Maximum total impervious surface area: 40%.
    - (e) Maximum total building coverage: 20%.
    - (f) Minimum depth of each front yard: 35 feet.
    - (g) The rear yard setback shall be as follows: **[Amended 6-10-2019 by Ord. No. 805]**

Number of Stories	Rear Yard Setback (feet)
1	35
2 or more	75

- (h) The side yard setback shall be as follows: **[Amended 6-10-2019 by Ord. No. 805]**

Number of Stories	Side Yard Setback (feet)
1	35
2 or more	70

- (i) Minimum aggregate side yard required for a one-story building: 75 feet. **[Added 6-10-2019 by Ord. No. 805]**
- (3) For all other conditional uses, the area and bulk regulations shall be similar to those set forth in Subsection A or B above, depending on which uses they are most similar to.

**§ 275-27. Cluster subdivision option.**

- A. As a conditional use, a landowner or developer may be allowed to reduce the requirements of § 275-26A, provided that the following conditions are met:
- (1) The area of the tract to be subdivided must be at least 15 acres.
  - (2) A minimum of 30% of the tract shall be designated as restricted to and used for open space uses, subject to the provisions in Article XXXV.
  - (3) Designated open space shall be owned, maintained and administered in accordance with the provisions in Article XXXV.
  - (4) The cluster subdivision shall be served by public water and sewer, which shall be constructed and operational at the time when occupancy of the development begins, except as hereinafter provided:
    - (a) Single-family detached dwellings on lots of one acre or more may be served by on-lot water supply systems and on-lot sewage disposal systems.
    - (b) Single-family detached dwellings on lots of 1/2 acre may be served by community water supply system if the tract is not accessible to public water and if such system is feasible.
  - (5) The proposed development must conform to all standards and criteria for conditional uses in Article XXXVI and all other articles, sections, ordinances and regulations referred to therein. If, in the opinion of Township Council, the proposed development does not conform to such standards and criteria or to the requirements of this section, the application for the approval of the conditional use may be denied.
- B. When the cluster subdivision option is exercised, the area and bulk regulations for lots for single-family detached dwellings may be reduced as follows, provided that the gross density shall not be

greater than that permitted for a single-family detached dwelling unit under § 275-26A(1).

- (1) Lots with public water.
  - (a) Minimum lot area: 1/2 acre.
  - (b) Minimum lot width at building line: 100 feet.
  - (c) Minimum lot width at street line: 50 feet.
  - (d) Maximum impervious surface area: 45%.
  - (e) Maximum building coverage area: 20%.
  - (f) Minimum depth of each front and rear yard: 35 feet.
  - (g) Each lot shall have a minimum of two side yards.
  - (h) Minimum aggregate width of side yards: 40 feet.
  - (i) Minimum width of each side yard: 15 feet.
  - (j) For corner lots, the minimum width for yard abutting a street shall be 35 feet and the minimum width for the other side yard shall be 15 feet.
- (2) For lots with public sewer and public water.
  - (a) Minimum lot area: 1/4 acre for each principal permitted building.
  - (b) Minimum lot width at building line: 70 feet.
  - (c) Minimum lot width at street line: 50 feet.
  - (d) Maximum impervious surface area: 50% of the area of the subdivision tract.
  - (e) Maximum building coverage area: 25% of the area of the subdivision tract.
  - (f) Minimum depth of each front and rear yard: 30 feet.
  - (g) Minimum aggregate width of side yards: 30 feet.
  - (h) Minimum width of each side yard: 10 feet.
  - (i) Minimum width for yard abutting a street on corner lot: 30 feet.

**§ 275-28. Personal-care facility regulations. [Amended 7-24-1995 by Ord. No. 554; 10-23-1995 by Ord. No. 559]**

- A. The proposed development must conform to all standards and criteria for conditional uses in Article XXXVI and all other articles, sections, ordinances and regulations referred to therein. If, in the opinion of Township Council, the proposed development does not conform to such standards and criteria or to the requirements of this section, the application for the approval of the conditional use may be denied.
- B. The proposed use must have at least 200 feet of frontage along those portions of Route 352 or Route 452, which are on or north of Route 1.

- C. All development shall be served by public sewer and public water.
- D. No more than 35 beds per acre of lot area shall be provided.
- E. All signage shall comply with Article XXXII. However, all signage shall be 1/3 smaller than the sizes set forth in Article XXXII.
- F. Crosswalks shall be line-striped across all streets at intersections or where sidewalks would otherwise extend across the street.
- G. Lots, buildings, streets and related structures shall be organized in as compact an arrangement as possible to promote a form of development characteristic of a campus-like setting.
- H. Buildings shall be designed with the gable end facing the street frontage(s).
- I. Landscaping shall be an essential feature of any personal-care facility. At least 60% of the lot area shall be landscaped. All landscaping shall comply with § 275-214.
- J. Bus stop shelters, benches and other pedestrian amenities shall be provided.
- K. Other vertical infrastructure in the form of such elements as hedges, fences, walls, pergolas, gazebos, pavilions and the like are encouraged to add human scale and amenity.
- L. Parking shall be provided at the rate of 1/2 off-street parking space for each bed, plus one for each employee on the shift of greatest employment.
- M. All development shall be shown on a sketch plan to be submitted before any preliminary plan is filed. The sketch plan shall depict compliance with this article and other related ordinance requirements.
- N. The use shall meet all licensing and certification requirements of state and other regulating agencies.
- O. The applicant shall submit a report to describe compliance with the provisions of this article and other related ordinance requirements.
- P. Notwithstanding § 275-200, the maximum height of a fence constructed and used in connection with a personal care facility shall be eight feet. **[Added 6-10-2019 by Ord. No. 805]**

**§ 275-29. Day-care center regulations. [Amended 7-24-1995 by Ord. No. 254; 10-23-1995 by Ord. No. 559]**

- A. The proposed development must conform to all standards and criteria for conditional uses in Article XXXVI and all other articles, sections, ordinances and regulations referred to therein. If, in the opinion of Township Council, the proposed development does not conform to such standards and criteria or to the requirements of this section, the application for the approval of the conditional use may be denied.
- B. The proposed use must have at least 200 feet of frontage along those portions of Route 352 or Route 452, which are on or north of Route 1.
- C. All development shall be served by public sewer and public water.
- D. All signage shall comply with Article XXXII. However, all signage shall be 1/3 smaller than the sizes set forth in Article XXXII.
- E. Crosswalks shall be line-striped across all streets at intersections or where sidewalks would otherwise

extend across the street.

- F. Lots, buildings, streets and related structures shall be organized in as compact an arrangement as possible to promote a form of development characteristic of a campus-like setting.
- G. Buildings shall be designed with the gable end facing the street frontage(s).
- H. Landscaping shall be an essential feature of any day-care facility. At least 60% of the lot area shall be landscaped. All landscaping shall comply with § 275-214.
- I. The provision of day-care services shall be limited to infants through kindergarten, except during summer programs, in which case services may be extended to children through the third-grade level.
- J. Playground areas shall be completely enclosed with fencing, walls, buildings or a combination thereof.
- K. Parking shall be provided in accordance with requirements for private kindergarten or child institutional home in § 275-182.
- L. All development shall be shown on a sketch plan to be submitted before any preliminary plan is filed. The sketch plan shall depict compliance with this article and other related ordinance requirements.
- M. The use shall meet all licensing and certification requirements of state and other regulating agencies.
- N. The applicant shall submit a report to describe compliance with the provisions of this article and other related ordinance requirements.



ARTICLE VII  
**R-3 Residence District**

**§ 275-30. Purpose.**

The R-3 Residence District is designed primarily to make provisions for single-family residential development at low and moderate suburban-type densities; to relate residential density to environmental and health concerns by limiting development to low density where water and sewer are to be on-lot, but allowing moderate suburban-type densities when public sewer or public water service is used; and to maintain the identify and character of existing suburban-type residential neighborhoods.

**§ 275-31. Use regulations. [Amended 1-8-1990 by Ord. No. 461]**

A. Permitted principal uses. A building may be erected, altered or used and land may be used or occupied, subject to the provisions in Articles XXIX and XXX, for any of the following uses and for no other:

- (1) Single-family detached dwelling.
- (2) Park or recreation area.
- (3) Woodlands, silviculture, wildlife and nature preserve or other open space use.
- (4) Communications antennas mounted on an existing communications tower and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV.  
**[Added 9-14-1998 by Ord. No. 588; amended 3-8-1999 by Ord. No. 595]**

B. Accessory uses.

- (1) Accessory uses on the same lot and customarily incidental to the principal uses permitted in Subsection A herein, and as governed by the general provisions for accessory uses in Article XXXIII.
- (2) Private parking space and private garage, in accordance with the off-street parking and loading regulation in Article XXXI.
- (3) Private (noncommercial) swimming pool, tennis court or other private recreational facility, for the use and enjoyment of residents and their guests, subject to the general provisions for such accessory uses in Article XXXIII.
- (4) Signs, in accordance with the sign regulations in Article XXXII.
- (5) Accessory uses must comply with the general provisions for accessory uses in Article XXXIII.

C. Conditional uses.

- (1) Agricultural uses and buildings, subject to the provisions in Article XXXI.
- (2) Cultural, religious and charitable uses.
- (3) Conversion of single-family detached dwellings to apartments, subject to the general provisions for conversions in Article XXXIII.
- (4) Home professional office and home occupation, subject to the general provisions for home

professional offices and home occupations in Article XXXIII.

- (5) Public utility and governmental uses subject to the provisions in Article XXXIII.
- (6) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV and all other standards and criteria for approval of conditional uses in this chapter. **[Added 3-8-1999 by Ord. No. 595]**

**§ 275-32. Height regulations.**

The maximum height of dwellings and other structures erected, enlarged or used shall be 35 feet, except as provided in Article XXXIV.

**§ 275-33. Area and bulk regulations. [Amended 1-8-1990 by Ord. No. 461]**

Except as restricted under Articles XXIX and XXX, the following area and bulk regulations shall apply:

**A. Residential dwelling units.**

- (1) Lots with on-lot sewage disposal systems and on-lot water supply systems shall meet or exceed the following standards.
  - (a) Minimum lot area: one acre for each principal permitted building.
  - (b) Minimum lot width at building line: 120 feet.
  - (c) Minimum lot width at street line: 50 feet.
  - (d) Maximum impervious surface area: 40% of the area of the subdivision tract.
  - (e) Maximum building coverage area: 20% of the area of the subdivision.
  - (f) Minimum depth of each front and rear yard: 50 feet.
  - (g) Minimum aggregate width of side yards: 60 feet.
  - (h) Minimum width of each side yard: 25 feet.
  - (i) Minimum width for yard abutting a street on a corner lot: 50 feet.
- (2) Lots with public sewer but no public water shall meet or exceed the following standards:
  - (a) Minimum lot area: 1/2 acre for each principal permitted building.
  - (b) Minimum lot width at building line: 100 feet.
  - (c) Minimum lot width at street line: 50 feet.
  - (d) Maximum impervious surface area: 45% of the area of the subdivision tract.
  - (e) Maximum building coverage area: 20% of the area of the subdivision tract.
  - (f) Minimum depth of each front and rear yard: 35 feet.
  - (g) Minimum aggregate width of side yards: 45 feet.

- (h) Minimum width of each side yard: 20 feet.
  - (i) Minimum width for yard abutting a street on a corner lot: 35 feet.
- (3) Lots with public sewer and public water shall meet or exceed the following standards:
  - (a) Minimum lot area: 1/4 acre for each principal permitted building.
  - (b) Minimum lot width at building line: 70 feet.
  - (c) Minimum lot width at street line: 50 feet.
  - (d) Maximum impervious surface area: 50% of the area of the subdivision tract.
  - (e) Maximum building coverage area: 25% of the area of the subdivision tract.
  - (f) Minimum depth of each front and rear yard: 30 feet.
  - (g) Minimum aggregate width of side yards: 30 feet.
  - (h) Minimum width of each side yard: 10 feet.
  - (i) Minimum width for yard abutting a street on a corner lot: 30 feet.
- B. Other uses. The area and bulk regulations for certain conditional uses shall be as follows:
  - (1) Agricultural uses shall meet or exceed the area and bulk regulations started at Subsection A(1).
  - (2) Cultural, religious and charitable uses.
    - (a) Minimum lot area: five acres.
    - (b) Minimum lot width at building line: 200 feet.
    - (c) Minimum lot width at street line: 150 feet.
    - (d) Maximum total impervious surface area: 35%.
    - (e) Maximum building coverage: 15%.
    - (f) Minimum depth of each front and rear yard: 100 feet.
    - (g) Minimum width of each side yard: 50 feet.
  - (3) For all other conditional uses, the area and bulk regulations shall either be those set forth in Subsection A(1) or B(2) above, depending on which uses the particular conditional use in question is most similar to.

ARTICLE VIII  
**R-4 Residence District**

**§ 275-34. Purpose.**

The R-4 Residence District is designed primarily to make provision for single-family detached and semidetached residential development at low and moderate suburban-type densities; to relate single-family residential density to environmental and health concerns by limiting single-family development to low density when water and sewer services are to be on-lot, but allowing moderate suburban-type densities when public sewer or public sewer and water services are used; to make provision for townhouse development at moderate suburban-type densities when public sewer and water is used and the size of the tract is adequate to ensure that such development will result in substantial open space areas; and to preserve the identity and character of the existing residential development. This district is intended to provide for economically feasible development alternatives for land which may be subject to natural constraints such as steep slopes, high water table or shallow bedrock.

**§ 275-35. Use regulations.**

A. Permitted principal uses. A building may be erected, altered or used, and land may be used or occupied, subject to the provisions of Articles XXIX and XXX, for any of the following uses and for no other:

- (1) Single-family detached dwelling.
- (2) Single-family semidetached dwellings (twin or duplex dwelling units).
- (3) Park or recreation area.
- (4) Open space for recreation and conservation purposes.
- (5) Woodlands, silvaculture, wildlife and nature preserve or other conservation use.
- (6) Communications antennas mounted on an existing communications tower and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588; amended 3-8-1999 by Ord. No. 595]**

B. Accessory uses.

- (1) Accessory uses on the same lot and customarily incidental to the principal uses permitted in Subsection A herein, and as governed by the general provisions for accessory uses in Article XXXIII.
- (2) Private parking space and private garage, in accordance with the off-street parking and loading regulation in Article XXXI.
- (3) Private (noncommercial) swimming pool or other private recreational facility, for the use and enjoyment of residents and their guests, subject to the general provisions for such accessory uses in Article XXXIII. **[Added 7-24-2006 by Ord. No. 675]**
- (4) Signs, in accordance with the sign regulations in Article XXXII.
- (5) Accessory uses must comply with the general provisions for accessory uses in Article XXXIII. **[Added 7-24-2006 by Ord. No. 675]**

**C. Conditional uses.**

- (1) Agricultural uses and buildings, subject to the provisions in Article XXXIII.
- (2) Conversion of single-family detached dwellings to apartments, subject to the general provisions for conversions in Article XXXIII.
- (3) Home professional office, home occupation subject to the general provisions for home professional offices and home occupations in Article XXXIII.
- (4) Cultural, religious and charitable uses.
- (5) Public utility and governmental uses subject to the provisions of Article XXXIII.
- (6) Single-family attached dwellings (townhouse, quadruplex and like dwelling units).
- (7) Communications antennas mounted on an existing public utility transmission tower, building, or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV and all other standards and criteria for approval of conditional uses in this chapter. **[Added 3-8-1999 by Ord. No. 595]**
- (8) Campus mixed use development, subject to the area and bulk regulations and design standards contained in § 275-38.1. **[Added 12-23-2013 by Ord. No. 744]**

**§ 275-36. Height regulations.**

The maximum height of dwellings and other structures erected, enlarged or used shall be 35 feet, except as provided in Article XXXIV.

**§ 275-37. Area and bulk regulations. [Amended 1-8-1990 by Ord. No. 461]**

Except as restricted under Articles XXIX and XXX, the following area and bulk regulations shall apply:

- A. Single-family detached residential dwelling units with on-lot sewage disposal systems and on-lot water supply systems shall meet or exceed the following standards:
  - (1) Minimum lot area: one acre.
  - (2) Minimum lot width at building line: 120 feet.
  - (3) Minimum lot width at street line: 50 feet.
  - (4) Maximum impervious surface: 40%.
  - (5) Maximum building coverage: 20%.
  - (6) Minimum depth of front and rear yards: 50 feet.
  - (7) Minimum aggregate width of side yards: 60 feet.
  - (8) Minimum individual side yard: 25 feet.
  - (9) Minimum yard abutting the street on a corner lot: 50 feet.
- B. Single-family detached residential dwelling units with on-lot water supply but using public sewer service shall meet or exceed the following standards:

- (1) Minimum lot area: 1/2 acre.
  - (2) Minimum lot width at building line: 100 feet.
  - (3) Minimum lot width at street line: 50 feet.
  - (4) Maximum impervious surface: 45%.
  - (5) Maximum building coverage: 20%.
  - (6) Minimum depth of front and rear yards: 35 feet.
  - (7) Minimum aggregate width of side yards: 45 feet.
  - (8) Minimum individual side yard: 20 feet.
  - (9) Minimum yard abutting the street on a corner lot: 35 feet.
- C. Single-family detached residential dwelling units using public sewer and water service shall meet or exceed the following standards:
- (1) Minimum lot area: 1/4 acre.
  - (2) Minimum lot width at building line: 70 feet.
  - (3) Minimum lot width at street line: 50 feet.
  - (4) Maximum impervious surface: 50%.
  - (5) Maximum building coverage: 25%.
  - (6) Minimum depth of front and rear yards: 30 feet.
  - (7) Minimum aggregate width of side yards: 30 feet.
  - (8) Minimum individual side yard: 10 feet.
  - (9) Minimum yard abutting the street on a corner lot: 30 feet.
- D. Single-family semidetached dwelling units with on-lot sewerage disposal and on-lot water supply systems shall meet or exceed the following standards:
- (1) All area and bulk regulations as provided in Subsection A above shall apply for each individual dwelling unit, except that the side yard requirements shall only apply to one side of the unit.
  - (2) The side yard for each semidetached dwelling unit shall be 30 feet.
- E. Single-family semidetached dwelling units using public sewer shall meet or exceed the following standards:
- (1) All area and bulk regulations as provided in Subsection B above shall apply for each individual dwelling unit, except that the side yard requirements shall only apply to one side of the unit.
  - (2) The side yard for each semidetached dwelling unit shall be 35 feet.
- F. Single-family semidetached dwelling units using public sewer and water service shall meet or exceed the following standards:

- (1) All area and bulk regulations as provided in Subsection C above shall apply for each individual dwelling unit, except that the side yard requirements shall only apply to one side of the unit.
  - (2) The side yard for each semidetached dwelling unit shall be 30 feet.
- G. Single-family attached dwelling units shall meet or exceed the following standards:
- (1) The maximum gross density for all such units shall be four dwelling units per acre, provided that such units are served by public sewer and public water and the overall tract size is at least 10 acres.
  - (2) The design standards of § 275-38 shall be met for single-family attached dwelling units.
- H. Single-family attached dwelling units within a campus mixed use development shall be in conformity with the area and bulk regulations and design standards contained in § 275-38.1, Campus mixed use development. **[Added 12-23-2013 by Ord. No. 744<sup>138</sup>]**
- I. Other uses shall meet or exceed the following standards. The area and bulk regulations for the following conditional uses shall be as follows:
- (1) Agricultural uses.
    - (a) The area and bulk regulations of Subsection A shall apply.
  - (2) Cultural, religious and charitable uses.
    - (a) Minimum lot area: five acres for each principal permitted building.
    - (b) Minimum lot width at building line: 200 feet.
    - (c) Minimum lot width at street line: 150 feet.
    - (d) Maximum impervious surface area: 60%.
    - (e) Maximum building coverage area: 15%.
    - (f) Minimum depth of each front and rear yard: 100 feet.
    - (g) Minimum aggregate width of side yards: 50 feet.
  - (3) For all other conditional uses, the area and bulk regulations either shall be similar to those set forth in Subsection A or C above, depending on which uses the proposed uses are most similar to.

**§ 275-38. Design standards for single-family attached dwelling units.**

- A. General design standards. All single-family attached dwelling units shall meet or exceed the following standards:
- (1) All performance standards in the open space provisions in Article XXXV shall be followed.
  - (2) The topography features of the site and the direction of prevailing winds and solar orientation shall be considered in planning, designing, locating, orienting and constructing all residential

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**138.Editor's Note: This ordinance also redesignated former Subsection H as Subsection I.**

buildings and other structures to improve the aesthetic design and energy efficiency of the development. The development plans shall show and supplemental notes shall explain how these factors are incorporated into the design.

- (3) Residential buildings and other structures shall be located, oriented and designed to create architectural interest and to preserve areas of environmental concern and further the amenities of light and air, recreation and visual enjoyment.
- (4) Residential buildings and other structures shall be located and situated to promote pedestrian and visual access to open space, in accordance with the provisions of Article XXXV.
- (5) Single-family attached dwellings shall be designed and constructed in staggered groups and not in long rows parallel to street or property lines. The arrangement of such units shall create a physical and visual distinctions in the lines of the facades and the roofs. Such distinction shall be achieved through the use of varied floor plans for adjoining units and alternating the projections and angles of exterior walls and roofs, exterior fencing and other diversified space articulating techniques.
- (6) All housing shall be sited so as to enhance privacy.
- (7) Development near the perimeter of the property shall be designed to be harmonious with neighboring land uses and shall be screened from such other uses by landscaped buffer areas.
- (8) All utilities shall be placed and/or installed underground.
- (9) Refuse stations to serve residential and recreational areas shall be designed with suitable screening, located so as to be convenient for trash removal and not offensive to nearby residential areas.

**B. Dimensional standards.**

- (1) The length of any building shall not exceed six dwelling units in any single direction.
- (2) No residential building shall be closer than 100 feet to the perimeter property line, and no other structure shall be less than 50 feet from such line, except for signs and those structures associated with ingress and egress, landscaping, lighting standards and benches.
- (3) A buffer planting strip shall be provided within the setback from property lines. Such buffer planting strip shall be no less than 20 feet in width and shall contain landscaping in accordance with a landscaping plan approved by the Township.
- (4) No common parking area shall be closer than 25 feet to any single-family attached residential building and shall be screened from the building to prevent direct glare from headlights and the like. However, common parking areas assigned to a particular dwelling unit shall not be more than 100 feet away from such unit.
- (5) No principal building shall be erected closer than 100 feet to another principal building.
- (6) A buffer planting strip shall be provided between any two principal buildings in accordance with the approved landscaping plan.

**C. Open space standards.**

- (1) A minimum of 30% of the tract shall be designated as, restricted to and used for open space



uses, subject to the provisions of Article XXXV.

**§ 275-38.1. Campus mixed use development. [Added 12-23-2013 by Ord. No. 744]**

**A. Conditions of eligibility.**

- (1) Each campus mixed use development tract shall meet or exceed the following:
  - (a) Contain a minimum of 50 gross acres (excluding existing public road right-of-way).
  - (b) Shall be located not more than one mile from public transportation.
  - (c) Shall have two entrances with access to and from a main arterial roadway (e.g., U.S. Route 1 - Baltimore Pike) with not less than one signalized intersection.
  - (d) Shall be served by public sewer and public water.

**B. Use regulations.**

- (1) Single-family attached dwellings (including duplexes, twins and townhouses) within the residential section of a campus mixed use development.
- (2) Community-related business uses within the commercial section of a campus mixed use development consisting of:
  - (a) Bank or other financial institutions with or without drive-up window and/or accessory ATM facilities.
  - (b) Personal service shops.
  - (c) Health and fitness facility, including ancillary services such as wellness, physical rehabilitation facilities and prevention health activities.
  - (d) Pharmacy, with or without drive-up window.
  - (e) Restaurant.
  - (f) Retail store.
  - (g) General or professional office.
  - (h) Day-care center.

**C. Area and bulk regulations.**

- (1) Residential section. Single-family attached dwelling units within the residential section of a campus mixed use development shall comply with the following area and bulk regulations:
  - (a) Minimum/maximum area of residential section: Not less than 88% nor more than 98% of a campus mixed use development tract shall consist of single-family attached units.
  - (b) Maximum gross density: Four dwelling units per acre of the gross acreage within the residential section of a campus mixed use development.
  - (c) Minimum lot area for a single-family attached unit:

- [1] Dwelling units with front garage access: 2,100 square feet;
- [2] Dwelling units with rear garage access: 1,100 square feet.
- (d) Minimum depth of front yard:
  - [1] Dwelling units with front garage access: 23 feet from edge of private street line;
  - [2] Dwelling units with rear garage access: 10 feet from edge of private street line.
- (e) Minimum depth of rear yard:
  - [1] Dwelling units with front garage access: 15 feet from rear lot line;
  - [2] Dwelling units with rear garage access: End dwelling units shall be a minimum of 10 feet from the edge of the private alley line. Interior dwelling units shall be a minimum of 23 feet from the edge of the private alley line. Interior dwelling units may be designed with recessed garages to satisfy the required minimum rear yard in which event the depth of the rear yard shall be measured from the foundation wall of such dwelling unit to the edge of the private alley line as depicted in the Alley Cross Section in Appendix B Design Guidelines.<sup>139</sup> Notwithstanding § 275-199I of Article XXXIII, decks, patios and uncovered spaces on all lots may encroach into the required rear yards by no more than eight feet.
- (f) Minimum side yard of all end dwelling units: five feet except for end dwelling units which face a private street, which shall have a minimum setback of 10 feet from the private street line. Interior attached units shall have common boundary lines with zero side yard setbacks.
- (g) Maximum number of attached units in a building: six units.
- (h) Maximum length of a residential building: 160 feet.
- (i) Minimum distance between buildings: 25 feet.
- (j) Maximum building height: three stories or 40 feet, whichever is greater, except as provided in Article XXXIV, § 275-211.
- (k) Required parking. A minimum overall parking ratio of 4.5 parking spaces per dwelling unit shall be provided within the residential section of a campus mixed use development. Each dwelling unit shall have a minimum of three on-lot parking spaces, which shall include garage parking spaces. Notwithstanding the requirements of § 275-184B of Article XXXI, for purposes of this section, an on-lot driveway parking area having a minimum width of 18 feet and a minimum length of 19 feet shall be deemed to constitute two on-lot parking spaces. The on-lot parking requirement with respect to an end dwelling unit with rear garage access may be satisfied by the permanent, exclusive assignment of one off-lot parking space to such end dwelling unit, so long as each assigned parking space is not more than 60 feet from the habitable ground floor area of the end dwelling unit to which such parking space is assigned. End dwelling units with rear garage access and with assigned off-lot parking spaces shall conform to the knee wall detail depicted in Appendix B Design Guidelines.<sup>140</sup> The remainder of the minimum number of required parking spaces

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139.Editor's Note: Appendix B is included as an attachment to this chapter.

shall be provided by overflow parking. For purposes of this section, the term "overflow parking" shall mean permitted on-street parking spaces and parking spaces provided in common, off-street parking areas conforming to the requirements of § 275-38.1D(3) below. Required overflow parking shall be subject to the reserve parking provisions of § 275-189. On-street parking on one side of the street shall be permitted.

(2) Commercial section. Community-related business uses within the commercial section of a campus mixed use development shall comply with the following area and bulk requirements:

- (a) Minimum/maximum area: Not less than 2% nor more than 12% of a campus mixed use development tract shall consist of community-related business uses.
- (b) Maximum building coverage: 30% of the gross acreage within the commercial section but not more than 60,000 square feet.
- (c) Maximum impervious coverage area: 75% of the gross acreage contained within the commercial section.
- (d) Maximum floor area within a single building: The gross floor area of a single building shall not exceed 25,000 square feet.
- (e) Minimum depth of front yard: 100 feet from a public road right-of-way.
- (f) Minimum setback of parking from public road right-of-way: 45 feet.
- (g) Minimum depth of side yard: 20 feet.
- (h) Minimum depth of rear yard: 20 feet.
- (i) Minimum distance between buildings: 40 feet.
- (j) Minimum distance of building from edge of private street cartway: 20 feet.

D. Design standards applicable to the residential section of a campus mixed use development.

- (1) All single-family attached dwelling units shall meet or exceed the standards set forth in § 275-38A.
- (2) No dwelling units shall be less than 22 feet in width.
- (3) Common off-street parking areas. Common off-street parking areas shall be provided in segregated areas of not more than 15 parking spaces. All common off-street parking stalls shall be a minimum size of 9 1/2 feet by 19 feet. Common, off-street parking areas shall not be closer than 12 feet to the garage of any single-family attached residential building or 15 feet to the habitable ground floor area of any dwelling unit. Segregated common, off-street parking areas containing 10 or fewer parking spaces shall not be subject to the provisions and requirements of § 275-188 (screening and landscaping requirements) of Article XXXI.

E. Design standards applicable to the commercial section of a campus mixed use development:

- (1) Parking. Community-related business uses shall provide parking in conformity with Article XIXA, SU-1-A Mixed Use District, § 275-117.11.

- (2) Signage. Signage for the community-related business uses shall be governed by the provisions of Article XXXII of the Code, § 275-195B(3) relating to B-1 Neighborhood Shopping Center Districts.
- F. Special design standards applicable to campus mixed use development - public improvement enhancements.
- (1) Common controls/subdivision of sections. The areas comprising the residential section and the commercial section of a campus mixed use development shall be clearly designated on the applicant's land development plan. The private streets, private alleys, common areas and other common amenities of a campus mixed use development shall be owned, managed and maintained by a single entity. The commercial section of a campus mixed use development may be subdivided from the residential section and the private streets, private alleys, common areas and other common amenities in each such section may be separately owned, managed and maintained provided both subdivided sections are subject to a recorded declaration of covenants, easements and restrictions regarding private streets, private alleys, common areas and common amenities which shall be subject to the review and approval of Township Council.
- (2) Separate ownership of individual buildings or individual pads within the commercial section. Where the Township Council has approved a land development plan for a campus mixed use development meeting the requirements of § 275-38.1, an individual building or pad shown on the approved land development plan for the commercial section may be separately owned, leased, purchased, sold, mortgaged and developed as a unit created in accordance with the Uniform Planned Community Act, 68 P.S. § 5105 et seq., as the same may be amended from time to time, or as a unit created in accordance with the Uniform Condominium Act, 68 P.S. § 3101 et seq., as the same may be amended from time to time, subject to the following conditions:
- (a) The development plan for the entire commercial section shall at all times remain compliant with the development standards applicable to the commercial section of the campus mixed use development; and
- (b) The entire commercial section and all units created therein (and all mortgagees thereof) shall be subject to the terms and provisions of the declaration of the planned community or the declaration of condominium, as applicable, which shall be subject to the review and approval of the Township Council with respect to matters relating to land use and zoning.
- (3) Perimeter setback. No building or accessory structure shall be less than 100 feet from the perimeter boundary line of a campus mixed use development tract (except for signs and those structures associated with ingress and egress, lighting standards, stormwater management facilities, retaining walls, benches and the like) unless the proposed development abuts a nonresidential, commercial use, a perpetually preserved conservation area, parkland or open space, in which case the Township Council may, upon request of the applicant, decrease the perimeter setback applicable to building to a minimum setback of 25 feet. Required rear yards may encroach into a perimeter setback no more than 15 feet.
- (4) Buffer planting strip. A buffer planting strip shall be provided within the setback from the perimeter boundary line of a campus mixed use development tract. The buffer planting strip shall be no less than 20 feet in width and shall contain landscaping in accordance with a landscaping plan approved by the Township Council. No buffer planting strip shall be required where the campus mixed use development tract abuts a nonresidential commercial use, a perpetually preserved conservation area, parkland or open space. Existing trees and foliage of a

quality and density satisfactory to the Township shall be credited to satisfy any minimum buffer planting strip requirement.

- (5) Open space. A minimum of 35% of the campus mixed use development tract shall be designated as, restricted to and used for open space uses, subject to the provisions of Article XXXV.
- (6) Active recreational facilities. Notwithstanding § 275-222E(1), not less than 1% of the required open space area shall be set aside for active recreational facilities including, but not limited to, a community recreation building, gazebo, pavilion for sheltered outdoor activities, clubhouse, swimming pool, multipurpose sports court, swings, tennis courts, bocce ball courts, and basketball courts, as depicted on Appendix B Design Guidelines.<sup>141</sup> The total cost of active recreational facilities, and the total cost of public improvement enhancements in the nature of active recreational facilities shall be applied as a credit against the recreational fee in lieu of active recreational facilities that would otherwise be payable by an applicant pursuant to § 275-222E(1) and § 210-41 of the Subdivision and Land Development Ordinance.
- (7) Pedestrian gathering areas. Not less than 1% of the required open space area shall be built and maintained in the form of greens, plazas, pocket parks, and green courts, as depicted on Appendix B Design Guidelines.<sup>142</sup>
- (8) Private streets/private alleys. All streets and alleys within a campus mixed use development shall be owned by the ownership entity or entities designated in accordance with § 275-38.1F(1) above, shall conform to the street and alley cross sections depicted in Appendix B Design Guidelines and shall comply with the following standards:<sup>143</sup>
  - (a) One-way boulevard streets shall have a minimum paved cartway of 16 feet to the inside face of curb.
  - (b) Two-way internal streets with no on-street parking shall have a minimum paved cartway of 24 feet to the inside face of curb.
  - (c) Two-way internal streets with on-street parallel parking on one side only shall have a minimum paved cartway width of 30 feet to the inside face of curb, including parallel parking spaces. Parallel parking spaces shall measure a minimum of seven feet by 22 feet.
  - (d) One-way internal alleys shall provide a minimum of 16 feet paved cartway with no parking.
  - (e) A two-way internal alley shall provide a minimum of 18 feet cartway with no parking.
  - (f) There shall be a minimum center-line curve radius ("curve radius") of 50 feet for internal streets, provided that a two-way main thoroughfare street shall have a minimum curve radius of 75 feet.
  - (g) There shall be a minimum sidewalk width of 4 1/2 feet. Curbs shall be vertical concrete curbs with reinforced concrete at driveway curb cuts or, in the alternative, vertical or splayed Belgium block.
  - (h) Cul-de-sac streets shall have a minimum radius of 50 feet and a maximum length of 750

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**141.Editor's Note: Appendix B is included as an attachment to this chapter.**

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feet and shall serve no more than 50 single-family attached dwelling units.

- (9) Roadway improvements connecting abutting parcels. Shared driveways, service drives and accessways with appropriate easements shall be constructed, where feasible, to provide access to abutting parcels as a part of an overall Township traffic improvement benefit.
- (10) Internal roadway improvements. Internal vehicular circulation connector(s) between the commercial and residential sections shall be installed, where feasible, in order to reduce external vehicle trips by residents of the residential sections who might otherwise use existing public roads.
- (11) Landscaping. Except as otherwise provided in § 275-38.1D(3) above and § 275-38.1F(4) above, the provisions of Article XXXIV, § 275-214, with respect to landscaping shall apply to a campus mixed use development.
- (12) Public and private streetscape enhancements.
  - (a) Additional landscaping at least 10% above the minimum requirements of Article XXXIV, § 275-214, shall be provided in and along public and private streets;
  - (b) Two or more of the following streetscape amenities (as depicted in Appendix B Design Guidelines<sup>144</sup>) shall be provided along public and private streets: decorative/ornamental lighting; street furniture (benches); unit-paver crosswalks; and Belgium block curbs.
- (13) Public trails.
  - (a) An eight-foot-wide low-impact public pedestrian trail shall be constructed in a campus mixed use development tract which shall connect existing, contiguous Township-owned parkland to a public street or to the commercial section.
  - (b) The low-impact public pedestrian trails shall be maintained in a passable condition by either a recognized conservation organization (e.g., Natural Lands Trust) or the entity which is designated to own and control the private streets, private alleys, common areas and other common amenities of the residential section and/or the commercial section of a campus mixed use development.
- (14) Design Guidelines. The details and design specifications depicted on Appendix B Design Guidelines<sup>145</sup> are incorporated herein and shall be consulted and utilized in developing the land development plan for a campus mixed use development.

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144.Editor's Note: Appendix B is included as an attachment to this chapter.

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ARTICLE IX  
**R-5 Residence District**

**§ 275-39. Purpose.**

The R-5 Residence District is designed primarily to make provisions for single-family detached and semidetached residential development at low and moderate suburban-type densities; to relate single-family residential density to environmental health concerns by limiting single-family development to low density when water and sewer service are to be on-site, but allowing moderate suburban-type densities when public sewer or public water are used; to make provision for townhouse and multifamily development when public sewer and water are used and the size of the tract is adequate to ensure that the development will result in substantial open space and landscaped areas and that the development can be designed to be compatible with the lower-density single-family character of most of the Township; and to preserve the identity and character of existing residential development.

**§ 275-40. Use regulations. [Amended 1-8-1990 by Ord. No. 461]**

A. Permitted principal uses. A building may be erected, altered or used and land may be used or occupied, subject to the provisions of Articles XXIX and XXX, for any of the following uses and for no other:

- (1) Single-family detached dwellings.
- (2) Single-family semidetached dwellings (twin or duplex dwelling units).
- (3) Park or recreation areas.
- (4) Open space for recreation and conservation purposes.
- (5) Woodlands, silviculture, wildlife and nature preserve or other conservation uses.
- (6) Communications antennas mounted on an existing communications tower and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV.  
**[Added 9-14-1998 by Ord. No. 588; amended 3-8-1999 by Ord. No. 595]**

B. Permitted accessory uses.

- (1) Accessory uses on the same lot and customarily incidental to the principal uses permitted in Subsection A herein, and as governed by the general provisions for accessory uses in Article XXXIII.
- (2) Private parking spaces and private garages in accordance with the off-street parking and loading regulations in Article XXXI.
- (3) Signs, in accordance with the sign regulations in Article XXXII.
- (4) Accessory uses must comply with the general provisions for accessory uses in Article XXXIII, except that swimming pools, as defined in the definitions section, are excluded.

C. Conditional uses.

- (1) Agricultural uses and buildings, subject to the provisions in Article XXXIII.
- (2) Conversion of single-family detached dwellings to apartments, subject to the general provisions

for conversions in Article XXXIII.

- (3) Home professional offices and home occupations, subject to the provisions for the same in Article XXXIII.
- (4) Cultural, religious and charitable uses.
- (5) Public utility and governmental uses, subject to the provisions in Article XXXIII.
- (6) Single-family attached dwellings (townhouse, quadruplex and like dwelling units).
- (7) Apartments.
- (8) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV and all other standards and criteria for approval of conditional uses in this chapter. **[Added 3-8-1999 by Ord. No. 595]**

**§ 275-41. Height regulations.**

The maximum height of dwellings and other structures erected, enlarged or used shall be 35 feet, except as provided in Article XXXIV.

**§ 275-42. Area and bulk regulations. [Amended 1-8-1990 by Ord. No. 461]**

Except as restricted under Articles XXIX and XXX, the following area and bulk regulations shall apply:

- A. Single-family detached residential dwelling units with on-lot sewerage disposal and water supply systems shall meet or exceed the following standards:
  - (1) Minimum lot area: one acre.
  - (2) Minimum lot width at building line: 120 feet.
  - (3) Minimum lot width at street line: 50 feet.
  - (4) Maximum impervious surface: 40%.
  - (5) Maximum building coverage: 20%.
  - (6) Minimum depth of front and rear yards: 50 feet.
  - (7) Minimum aggregate width of side yards: 60 feet.
  - (8) Minimum individual side yard: 25 feet.
  - (9) Minimum yard abutting the street on a corner lot: 50 feet.
- B. Single-family detached residential dwelling units with on-lot water supply but using public sewer service shall meet or exceed the following standards:
  - (1) Minimum lot area: 1/2 acre.
  - (2) Minimum lot width at building line: 100 feet.
  - (3) Minimum lot width at street line: 50 feet.



- (4) Maximum impervious surface: 45%.
  - (5) Maximum building coverage: 20%.
  - (6) Minimum depth of front and rear yards: 35 feet.
  - (7) Minimum aggregate width of side yards: 45 feet.
  - (8) Minimum individual side yard: 20 feet.
  - (9) Minimum yard abutting the street on a corner lot: 35 feet.
- C. Single-family detached residential dwelling units using public sewer and water service shall meet or exceed the following standards:
- (1) Minimum lot area: 1/4 acre.
  - (2) Minimum lot width at building line: 70 feet.
  - (3) Minimum width at street line: 50 feet.
  - (4) Maximum impervious surface: 50%.
  - (5) Maximum building coverage: 25%.
  - (6) Minimum depth of front and rear yards: 30 feet.
  - (7) Minimum aggregate width of side yards: 30 feet.
  - (8) Minimum individual side yard: 10 feet.
  - (9) Minimum yard abutting the street on a corner lot: 30 feet.
- D. Single-family semidetached dwelling units with on-lot sewage disposal and water supply systems shall meet or exceed the following standards:
- (1) All area and bulk regulations as provided in Subsection A shall apply for each individual dwelling unit, except that the side yard requirements shall only apply to one side of the unit.
  - (2) The side yard for each semidetached dwelling unit shall be 50 feet.
- E. Single-family semidetached dwelling units with on-lot water supply but using public sewer service shall meet or exceed the following standards:
- (1) All area and bulk regulations as provided in Subsection B shall apply for each individual dwelling unit, except that the side yard requirements shall only apply to one side of the unit.
  - (2) The side yard for each semidetached dwelling unit shall be 35 feet.
- F. Single-family semidetached dwelling units using public sewer and water service shall meet or exceed the following standards:
- (1) All area and bulk regulations as provided in Subsection C shall apply for each individual dwelling unit, except that the side yard requirements shall only apply to one side of the unit.
  - (2) The side yard for each semidetached dwelling unit shall be 30 feet.

- G. Single-family attached dwelling units shall meet or exceed the following standards:
- (1) The maximum gross density for all such units shall be six dwelling units per acre.
  - (2) All such units must be served by public sewer and public water service.
  - (3) The tract shall be a minimum of 15 acres in size.
  - (4) The design standards of § 275-43 shall be met for all such dwelling units.
- H. Multifamily dwelling units (apartments) shall meet or exceed the following standards:
- (1) The maximum gross density for all such units shall be eight dwelling units per acre.
  - (2) All such units must be served by public sewer and water service.
  - (3) The tract shall be a minimum of 15 acres in size.
  - (4) The design standards of § 275-43 shall be met for all such dwelling units.
- I. Other uses shall meet or exceed the following standards. The area and bulk regulations for the following conditional uses shall be as follows:
- (1) Agricultural uses.
    - (a) The area and bulk regulations of Subsection A shall apply.
  - (2) Cultural, religious and charitable uses.
    - (a) Minimum lot area: five acres for each principal permitted building.
    - (b) Minimum lot width at building line: 200 feet.
    - (c) Minimum lot width at street line: 150 feet.
    - (d) Maximum impervious surface area: 60%.
    - (e) Maximum building coverage area: 15%.
    - (f) Minimum depth of each front and rear yard: 100 feet.
    - (g) Minimum aggregate width of side yards: 50 feet.
  - (3) For all other conditional uses, the area and bulk regulations shall either be similar to those set forth in Subsections A through F above, depending on which uses the proposed use is most similar to.

**§ 275-43. Design standards for single-family attached and multifamily (apartment) dwelling units.**

- A. General design standards.
- (1) All performance standards in the open space provisions of Article XXXV shall be followed.
  - (2) The topography and natural features of the site and the direction of prevailing winds and solar orientation shall be considered in planning, designing, locating, orienting and constructing all residential buildings and other structures to improve the aesthetic design and energy efficiency of the development. The development plans shall show and supplemental notes shall explain

how these factors are incorporated into the design.

- (3) Residential buildings and other structures shall be located, oriented and designed to create architectural interest and to preserve areas of environmental concern and further the amenities of light and air, recreation and visual enjoyment.
- (4) Residential buildings and other structures shall be located and situated to promote pedestrian and visual access to open space, in accordance with the provisions of Article XXXV.
- (5) Single-family attached dwellings shall be designed and constructed in staggered groups and not in long rows parallel to street or property lines. The arrangement of such units shall create a physical and visual distinction in the lines of the facades and the roofs. Such distinctions shall be achieved through the use of varied floor plans for adjoining units and alternating the projections and angles of exterior walls and roofs, exterior fencing and other diversified space articulating techniques.
- (6) Multifamily (apartment) buildings shall be designed and constructed in staggered groups and not in long rows parallel to street or property lines. The arrangement of such buildings shall create a visual and physical distinction in the lines of the facades and the roofs.
- (7) All housing shall be sited so as to enhance privacy.
- (8) Development near the perimeter of the property shall be designed to be harmonious with neighboring land uses and shall be screened from such other uses by landscaped buffer areas.
- (9) All utilities shall be placed and/or installed underground.
- (10) Refuse stations to serve residential and recreational areas shall be designed with suitable screening, located so as to be convenient for trash removal and not offensive to nearby residential areas.

B. Dimensional standard's.

- (1) The length of any single-family attached dwelling shall not exceed six dwelling units in any single direction.
- (2) The length of any multifamily building shall not exceed 175 feet in any single direction.
- (3) No building shall be less than 100 feet from the perimeter property line, and no accessory structure shall be less than 50 feet from such line, except for signs and those structures associated with ingress and egress, lighting standards, benches and the like.
- (4) A buffer planting strip shall be provided in the property line setback area. Such buffer planting strip shall be no less than 20 feet in width and shall contain landscaping in accordance with a landscaping plan approved by the Township.
- (5) No common parking area shall be closer than 25 feet to any single-family attached residential building or multifamily building and shall be screened from any such buildings to prevent direct glare from headlights and other lights. However, common parking areas assigned to particular dwelling units shall not be more than 100 feet from another principal building.
- (6) A buffer area shall be provided between any principal buildings, in accordance with the approved landscaping plan.

C. Open space standards.

- (1) A minimum of 30% of the tract shall be designated as, restricted to and used for open space uses, subject to the provisions in Article XXXV.

## ARTICLE X

**PRC Planned Retirement Community District****§ 275-44. Purpose.**

The PRC Planned Retirement Community District is intended to provide for a planned, high-density, multifamily residential community designed specifically for senior citizens. Although the community may include health and nursing care facilities as well as facilities for residents' dining, recreational and social activities, the character of the community is to be compatible, both in terms of the use itself and its visual and design impact, with the residential character of the surrounding area and the Township as a whole.

**§ 275-45. Use regulations.**

A building may be erected, altered or used and land may be used for any of the following purposes and no other:

**A. Permitted principal uses.**

- (1) Single-family detached dwellings.
- (2) Agricultural uses and buildings.
- (3) Silviculture, wildlife and nature preserve or other conservation uses.
- (4) Communications antennas mounted on an existing communications tower and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588; amended 8-3-1999 by Ord. No. 595]**

**B. Conditional uses permitted only after Township Council has authorized the specific use proposed pursuant to § 275-46 and Article XXXVI.**

- (1) Multidwelling unit building designed for resident senior citizens and located in a planned retirement community.
- (2) A planned retirement community.
- (3) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV and all other standards and criteria for approval of conditional uses in this chapter. **[Added 3-8-1999 by Ord. No. 595]**

**C. Accessory uses for authorized conditional uses:**

- (1) The following uses are permitted as accessory uses to authorized conditional uses (but not to the extent that the use takes on the character of a principal or primary use).
  - (a) Common dining facilities for residents.
  - (b) Recreational and social facilities for residents.
  - (c) Administrative office and operational facilities for management of the community.
  - (d) Health care facilities and services for residents, provided that, with respect to nursing care beds which shall not exceed 78 beds, nonresidents may be provided with services;

however, after seven years from the initiation of such services, not more than 50% on an average annual basis, of such nursing care beds shall be used to provide services to nonresidents. **[Amended 3-27-2006 by Ord. No. 672]**

- (e) Snack shop and beauty shops.
- (f) Personal care units, facilities and services to assist residents with their daily living activities, provided that there shall be no more than 56 personal care units in a planned retirement community; these personal care units may be used to provide services for nonresidents of the retirement community; however, after seven years from the initiation of such services, not more than 50%, on average annual basis, of such personal care units shall be used to provide services to nonresidents. **[Amended 3-27-2006 by Ord. No. 672]**

**§ 275-46. Prerequisites for authorization to develop a planned retirement community.**

The party or parties (applicant/s) proposing to use a site as a planned retirement community must apply for and receive Township Council's authorization to do the specific use proposed. The applicant shall have the duty of presenting evidence and the burden of proving to Township Council that the proposed use will comply with all of the standards and criteria required for such authorization.

**A. Performance standards.**

- (1) The architecture, landscaping and overall site layout of the retirement community must be aesthetically and functionally compatible with existing and/or potential (currently zoned) surrounding residential land uses. The color, style, materials and scale of the buildings, structures and the project itself shall not disrupt the character of the surrounding area. Design decisions should not be limited to marketing needs and other internal considerations. In designing such a retirement community, the view to the site should be as important as the view from the site.
- (2) The overall character of the community shall be residential. By the plot plan and other material specifically describing the proposed operation of this community, the applicant shall demonstrate that the proposed accessory uses will not, in fact, be principal uses and will not alter the residential character of the community.

**B. Basic criteria.** An application for conditional use authorization to develop a planned retirement community shall not be granted unless Township Council determines that the specific use proposed is in harmony with the policies, purposes and Township planning upon which this chapter is based. In determining whether or not to authorize a particular planned retirement community, Council shall consider the following:

- (1) The relationship of the size, scope, extent and character of the specific uses proposed to the character and type of development in the areas surrounding the site where the specific planned retirement community is proposed.
- (2) Whether or not, in view of its specific characteristics, the proposed community would be an appropriate use in the area or whether it would have a detrimental effect on existing or potential uses in the surrounding area, which analysis will involve a consideration of the proposed community's impact on the character of the area and shall involve a consideration of the community's aesthetic impact.
- (3) The relationship of the proposed use to the uses permitted in the surrounding area.

- (4) The number, extent and scope of any nonconforming uses in the surrounding area and the impact of the proposed community on those uses.
  - (5) Whether or not the proposed community would have an adverse effect on the public health, safety and general welfare of the residents, existing or potential, in the surrounding area and in the Township as a whole.
  - (6) The effect of the proposed community on traffic in the area and the nature of the surrounding traffic conditions and the degree to which the proposed design will provide safe and adequate access to roads and not result in excessive or hazardous traffic volumes.
  - (7) The effect of the proposed community upon the logical, efficient and economical extension of public services and facilities, such as public water, sewers, police and fire protection and schools, throughout the Township.
  - (8) The degree to which the proposed landscaping addresses the needs for plantings at the site according to the criteria in Subsection C.
  - (9) The degree to which the proposed construction will be consistent with sound engineering and the land development design and techniques.
  - (10) Conformity to all relevant provisions of Chapter 210, Subdivision and Land Development, and any other applicable ordinance, code and regulation.
- C. Plans and information. In support of an application for authorization to develop a planned retirement community as a conditional use, the applicant must provide to Township Council at least the following plans and information:
- (1) A site plan, at a scale of one inch equals 50 feet, showing at least the following:
    - (a) Location and foundation outline ("footprint") of all buildings and other structures.
    - (b) Location and layout of all parking facilities and an analysis of projected parking needs.
    - (c) The internal circulation system and its ingress and egress intersections with public roads, including the community's projected traffic generation and flow patterns.
    - (d) Location, configuration and size of green and open space area.
    - (e) Total building coverage and total impervious surface coverage.
  - (2) A landscape plan and a statement of specific performance standards which will guide the implementation of the plan in accordance with § 275-48.
  - (3) An architectural analysis, prepared by a registered architect, describing the design of the proposed buildings and major structures, which analysis will include at least the following:
    - (a) A written description of the style, scale, shape, materials and colors to be used and the positioning of the buildings and structures as all these factors interrelate both with respect to the site and the community itself and importantly with the architecture and views of surrounding land uses, both existing and potential.
    - (b) Elevations and general floor plans for each of the proposed buildings.
    - (c) A statement describing why the overall design of the buildings proposed to be constructed

in the community are aesthetically compatible with surrounding land uses.

- (4) A traffic and circulation plan, prepared by a civil engineer with substantial traffic engineering experience, which describes at least the following:
  - (a) The community's traffic generation and parking needs.
  - (b) The impact of the community's traffic on existing traffic at proposed ingress and egress intersections with public roads.
  - (c) Emergency vehicle access.
  - (d) Proposed traffic safety improvements, on and off site, including all traffic control devices.
- D. In authorizing a planned retirement community as a conditional use, Council may attach such conditions and safeguards, in addition to those already required by this chapter, as it may deem necessary to implement the purposes of the Municipalities Planning Code and this chapter and to protect the public welfare, which conditions and safeguards may relate to, but are not limited to, the design of the buildings, landscaping and its maintenance as a sight or sound screen, lighting, noise, safety and the prevention of noxious, offensive or hazardous conditions.

**§ 275-47. Area and bulk regulations.**

A. Residential single-family dwelling units.

- (1) Minimum lot area: one acre for each principal permitted building.
- (2) Minimum lot width at building line: 120 feet.
- (3) Minimum lot width at street: 50 feet.
- (4) Maximum impervious surface area and building coverage: not more than 40% of the area of any lot shall be covered by impervious surfaces and not more than 20% of any lot area shall be occupied by buildings.
- (5) Minimum depth of each front and rear yard: 50 feet.
- (6) Minimum width of side yards: each lot shall have at least two side yards having an minimum average width of 30 feet; and neither side yard shall have a width of less than 25 feet. On each corner lot there shall be two side yards; the side yard abutting the street shall have a width of not less than 50 feet; and, the side yard not abutting the street shall have a width of not less than 25 feet.
- (7) Maximum height of building: 35 feet.

B. Planned retirement communities with residential dwelling units in multiunit buildings.

- (1) Minimum tract size: 25 acres.
- (2) Maximum building height: four stories, provided that elevator cores shall not be considered when calculating building height.
- (3) Gross density: 17 dwelling units per acre. Each apartment dwelling unit in a multiunit residential building and each residential personal care unit shall constitute a dwelling unit for purposes of calculating the density of a planned retirement community. **[Amended 3-27-2006 by Ord. No.**



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- (4) Maximum building coverage: 20%.
- (5) Total impervious coverage area: 50%.
- (6) No building shall be less than 100 feet from the perimeter property line, and no accessory structure shall be less than 50 feet from such line, except for signs and those structures associated with ingress and egress, internal circulation and lighting standards.
- (7) Antennas. Each building may contain a single master TV antenna (preferably concealed) and no antenna shall be higher than 15 feet above the roof the building upon which it is located, constructed in accordance with any applicable provisions of the Township Building Code<sup>146</sup> or any other Township ordinance or regulation. No antenna shall be located closer to a lot line than the height of the antenna and no antenna shall be freestanding.

**§ 275-48. Additional design standards for planned retirement communities.**

- A. Public water and public sewer service is required.
- B. All utility lines shall be placed underground.
- C. At least 1.15 parking spaces per dwelling unit shall be provided, provided that no parking shall be required for residential personal care units.
- D. Lighting. Outdoor lighting shall be provided for all buildings and private street and parking areas during all hours of darkness. Such lighting shall: provide sufficient light for the safety of residents and other person, and be arranged and of such character so as to protect all dwelling units on the property from glare or direct light and all adjoining properties or streets from any direct glare or hazardous interference of any kind. No such lighting shall exceed 20 feet in height.
- E. Landscaping.
  - (1) A landscaping plan shall be submitted at the time when all other required plans are submitted.
  - (2) The landscaping plan shall be based on the following:
    - (a) The functional and aesthetic factors which relate to the site to the principal and accessory buildings and other structures.
    - (b) The desirability of concealing and/or enhancing the views to, from and/or within the site.
    - (c) The desirability of screening and complementing proposed buildings or other structures.
    - (d) The desirability of creating visual interest for the residents of the planned retirement community.
  - (3) The landscaping plan shall reflect the following:
    - (a) An analysis of the site in terms of: existing views to and from the areas which are proposed for development; existing topography and vegetation conditions; and other existing conditions which are relevant to the site.

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146.Editor's Note: See Ch. 89, Construction Codes.

- (b) An analysis of proposed planting and other landscaping needs as related to: screening buildings and sections of buildings; screening parking areas and other areas where vehicles are parked; screening storage areas; screening site utilities; and other appropriate types of screening.
  - (c) The consideration of locations where plantings and other landscaping is needed to: provide visual interest; define outdoor spaces; compliment the proposed architectural style; and achieve other functional and aesthetic goals.
- (4) The preliminary and final landscaping plans shall reflect the following detailed criteria. However, depending on the ways in which Subsection E(1), (2), and (3) above are analyzed relative to the particular site in question, the specific numerical requirements may be satisfied by the applicant by the proposed installation of an equivalent number and/or size of trees and shrubs on the site in the locations where plants are most needed and functional (as used here, "equivalent" means equal in terms of the total costs of the plants and their installation); and by the grouping of trees and shrubs, rather than the placement of them at specific intervals.
- (a) Shade trees shall be provided along all streets where there are no existing shade trees. When planted, shade trees shall be no closer than two feet from the edge of the right-of-way line. No less than one tree of 3 1/2 inches to four inches in caliper shall be planted for each 50 feet of roadway length (excluding service roads and roads through parking lots). However, it is recommended that shade trees be grouped where appropriate in accordance with specific site needs and objectives rather than be spaced at regular intervals.
  - (b) The outer perimeter of all parking areas shall be screened. Effective screens may be accomplished through the use of plant materials, fencing or walls and/or mounding through the use of earthen berms.
  - (c) All parking lots shall be landscaped. One shade tree of two inches to 2 1/2 inches in caliper shall be planted for every five parking spaces, if there are no existing shade trees. Shrubs, ground covers and other plant materials are encouraged to be used to complement the trees.
  - (d) Landscaping and planting areas shall be reasonably dispersed throughout the parking lot, except that landscaped "islands" shall be provided at the end of each parking bay. Such islands shall be a minimum of eight feet in width and 18 feet in length, and shall be provided to enhance the appearance of the parking area and to control access and movement within the parking area.
  - (e) All buildings shall be landscaped in accordance with the following criteria:
    - [1] A combination of evergreen and deciduous trees and shrubs shall be used as "foundation" plantings, i.e., plantings to be installed in reasonable proximity to the facades.
    - [2] One specimen deciduous tree four inches to five inches in caliper shall be planted for every 25 feet of length of building facade measured from end to end of buildings, without regard to indentations and the like in the building, facades and excluding enclosed walkway connectors and elevator cores, such tree to be a minimum of 11 feet to 13 feet in height at the time of planting; and one eight-foot-to-ten-foot specimen evergreen tree shall be planted for every 50 feet of length of building facade, measured as set forth above.

- [3] For every foot in height above 45 feet of building height, the required evergreen trees shall be installed at an additional 1/2 foot in height, e.g., for fifty-five-foot buildings, one thirteen-foot-to-fifteen-foot evergreen tree shall be planted for every fifty-foot length of building facade.
- [4] Five evergreen and/or deciduous shrubs shall be planted for every 20 feet of length of building facade.
- [5] Trees and shrubs shall be grouped in accordance with specific needs and objectives.
- (f) Other landscaping shall provided along walkways, in courtyards, around sitting areas, at the entrance to the site and in other highly visible locations, especially along property lines where planting will screen views and provide privacy.
- (g) The location, type, size, height and other characteristics of landscaping shall be subject to the review and approval of Township Council.
- (5) The preliminary landscaping plan shall be drawn at a scale of at least one inch equals 50 feet. It shall be totally coordinated with the overall site plan and shall contain the following:
  - (a) A delineation of existing and proposed plant materials.
  - (b) A delineation of other landscaping features such as berms, planting beds to be used for herbaceous plants, areas to be devoted to lawns, areas to be devoted to meadows and other elements of the proposed improvements.
  - (c) Notes describing the proposed improvements and their relationship to the criteria as stated in Subsection E(1), ) (2), (3) and (4) above.
- (6) One color rendering of preliminary landscaping plan shall be submitted for review by the Township, in addition to the number of prints which is otherwise required. The color rendering shall reflect total coordination with the overall site plan in terms of its relationship to proposed buildings, roads, parking areas, walks, walls, fencing, benches, signs, lighting and other like structures.
- (7) After the Township has reviewed the preliminary landscaping plan and submitted comments on the plan to the applicant, a final landscaping plan shall be submitted. The final landscaping plan shall be drawn in greater detail than the preliminary plan. It shall be totally coordinated with the overall site plan and shall contain the following:
  - (a) A final version of the plan requirements stated in Subsection E(5) for a preliminary plan.
  - (b) A plant list wherein the botanical and common name of the proposed plants are tabulated, along with the quantity, caliper, height and other characteristics.
  - (c) Details for the planting and staking of trees, the planting of shrubs and any other details which depict other related installation.
  - (d) Information in the form of notes or specifications concerning planting beds to be used for herbaceous plants, areas to be devoted to lawns, areas to be devoted to meadows and the like. Such information shall convey the proposals for seeding, mulching and the like.

#### F. Buildings.

- (1) The topography and natural features of the site and the direction of prevailing winds and solar orientation shall be considered in planning, designing, locating, orienting and constructing all residential and accessory buildings and other structures to improve the aesthetics and energy efficiency of the development.
- (2) Residential buildings and other structures shall be located, oriented and designed to create architectural interest and to preserve amenities of light and air, recreation and visual enjoyment.
- (3) Residential buildings and other structures shall be located and situated to promote pedestrian and visual access to open space.
- (4) Multidwelling unit buildings shall be designed and constructed in staggered groups, the arrangement of such buildings shall create a physical distinction in the lines of the facades and roofs.
- (5) Development near the perimeter of the property shall be designed to be harmonious with neighboring land uses.
- (6) No common parking area shall be closer than 25 feet to any building.
- (7) No principal building shall be erected closer than 25 feet from another principal building.

ARTICLE XI  
**PRD Planned Residential Development Districts**

**§ 275-49. Purpose.**

A. The provisions of this article are enacted for the following purposes:

- (1) To respond to increasing urbanization and the growing demands for housing of various types and designs.
- (2) To encourage innovations in residential development and renewal so that the growing demand for housing may be met by greater variety in type, design and layout of dwellings and by the conservation and more efficient use of open space ancillary to said dwellings.
- (3) To encourage more efficient allocation and maintenance of open space for conservation and active and passive recreation.
- (4) To provide greater opportunities for better housing and recreation for all who are or will be residents of the Township.
- (5) To encourage a more efficient use of land and public services and to reflect changes in the technology of land development so that the economics so secured may inure to the benefit of those who require housing.
- (6) To encourage sensitive land development which will respect and conserve such natural features and resources of the land as floodplain and flood-prone areas, important farmlands, steep and very steep slopes, watercourses and water bodies, groundwater and aquifer recharge areas, forested areas, terrestrial and aquatic wildlife habitats, historic and cultural sites, visual resources and other features of importance to the vitality of natural and cultural resources.
- (7) To provide a procedure which can relate the type, design and layout of residential development to the particular site and to the particular demand for housing existing at the time of development in a manner consistent with the preservation of the property values within existing residential areas and to assure that the increased flexibility of regulations over land development established hereby is carried out pursuant to sound, expeditious and fair administrative standards and procedures.

**§ 275-50. Administration.**

The administration of the procedures concerning the application for and approval of planned residential developments (PRD) shall be vested solely in the Township Council. However, all applications for tentative and final approval of plans for such developments first shall be referred to the Delaware County and Middletown Township Planning Commissions for their review and comment.

**§ 275-51. Conditions of eligibility.**

No application for planned residential development shall be submitted, considered or approved unless the following conditions are met:

- A. Any tract of land proposed for development shall be in one ownership or in case of multiple ownership and/or several parcels, evidence shall be presented of a written agreement between the parties and owners involved that development will be in accordance with a single plan with common authority and common responsibility.

- B. All ownership interests in any tract or in any adjacent tract shall be disclosed in the tentative and final plans.
- C. The development will be served by public sewer and public water systems, which shall be constructed and operational, and having the assured capacity to serve the development at the time occupancy of the structures in the development begins; and the feasibility for such construction and operation shall be demonstrated to the satisfaction of the Township Council at the time of the application for tentative plan approval, except that:
  - (1) Single-family detached dwellings on lots of one acre or more may be served by an on-lot water supply system.
- D. The tentative and final plans shall provide a time schedule within which the owner or owners agrees to develop said land according to the plans submitted.
- E. In order to qualify under this chapter as a planned residential development (PRD), said development shall provide for a minimum of 70 acres of land. To achieve a sound relationship among components of the development, all lands in the proposed development shall be reasonably compact. If any portion of such tract is divided by an existing street or other public way from the remainder of the tract, the density requirements of § 275-54 shall be applied to each of the segments of land so divided, provided that this requirement may be modified by the Township Council on recommendation by the Planning Commission in any case where such modification is determined to be in the best interests of the Township.
- F. The land being used to qualify under this chapter shall be located in any area of the Township, with the following exceptions where planned residential development shall not be permitted:
  - (1) Manufacturing and industrial districts.
  - (2) Outdoor recreation districts.
  - (3) The R-1A district.

**§ 275-52. Use regulations.**

A building may be erected, altered or used and land may be used or occupied, subject to the provisions of Articles XXIX and XXX, for any of the following uses and no other:

- A. Principal permitted uses.
  - (1) Single-family detached dwellings.
  - (2) Single-family attached dwellings.
  - (3) Common open space for recreation and conservation purposes, subject to the provisions in Article XXXV.
  - (4) Communications antennas mounted on an existing communications tower and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588; amended 3-8-1999 by Ord. No. 595]**
- B. Permitted accessory uses.
  - (1) Uses customarily incidental to the uses permitted in Subsection A.

(2) Parking in accordance with Article XXXI.

(3) Signs in accordance with Article XXXII.

C. Conditional uses.

(1) Cultural, religious or charitable uses.

(2) Private club for recreation, provided that the principal activity shall not be one which is customarily conducted as a business.

(3) Communications antennas mounted on an existing public utility transmission tower, building or other structure, and communications equipment buildings.

**§ 275-53. Height regulations.**

The maximum height of dwellings and other structures erected, enlarged or used shall be 35 feet, except as provided in Article XXXIII.

**§ 275-54. Density, open space and dwelling unit composition.**

A. The gross density shall not exceed that of the underlying zoning district.

B. Not less than 50% of the total area of the property shall be designated as and devoted to common open space, subject to the provisions in Article XXXV.

C. No less than 40% of the total number of dwelling units shall be single-family detached dwellings.

D. No less than 10% of the total number of dwelling units shall be single-family attached dwelling units.

E. In the case of a planned residential development (PRD) proposed to be developed over a period of time and in stages, a variation in the density of a stage to be developed may be permitted by the Township Council, subject to the condition that the density and uses as defined in this chapter and as shown on the final plan which is approved by the Township Council shall not be changed thereafter if the entire tract is not developed at one time and is developed in stages.

**§ 275-55. Area and bulk regulations. [Amended 1-8-1990 by Ord. No. 461]**

In addition to the setback requirements in § 275-56, the following shall apply:

A. Where single-family detached dwelling units are proposed, the area and bulk regulations of § 275-26B(2) related to the R-2 District shall apply.

B. Where single-family attached dwelling units are proposed, the design standards of § 275-38 related to the R-4 District shall apply.

**§ 275-56. Design standards.**

In addition to the design standards in Chapter 210, Subdivision and Land Development, the performance standards in the open space provisions and the standards of § 275-38, the following shall apply:

A. General standards.

(1) A buffer area of at least 100 feet shall be provided, in accordance with Article XXXIV.

- (2) Fire hydrants shall be installed by the developer to meet the requirements of Appendix C of the International Fire Code, current edition, and the Township Fire Marshal.<sup>147</sup>

B. Stormwater control.

- (1) The storm drainage system for a PRD shall be designed and constructed so as to minimize erosion and flooding, using as necessary, drainage easements, swales, catchment basins, silt traps and the design of cartways so as to minimize runoff.
- (2) Where existing storm sewers are deemed by the Township Council as being accessible, the Council may require that the proposed development connect therewith.
- (3) All stormwater management design standards shall be in accordance with the provisions for design standards and required improvements embodied in Chapter 210, Subdivision and Land Development, as may be amended from time to time.
- (4) Storm sewer systems for the development shall be designed, constructed and shall operate and be readily capable of being maintained to prevent concentration of stormwater runoff on adjacent developed or undeveloped properties and streets and other areas of impervious surface.
- (5) The design and construction of all storm drainage facilities and storm sewer systems shall be subject to the approval of the Township Engineer.

C. Soil erosion and sedimentation control.

- (1) Plans submitted for any PRD development shall conform to the guidelines for minimizing erosion and sedimentation as set forth in the Soil Erosion and Sedimentation Control Manual of the Pennsylvania Department of Environmental Protection prepared by the State Conservation Commission and Bureau of Water Quality Management and the USDA Natural Resources Conservation Service, as amended. In developing a plan for the control of erosion and sedimentation, the developer shall meet as a minimum the standards and specifications outlined in the aforementioned manual, as well as the standards set forth in Appendix C of the Erosion and Sediment Control handbook of the Delaware County Soil and Water Conservation District and those in Chapter 210, Subdivision and Land Development.

D. Other environmental controls.

- (1) In addition to the controls presented in the above subsections herein, all development in a PRD shall be governed by the environmental controls set forth in Article XXXIII, § 275-207 pertaining to such matters as noise, vibration, storage, glare and heat, fire and explosion and traffic control; and all plans, documents and other submissions in regard to any approval sought shall demonstrate compliance herewith to the Township Council.

E. Streets and pathways.

- (1) The street system of the planned residential development shall be designed so as to relate harmoniously with land uses within and adjacent to the development through the establishment of a hierarchy of roadway functions which includes internal collector and local streets; to create a separation of automobile and pedestrian traffic through the coordinated design of streets, dwelling units, common open space areas and pedestrian walkways; and to create efficient and safe connections with the existing road system of the municipality in order to insure proper

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147. Editor's Note: Amended at time of adoption of Code (see Ch. I, General Provisions, Art. II).



ingress and egress to and from the PRD and to minimize through traffic in residential areas.

- (2) In order to separate automobile and pedestrian circulation and to increase accessibility to common open space areas, pedestrian walkways shall be provided unless the Township Council determines that they are not necessary.
- (3) Curbs and sidewalks shall be required along streets in PRDs in accordance with Chapter 210, Subdivision and Land Development.
- (4) The design and construction of streets must conform to the standards set forth in Chapter 210, Subdivision and Land Development, relative to paving specifications, cartway design, horizontal and vertical alignment, sight distances and the like.

F. Parking.

- (1) All provisions in Article XXXI shall apply. However, in the case of apartments with three or more bedrooms, 2 1/2 parking spaces for each such unit shall be provided.
- (2) Off-street parking spaces shall not be less than nine feet in width and 18 feet in depth. However, 5% of the spaces shall not be less than 12 feet in width and 20 feet in depth and shall be reserved for the handicapped and so marked with an appropriate symbol.
- (3) Where parking spaces are grouped in lots, aisles at least 25 feet in width shall be provided.
- (4) Where parking spaces are grouped in lots, aisles at least 25 feet in width shall be provided.
- (5) No more than 60 parking spaces shall be accommodated in any single parking area.
- (6) All off-street parking and/or loading areas shall be surfaced with an asphaltic or portland cement pavement.

G. Lighting.

- (1) All streets, off-street parking areas and areas of intensive pedestrian use shall be adequately lighted. All such lighting shall be designed and located so as to direct light away from adjacent residences.

H. Buffer area.

- (1) There shall be a buffer area between any building and the boundary line of such a planned residential development (PRD) or the right-of-way line of any abutting roadway. The buffer area shall be in accordance with Article XXXIV.
- (2) No building shall be placed within 150 feet of any such line. Any such buffer area shall be in addition to the yard area of any building abutting any boundary or right-of-way; provided, however, that the dimensions of the buffer are may be reduced to less than 150 feet in any case in which the full width of such buffer is determined to be unnecessary because of existing vegetation, topography, man-made barriers or other natural screening, but in no case less than 100 feet.

I. Tree conservation and landscaping.

- (1) Existing trees shall be preserved wherever possible. The protection of trees 12 inches or more in caliper (measured at a height 4 1/2 feet above the original grade) shall be a factor in determining the location of common open space, structures, underground utilities, walks and

paved areas. Areas in which trees are to be preserved shall remain at original grade level and in an undisturbed condition.

- (2) Where extensive natural tree cover and vegetation does not exist and cannot be preserved on the PRD site, landscaping shall be regarded as an essential feature of the PRD. In these cases, extensive landscaping shall be undertaken in order to enhance the appearance of the PRD, aid in erosion control, provide protection from wind and sun, screen streets and parking areas and enhance the privacy of the dwelling units in accordance with Article XXXIV.
- (3) Street trees shall be provided along all internal collector and local streets. No less than two four-inch-caliper trees shall be provided for each fifty-foot increment of street, wherein one tree shall be placed on each side of said street increment.
- (4) A landscaped buffer planting strip of 20 feet in width shall be provided along all perimeter property lines, except at points of vehicular ingress and egress and on pedestrian access ways.
- (5) Screening and landscaping requirements for parking areas are provided in Article XXXI.

#### **§ 275-57. Development in stages.**

An applicant may propose to develop the PRD District project in stages and the Township Council may approve same if the following criteria are met:

- A. The application for tentative approval covers the entire planned residential development and shows the location and time of construction for each stage in addition to other information required by this chapter.
- B. At least 35% of the dwelling units in the plan given tentative approval are included in the first stage.
- C. The second and subsequent stages are completed consistent with the tentatively approved plan and are of such size and location that they constitute economically sound units of development. In no event shall such stages contain less than 25% of the dwelling units receiving tentative approval.
- D. In no case shall work on the current stage area include stripping or disturbance of woodland and forest or soils of any area set aside for later stages.
- E. All improvements within the particular stage shall be completed contemporaneously with the completion of construction of the dwellings of the stage.
- F. Any plans and other documents required by the Township Council to depict all of the foregoing and the limits thereof are submitted to, and approved by, the Township Council.

#### **§ 275-58. Location, ownership and maintenance of common open space.**

Refer to Article XXXV, Open Space Provisions.

#### **§ 275-59. Application for tentative approval.**

The application for tentative approval shall be executed by or on behalf of the landowner and filed with the Township Manager. If the applicant is not the landowner, the executed consent of the landowner or evidence of the applicant's legal authority to make such an application shall be so filed. An initial deposit in the amount of \$1,000 to be applied against expenses associated with the processing and review of the application shall be paid upon filing the application. Additional deposits shall be made from time

to time as requested by the Township to cover costs in reviewing and administering the application, not to exceed actual expenses. Seventeen copies of the application shall be submitted to the Township Manager for various required reviews. The application for tentative approval shall include all plans, documents, papers and submissions proving compliance with all the standards of this article. The Township Council may require such additional documentation as needed to aid them in review of the application and accompanying papers.

A. Application for tentative approval shall include, but not be limited to, the following:

- (1) A statement indicating the nature of the applicant's and the landowner's interest in the project.
- (2) A written statement by the applicant setting forth the reasons why the project would be in the public interest and would be specifically consistent with the Comprehensive Plan's goals and objectives and its recommendations for land use, community facilities and utilities, circulation and other matters therein recommended.
- (3) A map indicating the location and size of the property and its relationship to surrounding properties, such map to be drawn at a scale of one inch equals 800 feet and showing all streets, roads, municipal boundaries, subdivisions, adjoining properties and designated open space within 2,500 feet of any part of the tract. In the case of development of a section of the entire tract, the key map shall show the relationship of the section to the entire tract.
- (4) A plan at a scale of one inch equals 100 feet delineating the topography of the tract. Such plan shall contain contours with at least two-foot intervals; and shall accurately and conspicuously depict slopes from 0% to 8%, 8% to 15%, 15% to 25% and greater than 25%.
- (5) A plan at a scale of one inch equals 100 feet accurately and conspicuously delineating, depicting and otherwise noting in graphic fashion the vegetation of the tract. Such plan shall depict the location of all trees 12 inches in caliper and greater.
- (6) A plan at a scale of one inch equals 100 feet accurately and conspicuously delineating the drainage characteristics of the tract. Such plan shall accurately and conspicuously depict, delineate and otherwise note in graphic fashion all perennial and intermittent streams and watercourses and their watersheds, as well as flood-prone and flood hazard areas.
- (7) A plan at a scale of one inch equals 100 feet accurately and conspicuously delineating, depicting and otherwise noting in graphic fashion the soils of the tract. Such plan shall depict all soil types and shall include a table identifying soil characteristics pertinent to the proposed development and the tract.
- (8) A plan at a scale of one inch equals 100 feet accurately and conspicuously delineating, depicting, and otherwise noting in graphic fashion the proposed use areas by type, size, location and gross density.
- (9) A site plan at a scale of one inch equals 100 feet accurately and conspicuously delineating, depicting and otherwise noting in graphic fashion the location, use, height, bulk and location of streets, rights-of-way, cartways, parking areas and other improvements.
- (10) A plan at a scale of one inch equals 100 feet accurately conspicuously delineating, depicting and otherwise noting in graphic fashion common open space. Such plan shall depict the location, function and size of common open space areas and any existing natural and cultural features comprised within the common open space. In addition, the plan shall include any facilities or structures proposed. Accompanying the plan shall be a statement indicating the proposed means

for ownership and maintenance of the common open space.

- (11) A detailed report indicating the feasibility and capability for operation and maintenance of water supply systems, sanitary sewage systems, stormwater systems and other utility systems. Such a report shall indicate the following:
  - (a) With regard to water supply, there shall be an objective description of the ability of achieving a safe and efficient water supply system. The description shall reference geologic and hydrogeologic data relative to groundwater conditions, realistic potential yields and quality. In addition, the description shall indicate the demand by type of use for water from the proposed development and its related uses and users.
  - (b) With regard to sanitary sewage disposal, there shall be an objective description of the ability of achieving a safe and efficient system for sewage disposal. The description shall indicate all proposed measures and methods for conveying and treating the sewerage and the sizes of all pipes and direction and quantities of flow anticipated from the development, as well as all connections which will be required to tie into existing sanitary sewers.
  - (c) Assurance of the availability of safe and efficient public water and public sewer facilities shall also be reported. Such assurance shall include letters signed by an officer of the company or authority concerned, indicating its ability and willingness to provide such service within the timetable proposed for the development, including a statement of maintenance responsibilities and rates and charges for service.
  - (d) With regard to stormwater systems, there shall be an objective description of the ability of achieving a safe and efficient stormwater management system. Such report shall be in complete conformance with Chapter 210, Subdivision and Land Development.
- (12) A detailed plan illustrating all connections to existing public utilities, streets and rights-of-way, accompanied by documentation as to the impact of the proposed development on said public utilities, streets and rights-of-way.
- (13) A site plan illustrating phasing, including a time schedule for all on-site and off site improvements may be modified from time to time with approval of the Township Council.
- (14) A fully detailed soil erosion and sedimentation control plan.
- (15) A fully detailed grading plan at a scale of one inch equals 100 feet accurately and conspicuously delineating proposed contours at intervals of at least two feet.
- (16) A fully detailed landscaping plan at a scale of one inch equals 100 feet wherein existing and proposed plant materials are accurately and conspicuously differentiated, delineated, depicted or otherwise noted in a graphic fashion and a plant list with botanical and common names as well as notations for the quantities and sizes of all proposed plant materials.
- (17) A written report indicating the proposed methods and measures to be undertaken for energy conservation and the effective utilization of renewable energy resources.
- (18) The documents containing covenants, grants of easements or other restrictions to be imposed upon the use of land, buildings and structures including proposed grants and/or easements for utilities and the like.
- (19) An Environmental Impact Assessment Report in accordance with Article XXXIV.

- (20) In the case of plans which call for development in stages, a schedule showing the time within which applications for final approval of all parts of the project are intended to be filed and which shall be updated annually on the anniversary of submission for final approval.
  - (21) A report accompanying the application shall, insofar as possible, indicate compliance with the provisions set forth for documentation herein.
  - (22) All other requirements for a preliminary plan as set forth in Chapter 210, Subdivision and Land Development.
- B. Seven copies of every application for tentative approval received by the Township Manager shall be promptly forwarded to the Township Planning Commission and one copy of each application to the Natural Resources Conservation Service for its recommendation. The Township Planning Commission and the Delaware County Planning Department shall review and report upon the application to the Township Council. One copy of the reports of the respective planning commissions shall be furnished to the applicant upon receipt by the Township Council.
- C. The applicant, the Township Council, the Township Planning Commission and the Delaware County Planning Department may consult informally concerning the project for the proposed PRD District prior to the filing of an application for tentative approval, provided that no statement or representation by a member of the official review agency or of the planning agencies be binding upon the Township.

#### **§ 275-60. Public hearings.**

- A. Within 60 days after the filing of an application for tentative approval of a project pursuant to this article, a public hearing pursuant to the public notice on said application shall be held by the Township Council in the manner provided by this chapter for the enactment of an amendment. The Chairman or, in his absence, the Acting Chairman of the Township Council, 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 Township Council. Whenever such records are requested by any party to the proceedings, the cost of transcribing such a record shall be borne by the party requesting it and the expenses 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 Township Council may continue the hearing from time to time and may refer the matter back to the Planning Commission for a 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.

#### **§ 275-61. Findings.**

- A. The Township Council may continue the hearing from time to time and may refer the matter back to the Planning Commission for a 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.
- (1) Grant tentative approval of the development plan submitted;
  - (2) Grant tentative approval subject to specified conditions not included in the development plan as

submitted; or

- (3) Deny tentative approval to the development plan. Failure to do so 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 applicant may, within 30 days after receiving a copy of the official written communication of the Township Council, notify the Township Council of his refusal to accept all said conditions, in which case the Township Council shall be deemed to have denied tentative approval of the development plan. In the event the applicant does not, within said period, notify the Township Council 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 of the following:
- (1) Those respects in which the development is or is not consistent with the 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 development, the reliability of the proposals for maintenance and conservation of the common open space and adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development.
  - (4) The proposed systems for sanitary sewers, water supply, stormwater control and soil erosion and sedimentation control and the manner in which said proposals adequately or inadequately address the construction, operation and maintenance of such systems.
  - (5) The physical design of the development and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular and pedestrian traffic and further the amenities of light and air, recreation and visual enjoyment.
  - (6) The relationship, beneficial or adverse, of the proposed development to the neighborhood in which it is proposed to be established.
  - (7) In the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the development in the integrity of the development plan.
- C. In the event that a development plan is granted tentative approval, with or without conditions, the Township Council 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 years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the Township Council, the time so established between the grant of tentative approval and the application for final approval shall be not less than three months nor more than one year, and, in the case of

development over a period of years, the time between applications for final approval of each part of the plan shall be not less than 12 months nor more than 18 months.

**§ 275-62. Status of plan after tentative approval. [Amended by 1-8-1990 by Ord. No. 461]**

- A. The official written communication provided for in § 275-61 of this article shall be certified by the Secretary of the Township Council and shall be filed in his/her office, and a certified copy shall be mailed to the applicant. Where tentative approval has been granted, it shall be deemed an amendment to the Zoning Map, effective upon final approval, and the same shall be noted on the Zoning Map.
- B. Tentative approval of a development plan shall not qualify a plot 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 applicant (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 applicant, provided that an application for final approval is filed or, in the case of development over a period of years, provided that 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 applicant shall elect to abandon said development plan and shall so notify the Township Council, in writing, or in the event that the applicant shall fail to file an 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 local 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 Township Manager.

**§ 275-63. Application for final approval. [Amended by 1-8-1990 by Ord. No. 461]**

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, a section thereof. Said application shall be made to the Township Council and within the time or times specified by the official written communication granting tentative approval as in § 275-61 or as otherwise mutually agreed upon between the applicant and the Township Council and set forth, in writing, by the Township Council. If the application for final approval is in compliance with the tentatively approved development plan, a public hearing need not be held. The application for final approval shall consist of a plan or plans and accompanying documents which shall show and shall include the following information:

- A. The plan. The final plan shall be prepared in accordance with Chapter 210, Subdivision and Land Development. All plans shall be drawn at a scale not smaller than one inch equals 50 feet. They shall be clear and legible blue-line or black-line prints and shall include at least the following information:
  - (1) The development name or identifying title.
  - (2) The municipality in which the development is located.
  - (3) North point, scale and date.
  - (4) The name of the record owner of the tract and developer.

- (5) The name and seal of the registered professional engineer, landscape architect, land planner, architect or surveyor responsible for the plan.
- (6) Boundaries of the tract determined by accurate survey in the field which shall be balanced and closed with an error of closure not to exceed one foot in 10,000.
- (7) Property lines within the development.
- (8) Lot areas to 1/1,000 of an acre.
- (9) Street lines, lot lines, rights-of-way, easements and areas dedicated to or proposed to be dedicated to public use. Profiles for all streets and for proposed sanitary and storm sewer mains, inlets and manholes and the location of all utilities.
- (10) The length of all straight lines, radii, lengths of curves and tangent bearings for each street.
- (11) All dimensions and angles or bearings of the lines of each lot and of each area proposed to dedicated to public use.
- (12) The designation of common open space including the area contained therein.
- (13) Location, grades, length and width of all private driveways and all parking facilities and type of paving and other surface to be used therefor.
- (14) Names proposed to be given to all streets.
- (15) Location of all structures.
- (16) Number of lots.
- (17) Number of dwelling units by type and, where applicable, the number, location and square footage of areas to be devoted to nonresidential use.
- (18) Architectural drawings, floor plans and elevations to scale of all buildings, said drawings to bear the seal of the architect who has prepared same.
- (19) Total property area of the entire development tract and, in the case of development in sections, the size of the section for which plans are submitted.
- (20) All permanent monuments.
- (21) A final grading plan, including existing and proposed contours at vertical intervals of at least two feet, the lines thereof to be conspicuously distinguishable.
- (22) All existing watercourses, tree masses and other significant natural features, including all trees 12 inches in caliper or greater to be retained and/or to be removed.
- (23) A final soil erosion and sedimentation control plan.
- (24) A final landscaping plan, wherein existing and proposed plant materials are differentiated, a final plant list indicating the types, quantities and sizes of the proposed plant materials and typical planting details for tree planting and staking, shrub planting and the like.
- (25) A final environmental impact assessment report.

B. The documentation. The application for final approval shall also be accompanied by:



- (1) Copies of deed restrictions and/or easements, if any and other documents relating to title, use or occupancy.
  - (2) Copies of permits obtained: under authority of statutes of the Commonwealth of Pennsylvania and/or the County of Delaware regarding the provision for construction, operation and maintenance of the proposed sanitary sewer system, water supply system, soil erosion and sedimentation control system; and highway occupancy system.
  - (3) An affidavit that the applicant is the owner of the land proposed to be developed, or has been authorized by the landowner to be the applicant, supported by a copy of the written authority therefor.
  - (4) Offers of dedication and covenants and other documents governing the reservation and maintenance of undedicated open space, provided that all such offers of dedication and covenants shall bear the certificate of approval of the Township Solicitor as to their legal sufficiency and compliance herewith.
  - (5) Copies of the homeowner's agreements for common open space not to be offered for dedication to the Township.
  - (6) A statement duly acknowledged before an officer authorized to take acknowledgement of deeds and signed by the owner or owners of the property to the effect that the development as shown on the application for final approval is made with his or their free consent and that it is desired to record the application and accompanying documents upon their approval.
  - (7) Whenever a developer proposes to establish a street which is not offered for dedication and not required to be offered for dedication, he shall submit a copy of statements cosigned by the Township Solicitor that he has made an agreement on behalf of his heirs and assigns with the Township. Said agreement shall be subject to the Township Solicitor's approval and shall be recorded with the plan. Said agreement shall establish the condition under which the streets may later be offered for dedication and stipulate among other things:
    - (a) That the street shall be in a good state of repair as certified by the Township Engineer, or that the owner or owners of the lots along it agree to include with the offer of dedication sufficient money, as estimated by the Township Engineer, to restore the street to conform with Middletown Township design standards.
    - (b) That an offer to dedicate the street shall be made only on the street as a whole.
    - (c) That the method of assessing repair costs shall be stipulated.
    - (d) That, where applicable, agreement to offer the street for dedication by the owners of 60% of the lots shall be binding on owners of the remaining lots.
  - (8) Such other related information as deemed necessary by the Township Council to make their determination.
- C. In the event the application for final approval has been filed, together with all drawings, specifications, covenants, easements, performance bonds and other documents in support thereof and as required by this chapter and the official written communication for tentative approval, the Township shall within 45 days of such filing, grant such development plan final approval.
- D. In the event the development plan as submitted contains variations from the development plan given

tentative approval, the Township Council shall refuse to grant final approval and shall, within 45 days from the filing of the application for final approval, so advise the applicant 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 applicant may either:

- (1) Refile his application for final approval without the variations objected to; or
  - (2) File a written request with the Township Council that it hold a public hearing on his application for final approval. If the applicant wishes 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 of receipt of notice that the development plan was not in substantial compliance. In the event that the applicant 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 applicant, and the hearing shall be conducted in the manner prescribed in this chapter for public hearings on applications for tentative approval. Within 45 days after the conclusion of the hearing, the Township Council 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.
- E. A development plan or any part thereof which has been given final approval shall be so certified without delay by the Township Council and shall be filed by the Recorder of Deeds before any development shall take place in accordance therewith. Pending completion, in accordance with the time provisions stated in Section 508 of the Pennsylvania Municipalities Planning Code,<sup>148</sup> 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. Upon approval of the final plan, the applicant shall record the plan in accordance with § 275-67 herein and post financial security in accordance with § 210-11 of Chapter 210, Subdivision and Land Development.
- F. In the event that a development plan or a section thereof is given final approval and thereafter the applicant shall abandon such plan or the section thereof that has been finally approved and shall so notify the Township Council, in writing, or in the event that the applicant shall fail to commence and complete the development project or section thereof in accordance with the time provisions stated in Section 508 of the Pennsylvania Municipalities Planning Code, after final approval has been granted, no development or further development shall take place on the property included in the development plan until after said property is resubdivided and is reclassified by enactment of an amendment to this chapter.

#### **§ 275-64. Legal remedies.**

The Township may avail itself to any and all remedies provided by law, including but not limited to those specified in the Pennsylvania Municipalities Planning Code.

#### **§ 275-65. Bonding/security for completion of improvements.**

Security shall be provided which is acceptable to the Township in an amount to cover the costs of any improvements which may be required.

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148. Editor's Note: See 53 P.S. § 10508.

**§ 275-66. Insurance and indemnity.**

The Township shall require appropriate liability insurance and minimum limits of coverage in regard to any development in a PRD. The Township shall be a "named insured" under all such liability policies, without premium liability therefor; said policies shall further be written to exclude the operation of any "other insurance" clause. The Township shall also require from the applicant a defense, indemnity and hold-harmless agreement in favor of the Township, which shall be insured by the applicant to at least the minimum limits required by the Township Council for liability insurance.

**§ 275-67. Recording. [Amended 1-8-1990 by Ord. No. 461]**

The final plot plan will be recorded by the landowner in the Office for the Recording of Deeds in and for Delaware County, Pennsylvania, within 90 days of the granting of final approval by the Township Council. The Recorder of Deeds of the county shall not accept any plan for recording unless such plan officially notes the approval of the Township Council and review by the Delaware County Planning Department.

**§ 275-68. Fees.**

Fees for review of the final plan shall be established by resolution of the Township Council, which fees shall not exceed costs incurred. Should any funds remain after the final plan is processed and reviewed, they will be returned to the applicant.

ARTICLE XII  
**I-1 Institutional District**

**§ 275-69. Purpose.**

The purpose of this district is to:

- A. Provide for certain institutional uses with suitable access in areas where institutional uses already exist.
- B. Provide for institutional uses which will be located on relatively large parcels of land and designed to preserve substantial amounts of open space and natural areas for both buffer and aesthetic purposes so that the principal institutional uses will be compatible with and a benefit to existing surrounding land uses and be appropriate neighbors for higher-quality residential development.
- C. Provide for residential uses which will benefit from the presence of certain institutional uses.

**§ 275-70. Use regulations. [Amended 1-13-1992 by Ord. No. 498]**

A building or combination of buildings may be erected or used and land may be used or occupied, subject to the provisions of Articles XXIX and XXX, as follows:

- A. Permitted principal uses.
  - (1) Residential uses as permitted in the R-1 District, subject to all of the regulations applicable to residential uses in the R-1 District, including the cluster subdivision option, and subject to the buffer requirements of Article XXXIV.
  - (2) Planned residential development (PRD), provided that there is a minimum tract size of 70 acres and subject to the buffer requirements of Article XXXIV.
  - (3) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588]**
- B. Conditional uses.
  - (1) Hospitals (excluding institutions primarily for treatment of psychological disorders).
  - (2) Medical or hospital affiliated offices.
  - (3) Life care facilities and intermediate care facilities, provided that there is a minimum tract area of 35 acres.
  - (4) Communications towers, subject to the standards for communications towers as conditional uses set forth at § 275-216.1, and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588]**
- C. Permitted accessory uses.
  - (1) Accessory uses which are customarily incidental to, and on the same lot with, the principal permitted and approved conditional uses.
  - (2) A parking garage, being a building or structure of two or more stories used for the parking of

motor vehicles, which shall have the following minimum dimensional standards:

(a) Dimensional standards.

Angle of Parking Space (degrees)	Width Parking Space	Depth Parking Space	Aisle Width (feet)	Total Parking Module (feet)
60, one-way aisle	8 feet 6 inches	18 feet 6 inches	16	53
70, one-way aisle	8 feet 6 inches	19 feet	17	55
90, two-way aisle	8 feet 6 inches	18 feet	24	60

(b) Columns of a combined dimension of two feet may protrude into the module dimension.

**§ 275-71. Height regulations. [Amended 1-28-1991 by Ord. No. 483; 2-10-2020 by Ord. No. 810]**

The maximum height of a building or other structure(s) erected, enlarged or used shall be 80 feet. No life care facility shall exceed five stories and one story of ground level parking, and it shall not exceed 55 feet in height.

**§ 275-72. Area and bulk regulations. [Amended 1-28-1991 by Ord. No. 483; 1-13-1992 by Ord. No. 498]**

A. Single-family dwelling units.

- (1) All area and bulk regulations for residential dwelling units shall be the same as those applicable in R-1 or PRD districts.

B. Institutional uses.

- (1) The maximum density for all buildings, other than dwelling units in a life care facility, shall be determined by a combination of the height regulations in § 275-71, the buffer areas in Subsection B(2), and the maximum building coverage in Subsection B(3).
- (2) Buffer area. A buffer area of 190 feet shall be provided along U.S. Route 1 and PA Route 352, and a one-hundred-foot buffer shall be provided along other roads and property lines, provided that the setback from property lines that abut an office district shall be a minimum of 50 feet and the setback from property lines that abut another property in an I-1 District shall be a minimum of 65 feet. The buffer area shall be measured from the street line, or other property line when the tract is not bounded by a street. **[Amended 2-25-2008 by Ord. No. 691; 2-10-2020 by Ord. No. 810]**
- (3) Maximum building coverage. Not more than 30% of any tract area shall be occupied by buildings. **[Amended 2-10-2020 by Ord. No. 810]**
- (4) Maximum impervious surface area. Not more than 60% of the area of any lot shall be occupied by buildings and other impervious surfaces.

- (5) Gross density for life care facilities. Not more than 11 dwelling units per acre; provided that the overall dwelling unit total does not exceed 380 units in the district.
- (6) Building placement.
  - (a) No building shall be located within the required buffer areas.
  - (b) No building or permanent structure shall be located less than 50 feet from any internal street line or 50 feet from any internal side or rear property line.
  - (c) The distance at the closest point between any two buildings or groups of attached buildings, including accessory buildings, shall be not less than 30 feet. Connecting corridors may be permitted at the discretion of the Fire Marshal.

**C. Office uses. [Amended 6-25-2007 by Ord. No. 684]**

- (1) Density regulations. The density regulations for institutional uses shall apply to office uses. **[Amended 1-28-1991 by Ord. No. 483; 1-13-1992 by Ord. No. 498]**
- (2) Building setback and buffer area. A buffer and building setback area of 50 feet shall be provided along U.S. Route 1. In the event that an existing hospital building fronts U.S. Route 1, said two-hundred-foot buffer area required by Subsection B(2) shall be maintained for the entire width of the hospital building and 100 feet on either side thereof. A one-hundred-foot building setback and a buffer area of 25 feet (of which 15 feet shall be landscaped in accordance with the provisions in Article XXXIV) shall be provided along other property lines, except as follows:
  - (a) That the building setback from the property lines that abut a nonresidential use shall be a minimum of 50 feet with a buffer area of 25 feet (of which 15 feet shall be landscaped in accordance with the provisions of Article XXXIV);
  - (b) Where a property line abuts a residential district, containing a preserved open space of a width not less than 100 feet from the property line, a buffer will not be required within the I-1 District. There shall be a minimum building setback within I-1 District of 20 feet. A minimum distance of 120 feet shall be maintained between any building in the I-1 District and the nearest residential building in the adjoining district.

**§ 275-73. Special design and development requirements. [Amended 1-28-1991 by Ord. No. 483; 4-11-1994 by Ord. No. 534]**

The following special requirements shall apply to all institutional, office and life care facility uses:

- A. The required buffer areas shall be established and maintained in accordance with the provisions of Article XXXIV, § 275-213.
- B. Except for the buffer requirements as provided in § 275-72C, at least 30 feet of the required buffer areas shall be landscaped and maintained in accordance with the provisions of Article XXXIV, § 275-214. **[Amended 6-25-2007 by Ord. No. 684]**
- C. All development shall be in accordance with the environmental controls of Article XXXIII, § 275-207.
- D. Any two major points of ingress and egress shall be at least 500 feet from one another.
- E. All development shall be served by public water and public sewer.

- F. At least 1.15 parking spaces shall be provided for each dwelling unit in a life-care facility and 1.15 parking spaces for each bed in an intermediate care facility or residential personal care unit associated with a life-care facility; provided, however, that the Township Council may permit not more than 40% of the required parking spaces to be designated "reserve parking" pursuant to the provisions of § 275-189 hereof. **[Added 8-24-1998 by Ord. No. 587]**
- G. Except for the parking requirements set forth in Subsection F above, life-care facilities shall comply with design standards for retirement communities in Article X, § 275-48, pertaining to the planned retirement community district.

**§ 275-74. Standards and criteria for approval of conditional uses.**

- A. All standards and criteria of Article XXXVI, § 275-236, shall apply.
- B. Life-care facilities shall also comply with the prerequisites for authorization to develop a planned retirement community as set forth in Article X, § 275-48.
- C. The applicant must define and delineate the gross floor areas of all existing buildings, maximum building coverages and maximum impervious surfaces on all land development plans.

ARTICLE XIII  
**I-2 Institutional District**

**§ 275-75. Purpose.**

The purpose of this district is to:

- A. Provide for certain institutional uses with suitable access in areas where institutional uses already exist.
- B. Provide for institutional uses which will be located on relatively large parcels of land and designed to preserve substantial amounts of open space and natural areas for both buffer and aesthetic purposes so that the principal institutional uses will be compatible with and a benefit to existing surrounding land uses and be appropriate neighbors for higher quality residential development.
- C. Provide for residential uses which will benefit from the presence of certain institutional uses.
- D. Provide for adequate parking areas associated with adjacent regional rail station facilities. **[Added 5-11-2009 by Ord. No. 704]**

**§ 275-76. Use regulations. [Amended 9-14-1998 by Ord. No. 588; 5-11-2009 by Ord. No. 704]**

A building or combination of buildings or tract of land may be erected or used or occupied, subject to the provisions of Articles XXIX and XXX, as follows:

- A. Permitted principal uses.
  - (1) Residential uses as permitted in the R-1 District, subject to all of the regulations applicable to residential uses in the R-1 District, including the cluster subdivision option, and subject to the buffer requirements of Article XXXIV.
  - (2) Planned residential development (PRD), provided that there is a minimum tract size of 75 acres and subject to the buffer requirements of Article XXXIV.
  - (3) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV.
- B. Conditional uses.
  - (1) Boarding and nonboarding schools.
  - (2) Postsecondary schools.
  - (3) Schools for special students.
  - (4) Communications towers, subject to the standards for communications towers as conditional uses set forth in § 275-216.1, and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV.
  - (5) Parking areas associated with adjacent regional rail station facilities.
- C. Permitted accessory uses.
  - (1) Accessory uses which are customarily incidental to and on the same lot with the principal



permitted and approved conditional uses.

**§ 275-77. Height regulations.**

The maximum height of dwellings and other structures erected, enlarged or used shall be 35 feet, except as provided in the special provisions of this chapter, Article XXXIV, which provide for exceptions to height regulations for certain structures. The height of structures used for institutional purposes may be increased to a maximum of 45 feet within any area that is set back at least 300 feet from perimeter property lines and 55 feet within any area that is set back at least 500 feet from perimeter property lines.

**§ 275-78. Area and bulk regulations. [Amended 1-8-1990 by Ord. No. 461]**

**A. Single-family dwelling units.**

- (1) All area and bulk regulations for residential dwelling units shall be the same as those applicable in the R-1 or PRD District.

**B. Institutional uses other than parking areas associated with regional rail station facilities. [Amended 5-11-2009 by Ord. No. 704]**

- (1) The maximum density shall not exceed 3,875 square feet of gross floor area per gross acre (i.e., acreage, including buffer areas).
- (2) Buffer area. A buffer area of 200 feet shall be provided along New Baltimore Pike, United States Route 1 and Pennsylvania Route 352, and a one-hundred-foot buffer shall be provided along other roads and property lines. The buffer area shall be measured from the street line or other property line when the tract is not bounded by a street.
- (3) Maximum impervious surface area. Not more than 35% of the area of any lot shall be occupied by buildings and other impervious surfaces.
- (4) Building placement.
  - (a) No building shall be located within the required buffer areas.
  - (b) No building or permanent structure shall be located less than 50 feet from any internal street line or 50 feet from any internal side or rear property line.
  - (c) The distance at the closest point between any two buildings or groups of attached buildings, including accessory buildings, shall be at least as great as the average height of the two adjoining buildings, but not less than 30 feet. Connecting corridors may be permitted at the discretion of the Fire Marshal.

**C. Parking areas associated with adjacent regional rail facilities. [Added 5-11-2009 by Ord. No. 704]**

- (1) Buffer area. A buffer area of 20 feet shall be provided along any public road, except at entrance areas, and a buffer area of 20 feet shall be provided along all other property lines or lease lines, except in the event of the extension of an existing parking lot. Buffer areas shall be screened and/or landscaped in accordance with § 275-188 of Article XXXI.
- (2) Maximum impervious surface area. Not more than 35% of the tract area shall be occupied by impervious surfaces.
- (3) Parking areas shall comply with the special design standards set forth in § 275-184, except that

parking spaces shall not be less than nine feet in width and 17 feet in length.

**§ 275-79. Special design and development requirements. [Amended 5-11-2009 by Ord. No. 704]**

The following special requirements shall apply to all institutional and office uses; provided, however, that Subsections B, E and F shall not apply to parking areas associated with adjacent regional rail facilities:

- A. Any required buffer areas shall be established and maintained in accordance with the provisions of Article XXIV, § 275-213.
- B. At least 30 feet of the required buffer areas shall be landscaped and maintained in accordance with the provisions of Article XXXIV, § 275-214.
- C. All development shall be in accordance with the environmental controls of Article XXXIII, § 275-207.
- D. Any two major points of ingress and egress shall be at least 500 feet from one another.
- E. All development shall be served by public water.
- F. All development shall be served by public sewer or other approved sewage disposal system approved by both the Township and the state.

**§ 275-80. Standards and criteria for approval of conditional uses.**

- A. All standards and criteria of Article XXXVI, § 275-236 shall apply.
- B. The applicant must define and delineate the gross floor area of: all existing buildings, maximum building coverages, and maximum impervious surfaces, on all land development plans.

ARTICLE XIV  
**I-3 Institutional District**  
**[Added 12-13-2004 by Ord. No. 659]**

**§ 275-81. Purpose.**

The purpose of this district is to:

- A. Provide for certain institutional uses with suitable access in areas where institutional uses already exist or existed.
- B. Provide for institutional and continuing care retirement community uses which will be located on relatively large parcels of land and designed to preserve substantial amounts of open space and natural areas for both buffer and aesthetic purposes so that the principal institutional uses will be compatible with and a benefit to existing surrounding land uses and be appropriate neighbors for higher-quality residential development.

**§ 275-82. Use regulations.**

A building or combination of buildings may be erected, used and occupied and land may be used as follows:

- A. Permitted principal uses.
  - (1) Boarding and nonboarding schools, postsecondary schools or schools for special students.
  - (2) Agricultural uses and buildings.
  - (3) Silviculture, wildlife and natural preserve or other conservation uses.
  - (4) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV.
  - (5) Open space and active and passive recreation space.
- B. Conditional uses.
  - (1) Continuing care retirement community consisting of a combination of independent living units, personal care facility and skilled nursing facility, provided it meets all of the criteria for a conditional use for a continuing care retirement community as set forth in this article, including all area and bulk regulations and all other standards for a conditional use set forth in this article.
  - (2) Communications towers, subject to the standards for communications towers as conditional uses set forth at § 275-216.1, and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV.
- C. Permitted accessory uses for permitted uses.
  - (1) Accessory uses which are customarily incidental to and on the same lot with the principal permitted use.

**§ 275-83. Accessory uses for conditional uses.**

A. The following uses are permitted as accessory uses to a continuing care retirement community:

- (1) Common dining facilities for residents.
- (2) Recreational and social facilities for residents.
- (3) Administrative offices and operational facilities for management of the community.
- (4) Fitness center, swimming pool, physical therapy and other health care facilities and services for residents.
- (5) Snack shop and beauty shops.
- (6) Community center for residents.

**§ 275-84. Area and bulk regulations.**

A. For permitted uses.

- (1) Density. The maximum density shall not exceed 3,875 square feet of gross floor area per gross acre (i.e., acreage, including buffer areas).
- (2) Buffer area. A buffer area of 200 feet shall be provided along United States Route 1 and Pennsylvania Route 352, and a one-hundred-foot buffer shall be provided along other roads and property lines. The buffer area shall be measured from the street line or other property line.
- (3) Height regulations. The maximum height of structures erected, enlarged or used shall be 35 feet, except as provided in the special provisions of this chapter, Article XXXIV, which provide for exceptions to height regulations for certain structures. The height of structures used for institutional purposes may be increased to a maximum of 45 feet within any area that is set back at least 500 feet from perimeter property lines.
- (4) Maximum impervious surface area. Not more than 35% of the area of any lot shall be occupied by buildings and other impervious surfaces.
- (5) Building placement.
  - (a) No building shall be located within the required buffer areas.
  - (b) No building or permanent structure shall be located less than 50 feet from any internal road or street line, or 50 feet from any internal side or rear property line.
  - (c) The distance at the closest point between any two buildings, including accessory buildings, shall be at least as great as the average height of the two buildings, but not less than 30 feet. Connecting corridors may be permitted at the discretion of the Fire Marshal.

**§ 275-85. Requirements for authorization to develop a continuing care retirement community.**

The party or parties [applicant(s)] proposing to use a site as a continuing care retirement community must apply for and receive a conditional use from Township Council. The applicant for conditional use shall have the burden of presenting evidence and proving to Township Council that the proposed use will comply with all of the standards and criteria required for conditional use under this article and Article XXXVI, §§ 275-236 and 275-237.

## A. Performance standards.

- (1) The architecture, landscaping and overall site layout of the continuing care retirement community must be aesthetically and functionally compatible with existing and/or potential (currently zoned) surrounding residential land uses. The color, style, materials and scale of the buildings, structures and the project itself shall not disrupt the character of the surrounding area. Design decisions should not be limited to marketing needs and other internal considerations. In designing such a continuing care retirement community, the view to the site should be as important as the view from the site.
- (2) The overall character of the continuing care retirement community shall be residential. The applicant must demonstrate that the proposed accessory uses will not, in fact, be principal uses and will not alter the residential character of the continuing care retirement community.

## B. Basic criteria. In determining whether or not to authorize a conditional use for a continuing care retirement community, Council shall consider the following in addition to standards and criteria set forth in § 275-236:

- (1) The relationship of the size, scope, extent and character of the specific uses proposed, to the character and type of development in the areas surrounding the site.
- (2) Whether or not in view of its specific characteristics, the proposed continuing care retirement community would be an appropriate use in the area or whether it would have a detrimental effect on existing or potential uses in the surrounding area, which analysis shall involve a consideration of the proposed continuing care retirement community's impact on the character of the area.
- (3) The relationship of the proposed use to the uses permitted in the surrounding area.
- (4) The number, extent and scope of any nonconforming uses in the surrounding area and the impact of the proposed continuing care retirement community on those uses.
- (5) Whether or not the proposed continuing care retirement community would have an adverse effect on the public health, safety and general welfare of the residents, existing or potential, in the surrounding area and in the Township as a whole.
- (6) The effect of the proposed continuing care retirement community on traffic in the area and the nature of the surrounding traffic conditions and the degree to which the proposed design will provide safe and adequate access to roads and not result in excessive or hazardous traffic volumes.
- (7) The effect of the proposed continuing care retirement community upon the logical, efficient and economical extension of public services and facilities, such as public water, sewers, police and fire protection, emergency medical services and schools, throughout the Township.
- (8) The degree to which the proposed landscaping addresses the needs for plantings at the site according to the criteria in § 275-88E.
- (9) Conformity to all relevant provisions of Chapter 210, Subdivision and Land Development, and any other applicable ordinance, code and regulation.

## C. Plans and information. In support of an application for a continuing care retirement community as a conditional use, the applicant must provide to Township Council, in addition to the requirements of

Chapter 210, Subdivision and Land Development, and the requirements of this article, at least the following plans and information:

- (1) A site plan, at a scale of one inch equals 50 feet, showing at least the following:
    - (a) Location and foundation outline ("footprint") of all buildings and other structures.
    - (b) Location and layout of all parking facilities and an analysis of projected parking needs.
    - (c) The internal circulation system and its ingress and egress intersections with public roads, including the projected traffic generation and flow patterns.
    - (d) Location, configuration and size of green and open space area.
    - (e) Total building coverage and total impervious surface coverage.
  - (2) A landscape plan and a statement of specific performance standards which will guide the implementation of the plan in accordance with § 275-87.
  - (3) An architectural analysis, prepared by a registered architect, describing the design of the proposed buildings and major structures, which analysis will include at least the following:
    - (a) A written description of the style, scale, shape, materials and colors to be used and the positioning of the buildings and structures as all these factors interrelate both with respect to the site and the continuing care retirement community itself and importantly with the architecture and views of surrounding land uses, both existing and potential.
    - (b) Elevations and general floor plans for all of the proposed buildings.
    - (c) A statement describing why the overall design of the buildings proposed to be constructed in the continuing care retirement community are aesthetically compatible with surrounding land uses.
  - (4) A traffic and circulation plan, prepared by a civil engineer with substantial traffic engineering experience, which describes at least the following:
    - (a) The continuing care retirement community's traffic generation and parking needs.
    - (b) The impact of the continuing care retirement community's traffic on existing traffic at proposed ingress and egress intersections with public roads.
    - (c) Emergency vehicle access.
    - (d) Proposed traffic safety improvements, on and off site, including all traffic control devices.
- D. In authorizing a continuing care retirement community as a conditional use, Council may attach such conditions and safeguards, in addition to those already required by this article, as it may deem necessary to implement the purposes of the Municipalities Planning Code and this article and to protect the public welfare, which conditions and safeguards may relate to, but are not limited to, the design of the buildings, the presentation or reuse of existing historical buildings and structures, landscaping and its maintenance as a sight or sound screen, lighting, noise, safety and the prevention of noxious, offensive or hazardous conditions.

**§ 275-86. Buildings.**

A continuing care retirement community shall consist of a multiple-dwelling-unit building or buildings containing a combination of independent living units, personal care units and a skilled nursing facility.

**§ 275-87. Area and bulk regulations.**

- A. Minimum tract size: 30 acres.
- B. Maximum building height: four stories provided that elevator cores shall not be considered when calculating building height.
- C. Maximum density: four dwelling units per acre. each independent living unit and each personal care unit in a personal care facility shall constitute a dwelling unit for purposes of calculating density. Every five beds in a skilled nursing facility shall be considered a dwelling unit for purposes of calculating density. Independent living units shall constitute at least 80% of the total dwelling units and skilled nursing beds in a continuing care retirement community.
- D. Maximum building coverage: 20%.
- E. Total impervious coverage: 50%.
- F. No building or accessory structure shall be less than 100 feet from the perimeter property line, except for signs and those structures associated with ingress and egress, internal circulation and lighting standards.

**§ 275-88. Additional design standards for a continuing care retirement community.**

- A. Public water and public sewer service is required.
- B. All utility lines shall be placed underground.
- C. Parking. 1.15 parking spaces for each independent dwelling unit, one parking space for each four personal care units and one parking space for each four beds in a skilled nursing facility.
- D. Lighting. Adequate lighting shall be provided for all buildings, private roads and parking areas. Such lighting shall provide sufficient light for the safety of residents and other persons; and be arranged and of such character so as to protect all dwelling units on the property from glare or direct light and all adjoining properties or streets from any direct glare or hazardous interference of any kind. No such lighting shall exceed 15 feet in height.
- E. Landscaping.
  - (1) A landscaping plan shall be submitted at the time when all other required plans are submitted. The applicant will make every effort to preserve existing trees greater than 10 inches in caliper.
  - (2) The landscaping plan shall be based on the following:
    - (a) The functional and aesthetic factors which relate to the site to the principal and accessory buildings and other structures.
    - (b) The desirability of concealing and/or enhancing the views to, from and/or within the site.
    - (c) The desirability of screening and complementing proposed buildings or other structures.

- (d) The desirability of creating visual interest for the residents of the continuing care retirement community.
- (3) The landscaping plan shall reflect the following:
  - (a) An analysis of the site in terms of: existing views to and from the areas which are proposed for development; existing topography and vegetation conditions; and other existing conditions which are relevant to the site.
  - (b) An analysis of proposed planting and other landscaping needs as related to: screening buildings and sections of buildings; screening parking areas and other areas where vehicles are parked; screening storage areas; screening site utilities; and other appropriate types of screening.
  - (c) The consideration of locations where plantings and other landscaping is needed to: provide visual interest; define outdoor spaces; compliment the proposed architectural style; and achieve other functional and aesthetic goals.
- (4) The preliminary and final landscaping plans shall reflect the following detailed criteria. However, depending on the ways in which Subsection E(1), (2), and (3) above are analyzed relative to the particular site in question, the specific numerical requirements may be satisfied by the applicant by the proposed installation of an equivalent number and/or size of trees and shrubs on the site in the locations where plants are most needed and functional (as used here, "equivalent" means equal in terms of the total costs of the plants and their installation); and by the grouping of trees and shrubs, rather than the placement of them at specific intervals.
  - (a) Shade trees shall be provided along all streets where there are no existing shade trees. When planted, shade trees shall be no closer than two feet from the edge of the right-of-way line. No less than one tree of 3 1/2 inches to four inches in caliper shall be planted for each 50 feet of roadway length (excluding service roads and roads through parking lots). However, it is recommended that shade trees be grouped where appropriate in accordance with specific site needs and objectives rather than be spaced at regular intervals.
  - (b) The outer perimeter of all parking areas shall be screened. Effective screens may be accomplished through the use of plant materials, fencing or walls and/or mounding through the use of earthen berms.
  - (c) All parking lots shall be landscaped. One shade tree of two inches to 2 1/2 inches in caliper shall be planted for every five parking spaces, if there are no existing shade trees. Shrubs, ground covers and other plant materials are encouraged to be used to complement the trees.
  - (d) Landscaping and planting areas shall be reasonably dispersed throughout the parking lot, except that landscaped "islands" shall be provided at the end of each parking bay. Such "islands" shall be a minimum of eight feet in width and 18 feet in length, and shall be provided to enhance the appearance of the parking area and to control access and movement within the parking area.
  - (e) All buildings shall be landscaped in accordance with the following criteria:
    - [1] A combination of evergreen and deciduous trees and shrubs shall be used as "foundation" plantings, i.e., plantings to be installed in reasonable proximity to the facades.



- [2] One specimen deciduous tree of four inches to five inches in caliper shall be planted for every 25 feet of length of building facade measured from end to end of buildings, without regard to indentations and the like in the building, facades and excluding enclosed walkway connectors and elevator cores, such tree to be a minimum of 11 feet to 13 feet in height at the time of planting; and one, eight-foot to ten-foot specimen evergreen tree shall be planted for every 50 feet of length of building facade, measured as set forth above.
- [3] Five evergreen and/or deciduous shrubs shall be planted for every 20 feet of length of building facade.
- [4] Trees and shrubs shall be grouped in accordance with specific needs and objectives.
- (f) Other landscaping shall be provided along walkways, in courtyards, around sitting areas, at the entrance to the site and in other highly visible locations, especially along property lines where planting will screen views and provide privacy.
- (g) The locations, type, size, height and other characteristics of landscaping shall be subject to the review and approval of Township Council.
- (5) The preliminary landscaping plan shall be drawn at a scale of at least one inch equals to 50 feet. It shall be totally coordinated with the overall site plan and shall contain the following:
  - (a) A delineation of existing and proposed plant materials.
  - (b) A delineation of other landscaping features such as berms, planting beds to be used for herbaceous plants, areas to be devoted to lawns, areas to be devoted to meadows and other elements of the proposed improvements.
  - (c) Notes describing the proposed improvements and their relationship to the criteria as stated in Subsection E(1), (2), (3) and (4) above.
- (6) One color rendering of a preliminary landscaping plan shall be submitted for review by the Township, in addition to the number of prints which are otherwise required. The color rendering shall reflect total coordination with the overall site plan in terms of its relationship to proposed buildings, roads, parking areas, walks, walls, fencing, benches, signs, lighting and other like structures.
- (7) After the Township has reviewed the preliminary landscaping plan and submitted comments on the plan to the applicant, a final landscaping plan shall be submitted. The final landscaping plan shall be drawn in greater detail than the preliminary plan. It shall be totally coordinated with the overall site plan and shall contain the following:
  - (a) A final version of the plan requirements stated in Subsection E(5) for a preliminary plan.
  - (b) A plant list wherein the botanical and common name of the proposed plants are tabulated, along with the quantity, caliper, height and other characteristics.
  - (c) Details for the planting and staking of trees, the planting of shrubs and any other details which depict other related installation.
  - (d) Information in the form of notes or specifications concerning planting beds to be used for herbaceous plants, areas to be devoted to lawns, areas to be devoted to meadows and the like. Such information shall convey the proposals for seeding, mulching and the like.

## F. Buildings.

- (1) The topography and natural features of the site and the direction of prevailing winds and solar orientation shall be considered in planning, designing, locating, orienting and constructing all residential and accessory buildings and other structures to improve the aesthetics and energy efficiency of the development.
- (2) Residential buildings and other structures shall be located, oriented and designed to create architectural interest and to preserve amenities of light and air, recreation and visual enjoyment.
- (3) Where and whenever possible existing historical buildings or structures will be preserved and/or reused. The Township Council will consider up to a 25% increase in the density of dwelling units in proportion to the size and number of historical buildings that are preserved or reused.
- (4) Residential buildings and other structures shall be located and situated to promote pedestrian and visual access to open space.
- (5) Multi-dwelling-unit buildings shall be designed and constructed in staggered groups, the arrangement of such buildings shall create a physical distinction in the lines of the facades and roofs creating a campus atmosphere.
- (6) Development near the perimeter of the property shall be designed to be harmonious with neighboring land uses.
- (7) No common parking area shall be closer than 25 feet to any building.
- (8) No principal building shall be erected closer than 30 feet from another principal building.

ARTICLE XV  
**I-4 Institutional District**  
**[Added 6-26-2006 by Ord. No. 673]**

**§ 275-89. Purpose.**

The purpose of this district is to:

- A. Provide for health-related institutional uses which will be located on relatively large parcels of land.

**§ 275-90. Use regulations.**

A building or combination of buildings may be erected, used and occupied and land may be used as follows:

A. Permitted principal uses.

- (1) Residential uses as permitted in the R-1 District, subject to all of the regulations applicable to residential uses in the R-1 District.
- (2) Communication antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV.

B. Conditional uses.

- (1) Hospital (excluding institutions primarily for treatment of psychological disorders) or outpatient health care and other health care services, including but not limited to any of the following: diagnostic services; rehabilitation services; dialysis center; diabetes or other diseases center; nutrition center; outpatient surgical center; wound care center; balance center; adult day care; wellness center; home care and hospice program; durable medical equipment facility; or other health care technologies or services of a similar nature providing care for the health needs of persons in the community.
- (2) Personal care facility, assisted living facility, dementia/Alzheimer's facility, nursing facility, skilled nursing facility not within a continuing care retirement community;
- (3) Office space related to hospital, extended care or medical and health care-related uses;
- (4) Supportive services for health care, including but not limited to any of the following: day-care center; meeting or conference rooms; nursing or other health services school; thrift shop; recreation and or fitness facility; pharmacy; and food service; provided that any such supportive services use is operated in connection with a building used for one of the purposes identified in Subsection B(1), (2) or (3) above.
- (5) Communication towers, subject to the standards for communications towers as conditional uses set forth at § 275-216.1, and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV.

C. Permitted accessory uses for permitted uses.

- (1) Accessory uses which are customarily incidental to and on the same lot with the principal permitted uses as enumerated in § 275-19B.

## D. Permitted accessory uses for conditional uses.

- (1) Accessory uses which are customarily incidental to and on the same lot with the conditional uses including but not limited to guard houses and or entrance gating.
- (2) A parking garage, being a building or structure of two or more stories used for the parking of motor vehicles, in accordance with the requirements of § 275-70C(2)(a) and (b) of Article XII.

**§ 275-91. Area and bulk regulations.**

## A. For permitted uses.

- (1) Area and bulk regulations of § 275-21A shall apply.

## B. For conditional uses.

- (1) Minimum tract size: 10 acres.
- (2) Minimum width at building line: 200 feet.
- (3) Maximum building height: Four stories not exceeding 55 feet.
- (4) Maximum impervious surface area: 60%.
- (5) Maximum building coverage: 25%.
- (6) Building setbacks.

- (a) The front yard building setback shall be as follows:

<b>Number of Stories</b>	<b>Front Yard Setback (feet)</b>
1 or 2	50
3	60
4	70

Above front yard setback shall not apply to permitted signs and those structures associated with ingress and egress, including but not limited to guard houses and or entrance gates.

- (b) Each side yard shall be a minimum of 35 feet.
- (c) Rear yard setback shall be a minimum of 50 feet.
- (d) The distance at the closest point between any two freestanding buildings, except accessory buildings, shall be at least 30 feet.
- (7) Density. All uses shall comply with the area and bulk requirements of this section, except that personal care, assisted living and dementia/Alzheimer's facilities shall have no more than 35 beds per net acre of lot area attributable to such facility.
- (8) Parking. Parking for all uses shall be provided pursuant to Article XXXI, except that parking for personal care, assisted living, dementia/Alzheimer's, nursing or skilled nursing facilities

shall be provided at the rate of 1/2 off-street parking space for each bed, plus one for each employee on the shift of the greatest employment.

**§ 275-92. Special design and development requirements.**

A. Buffer area. The following buffer areas shall be required in accordance with Article XXXIV:

- (1) A buffer area along each public street of not less than 50 feet from the edge of the right-of-way and a buffer area along each internal street of not less than 15 feet from the right-of-way which shall be free of all improvements except for signs, landscaping and those structures associated with ingress and egress, including but not limited to guard houses and/or entrance gates.
- (2) A buffer area along each property line abutting a residentially zoned district, provided that the adjacent property is not used for nonresidential purposes pursuant to a conditional use permit, of not less than 50 feet, which shall be landscaped and which shall contain a planted visual barrier in accordance with the provisions in Article XXXIV.
- (3) A buffer area along each property line abutting a zoning district other than a residentially zoned district or a residentially zoned district used for nonresidential purposes pursuant to a conditional use permit, of a minimum of 25 feet, which shall be landscaped and which shall contain a planted visual barrier in accordance with the provisions in Article XXXIV.

ARTICLE XVI  
**OR-1 Outdoor Recreation District**

**§ 275-93. Purpose.**

The OR-1 Outdoor Recreation District is designed to provide specific opportunities for passive outdoor recreational use in conjunction with large properties like the Tyler Arboretum and Ridley Creek State Park. The OR-1 District is also designed to create areas for nature study, historic interpretation and the conservation of natural resources.

**§ 275-94. Use regulations.**

In OR-1 Districts, land and water areas may be used and facilities may be erected, altered or used, subject to the provisions of Articles XXIX and XXX, and any of the following purposes:

- A. Permitted principal uses. **[Amended 9-14-1998 by Ord. No. 588]**
  - (1) Passive recreation uses, such as parks, nature study areas and trails.
  - (2) Conservation uses, including woodlands, lakes, ponds, streams and related resources.
  - (3) Agricultural uses.
  - (4) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV.
- B. Accessory uses to permitted uses.
  - (1) Accessory use on the same tract and customarily incidental to the above permitted uses.
  - (2) Parking in accordance with Article XXXI.
  - (3) Signs in accordance with Article XXXII.
- C. Conditional uses.
  - (1) Any principal uses permitted in the R-1A Residential District.
  - (2) Active recreational uses.

**§ 275-95. Height regulations.**

The maximum height of buildings and other structures erected, enlarged or used shall be 35 feet, except as provided in Article XXXIV, which provides exceptions to height regulations for certain structures.

**§ 275-96. Area and bulk regulations.**

- A. Permitted principal uses.
  - (1) Minimum tract area. The minimum tract area for OR-1 districts shall be 10 acres.
  - (2) Minimum tract width at street line: 200 feet.
  - (3) Setbacks for service buildings. Service buildings required to support these activities such as

change buildings, food service, chemical treatment and pump buildings, spectator stands, etc., shall be permitted and shall be located no closer than 200 feet from any adjacent property line.

B. Conditional uses.

- (1) The area and bulk regulations of § 275-17A shall apply to any R-1A type uses.
- (2) There shall be no minimum tract area requirement with respect to active recreational uses in the OR-1 Districts, except that in the case of golfing facilities, there shall be a minimum area of 50 acres for a nine-hole regulation course or eighteen-hole par three course, and a minimum area of 100 acres for an eighteen-hole regulation course.

**§ 275-97. Special design and development requirements.**

- A. Food service facilities. Food service facilities shall be limited to snack bar or counter service, except in the case of golf facilities which require a minimum of 50 acres of land and on which dining room facilities will be permitted. Snack bar and counter service operations shall be limited to the hours during which the other facilities are open for use.
- B. Alcoholic beverages. The sale or use of alcoholic beverages is prohibited except as part of dining room facilities permitted under Subsection A above and under state license.
- C. Sale of sporting gear. The sale of sporting gear shall be limited to items used directly for activities permitted under each particular application.
- D. Minimum width and grade of drives. Ingress and egress drives shall be a minimum of 20 feet in width and grades shall not exceed a maximum of 12%. The open space on which the drives are located shall have a width of not less than 50 feet.

**§ 275-98. Plan submission, review and approval.**

Each application for a permit to erect, construct or alter any building within an OR Recreation District, or to modify a previously approved plan, shall comply with the applicable provisions of Article XXXIV, special provisions, relating to plan submittal and review.

ARTICLE XVII  
**OR-2 Outdoor Recreation District**

**§ 275-99. Purpose.**

The OR-2 Outdoor Recreation District is designed to provide specific opportunities for active and passive outdoor recreation use in conjunction with small-to-medium-size properties, like Lenni Park, Indian Orchards and Gleave Baker Park. The OR-2 District is also designed to accommodate conservation, nature study and natural resource protection.

**§ 275-100. Use regulations.**

In OR-2 Districts, land and water areas may be used and facilities may be erected, altered or used, subject to the provisions of Articles XXIX and XXX, for any of the following purposes:

A. Permitted principal uses.

- (1) All uses permitted in the OR-1 District.
- (2) Active recreational uses, such as: badminton, baseball (hard and soft), basketball, croquet, fishing, football, golf, handball, hockey (field or ice), horseback riding, ice skating, lacrosse, picnicking, pitch and putt, quoits and horseshoes, seesaw, skiing, sledding, sliding boards, soccer, swimming and diving, swimming meets (regulation controlled), swings, tennis (all types), tetherball, volleyball and wading.
- (3) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. [Added 9-14-1998 by Ord. No. 588]

B. Accessory uses to permitted uses.

- (1) Accessory uses on the same tract and customarily incidental to the above permitted uses.
- (2) Parking in accordance with Article XXXI.
- (3) Signs in accordance with Article XXXII.

C. Conditional uses.

- (1) Any principal uses permitted in the R-1 Residential District.

**§ 275-101. Height regulations.**

The maximum height of buildings and other structures erected, enlarged or used shall be 35 feet, except as provided in Article XXXIV which provides exceptions to height regulations for certain structures.

**§ 275-102. Area and bulk regulations.**

A. Permitted principal uses.

- (1) Minimum tract area. The minimum tract area for OR-2 districts shall be one acre, except that in the case of golfing facilities, there shall be a minimum area of 50 acres for a nine-hole regulation course or eighteen-hole par three course, and a minimum area of 100 acres for an eighteen-hole regulation course.



- (2) Minimum tract width at street line: 50 feet.
- (3) Setbacks for service buildings. Service buildings required to support these activities such as change buildings, food service, chemical treatment and pump buildings, spectator stands, etc., shall be permitted and shall be located no closer than 100 feet from any adjacent property line.

B. Conditional uses.

- (1) The area and bulk regulations in § 275-21A shall apply to any R-1 type uses.

**§ 275-103. Special design and development requirements.**

- A. Food service facilities. Food service facilities shall be limited to snack bar or counter service, except in the case of golf facilities which require a minimum of 50 acres of land and on which dining room facilities will be permitted. Snack bar and counter service operations shall be limited to the hours during which the other facilities are open for use.
- B. Alcoholic beverages. The sale or use of alcoholic beverages is prohibited except as part of dining room facilities permitted under Subsection A above and under state license.
- C. Sale of sporting gear. The sale of sporting gear shall be limited to items used directly for activities permitted under each particular application.
- D. Minimum width and grade of drives. Ingress and egress drives shall be a minimum of 20 feet in width and grades shall not exceed a maximum of 12%. The open space on which the drives are located shall have a width of not less than 50 feet.

**§ 275-104. Plan submission, review and approval.**

Each application for a permit to erect, construct or alter any building within an OR Recreation District, or to modify a previously approved plan, shall comply with the applicable provisions in Article XXXIV, Special Provisions.

ARTICLE XVIII  
**OR-3 Outdoor and Indoor Recreation District**  
**[Added 2-23-1998 by Ord. No. 582]**

**§ 275-105. Purpose.**

The OR-3 Outdoor and Indoor Recreation District is designed to provide specific opportunities for active and passive outdoor and indoor recreational use. The OR-3 District is also designed to allow appurtenant community uses.

**§ 275-106. Use regulations.**

In OR-3 Districts, land and water areas may be used and facilities may be erected, altered or used, subject to the provisions of Articles XXIX and XXX, for any of the following purposes:

A. Uses permitted as a conditional use.

- (1) Active recreational uses, such as: badminton, baseball (hard and soft), basketball, camping, croquet, fishing, fitness exercise, football, golf, handball, hockey (field or ice), horseback riding, ice skating, lacrosse, picnicking, pitch and putt, quoits and horseshoes, running or jogging, seesaw, skiing, sledding, sliding boards, soccer, swimming and diving (recreational or instructional), swimming meets (regulation controlled), swings, tennis (all types), tetherball, volleyball and wading.
- (2) Uses typically associated with a community center, including, but not limited to: all-purpose recreational and community facilities, child-care facilities, conference facilities, exercise and/or weight rooms, gymnasium, locker rooms, a natatorium that may include wading and physical rehabilitation pools, and physical rehabilitation facilities.
- (3) Physical therapy, rehabilitation, sports medicine treatment, procedures related to the foregoing, and wellness and prevention health education activities.
- (4) Communications towers, subject to the standards for communications towers as conditional uses set forth at § 275-216.1, and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588]**

B. Accessory uses to the above conditional uses.

- (1) Accessory uses of the same tract and customarily incidental to the above conditional uses.
- (2) Snack bar service.
- (3) Parking in accordance with Article XXXI.
- (4) Signs in accordance with Article XXXII.
- (5) Accessory uses on the same tract that are normal and customary for a community center, including activities that support a community or community-based organization.
- (6) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588]**

**§ 275-107. Height regulations.**

The maximum height of buildings and other structures erected, enlarged or used shall be 35 feet, except as provided in Article XXXIV, which provides exceptions to height regulations for certain structures.

**§ 275-108. Area and bulk regulations.**

- A. Minimum tract area. The minimum tract area for OR-3 Districts shall be four acres.
- B. Minimum tract width at street line: 100 feet.
- C. Setbacks for indoor facility buildings and service buildings. Indoor facility buildings allowed under § 275-106 above and service buildings required to support the activities permitted in an OR-3 District, such as change buildings, food service, chemical treatment and pump buildings, spectator stands, etc., shall be subject to the following setback requirements from the property line (provided that where several parcels are being used jointly for a community center and related uses, the property line shall not include the interior property lines of the parcels):
  - (1) Front yard: 150 feet.
  - (2) Side yards: an aggregate of 125 feet, with a minimum of 50 feet.
  - (3) Rear yard: 100 feet.
- D. Maximum impervious surface area and building coverage. Not more than 35% of the area of the property shall be covered by impervious surfaces, and not more than 20% of the property shall be occupied by buildings.

**§ 275-109. Plan submission, review and approval.**

Each application for a permit to erect, construct or enlarge any building within an OR-3 Recreation District, or to modify a previously approved plan, shall require a conditional use application.

ARTICLE XIX  
**SU-1 Special Use District**

**§ 275-110. Purpose.**

The SU-1 Special Use District is designed primarily to make provision for modern, nonnuisance scientific research establishments; corporate office or headquarters-type office development; and other compatible, nonnuisance light industrial and related uses in areas of the Township which are particularly well suited for such uses. In promoting the general purposes of this chapter, the intent of SU Districts is to encourage attractive, large-site, low-lot coverage campus-type development which does not constitute a hazard or a nuisance to adjacent areas and which seeks a highly accessible, attractive and spacious setting with the protections or appropriate design standards relating to lot size, yard space, building placement and landscaping.

**§ 275-111. Use regulations.**

A building or combination of buildings may be erected or used and land may be used or occupied, subject to the provisions in Articles XXIX and XXX, as follows:

A. Permitted principal uses.

- (1) Scientific research laboratory.
- (2) Light manufacturing.
- (3) A dairy, together with warehouse facilities operating on the same lot, serving the dairy operation or warehouse facilities serving off-site retail operations.
- (4) An office building.
- (5) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588]**

B. Accessory uses to permitted principal uses.

- (1) Accessory use on the same lot with and customarily incidental to any of the above permitted uses, including a cafeteria located within the main building and operated by or for the employer for the exclusive use of its employees.
- (2) Parking in accordance with Article XXXI.
- (3) Signs in accordance with Article XXXII.

C. Conditional uses.

- (1) Uses similar in character to those set forth in Subsection A.
- (2) Outdoor and indoor recreational areas and facilities and private clubs for recreation.
- (3) Conference centers and meeting and assembly facilities for associations and organizations.
- (4) Schools, including nursery, kindergarten, elementary and junior and senior high schools.
- (5) Day-care centers.

- (6) Communications towers, subject to the standards for communications towers as conditional uses set forth at § 275-216.1, and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588]**
- (7) Regional rail facilities. **[Added 7-25-2011 by Ord. No. 720]**

**§ 275-112. Height regulations.**

The maximum height of buildings and other structures erected, enlarged or used shall be 40 feet, except as provided in the special provisions in Article XXXIV, which provides for exceptions to height regulations for certain structures.

**§ 275-113. Area and bulk regulations. [Amended 1-8-1990 by Ord. No. 461]**

A. Permitted principal uses.

- (1) Minimum tract area: 10 acres.
- (2) Minimum tract width at street line: 500 feet.
- (3) Minimum individual lot areas: four acres.
- (4) Minimum lot width at building line: 200 feet.
- (5) Minimum lot width at street line: 150 feet.
- (6) Maximum impervious surface area: 50%.
- (7) Maximum building coverage: 20%.
- (8) Minimum depth of each front and rear yard: 100 feet.
- (9) Minimum aggregate width of side yards: 200 feet.
- (10) Minimum width of each individual side yard: 100 feet.
- (11) Minimum side yard abutting the street on a corner lot: 100 feet.

B. Conditional uses. All the provisions of Subsection A shall apply to conditional uses except for regional rail facilities, for which the following shall apply: **[Amended 7-25-2011 by Ord. No. 720]**

- (1) There shall be no minimum tract or lot area requirements.
- (2) Setbacks for parking garages, parking lots, station buildings and other occupied buildings shall be located no closer than 50 feet from adjacent residential property lines.
- (3) There shall be no minimum setbacks from the street line.

**§ 275-114. Special design and development requirements. [Amended 1-8-1990 by Ord. No. 461].**

A. Special regulations relating to access and highway frontage. In order to minimize traffic congestion and hazard, control street access in the interest of public safety and encourage the appropriate development of street or highway frontage, the following shall apply:

- (1) No parking lot or area for off-street parking or for the storage or movement of motor vehicles

shall abut directly to a public street or highway unless separated from the street or highway by a raised curb, barrier planting strip, wall or other effective barrier against traffic, except for necessary accessways, and each parking lot shall have not more than two accessways to any one public street or highway for each 500 feet of frontage. Where practicable, access to parking areas shall be provided by a common service driveway or minor street in order to avoid direct access on a major street or highway. No such accessway shall be more than 35 feet in width.

(2) Accessway requirements.

- (a) All necessary accessways to a public street or highway shall be located not less than 150 feet from any intersection with any other street.
- (b) All streets and accessways shall be designed in a manner conducive to safe exit and entrance and shall conform to the design standards for streets in Chapter 210, Subdivision and Land Development.

B. Buffer areas and landscaping.

(1) The following buffer areas shall be provided:

- (a) A buffer of 100 feet shall be provided, of which at least 50 feet shall be landscaped in accordance with the provisions in Article XXXIV.

(2) Buffer yards shall comply with the following standards:

- (a) The buffer yard shall be measured from the district boundary line or from the near street line where a street serves as the district boundary line.
- (b) The buffer yard may be part of the required front, side or rear yards, and, in cases of conflict, the larger yard requirements shall apply.
- (c) In all buffer yards, the exterior 50 feet width shall be planted with trees, shrubs, grasses and ground covers and shall be maintained and kept clean of all debris, rubbish, weeds and tall grass in conformance with existing regulations; provided, however, if such land is naturally wooded, it may continue in its natural state.
- (d) No structure, manufacturing or processing activity or storage of materials shall be permitted in the buffer yard.
- (e) Suitable screen planting shall be shown on the plan and shall be installed by the developer in accordance with Article XXXIV.
- (f) Prior to the issuance of any building permit, complete plans showing the arrangement of all buffer yards and the placement, species and size of all plant materials and the placement, size, materials and types of fences to be placed in such buffer yard shall be reviewed by the Planning Commission after which the Planning Commission shall certify to the Building Inspector that the plans are in conformance with the terms of this chapter.

C. Building placement.

- (1) There shall be a minimum distance of 75 feet between all buildings.
- (2) No building shall be closer than 75 feet from the edge of any cartway of a dedicated public street.

**D. Lighting.**

- (1) All parking areas shall be adequately lighted with lighting of such quality and type and with such shielding as will not present direct glare to any adjoining residential area. All such lighting shall be turned off within one hour following the close of business in the building or the recreational area.
- (2) All driveways, aisles, maneuvering spaces, vehicular service areas or spaces between or about buildings, other than those relating to a dwelling, shall be adequately illuminated.
- (3) All outside lighting, including sign lighting, shall be directed in such a way as not to create a nuisance, and in every district all such lighting shall be arranged so as to protect the street or highway and adjoining property from direct glare or hazardous interference of any kind. Any light shall be equipped with some type of glare-shielding device approved by the Township. The height of any light must also be approved by the Township.

**E. Architectural design.**

- (1) All buildings shall be of compatible architectural design with one another. No prefabricated or metal buildings shall be permitted.
- (2) All buildings shall be located, oriented, designed and constructed to create architectural interest; to further the amenities of light and air; and to maximize energy efficiency.

F. All of the provisions in § 275-114 shall apply to permitted principal uses, accessory uses to permitted principal uses and conditional uses, except § 275-114.B(1), C(1), and C(2) shall not apply to regional rail facilities. **[Added 7-25-2011 by Ord. No. 720]**

**§ 275-115. Plan submission, review and approval.**

Each application for a permit to erect, construct or alter any building within an SU-1 Special Use District or each request for an amendment to establish such a district or to modify a previously prepared plan shall comply with the special procedural and application requirements in Article XXXIV.

**§ 275-116. Environmental controls.**

All uses within the SU-1 District shall comply with all environmental controls of Article XXXIII pertaining to noise, smoke, dust, fumes, vapors and gases, heat and glare, air quality, odor, vibration, outdoor storage and waste disposal.

**§ 275-117. Sale of property before construction.**

If a property in the SU-1 District is sold by the applicant or by any affiliated member of a single corporate family of which the applicant or its parent company is a member after approval of the plan but before proposed construction is started or if, within 18 months of the approval, construction is not undertaken by or for the applicant or any affiliated member of a single corporate family of which the applicant or its parent company is a member, said approved plan shall be null and void, unless an extension of time is granted by the Township Council; provided, however, that nothing herein shall prohibit the applicant from transferring title to such property at any time to a state or local industrial development corporation.

ARTICLE XIXA  
**SU-1-A Mixed Use District**  
**[Added 1-23-2012 by Ord. No. 725]**

**§ 275-117.1. Purpose.**

A. The provisions of this article are enacted for the following purposes:

- (1) To address planning, development and redevelopment issues affecting certain areas along Baltimore Pike within Middletown Township.
- (2) To employ planning principles and design standards that focus on creating a variety of well-planned and designed land uses.
- (3) To encourage innovative and integrated long-range development plans that contribute to the quality of life in the community.
- (4) To employ planning principles and design standards that focus on creating a variety of well-planned and designed land uses, streetscapes, public open spaces, and the overall built environment.
- (5) To provide greater opportunities for use of mass transit facilities.
- (6) To respond to growing demands for housing and nonresidential uses of various types and designs.
- (7) To revitalize properties that have vacant, defunct or underutilized buildings, and to transform these previously developed properties into more complete, functional, and attractive neighborhoods.

**§ 275-117.2. Definitions.**

In addition to the definitions contained in § 275-8 of the Zoning Ordinance, the following additional definitions shall apply to the SU-1A Mixed Use District:

**ADULT ENTERTAINMENT OR DANCING** — An establishment offering sexually oriented live entertainment.

**CONFERENCE CENTER** — A facility with or without overnight lodging, at which meetings, seminars, expositions, trade shows and/or conferences are conducted. Conference facilities may also include ancillary entertainment facilities, a fitness and health center and retail stores and services primarily for conference center guests.

**CONVENIENCE STORE WITH FUEL PUMPS** — A retail store of not less than 3,000 square feet or more than 12,000 square feet of building area exclusive of canopy and fuel pump areas, for the sale of food and beverages, personal care items, self-service gasoline and other similar items, which may include ATM banking machines. A convenience store with fuel pumps shall not include the provision of automobile service or repair and shall not allow tractor-trailer fueling.

**EXISTING FRANKLIN MINT PARCELS** — Those existing parcels, as defined by separate tax parcel numbers, which contain or contained buildings or structures operated in connection with the Franklin Mint.

**HOTEL** — A facility offering for compensation temporary overnight lodging accommodations to the general public, in which such lodging accommodations are accessed from common entrances to an interior



lobby, corridor or hallway, and which may include additional accessory use facilities and services, such as restaurants, meeting rooms, personal services, and recreational facilities. Such establishments shall provide guests with customary hotel services such as maid service and the furnishing and laundering of linen. A hotel may include an accessory conference center.

**MAN-MADE STEEP AND VERY STEEP SLOPES** — Topographic conditions characterized by a change in elevation equal to or greater than 15%, as determined and delineated by the process described in Article XXX, which are the artifact of human land use and earthmoving activity, including, but not limited to, the construction and/or maintenance of transportation infrastructure; agricultural or industrial operations; mineral extraction; building construction; stormwater and floodwater management; sewage control; energy production; military operations; refuse deposit (landfill); and the like. Proof of whether a slope is man-made may be provided through comparisons of historic aerial photographs, soil borings, USGS maps, development plans, field survey, and the review of other maps and documentation.

**MULTITENANT OFFICE BUILDING** — A building containing general and/or professional office uses but which may also contain meeting facilities, seminar facilities and/or accessory dining, fitness and retail facilities, health and fitness centers, cultural, religious or charitable uses, conference centers (without either overnight lodging or ancillary entertainment uses), governmental uses, medical laboratories, research and testing facilities and parking structures. **[Added 2-11-2013 by Ord. No. 736]**

**NATURE TRAIL** — An unpaved path through wooded areas and meadows that is marked and maintained for walking or hiking, and which is connected at both ends to other such paths, or sidewalks, or common open space.

**RESEARCH OR TESTING FACILITY** — A facility for product investigation, testing or development, including food products, prototype store development.

**RETAIL STORE** — An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods including, but not limited to, pharmacy, book store, florist shop, gift shop, jewelry store, or picture framing shop, home improvement store. Retail stores may include a supermarket component.

**STREETSCAPE** — The cartway, and the space adjacent to the cartway that may be embellished with curbs, grass strips, sidewalks, street trees, streetlights, and amenities such as benches, waste receptacles and the like.

**SUPERMARKET** — A retail establishment, typically in the range of 50,000 to 180,000 square feet of gross floor area, selling food, including alcoholic beverage sales, prepared foods for on premises or off premises consumption, and also selling other convenience and household goods, clothing, electronics and other products sold in general merchandise stores, and providing ancillary services, including but not limited to pharmacy and banking services, and restaurants. Supermarkets shall not include wholesale membership clubs and/or discount department stores.

**TRACT** — One or more contiguous or noncontiguous lots, assembled for the purpose of unified development in accordance with the regulations of the SU-1-A Mixed Use District.

### **§ 275-117.3. Use regulations.**

Buildings may be erected, altered or used and land may be used or occupied for the following uses:

- A. Minimum tract size: 100 acres.
- B. The following residential uses are permitted as of right within the SU-1-A Mixed Use District: **[Amended 2-24-2014 by Ord. No. 746; 9-26-2016 by Ord. No. 771]**

- (1) Single-family semidetached dwellings;
- (2) Single-family attached dwellings;
- (3) Single-family detached dwellings;
- (4) Multifamily dwellings.

C. The following nonresidential uses are permitted as of right within the SU-1-A Mixed Use District:

- (1) Convenience store;
- (2) Convenience store with fuel pumps;
- (3) Bank or other financial institutions, with or without drive-up window and/or accessory ATM facilities;
- (4) Commercial greenhouse, nursery or garden center;
- (5) Conference centers;
- (6) Cultural, religious or charitable uses;
- (7) General or professional offices;
- (8) Governmental use;
- (9) Health and fitness centers, including ancillary services such as wellness, physical rehabilitation facilities and prevention health education activities;
- (10) Hotel;
- (11) Medical laboratories, outpatient or training facilities or offices for doctors and other medical personnel;
- (12) Municipal uses;
- (13) Pharmacy, with or without drive-up window;
- (14) Research and/or testing facility;
- (15) Restaurants and taverns, including those with musical entertainment, dancing (excluding adult entertainment or dancing), and/or outdoor service of food and/or alcohol;
- (16) Restaurants, fast food;
- (17) Retail stores, including discount department stores;
- (18) Supermarket, with or without drive-up window(s);
- (19) Parking structures;
- (20) Public transit facilities;
- (21) Wholesale membership club.
- (22) Stand-alone assisted living, memory care facilities, skilled nursing and/or rehabilitation centers.

**[Added 9-26-2016 by Ord. No. 771]**

(23) Day care. **[Added 9-26-2016 by Ord. No. 771]**

(24) Communication antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 10-22-2018 by Ord. No. 796]**

(25) Indoor storage building or warehouse, to include warehousing known as "mini storage," consisting of multiple warehouses which are either leased or sold. **[Added 10-22-2018 by Ord. No. 796]**

D. Permitted accessory uses within the SU-1-A Mixed Use District:

(1) Uses customarily incidental to the uses permitted in § 275-117.3A and B.

E. Conditional uses.

(1) Communication towers, subject to the standards for communications towers as conditional uses set forth at § 275-216.1, and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 10-22-2018 by Ord. No. 796]**

**§ 275-117.4. Required mix of uses; maximum permitted quantity of residential units and hotel rooms.**

A. At least three of the uses permitted in § 275-117.3 shall be constructed on a tract.

B. At least 10% but no more than 90% of the total nonresidential gross floor area, exclusive of hotels, shall be devoted to retail store, garden center, supermarket or wholesale membership club uses. **[Amended 9-26-2016 by Ord. No. 771]**

C. At least 10% but no more than 90% of the total nonresidential gross floor area shall be devoted to offices, research and/or testing facilities, medical laboratories, outpatient or training facilities or offices for doctors and other medical personnel health and fitness centers. **[Amended 9-26-2016 by Ord. No. 771]**

D. No more than 15% of the total nonresidential gross floor area shall be devoted to restaurants, taverns, and fast-food restaurants.

E. No more than 350 residential units shall be permitted, with a density not to exceed 15 residential units per acre on the area proposed for residential use. **[Amended 2-24-2014 by Ord. No. 746]**

F. No more than 150 hotel rooms shall be permitted on a tract. Such hotel rooms may be located in a hotel and/or a conference center.

**§ 275-117.5. Height regulations.**

The maximum height of buildings within a SU-1-A Mixed Use development shall be as follows, except as provided in the special provisions in Article XXXIV of the Zoning Ordinance which provides for exceptions to height regulations for certain structures:

A. Single-story buildings: 35 feet.

B. Multistory residential and nonresidential buildings, other than office buildings or hotels: 50 feet.

- C. Office buildings and hotels: 60 feet.
- D. No new buildings located within 100 feet of the right-of-way of Baltimore Pike shall be more than 40 feet in height.

**§ 275-117.6. Area and bulk regulations.**

- A. Maximum impervious surface area of the tract: 60%.
- B. Maximum building coverage of the tract: 20%.
- C. Setbacks:
  - (1) Front yard (adjacent to Baltimore Pike): 80 feet, except that all new buildings on the existing Franklin Mint parcels shall be required to be set back at least 100 feet from the cartway edge of Baltimore Pike. The front yard setback requirement shall not apply to accessory canopy structures, fuel pumps, bank drive-throughs, or buildings occupied by a municipal or governmental use, but in no case shall be less than 10 feet from the legal right-of-way line of Baltimore Pike.
  - (2) Front yard (adjacent to Pennell Road): 30 feet.
  - (3) Side yard: 15 feet, except that a building occupied by a municipal or governmental use shall not be subject to this side yard requirement.
  - (4) Rear yard: 100 feet, except that a building occupied by a municipal or governmental use shall not be subject to this rear yard requirement. **[Amended 7-24-2017 by Ord. No. 780]**

**§ 275-117.7. Special design and development standards.**

- A. General standards.
  - (1) All developments constructed under this article shall also be governed by the SU-1-A Mixed Use Design Standards dated December 23, 2011, attached as Appendix A<sup>149</sup> to this article.
- B. Special regulations relating to access and highway frontage. In order to minimize traffic congestion and hazard, control street access in the interest of public safety and encourage the appropriate development of street or highway frontage, the following shall apply:
  - (1) No parking lot or area for off-street parking or for the storage or movement of motor vehicles shall abut directly to a public street or highway unless separated from the street or highway by a raised curb, barrier planting strip, wall or other effective barrier against traffic, except for necessary accessways, and each parking lot shall have not more than two accessways to any one public street or highway for each 500 feet of frontage. Where practicable, access to parking areas shall be provided by a common service driveway or minor public or private street in order to avoid direct access on a major street or highway. No such accessway shall be more than 70 feet in width.
  - (2) Accessway requirements.
    - (a) All necessary accessways to a public street or highway shall be located not less than 150 feet from any intersection with any other public street.

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149. Editor's Note: Said appendix is included as an attachment to this chapter.

- (b) All streets and accessways shall be designed in a manner conducive to safe exit and entrance and shall conform to the design standards for streets in Chapter 210, Subdivision and Land Development.
- C. Buffer areas and landscaping. All required buffer areas and landscaping for developments within the SU-1-A Mixed Use District shall be as specified in the Design Standards attached hereto as Appendix A.<sup>150</sup>
- D. Building placement.
- (1) There shall be a minimum distance of 18 feet between single-family detached dwellings. The minimum distance between all other residential buildings shall be 20 feet. **[Amended 9-26-2016 by Ord. No. 771]**
  - (2) There shall be a minimum distance of at least 25 feet between all nonresidential buildings and residential buildings.
  - (3) The minimum distance between nonresidential buildings shall be governed by the prevailing building code.
- E. Lighting.
- (1) All parking areas shall be adequately lighted with lighting of such quality and type and with such shielding as will not present direct glare to any adjoining residential area. Unless otherwise permitted by the Township Council, all parking lot lighting shall be extinguished one hour after the close of business, until dawn, in order to conserve energy and reduce glare and sky-lighting consequences. Where all-night safety or security lighting is deemed necessary, the lighting intensity levels shall not exceed 25% of the levels normally, but in no case shall they be less than the minimum levels for safety/security as prescribed by the IES.
  - (2) All driveways, aisles, maneuvering spaces, vehicular service areas or spaces between or about buildings, other than those relating to a dwelling, shall be adequately illuminated.
  - (3) All outside lighting, including sign lighting, shall be directed in such a way as not to create a nuisance, and in every district all such lighting shall be arranged so as to protect the street or highway and adjoining property from direct glare or hazardous interference of any kind. Any light shall be equipped with some type of glare-shielding device approved by the Township.
- F. Site element screening. Roof-top elements, loading/unloading areas and trash dumpsters shall be screened from view in accordance with the Design Standards attached hereto as Appendix A.<sup>151</sup>

#### § 275-117.8. Environmental controls.

All uses within the SU-1-A Mixed Use District shall comply with all environmental controls of § 275-207, Subsections A through K, pertaining to noise, smoke, dust, fumes, vapors and gases, heat and glare, air quality, odor, vibration, soil erosion, sedimentation and grading control, and storage and waste disposal. An environmental impact assessment (EIA) report meeting the standards contained in § 275-215 of the Zoning Ordinance shall be submitted at the time of preliminary plan submission for the development of any new buildings within the SU-1-A Mixed Use District.

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150.Editor's Note: Said appendix is included as an attachment to this chapter.

151.Editor's Note: Said appendix is included at the end of this chapter.

**§ 275-117.9. Traffic impact.**

- A. The peak traffic generated by the proposed development shall be accommodated in a safe and efficient manner or improvements shall be made in order to effect the same.
- B. All off-site traffic improvements shall be designed in accordance with the principles set forth in the Pennsylvania Department of Transportation Smart Transportation Guidebook dated March 2008, or most recent edition.
- C. At the time of preliminary plan submission, the applicant shall submit a traffic impact study prepared by a qualified traffic engineer, consistent with Pennsylvania Department of Transportation's Policies and Procedures for Transportation Impact Studies Related to Highway Occupancy Permits (January 2009 or most recent version). The study shall fully consider all modes of transportation. The study area and key intersections to be analyzed shall be subject to the approval of PennDOT and the Township. If the traffic impact study indicates that the proposed development will result in an unacceptable decrease in overall level of service under the standards set forth in the Transportation Research Board Special Report 209, Highway Capacity Manual (2000 or most recent version), the applicant is required to construct improvements that will mitigate the overall LOS decrease. Such improvements shall be in accordance with PennDOT's Smart Transportation Guidebook and shall be subject to the approval of both PennDOT and the Township. If the mitigations are determined by either the Township or PennDOT to be infeasible or impractical, the applicant shall follow PennDOT's Policies and Procedures for Transportation Impact Studies Related to Highway Occupancy Permits and PennDOT's Smart Transportation Guidebook to develop alternative improvements reasonably satisfactory to PennDOT and the Township.

**§ 275-117.10. Steep slopes.**

- A. The steep slope provisions contained herein are designed to encourage the sensitive treatment of natural hillsides and their related soil and vegetation resources in an effort to minimize adverse environmental impacts. The following objectives serve to complement these specific purposes and the overall purposes of the SU-1-A Mixed Use District:
  - (1) To conserve and protect natural steep and very steep slopes from inappropriate development such as excessive grading, land form alteration and extensive vegetation removal;
  - (2) To avoid potential hazards to property and the disruption of ecological balance which may be caused by increased runoff, flooding, soil erosion and sedimentation, blasting and ripping of rock and landslide and soil failure;
  - (3) To encourage the use of natural steep and very steep slopes for open space and other uses which are compatible with the preservation of natural resources and protection of areas of environmental concern.
- B. In addition to the controls presented in the above subsections herein, all development in areas of natural steep slopes and natural very steep slopes within a tract shall be governed by the general provisions governing steep slopes contained in § 275-179 of the Zoning Ordinance. Areas of man-made steep slopes and man-made very steep slopes shall not be subject to the general steep slope provisions contained in § 275-179. However, disturbance of man-made steep slopes and man-made very steep slopes shall be subject to the limitations set forth in Subsection D(1) through (3) below.
- C. Up to 35% of the total area of the natural steep slopes and natural very steep slopes located on a tract may be disturbed and/or used for any purpose permitted by the SU-1-A Mixed Use District

regulations, and an additional 5% may be disturbed and/or used to create more natural/gentle grade transitions to better blend with existing topography, provided that:

- (1) Earthmoving activities and vegetation removal will be conducted only to the extent necessary to accommodate proposed uses and structures and in a manner that will not cause excessive surface water runoff, soil erosion, sedimentation and unstable soil conditions, and wetlands deterioration;
  - (2) Mitigation techniques will be utilized, including but not limited to retaining walls, tree wells, and the restoration of slopes through measures such as the establishment of ground covers and/or low spreading shrubs, the use of soil erosion control fabric and other measures focused on the stabilization of slopes especially in close proximity to wetlands;
  - (3) All trees 10 inches in diameter or greater at breast height which are eliminated due to disturbance of natural and/or man-made steep slopes and very steep slopes shall be replaced with two new trees of at least 1 1/2 to two inches in diameter at breast height.
  - (4) Proposed buildings and structures will be of sound engineering design and footings will be designed in response to the tract's slope, soil and bedrock characteristics;
  - (5) The proposed disturbance furthers one or more of the purposes stated in § 275-117.1 of this article.
  - (6) The proposed disturbance furthers one or more of the purposes stated in § 275-117.10 of this article; and
  - (7) The disturbance of steep and very steep slopes shall comply with all federal and state regulations.
- D. The following uses and activities are prohibited on areas of natural steep slopes and natural very steep slopes:
- (1) Cut and fill other than in association with uses permitted in the SU-1-A Mixed Use District;
  - (2) Soil, rock or mineral extraction and/or removal other than in association with any uses permitted by the SU-1-A Mixed Use District regulations;
  - (3) Removal of topsoil other than in association with any uses permitted by the SU-1-A Mixed Use District.

**§ 275-117.11. Parking.**

- A. Off-street parking shall comply with the minimum off-street parking requirements contained in § 275-182 of the Zoning Ordinance, except that:
- (1) Residential uses shall require 1.5 parking spaces per residential unit. The quantity of parking spaces required to serve each residential building shall be no further than 150 from an entrance to that building.
  - (2) Office buildings shall require one parking space for each 350 square feet of gross floor area of the building.
  - (3) Retail stores and warehouse membership clubs shall require one parking space for each 250 square feet of gross floor area, enclosed by a roof and four walls and heated;

- (4) Supermarkets shall require one parking space for each 250 square feet of gross floor area, enclosed by a roof and four walls and heated;
  - (5) Convenience stores, with or without fuel pumps, shall require one parking space for each 250 square feet of gross floor area, enclosed by a roof and four walls and heated;
  - (6) Restaurants and fast-food restaurants shall require seven parking spaces per 1,000 square feet of floor area devoted to patron use;
  - (7) Banks or other financial institutions shall require one parking space for each 250 square feet of gross floor area;
  - (8) Hotels and conference centers shall require one space per lodging unit.
  - (9) Research or testing facilities shall require one parking space for each 1,000 square feet of gross floor area.
- B. Surface parking spaces located on the tract shall be 9 1/2 feet wide by 19 feet long, except that 20% of the total number of required parking spaces may be 8 1/2 feet wide by 18 feet long, provided that they are located in a contiguous parking area.
- C. Unless noted otherwise in this article, parking and loading area provisions shall be as required as per Article XXXI of the Zoning Ordinance.

**§ 275-117.12. Financial subdivision.**

In connection with development within the SU-1-A Mixed Use District, individual lots may be created for purposes of financing and/or conveyancing. Such individual lots shall not be required to comply on an individual basis with the dimensional requirements of this article, provided that the tract complies with such requirements on an overall basis, and further provided that the deeds conveying such separate lots contain covenants requiring the purchasers to, at all times, operate and maintain such lots in good order and repair and in a clean and sanitary condition; that cross easements for parking areas and all appurtenant ways, pedestrian access, and utilities shall be maintained between such lots; and that such covenants shall be subject to the approval of the Township Solicitor. The purchaser of any such lot shall so covenant and agree thereby to be bound by such conditions as set forth herein. Where a financial subdivision is proposed, a financial subdivision plan shall be submitted at the time of final plan submission and shall be approved by Township Council prior to recording.

**§ 275-117.13. Signage.**

- A. All signs constructed or erected within a development within the SU-1-A Mixed Use District shall be subject to the general requirements contained in §§ 275-190 through 275-194 of the Zoning Ordinance and shall be subject to the specific standards set forth herein. To the extent that any of the general requirements contained in §§ 275-190 through 275-194 of the Zoning Ordinance may be deemed to be inconsistent with the specific signage regulations contained herein, the specific signage regulations contained herein shall control.
- B. Signs advertising and identifying mixed-use developments within the SU-1-A Mixed Use District.
- (1) One freestanding sign advertising and identifying a mixed-use development, or a major tenant within a mixed-use development shall be permitted to be erected at each driveway intersection with an existing street, provided that:



- (a) If mounted on a background, freestanding signs shall not be less than seven feet nor more than 30 feet in height above the grade of the center line of the nearest public roadway. In cases where individual letters are separately braced to the ground, each letter shall be no more than 10 feet high measured from grade. **[Amended 2-11-2013 by Ord. No. 736]**
  - (b) If mounted on a background, freestanding signs shall not exceed 200 square feet in sign area (per side). In cases where individually letters are separately braced to the ground, the maximum total sign area shall be no more than 1,000 square feet.
  - (c) No such sign shall be illuminated except by lighting which is concealed, internally illuminated, or indirect.
  - (d) All such signs shall be set back at least 15 feet from any street or highway right-of-way line.
- (2) Directional signs for the purpose of directing vehicular and pedestrian traffic within the tract shall be permitted in proximity to the entrances to buildings. The directional signs shall be for the convenience and safety of vehicular and pedestrian traffic, giving direction to specific buildings and uses within the development.
  - (a) The size of any such sign shall not exceed 50 square feet.
  - (b) The height of any such sign above grade immediately surrounding same shall not exceed eight feet.
  - (c) No such sign shall be illuminated, except by lighting which is concealed, internally illuminated, or indirect.
  - (d) No such sign shall advertise any particular item, program or product but rather shall be limited to the giving of directions to particular buildings or uses within the development.
  - (e) "Entrance," "exit," "pick-up," "loading area" and similar directional signs shall be permitted by the Township Code Enforcement Officer if necessary for the safety and protection of the public, provided no such sign shall exceed six square feet in area and no such sign shall contain any advertising.
- C. Signs advertising and identifying single-occupancy nonresidential buildings in the SU-1-A Mixed Use District.
  - (1) The occupant of a single-occupancy nonresidential building shall be permitted the exterior wall signs, provided that:
    - (a) Not more than five signs shall be permitted on the wall of any one side of the building.
    - (b) No one wall sign shall exceed 500 square feet or have a length of more than 50 feet, and no sign shall be closer than 10 feet to another wall sign unless it is deemed part of the same sign. **[Amended 2-11-2013 by Ord. No. 736]**
    - (c) The total square footage of wall signage on each building face shall not exceed two square feet for every linear foot of building length.
    - (d) No wall sign shall be illuminated except by lighting which is concealed or indirect.
- D. Signs advertising and identifying multi-tenant office buildings in the SU-1-A Mixed Use District.

- (1) Multi-tenant office buildings are permitted to have one freestanding sign designating the name and address of the building, and identifying the occupants of said building or buildings, provided that:
  - (a) The size of such sign shall not exceed 100 square feet.
  - (b) No such freestanding sign shall exceed 10 feet in height measured from the mean grade at the base of the sign.
  - (c) No such sign shall be illuminated except by lighting, concealed, internally illuminated or indirect.
- (2) Multi-tenant office buildings are permitted to have one wall sign designating the name and address of the building, provided that:
  - (a) The sign area shall not exceed two square feet for each linear foot of building length;
  - (b) There shall be no more than one sign per building face;
  - (c) No such sign shall be illuminated except by lighting which is concealed, internally illuminated or indirect.
- (3) In addition to wall signs designating the name and address of the building, multitenant office buildings are permitted to have additional wall signs on the exterior wall of an office building as follows: **[Amended 2-11-2013 by Ord. No. 736]**
  - (a) Multitenant office buildings having at least 200,000 square feet of gross leasable area are permitted to have three additional wall signs of a maximum of 200 square feet per sign on the exterior wall of the building.
  - (b) Multitenant office buildings having 100,000 square feet of gross leasable area up to 200,000 square feet of gross leasable area are permitted to have two additional wall signs of a maximum of 200 square feet per sign on the exterior wall of the building.
  - (c) Multitenant office buildings having 50,000 square feet of gross leasable area up to 100,000 square feet of gross leasable area are permitted to have two additional wall signs of a maximum of 100 square feet per sign on the exterior wall of the building.
  - (d) Multitenant office buildings having less than 50,000 square feet of gross leasable area are permitted to have two additional wall signs of a maximum of 50 square feet per sign on the exterior wall of the building.
  - (e) No such sign shall be illuminated except by lighting which is concealed, internally illuminated or indirect.
- (4) Multi-tenant office buildings are permitted to have such directory signs as are necessary to promote the safe and convenient movement of traffic within the driveways and parking areas, provided that:
  - (a) The size of such sign shall not exceed the product of the number of occupants listed on such directory multiplied by 250 square inches.
  - (b) Such sign shall be erected perpendicular to the driveway nearest their location.
  - (c) No such sign shall be illuminated except by lighting which is concealed, internally

illuminated or indirect.

- E. A master signage plan depicting the type, approximate location and approximate size of each proposed sign shall be submitted at the time of both preliminary and final plan submission.  
**[Amended 2-11-2013 by Ord. No. 736]**

ARTICLE XX  
**SU-2 Special Use District**

**§ 275-118. Purpose. [Amended 12-12-2011 by Ord. No. 722]**

The SU-2 Special Use Overlay District is designed to make a provision for mobile home park development when authorized by the Township Council as a conditional use. In addition, the SU-2 Special Use Overlay District provides for single-family attached dwellings, in a limited context, when authorized by the Township Council as a conditional use. The district provisions are designed to provided density, open space, lot size and related regulations.

**§ 275-119. Use regulations.**

- A. Buildings may be erected and used and land may be used, subject to the provisions of Articles XXIX and XXX, for any of the following purposes and no other:
- (1) Any use permitted in the SU-1 District, pursuant to the provisions stated in or referred to in Article XIX.
  - (2) Mobile home parks, when authorized by Township Council as a conditional use. When deciding whether to authorize a mobile home park as a conditional use, Township Council shall consider the standards and criteria listed in Article XXXVI.
  - (3) Billboards, when authorized by Township Council as a conditional use, subject to the area and bulk regulations in § 275-216.3 and the conditional use standards and criteria in §§ 275-216.4 and 275-236. **[Added 9-14-2009 by Ord. No. 707]**
  - (4) Single-family attached dwellings, including duplexes, twins and townhouses in any combination, but excluding multiplex and quadruplex units, when authorized by the Township Council as a conditional use subject to the area and bulk regulations and design standards contained in § 275-121C. **[Added 12-12-2011 by Ord. No. 722]**
- B. Where the principal use of buildings or combination of buildings is office, permitted accessory uses shall be accessory uses which are customarily incidental to the permitted principal office use, including cafeteria or food service facilities, copy centers, fitness centers and newsstands for use of the occupants of the building(s). **[Added 8-26-2002 by Ord. No. 631]**

**§ 275-120. Height regulations. [Amended 8-26-2002 by Ord. No. 631]**

The maximum height of dwellings and other structures (other than office buildings) shall be 35 feet. The maximum height of an office building shall be 60 feet, except as provided in Article XXXIV regarding height limit exemptions.

**§ 275-121. Area and bulk regulations.**

- A. All uses developed as per the SU-1 District shall conform to the area and bulk regulations in Article XIX.
- B. Mobile home parks.
- (1) Minimum tract size: 10 acres, which shall not include any areas which are within a one-hundred-year floodplain, which have slopes in excess of 25% or which have wet soil conditions.

- (2) **Density.** The maximum density, i.e., average number of mobile homes per acre, for a mobile home park shall be 5 1/2 mobile homes per acre. In calculating density, any part of the area of the mobile home park tract which is within a one-hundred-year floodplain, which has slopes in excess of 25%, which has wet soil conditions or which is within a road, utility or stormwater easement or right-of-way shall not be counted as part of the park's area.
- (3) **Open space.** A mobile home park, which is designed to contain more than 20 mobile homes, shall contain the following minimum percentages of open space for use of the park residents:

<b>Number of Mobile Homes</b>	<b>Minimum Percentage of Area in Open Space</b>
20 to 49	10%
50 to 90	15%
100+	20%

All open space areas shall be in accordance with Article XXXV and shall be landscaped according to a landscape plan which will be reviewed, pursuant to Council's deliberations on the conditional use application. No buildings shall be located in open space areas. Areas attributable to required buffer areas and one-hundred-year floodplains, areas with wet soils or slopes in excess of 25% and utility, road and stormwater rights-of-way or easements shall not be counted toward required open space.

- (4) **Impervious coverage.** Mobile home parks shall be designed so that total building coverage shall not exceed 30% of the net park size and all impervious coverage shall not exceed 45% of the net park size. "Net park size" is the total area of the park minus any area within one-hundred-year floodplain, with wet soils or slopes in excess of 25% or which is part of the required buffer or open space area or which is within a utility, stormwater or road right-of-way or easement.
  - (5) **Lot size.** Each individual mobile home lot shall have a minimum of 7,500 square feet.
  - (6) **Yards.** Each mobile home lot shall have a front, rear and two side yards. Each yard shall be at least 20 feet in width, measured from the mobile home lot line. No accessory building shall be located in a yard area any closer than 10 feet to perimeter lot lines.
  - (7) **Distance between mobile homes.** No mobile home shall be located closer than 40 feet to any other mobile home or any other building.
- C. **Single-family attached dwelling units as permitted by § 275-119A(4). [Added 12-12-2011 by Ord. No. 722]**
- (1) **Minimum tract area:** 25 acres.
  - (2) **Maximum gross density:** four dwelling units per gross acre in the tract.
  - (3) **Minimum lot area for a single family attached unit:** 2,400 square feet.
  - (4) **Minimum depth of rear yard:** 25 feet. Detached garages and paved driveways may be located in the rear yard on lots with rear yards which abut an alley; all other accessory buildings and structures in the rear yard of lots which abut an alley must be located at least 10 feet from a

property line. Notwithstanding § 275-199I of Article XXXIII, decks, patios and uncovered spaces on all lots may encroach into required rear yards no more than 12 feet.

- (5) Utilities: All units must be served by public sewer and public water service.
- (6) Maximum number of attached units in a building: Buildings containing single-family attached dwellings shall not exceed six dwelling units.
- (7) Minimum distance between buildings: 35 feet.
- (8) Maximum building height: 35 feet.
- (9) Perimeter setback: No building shall be less than 100 feet from the perimeter property line, and no accessory structure shall be less than 50 feet from such line (except for signs and those structures associated with ingress and egress, lighting standards, stormwater management facilities, retaining walls, benches and the like) unless the proposed development abuts a perpetually preserved conservation area, park land or open space, in which case the Township Council may, upon request of the applicant, decrease the perimeter setback applicable to building and accessory structures to a minimum setback of 25 feet. Required rear yards may encroach into a perimeter setback no more than 25 feet.

#### **§ 275-122. Special design standards.**

- A. The following design standards shall apply to mobile home parks, in addition to any other standards which are generally applicable pursuant to other provisions of this chapter and/or Chapter 210, Subdivision and Land Development:

- (1) Each mobile home park shall be designed so that it contains a perimeter buffer area contiguous to the mobile home park's property boundary. The buffer area shall contain an evergreen planting strip which will screen the park from view by pedestrians at the mobile home park's property boundary. The width of the buffer area and the planting strip shall vary according to the following table based on the number of mobile homes that the park is designed for:

<b>Number of Mobile Homes In Park</b>	<b>Minimum Width of Perimeter Buffer</b>	<b>Minimum Width of Planted Area</b>
20 to 49	150 feet	25
55 to 99	200 feet	40
100+	200 feet	50

- (2) Utilities. All utilities, including telephone, electric and television lines, shall be installed underground.
- (3) Parking. There shall be a minimum of two surfaced off-street parking spaces located on or contiguous to each mobile home lot. There shall be an additional improved off-street parking space for each two mobile homes for which the park is designed.
- (4) No fuel storage container shall be larger than 275 gallons or, for gas, a capacity of 250 pounds or be located within 30 feet of an exit door from a mobile home.
- (5) Sewer and water requirements. All mobile homes in a mobile home park must be served by both public water and public sewer.

**§ 275-122.1. Buffer areas and landscaping. [Added 8-26-2002 by Ord. No. 631]**

A. The following buffer areas shall be provided:

- (1) A buffer of 100 feet shall be provided, of which at least 50 feet shall be landscaped in accordance with the provisions of Article XXXIV.

B. The buffer yard shall comply with the following standards:

- (1) The buffer shall be measured from the district boundary line or from the near street line where a street serves as the district boundary line; provided, however, that parking lot aiseways (to include curbing, driveways and stormwater management system components, but not parking spaces) may be located within the buffer yard as long as the required 50 feet of landscaping area is increased by one foot for each one foot that such aisleway encroaches into the one-hundred-foot buffer area.
- (2) The buffer yard may be part of the required front, side or rear yards, and in cases of conflict, the larger yard requirements shall apply.

**§ 275-122.2. Special design standards applicable to single-family attached units. [Added 12-12-2011 by Ord. No. 722]**

- A. A minimum of 30% of the tract shall be designated as restricted to and used for common open space uses.
- B. The common open space provisions of Article XXXV, §§ 275-217 through 275-223 shall apply to a single-family attached development in the SU-2 Special Use District.
- C. The topography and natural features of the site shall be considered in planning, designing, locating, orienting and constructing all residential buildings and other structures to improve the aesthetic design of the development.
- D. Residential buildings and other structures shall be located and situated to promote pedestrian and visual access to open space.
- E. All utilities shall be placed and/or installed underground.
- F. Refuse stations to serve recreational areas shall be designed with suitable screening, located so as to be convenient for trash removal and not offensive to nearby residential areas.
- G. Notwithstanding the requirements of § 275-182 of Article XXXI, Off-Street Parking and Loading, in the SU-2 Special Use District four off-street parking spaces shall be provided for each dwelling unit and overflow parking shall be provided at 1.25 parking spaces per dwelling unit, which overflow parking shall be subject to the reserve parking provisions of § 275-189. For purposes of this section, the term "overflow parking" shall include all permitted on-street parking spaces and all parking spaces provided in segregated, off-street parking areas. Segregated overflow parking areas containing 10 or fewer spaces shall not be subject to the provisions and requirements of § 275-188, Screening and landscaping requirements, of Article XXXI. Parking on one side of the street shall be permitted.
- H. The provisions and requirements of § 275-214D(3) and (4) in Article XXXIV shall not apply to single-family attached dwelling units in the SU-2 Special Use District.
- I. Buffer planting. A ten-foot-wide buffer planting strip shall be provided in the perimeter property line setback area as may be required by the Township Council during the conditional use hearing and shall

contain landscaping in accordance with a landscaping plan approved by the Township, which shall be in lieu of the provisions and requirements of §§ 275-122.1 and 275-214D(1); provided, however, that no buffer planting strip shall be required in any part of a perimeter setback which abuts perpetually preserved conservation area, park land or open space.

- J. The provisions of § 275-214D(2) shall apply to single-family attached units in the SU-2 Special Use District except that shade trees and all required landscaping may be located within the street right-of-way.



ARTICLE XXI  
**General Business District**

**§ 275-123. Purpose.**

The B General Business District is designed to provide opportunities for neighborhood commercial uses of the type which primarily serve the needs of surrounding residential areas. These districts are intended to have access to a major road and to be compatible with adjoining noncommercial uses and districts.

**§ 275-124. Use regulations. [Amended 1-8-1990 by Ord. No. 461; 6-24-1996 by Ord. No. 569; 6-23-1997 by Ord. No. 576]**

A building may be erected, altered or used and land may be used, subject to the provisions in Articles XXIX and XXX for any of the following purposes and no other:

A. Permitted principal uses.

- (1) Retail store, convenience store, office or office building, post office, bank or other financial institution. **[Amended 11-8-2004 by Ord. No. 658]**
- (2) Restaurant.
- (3) Barber- or beauty shop.
- (4) Dressmaking, millinery, tailor, shoe repair or similar custom shop for the repair or servicing of articles sold at retail on the premises; bakery or confectionery; provided that such uses employ not more than five persons.
- (5) Newspaper or job printing shop employing not more than five persons.
- (6) Jewelry, radio, television, refrigerator or similar appliance shop, including service and repairs.
- (7) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588]**

B. Accessory uses to permitted principal uses. The following are permitted only as accessory uses:

- (1) Uses on the same lot which are customarily incidental to the principal uses permitted in Subsection A.
- (2) Parking in accordance with Article XXXI.
- (3) Signs in accordance with Article XXXII.
- (4) Specifically permitted accessory uses include storage, within a completely enclosed building or in an area not visible from an adjoining street or residential use, which storage is customarily incidental to the principal use of the lot.
- (5) In conjunction with a convenience store, the dispensing of motor vehicle fuels from underground tanks, which may include a canopy structure over the motor vehicle fueling positions.

C. Conditional uses.

- (1) Motel, hotel or inn.
- (2) Laundry, dry-cleaning, dyeing or clothes-pressing establishment, provided that nonflammable solvents are used in the cleaning process and that the process shall be free from obnoxious odors, fire or explosion.
- (3) Personal service or custom shop other than a use permitted in Subsection A.
- (4) Public garage; motor vehicle sales, service or repair shop (not including a junk or wrecking yard); gasoline service station; and motor vehicle parking lot, provided that all repair, lubrication or car washing shall be performed within a completely enclosed building.
- (5) Drive-in restaurant or refreshment stand where patrons are served food and/or drinks for immediate consumption outside the building but on the premises and fast-food restaurant with drive-through restaurant service accessory thereto.
- (6) Indoor or outdoor place of amusement other than an open-air or drive-in theater.
- (7) Business, trade or private school.
- (8) Mortuary, funeral establishment and cemetery limited to the cremation of human remains.
- (9) Commercial greenhouse.
- (10) Kennel, animal hospital and veterinary clinic or office.
- (11) Private club for recreation.
- (12) Day-care centers.
- (13) Any alteration, enlargement, change or modification to any of the conditional uses set forth under Subsection C(1) through (12) above previously approved, including the addition of any of the permitted uses under Subsection A hereof on the same lot as the conditional use, shall require conditional use approval.
- (14) Communications towers, subject to the standards for communications towers as conditional uses set forth at § 275-216.1, and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. [Added 9-14-1998 by Ord. No. 588]

#### **§ 275-125. Height regulations.**

The maximum height of buildings and other structures to be erected or enlarged shall be 35 feet, except as provided in Article XXXIV under height limit exemptions.

#### **§ 275-126. Area and bulk regulations. [Amended 1-8-1990 by Ord. No. 461].**

##### **A. Permitted principal uses.**

- (1) Minimum lot area: one acre for each principal permitted building.
- (2) Minimum lot width at building line: 100 feet.
- (3) Minimum lot width at street line: 100 feet.
- (4) Maximum impervious surface area: 65%.

- (5) Maximum building coverage: 25%.
- (6) Minimum depth of front and rear yard: 60 feet.
- (7) Minimum aggregate width of side yards: 60 feet.
- (8) Minimum width of each individual side yard: 25 feet.
- (9) Minimum yard abutting the street on a corner lot: 60 feet.

B. Conditional uses.

- (1) Minimum lot area: two acres for each principal permitted building.
- (2) Minimum lot width at building line: 200 feet.
- (3) Minimum lot width at street line: 150 feet.
- (4) Maximum impervious surface area: 40%.
- (5) Maximum building coverage: 20%.
- (6) Minimum depth of front and rear yards: 100 feet.
- (7) Minimum aggregate width of side yards: 125 feet.
- (8) Minimum width of each individual side yard: 60 feet.
- (9) Minimum yard abutting the street of a corner lot: 100 feet.

**§ 275-127. Special design and development requirements.**

- A. Access. Any lot or area used for off-street parking or for the storage or movement of motor vehicles shall, except for the necessary accessways, be separated from the street or highway by a raised curb, planting strip, wall or other suitable barrier against unchanneled motor vehicle entrance or exit. The layout of any such parking lot or area shall be designed in such a manner as to prohibit vehicles from backing out onto the street, and the capacity and arrangement of the lot shall be adequate for all related uses and sufficient to prevent the backup of vehicles on a street while awaiting entry on the lot.
- B. Outdoor lighting. All driveways, parking areas and vehicle maneuvering areas shall be adequately illuminated, and all exterior or outdoor lighting shall be arranged in such a manner so as to protect adjoining property and traffic from any glare or hazardous interference of any kind. All such lighting shall be equipped with glare-shielding devices and be not more than 20 feet in height.
- C. Buffering. Along each property line which directly abuts any residential district or any use permitted in those districts, a buffer area of not less than 100 feet in width, of which not less than 25 feet shall be landscaped, shall be provided. Along any property line which abuts any other use along any street line, a buffer area of not less than 25 feet in width, of which not less than 15 feet shall be landscaped, shall be provided. All landscaping shall be designed, installed and maintained in accordance with Article XXXIV.
- D. Rubbish. All trash and rubbish storage areas shall be screened from public view and from view of any surrounding uses. The screening of such storage areas shall be shown on the landscaping plan. The proposed methods for storing and removing trash and rubbish shall be noted on plans submitted for

approval and permits.

- E. Public water and public sewer. All development in the B District shall be served by public water and public sewer.

**§ 275-128. Special provisions for B Business District. [Added 11-8-2004 by Ord. No. 658]**

- A. In expansion of the purposes and community development objectives contained in Article I of this chapter, and the policies and recommendations of the Township's Comprehensive Plan, as amended, the primary intent of this section is to provide for designated uses and the appropriate dimensional standards which promote controlled development and the expansion of attractive uses.
- B. The following area and bulk regulations shall apply to all permitted principal uses, if enhanced appearance options, approved by Township Council in accordance with Subsection G, are provided.
- (1) Impervious surface may be increased to 75%.
  - (2) Minimum depth of the front yard may be reduced to 50 feet.
  - (3) Minimum depth of rear yard may be reduced to 50 feet.
  - (4) Minimum yard abutting a street on a corner lot may be reduced to 50 feet.
  - (5) The buffering alongside property lines may be reduced to an aggregate of 15 feet with no side yard less than five feet.
  - (6) Landscaped islands in parking areas may be omitted.
- C. Enhanced appearance options shall consist of three components: improved landscaping, improved hardscaping and improved building materials and design. In order to meet the minimum criteria of enhanced appearance options, a plan shall provide for all of the following, unless specified otherwise:
- (1) Improved landscaping.
    - (a) The sizes of plants set forth in § 275-214, Landscaping requirements, and § 275-188, for parking lot landscaping, shall be increased by 20% in height and caliper, as applicable.
    - (b) The quantities of plants set forth in §§ 275-214 and 275-188 shall be increased by 20% to determine quantity requirements. However, plants may be grouped in selected areas of the site to achieve special functional and aesthetic objectives. In the event that the increased quantities of plants cannot fit on the property, the applicant may substitute larger plants or higher grade plant species to compensate for those plants that cannot fit on the property, subject to the approval of the Township Landscape Consultant.
    - (c) At least three planting areas for shade trees shall be created and maintained at or near the corners of the principal building.
    - (d) When decorative bollards are utilized in the perimeter landscaping, they shall be wooden or black steel types.
  - (2) Improved hardscaping.
    - (a) Pedestrian pathways of at least four feet six inches in width made of brick, concrete or approved equivalent shall be installed and maintained along all street frontages.

- (b) Pedestrian pathways of at least four feet six inches in width made of brick, or approved equivalent shall be installed and maintained to connect all perimeter pathways to all entry doors of a principal building.
  - (c) Crosswalks made of brick, concrete or approved equivalent shall be maintained and installed along any curb cuts at vehicular entranceways to promote a continuation of the pedestrian pathway system. Such crosswalks shall be at least six feet in width.
  - (d) Decorative streetlights, with black poles and bases, shall be provided along all street frontages and within the parking lot. Cobra head or shoebox type lights shall not be considered as being decorative.
  - (e) A decorative wall, made of brick, stone, or approved equivalent, 24 inches in height, shall be installed and maintained along all primary street frontage planting beds, between the sidewalk and the parking lot, except in any area where a lower wall is needed to achieve safe sight distance within a clear sight triangle.
  - (f) Where fencing is utilized, it shall be wooden such as shadowbox, picket or split rail or steel or wrought iron of at least 48 inches in height. Stockade fence and chain link fence and plastic fence shall not be used.
  - (g) The base of all freestanding signs shall be made of brick, stone, or approved equivalent, and shall be at least 30 inches in height.
  - (h) All trash enclosure areas shall be made of brick, stone, or approved equivalent, except for the gates.
- (3) Improved building materials and design.
- (a) No principal buildings shall have a flat roof.
  - (b) All principal buildings shall have a vertical design proportion defined by vertical architectural elements, such as windows, pilasters, columns, piers, or by recesses and projections of building walls such that no more than 12 continuous feet of blank building wall is created.
  - (c) All principal buildings shall be designed to have a defined base. The base shall be made of brick, stone, or approved equivalent, with horizontal banding, and shall be at least 30 inches in height around at least three sides of the building, including all street-side elevations.

D. Landscaping and screening.

- (1) General regulations. The following is required in and around off-street parking areas and loading areas in order to provide a visual and acoustical buffer for adjacent properties, to provide a visual buffer for adjacent streets, to define traffic routes and pedestrian paths through parking areas, to control soil erosion, to slow and filter stormwater runoff, and to moderate microclimatic effects.
- (a) Functions of parking-lot and loading area landscaping. Landscaping of parking lots and loading areas shall perform certain functions depending upon its arrangement and the type of space occupied, as described below. Aesthetic considerations are important to these functions. Where screening is required, such screening needs to be opaque, and shall be of

sufficient density and height to obstruct casual observation.

- (b) Perimeter of area, abutting street. Landscaping materials so located shall visually define the perimeter and other parking areas, shall emphasize points of ingress and egress to and from the street, and shall visually screen the parking or loading area from the street so that headlights shining into or out of the area will not affect other drivers.
  - (c) Perimeter of area, abutting other properties. Landscaping materials so located shall provide a windbreak trapping trash and dust and a visual and acoustical buffer for adjoining properties. When parking or loading areas abut a residential use or property zoned for such use, a dense screen of plantings, designed to be an effective screen, shall be provided and maintained to a minimum height of six feet from the ground at time of planting.
  - (d) Landscaping within the interior of the parking areas. Landscaping located within parking areas shall be designed to promote pedestrian safety by defining walkways, to enhance driver safety by defining traffic lanes and discouraging cross-lot taxiing, to act as a windbreak trapping trash and dust, to provide shade, to reduce stormwater runoff, and to enhance the appearance of the parking area. Interior landscaping shall be designed to preserve sight distances and not obstruct the vision of motorists or pedestrians, and shall in no way create a hazard to safety.
- (2) Applicability and standards:
- (a) Perimeter landscaping. Perimeter landscaping along abutting properties and public or private streets shall be required for all off-street parking areas with more than five parking spaces, and for all loading areas regardless of size.
  - (b) Interior landscaping. Interior landscaping shall be required for all off-street parking areas with more than 15 parking spaces.
  - (c) Sight distance. No landscape elements or other objects may obstruct vision above the height of two feet and below 10 feet measured from the center line grade of the driveway and an intersecting street. A clear sight triangle at the intersection of the driveway and the street shall be determined in accordance with the Pennsylvania Department of Transportation's Publication No. 201 (current issue), entitled "Engineering and Traffic Studies."
- E. Maintenance provisions. The owner of the facility shall be responsible for the continual maintenance of all enhanced appearance options in an attractive and healthy condition. Dead and pruned plant material and debris shall be routinely removed and replaced or within 30 days of a directive to do so issued by the Township Code Enforcement Officer.
- F. Landscape plan. A landscape plan shall be prepared and sealed by a landscape architect registered in the Commonwealth of Pennsylvania. The landscape plan shall be incorporated as a part of the plan submitted with the subdivision or land development plan. The landscape plan shall be drawn to the same scale as the proposed subdivision or land development plan. The landscape plan shall show all existing individual specimen trees, tree masses, shrubs, water features and other natural elements of the site which are to be preserved or removed, and all trees, shrubs, ground covers, lawn area, walls and fences, pedestrian pathways, crosswalks and other enhanced appearance options, as per this section, which are to be installed in conjunction with the development of the land, including a continuous pedestrian pathway and crosswalk along the street frontage, and a continuous pedestrian

pathway made of pavers connecting the perimeter sidewalk to the principal use building. A legend shall be provided to the plan which contains the botanical and common name of each species of tree and shrub to be installed, and the quantity and size of each species of tree and shrub to be provided. The landscape plan shall also be accompanied by detail sheets depicting all details for landscape and hardscape features.

- G. Approval of Township Council. The details of the enhanced appearance options shall be subject to approval by the Township Council as part of the subdivision and/or land development plan. Upon request of the applicant, the Township Council may permit variations from the standards set forth herein if the Township Council determines that the proposed variations will further improve the appearance of the development.

ARTICLE XXII  
**B-1 Neighborhood Shopping Center District**

**§ 275-129. Purpose.**

The B-1 Neighborhood Shopping Center District is designed to provide opportunities for shopping in locations where there are groups of stores designed in a unified manner and accessible from a major road or roads. The Shopping Center Districts are also designed to ensure compatibility with adjoining uses and districts.

**§ 275-130. Use regulations.**

A building or combination of buildings may be erected or used and land may be used or occupied, subject to the provisions in Articles XXIX and XXX, as follows:

**A. Permitted principal uses.**

- (1) A planned neighborhood or located shopping center including, as an integral part of such center, any combination of the following uses:
  - (a) Retail store, personal service or custom shop or restaurant.
  - (b) Any use permitted in § 275-124A related to the B General Business District.
- (2) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588]**

**B. Accessory uses to permitted principal uses.**

- (1) Accessory use on the same lot with and customarily incidental to any of the above permitted uses, including storage within a completely enclosed building in conjunction with a permitted use and living accommodations for a watchman or similar employee.
- (2) Parking in accordance with Article XXXI.
- (3) Signs in accordance with Article XXXII.
- (4) Any accessory use as provided in § 275-124B.

**C. Conditional uses.**

- (1) Communications towers, subject to the standards for communications towers as conditional uses set forth at § 275-216.1, and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588]**

**§ 275-131. Height regulations.**

The maximum height of buildings and other structures erected, enlarged or used shall be 35 feet, except as provided in the special provisions of Article XXXIV, which provides for exceptions to height regulations for certain structures.

**§ 275-132. Area and bulk regulations. [Amended 1-8-1990 by Ord. No. 461].**



A. Permitted principal uses.

- (1) Minimum lot area: three acres for each principal permitted building.
- (2) Minimum lot width at building line: 300 feet.
- (3) Minimum lot width at street line: 300 feet.
- (4) Maximum impervious surface area: 60%.
- (5) Maximum building coverage: 25%.
- (6) Minimum setbacks: 100 feet.

**§ 275-133. Special design and development requirements.**

In B-1 Neighborhood Shopping Center Districts, the special requirements of § 275-127 related to the B Districts and the following additional requirements shall apply:

- A. Required enclosure. Each permitted business use or service, including sales, exhibitions for sale, or service repair or processing activities, shall be conducted wholly within a completely enclosed building.
- B. Building placement.
- (1) Distance between buildings. The distance at the closest point between buildings or groups of buildings on a lot shall be at least as great as the average height of the two adjacent buildings and not less than 20 feet in width, plus walkways.
  - (2) No building or permanent structure other than a permitted sign or traffic control device shall be erected within 70 feet of a street line or within 50 feet of any other property line.
- C. Off-street parking and circulation.
- (1) All parking requirements shall be in accordance with Article XXXI.
  - (2) All required parking shall be available for use at the time of occupancy of any building.
  - (3) All traffic lanes, parking, loading and unloading areas and traffic direction shall be marked and shall be maintained as required in Article XXXI and all such areas shall be paved and maintained with an approved surface.
- D. Sanitary sewage, water facilities and other facilities. No application for a use in the district shall be considered unless such use can and will be served, prior to occupancy, by a public sewage and public water system owned. All utilities, including water, electricity, gas, telephone, etc., shall be carried underground by approved standards of construction.
- E. Buffer area. A buffer area as set forth in § 275-127C shall be provided in accordance with Article XXXIV.

**§ 275-134. Plan submission, review and approval.**

Each application for a permit to erect, construct or alter any building within a B-1 Neighborhood Shopping Center District, or each request for an amendment to establish such a district or to modify a previously approved plan shall comply with the special procedural and application requirements in Article XXXIV.

## ARTICLE XXIII

**B-2 Major Shopping Center District****§ 275-135. Purpose.**

The B-2 Major Shopping Center District is designed to provide opportunities for regional shopping in locations served by two or more major highways. The Major Shopping Center District is also designed to create a unified design for the site and its buildings and to ensure compatibility with adjoining uses and districts.

**§ 275-136. Use regulations.**

A building or combination of buildings on a tract may be erected or used and a tract or premises may be used or occupied, subject to the provisions in Articles XXIX and XXX, for any of the following purposes:

**A. Permitted principal uses.**

- (1) A planned regional shopping center.
- (2) Any use permitted in a B-1 Neighborhood Shopping Center District as set forth in Article XXII, provided that such business uses are clustered within a building such as a mall containing several individual places of business.
- (3) A car care service center having as its primary purpose the sale and installation of automobile tires, batteries and accessories, provided that any such use shall not include the retail sale of gasoline and shall not be located so as to interfere with the compact arrangement or servicing of retail store use.
- (4) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588]**
- (5) Single-family detached dwelling. Existing nonconforming residential uses and residential lots and structures located within the B-2 Zoning District are permitted uses and shall comply with the height, area and bulk provisions of the R-3 Zoning District, as set forth in §§ 275-32 and 275-33A(3). **[Added 2-22-2016 by Ord. No. 766]**

**B. Accessory uses to permitted principal uses.**

- (1) Accessory use on the same lot with and customarily incidental to any of the above permitted uses, including storage within a completely enclosed building in conjunction with a permitted use; and having accommodations for a watchman or similar employee.
- (2) Parking in accordance with Article XXXI.
- (3) Signs in accordance with Article XXXII.
- (4) Any accessory use as provided in § 275-130B.

**C. Conditional uses.**

- (1) Uses of the same general character as any permitted uses hereinbefore specifically permitted.
- (2) Communications towers, subject to the standards for communications towers as conditional uses

set forth at § 275-216.1, and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. [Added 9-14-1998 by Ord. No. 588]

- (3) Billboards, subject to the area and bulk regulations in § 275-216.3, and the conditional use standards and criteria in §§ 275-216.4 and 275-236. [Added 9-14-2009 by Ord. No. 707]

#### **§ 275-137. Height regulations.**

The maximum height of buildings and other structures erected, enlarged or used shall be 55 feet, except as provided in the special provisions in Article XXXIV, which provide for exceptions to height regulations for certain structures.

#### **§ 275-138. Area and bulk regulations.**

A. Permitted principal uses and conditional uses.

- (1) Minimum tract area: 10 acres.
- (2) Minimum tract width at street line: 500 feet.
- (3) Maximum impervious surface area: 60%.
- (4) Maximum building coverage: 25%.
- (5) Minimum setback: 200 feet.

#### **§ 275-139. Special design and development requirements.**

In B-2 Districts, the special requirements of § 275-133 pertaining to the B-1 Districts shall apply, except for those sections relating to buffer areas and parking. In addition, the following requirements shall apply:

- A. Ownership. No lot or parcel of ground located in B-2 Districts shall be used for any of the uses provided herein unless said lot or parcel shall be held in one ownership, except as may otherwise be authorized as a conditional use.
- B. Building placement. No building or permanent structure, other than a permitted sign or traffic control device, shall be erected within 200 feet of a street line or within 100 feet of any other property line.
- C. Buffer area. Along each property line which directly abuts any residential district, a buffer area not less than 100 feet shall be provided, of which at least 50 feet shall be landscaped. Along any street line, a landscaped area not less than 30 feet in width shall be provided. Buffer areas and landscaped areas shall be in accordance with Article XXIV.
- D. Parking. All off-street parking and loading areas shall be in accordance with Article XXXI.

#### **§ 275-140. Plan submission, review and approval.**

Each application for a permit to erect, construct or alter any building within a B-2 Major Shopping Center District or each request for an amendment to establish such a district or to modify a previously prepared plan shall comply with the special procedural and application requirements in Article XXXIV.

ARTICLE XXIII  
**MCO Mall Conversion Overlay District**  
**[Added 11-9-2015 by Ord. No. 760]**

**§ 275-140.1. Purpose.**

A. The provisions of this article are enacted for the following purposes:

- (1) To allow for the revitalization of existing planned regional shopping centers located in the B-2 Major Shopping Center District by permitting the elimination of clustered business uses within a mall and replacement by retail stores, restaurants, offices and the like with direct access from unenclosed space and by the addition of an apartment style-residential use.
- (2) To revitalize properties that have vacant, defunct or underutilized buildings, and to transform such previously developed properties into a more functional and attractive mixed commercial and residential community.
- (3) To address planning, development and redevelopment issues affecting certain areas along Baltimore Pike within Middletown Township.

**§ 275-140.2. Applicability of Article XXIII.**

An application for a mall conversion shall be governed by the provisions of the Mall Conversion Overlay District regulations and shall supersede and replace the provisions of Article XXIII, §§ 275-135 through 275-140 for all purposes.

**§ 275-140.3. Use regulations.**

Buildings may be erected, altered or used and land may be used or occupied for any combination of the following uses:

A. The following nonresidential uses are permitted as of right within the Mall Conversion Overlay District:

- (1) Retail stores, including without limitation department stores, hardware stores, lawn and garden stores;
- (2) Personal service or custom shops;
- (3) Banks or other financial institutions, with or without drive-up window and/or accessory ATM facilities;
- (4) Post offices;
- (5) Pharmacies, with or without drive-up windows;
- (6) Restaurants and taverns, with or without outdoor service of food and/or alcohol, with and/or without electronic entertainment centers, mechanical games and other recreational uses, drive-through service(s), musical entertainment and dancing (but excluding adult entertainment or dancing as defined in § 275-117.2), provided that all musical entertainment and dancing activities shall be indoors except for such special outdoor events as are approved by Township Council;

- (7) Restaurants, fast food; with or without drive-through service(s);
  - (8) Movie theaters;
  - (9) General or professional offices;
  - (10) Supermarkets;
  - (11) Health and fitness centers, including ancillary services such as wellness, physical rehabilitation facilities and prevention health education activities;
  - (12) Motor vehicle service centers (excluding motor vehicle sales and junk or wrecking yards);
  - (13) Convenience stores with retail gasoline sales;
  - (14) Medical offices (with inpatient and outpatient surgery facilities);
  - (15) Hotels;
  - (16) Municipal uses;
  - (17) Recreational uses, with or without service of food and/or alcohol, including bowling alleys and electronic entertainment facilities;
  - (18) The retail sale of pets, pet grooming, veterinary (and boarding associated with veterinary care), and other pet services and related products. [Added 10-22-2018 by Ord. No. 797<sup>152</sup>]
  - (19) Uses substantially similar to the uses described in § 275-140.3A(l) through (18) above as approved by Township Council. [Amended 10-22-2018 by Ord. No. 797]
- B. The following residential uses are permitted as of right within the Mall Conversion Overlay District:
- (1) Multifamily dwellings together with multitiered, structured parking.
- C. Permitted accessory uses within the Mall Conversion Overlay District:
- (1) Uses customarily incidental to the uses permitted in § 275-140.3A and B.
  - (2) Signage;
  - (3) Parking, whether structured parking or surface parking;
  - (4) Storage structures for or in connection with the storage of equipment and/or materials used for the maintenance of the multifamily residential buildings and/or mall buildings in general.

#### **§ 275-140.4. Height regulations.**

The maximum height of buildings within the Mall Conversion Overlay District shall be as follows, except as provided in the special provisions in Article XXXIV of the Zoning Ordinance which provides for exceptions to height regulations for certain structures:

- A. All buildings: 70 feet.

#### **§ 275-140.5. Area and bulk regulations.**

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152.Editor's Note: This ordinance also redesignated former Subsection A(18) as Subsection A(19).

- A. Minimum tract size: 75 acres.
- B. Maximum impervious surface coverage: 85%.
- C. Maximum building coverage: 25%.
- D. For purposes of calculating impervious surface coverage and building coverage in the Mall Conversion Overlay District, the term "lot area" shall include driveway, drainage and permanent utility easement areas.
- E. Setbacks.
  - (1) Front yard (adjacent to Baltimore Pike): 50 feet for both multifamily residential and nonresidential uses, except that the front yard setback requirement shall not apply to existing and proposed, new parking areas.
  - (2) Front yard (adjacent to Middletown Road, Oriole Avenue, or other Township road): 70 feet for nonresidential uses and 40 feet for multifamily residential uses, except that the front yard setback requirement shall not apply to existing and proposed, new parking areas.
  - (3) Side yard: 30 feet.
  - (4) Rear yard: 30 feet.
- F. Parking area setback for new parking space areas.
  - (1) From right-of-way: 15 feet.
  - (2) From adjacent residential use: 25 feet.
- G. Multifamily dwelling.
  - (1) Maximum gross density: 400 multifamily dwelling units.
  - (2) Maximum building length: uninterrupted plane of not more than 225 feet for each new building.
  - (3) Multifamily residential buildings shall be located and situated to promote pedestrian access to commercial and other nearby uses.
- H. Existing nonconformities. Subject to Township Council's approval, area and bulk, parking, landscaping and buffering nonconformities existing immediately prior to the implementation of a mall conversion, whether disturbed or undisturbed during the construction and implementation of a mall conversion, may remain and/or be reconstructed, such as, but not by way of limitation, parking space dimensions and parking within required setbacks.

**§ 275-140.6. Development standards.**

- A. General standards.
  - (1) The requirements of §§ 275-217 through 275-223, inclusive, 275-198C, 275-199A, C and F shall not apply to the Mall Conversion Overlay District.
  - (2) Refuse stations shall be designed with suitable screening and shall be located so as to be convenient for trash removal and so as to not be offensive to residents and patrons.

**B. Buffer areas and landscaping.**

- (1) The requirements of §§ 275-213, 275-214B, C and D shall not apply to the Mall Conversion Overlay District; however, any land development application filed pursuant to the Mall Conversion Overlay District regulations shall include a landscape plan demonstrating compliance with the landscape requirements set forth herein.
- (2) Along each property line which directly abuts any residential district or residential use excluding road frontage, a buffer area of not less than 25 feet shall be provided, of which at least 10 feet shall be landscaped. Landscaping within a residential buffer area in a Mall Conversion Overlay District shall consist of evergreen trees of six feet to eight feet in height at the time of planting and shall be planted at twelve-foot centers. Subject to Township Council's approval, an applicant may be given credit for existing evergreen or deciduous trees in a residential buffer area.
- (3) Landscaping along Baltimore Pike, Middletown Road and Oriole Avenue rights-of-way shall consist of six shrubs for every 100 lineal feet of road frontage, and one street tree no less than 3 1/2 inches in caliper for every 100 lineal feet of road frontage. Subject to Township Council's approval, street trees and shrubs may be grouped to achieve a stated design objective.
- (4) All new buildings constructed in connection with a mall conversion shall be landscaped in accordance with the following criteria:
  - (a) A combination of trees and shrubs shall be used as foundation plantings, i.e., plantings to be installed in reasonably close proximity to the facades.
  - (b) One deciduous tree of 3 1/2 inches to four inches in caliper (or equivalent vegetation acceptable to Township Council) shall be planted for every fifty-foot length of building facade measured from end to end of buildings, without regard to indentations and the like in the buildings or facades, and excluding any enclosed walkway connectors and elevator cores; however, in order to achieve a particular design objective a six-foot to eight-foot evergreen tree may be planted in lieu of deciduous, when approved by Township Council.
  - (c) Five evergreen and/or deciduous shrubs shall be planted for every 40 feet of length of building facade.
- (5) Other landscaping, including trees, shrubs or ground covers shall be provided along walkways, in courtyards, around sitting areas, at the entrance to the site and in other highly visible locations, especially on the outer side of any internal access roads which are visible from a public street which may adjoin a tract, at the entrance to buildings and around structures used for service, storage or maintenance purposes.
- (6) The intent of the landscaping requirements is to afford the designer latitude in spacing and location of planting in order to achieve site layout and landscaping objectives. Where site features, such as but not limited to, sidewalks, patios and drive-through aisles do not provide sufficient space for plantings, alternate planting locations in the general vicinity may be deemed acceptable to the Township Council.
- (7) The location, type, size, height and other characteristics of landscaping shall be subject to the review and approval of the Township Council.
- (8) Parking lots shall be landscaped in accordance with § 275-140.7D(1).

**C. Lighting.**

- (1) All parking areas shall be adequately lighted with lighting of such quality and type and with such shielding as will not present direct glare to any adjoining residential area. All parking lot street lights shall not exceed 50 feet in height (excluding building-mounted lighting) with full cutoff lighting which shall not exceed 0.5 footcandle at the property line. Unless otherwise permitted by the Township Council, all parking lot lighting shall be extinguished one hour after the close of business, until dawn, in order to conserve energy and reduce glare and sky-lighting consequences. Where all-night safety or security lighting is deemed necessary, the lighting intensity levels shall meet the minimum levels for safety and security as prescribed by the Illumination Engineering Society ("IES").
- (2) All driveways, aisles, maneuvering spaces, vehicular service areas or spaces between or about buildings, other than those relating to a dwelling, shall be adequately illuminated.
- (3) All outside lighting, including sign lighting, shall be directed in such a way as not to create a nuisance, and in every district all such lighting shall be arranged so as to protect the street or highway and adjoining property from direct glare or hazardous interference of any kind.

**§ 275-140.7. Off-street parking and loading.**

- A. The requirements of §§ 275-183F, 275-184B, 275-186G and 275-188 shall not apply to the Mall Conversion Overlay District.
- B. Off-street parking shall comply with the minimum off-street parking requirements set forth below:
  - (1) The multifamily residential use shall require 1 1/2 parking spaces per multifamily dwelling unit. The parking spaces required to serve each multifamily building shall be contained within a structured parking facility connected or attached to each multifamily building.
  - (2) All other uses (excluding multifamily residential use) shall require four parking spaces for each 1,000 square feet of gross floor area measured from the outside perimeter wall of each such building.
- C. Parking area design standards. All newly constructed parking areas, in the Mall Conversion Overlay District, shall comply with the following:
  - (1) Parking spaces for commercial uses located on the tract shall be 9 1/2 feet wide by 19 feet long, except that 30% of the total number of new parking spaces may be nine feet wide by 18 feet long, provided that they are located in a contiguous parking area.
  - (2) Parking spaces for multifamily residential uses on the tract shall be nine feet wide by 18 feet long, and parking areas for multifamily residential uses shall provide internal drive aisles having a minimum width of 24 feet.
- D. Parking area landscaping design standards. Landscaping shall conform to the following provisions:
  - (1) Landscaping within any new parking area (excluding structured parking garages) which provides more than five parking spaces shall be subject to the following provisions:
    - (a) Off-street parking areas and parking lots shall be landscaped to reduce wind and air turbulence, heat and noise and the glare of automobile lights; to reduce the level of carbon dioxide; to provide shade; to ameliorate stormwater drainage problems; to replenish the



groundwater table; and to provide for a more attractive setting.

- (b) Each parking lot shall have one shade tree of three inches to 3 1/2 inches in caliper for every 15 parking spaces. Shrubs, ground covers and other plant materials are encouraged to be used to complement the trees but shall not be the sole contribution to the landscaping.
- (c) The landscaping and planting areas shall be reasonably dispersed throughout the parking lot; except where there are 20 or more parking spaces, in which case, the following shall apply:
  - [1] Landscaped islands shall be provided at the end of each parking bay which contains 20 or more parking spaces. Such islands shall be a minimum of eight feet in width and 18 feet in length. Such islands shall be provided to enhance the appearance of the parking area and to control access and movement within the parking area.
  - [2] Where approved by Township Council, the end of a parking bay may be paved so long as the area provides for gore striping such that adequate maneuverability of vehicles is possible without impacting parked vehicles.
- (d) All planting islands and planting beds within a parking lot shall be surfaced with ground covers and/or dwarf shrubs and shall not be grassed. Stone or hardwood mulch may be used in conjunction with shrubs and ground covers.
- (e) The type, location, arrangement and dispersal of planting areas and plant materials shall be subject to the review and approval of the Township Council.

#### **§ 275-140.8. Signage.**

- A. Subject to § 275-140.8B below, all signs constructed or erected within a Mall Conversion Overlay District shall be subject to the general requirements contained in §§ 275-190 through 275-195 of the Zoning Ordinance applicable to B-2 Major Shopping Center Districts and the specific standards set forth therein, except that:
  - (1) Notwithstanding § 275-192A(2), LED-type, electronically controlled signage which periodically changes its message and colors shall be permitted;
  - (2) Notwithstanding §§ 275-191A(1), 275-192A(3), (5), (7) and (11), 275-192F(1), (3) and (4), the signage referenced in the concept signage program set forth in the design guidelines approved by Council shall be permitted;
  - (3) Notwithstanding § 275-192A(8), the requirement that all signage shall be backlit shall not apply;
  - (4) Notwithstanding §§ 275-192B(6) and (7), all tenant advertising signage shall be turned off within 1/2 hour after the close of business, but signage identifying the center may remain continuously illuminated;
  - (5) Notwithstanding § 275-195G(1), the maximum size of an electrical changeable copy display sign or manual changeable copy display sign in the Mall Conversion Overlay District shall be 75 square feet, if such sign is displayed on a pylon or other freestanding sign, and the maximum size of a multipurpose visual display sign, if such sign is mounted on the exterior wall of any building, shall be 450 square feet, provided that any such wall-mounted multipurpose visual display sign may not be affixed to a building wall which faces a public street; **[Amended**

**8-28-2017 by Ord. No. 783]**

- (6) Notwithstanding § 275-195B(4)(c), each occupant of a commercial building shall be permitted signage on the exterior of the building occupied by such occupant, provided that the total square footage of such occupant's signage shall not exceed the lesser of 2,000 square feet or 3% of the gross floor area of the space occupied by such occupant, or 100 square feet in the case of an occupied space which is less than 3,333 square feet; **[Added 8-28-2017 by Ord. No. 783; amended 6-24-2019 by Ord. No. 807]**
  - (7) Notwithstanding § 275-195G(2), a property in the Mall Conversion Overlay District containing 25 acres or more shall be permitted to install one pylon or other freestanding electrical changeable copy display sign or manual changeable copy display sign along the road frontage of such property (or one such sign along each principal road frontage if such property fronts on more than one principal road) and one multipurpose visual display exterior wall-mounted sign; **[Added 8-28-2017 by Ord. No. 783]**
  - (8) Notwithstanding § 275-195B(4)(a)[2], the maximum size of a freestanding or pylon sign in the Mall Conversion Overlay District shall not exceed 700 feet; **[Added 8-28-2017 by Ord. No. 783]**
  - (9) Notwithstanding § 275-195B(4)(d), each occupant of a multioccupancy building, whose occupied space has multiple building facades, shall be permitted one or more signs on each exterior wall of such building, subject to the following limitations: **[Added 8-28-2017 by Ord. No. 783]**
    - (a) No single sign shall exceed 400 square feet; and
    - (b) The total area of such occupant's signage shall not exceed the maximum square footage of signage permitted for the occupied space; and
  - (10) Notwithstanding § 275-195G(4)(c), all permitted changeable signs with an electrical changeable copy display constructed in the Mall Overlay District shall maintain a static display time of not less than seven seconds. **[Added 8-28-2017 by Ord. No. 783]**
- B. Signage in a Mall Conversion Overlay District pertaining to a multifamily residential building shall be subject to the following:
- (1) Each multifamily residential building may have up to four building identification signs affixed to the facade of the building, provided that the aggregate area of such signs shall not exceed 150 square feet; **[Amended 6-24-2019 by Ord. No. 807]**
  - (2) One ground-mounted monument sign shall be permitted which shall not exceed a height of 10 feet above the grade at the base of such monument sign, and each face of such monument sign shall not exceed a total area of 50 square feet.

**§ 275-140.9. Design guidelines.**

Development in a Mall Conversion Overlay District shall comply with design guidelines which shall be subject to Township Council's approval in conjunction with the approval of any land development application filed pursuant to the Mall Conversion Overlay District regulations.

**§ 275-140.10. Environmental controls.**

- A. All uses within the Mall Conversion Overlay District shall comply with all environmental controls of § 275-207, Subsections A through K, pertaining to noise, smoke, dust, fumes, vapors and gases, heat and glare, air quality, odor, vibration, soil erosion, sedimentation and grading control, and storage and waste disposal.
- B. The requirement for an environmental impact assessment (EIA) report meeting the standards contained in § 275-215 of the Zoning Ordinance and § 275-207, Subsections L and M pertaining to slope and traffic controls, shall not apply to a mall conversion in the Mall Conversion Overlay District.

**§ 275-140.11. Stormwater management.**

Stormwater management in a mall conversion shall be subject to the requirements of the Stormwater Management Ordinance.<sup>153</sup>

**§ 275-140.12. Pad lots.**

Individual fee simple pad lots may be created for purposes of financing and/or conveyancing in connection with development of a tract within the Mall Conversion Overlay District. Such individual pad lots shall not be required to comply on an individual basis with the dimensional requirements of this article, provided that the tract complies with such requirements on an overall basis, and provided further that a declaration of covenants, easements and restrictions is recorded that contains provisions that require each owner of a pad lot to, at all times, operate and maintain such owner's pad lot in good order and repair and in a clean and sanitary condition; that establishes cross easements for the benefit of each pad lot for parking areas and all appurtenant ways, vehicular and pedestrian access and utilities; and which is subject to the approval of the Township Solicitor. The owner of any such pad lot shall covenant and agree to be bound by all of the conditions as set in the declaration of covenants, easements and restrictions embodying the terms and conditions of this section. Where pad lots are proposed, a subdivision plan shall be submitted at the time of final plan submission and shall be approved by Township Council prior to recording.

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**153.Editor's Note: See Ch. 198, Stormwater Management.**

ARTICLE XXIV  
**PBC Planned Business Center District**

**§ 275-141. Purpose.**

The Planned Business Center District is designed primarily to provide for large-tract development along major highways and to encourage the preservation of open space within such development through a substantial front yard setback and low-density development with limited access to the highway. Further, it is the purpose and intent to encourage nonretail type use of a nature where large single users can be held responsible for the overall development.

**§ 275-142. Use regulations.**

A building on a lot may be erected or used, subject to Articles XXIX and XXX, for any of the following purposes and no other:

**A. Principal permitted uses.**

- (1) General and professional offices.
- (2) Automobile agency franchised by a recognized automobile manufacturer, provided that used automobile sales and service is limited to accessory use to automobile sales and further providing that automobile auctions, gas stations and car wash operations are excluded.
- (3) Indoor and outdoor recreation.
- (4) Research laboratory.
- (5) Schools, public or private.
- (6) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588]**

**B. Accessory uses to principal permitted uses.**

- (1) Accessory uses on the same lot and customarily incidental to the principal uses permitted in Subsection A above.

**C. Conditional uses. **[Amended 9-14-1998 by Ord. No. 588]****

- (1) Communications towers, subject to the standards for communications towers as conditional uses set forth at § 275-216.1, and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV.

**§ 275-143. Area and bulk regulations.****A. Each building shall comply with the lot area, lot width, building area and bulk regulations as hereinafter set forth.**

- (1) Minimum lot size: five acres.
- (2) Minimum lot width at building line: 200 feet.

- (3) Minimum lot width at street line: 200 feet.
- (4) Maximum building coverage: 15%.
- (5) Maximum impervious surface coverage: 65%.
- (6) Minimum front yard building setback from edge of right-of-way: 200 feet.
- (7) Minimum rear yard building setback: 100 feet.
- (8) Minimum side yard setback: 50 feet.
- (9) Minimum landscaped area: 35%.

**§ 275-144. Height regulations. [Amended 9-14-1998 by Ord. No. 588]**

The maximum height of buildings and other structures shall be 45 feet, except as provided in the special provisions in Article XXXIV, which provide for exceptions to height regulations for certain structures.

**§ 275-145. Special design and development requirements. [Amended 6-11-1990 by Ord. No. 466]**

**A. Streets, drives and access.**

- (1) There shall be no more than a single point of ingress and egress along U.S. Route 1, which shall be 40 feet in width for a distance of 150 feet from the right-of-way of Route 1. The access road shall be curbed with a planted divider 10 feet in width and shall be planted on each side of the road with trees of caliper and on-centers as approved by the Township Council.
- (2) All other drives and access roads which are two-way thoroughfares shall be a minimum of 24 feet and shall be paved and curbed in accordance with Township standards. All one-way drives shall be a minimum of 14 feet in width.
- (3) If the development is to be in stages, at each successive stage access shall be shown to all subsequent stages.

**B. Parking.**

- (1) One space for vehicle parking shall be provided for every 350 square feet of gross floor area of any office building and all other parking shall be provided according to the ratios set forth in this chapter.
- (2) Each building shall have its own parking area apart from the parking areas serving other buildings in the district.
- (3) If the lot is used for a building for an automobile agency or automobile agencies under Article XXIV, then such portion of the lot that is used for inventory of automobiles may provide parking for inventory only with aisles 20 feet in width. Parking spaces for inventory shall not be more than 10 in a row without a planted island break.

**C. Lighting.**

- (1) All lighting shall be positioned and shielded to prevent glare.
- (2) Major lighting shall be extinguished 1/2 hour after closing, except for lighting necessary for pedestrian safety or security.

D. Architectural design.

- (1) All buildings shall be designed, constructed and maintained to be compatible with one another and representative of a united architectural character.
- (2) All buildings shall be spaced at a minimum of 75 feet from one another.
- (3) All mechanical equipment and disposal facilities for trash, rubbish and other debris shall be enclosed in a building or completely screened from view by plantings or fencing.
- (4) All utilities shall be placed underground.

E. Landscaping.

- (1) A landscaped area shall be provided within the two-hundred-foot front yard building setback area in accordance with a landscaping plan approved by the Township Council in accordance with Article XXXIV.
- (2) Landscaped areas shall be provided along side yards and rear yards. The rear yard planting area shall be at least 50 feet in width. Side yard planting areas shall be at least 30 feet in width, except in areas used for access drives if approved by Township Council.
- (3) Parking areas and islands within parking areas shall be landscaped with trees, shrubs and ground covers, and the location and landscaping of such islands shall be as approved by Township Council.
- (4) Landscaping shall be provided around and between buildings, along walks and in areas of high visibility at entrances and exits, in traffic medians, in courtyards and other areas in accordance with a landscaping plan approved by Township Council.
- (5) All fencing shall be approved by the Township Engineer and shall blend harmoniously into the overall development. All chain link fences for security shall be vinyl clad and shall not exceed eight feet in height.
- (6) In an auto agency, storage area for vehicles which are wrecked, impounded or under major repair as opposed to normal maintenance service shall be indoors wherever possible. If indoor storage is not sufficient, the outdoor storage area shall be out of view of the neighboring properties and shall be bermed and planted in accordance with the direction of Township Council.

F. Signs. Signs advertising or identifying businesses and permitted uses in a Planned Business Center shall be, as allowed by conditional use, by Township Council, subject to the standards as set forth in this chapter as relating to special exceptions granted by the Zoning Hearing Board. In addition, the following standards shall apply:

- (1) No more than two freestanding signs may be erected to service all uses within the center. Such signs shall not exceed in the aggregate 140 square feet in total area and shall not exceed 25 feet in height.
- (2) Fascia signs shall be permitted but shall not exceed 150 square feet on any one side of a building and 125 square feet on any other one side of a building. Total fascia signage shall not exceed 275 square feet.
- (3) All signs shall be in accordance with other applicable regulations for signs, but in no event shall

any sign other than freestanding signs as provided in Subsection F1 above be erected within 200 feet of the right-of-way of the main highway abutting the Planned Business Center District.

- (4) Directional and minor informational signs shall be as approved by Township Council.

G. Ownership and development.

- (1) Ownership. The tract of land to be developed shall be in one ownership or shall be the subject of an application filed jointly by the owners of the entire tract and shall be under unified control. If ownership of the entire tract is held by more than one person or entity, the application shall identify and be filed on behalf of all of said owners. Approval of the plan shall be conditioned upon agreement by the applicant or applicants that the tract shall be developed under single direction in accordance with the approved plan. No site preparation or construction shall be permitted other than in accordance with the approved plan. If ownership of all or any portion of the tract changes subsequent to approval of the plan, no site preparation or construction by such new owner or owners shall be permitted unless and until such new owner or owners shall review the terms and obligations of the approved plan and agree in writing to be bound thereby with respect to development of the tract.
- (2) Development stages and permits. The development of a tract carried out in either a single phase or in stages shall be executed in accordance with a development agreement. The owner, developer and Township shall enter into said agreement embodying all details regarding compliance with this chapter to assure the binding nature thereof on the overall tract and its development, which agreement shall be recorded with the final development plan.

H. Utilities.

- (1) All uses shall be served by public water and public sewer wherever possible. In the event that it is not feasible for a Planned Business Center District to utilize public sewer, on-site sewage disposal may be allowed only upon certification of the Sewage Enforcement Officer that a proposed on-site sewage disposal system will function properly for the original or any subsequent user.

I. Review, plan requirements and performance standards.

- (1) All applicable sections of Chapter 210, Subdivision and Land Development, and Article XXXIV shall apply.
- (2) Development pursuant to this article shall be considered to be a land development and shall be subject to the regulations of Chapter 210, Subdivision and Land Development, as amended. Proposed amendments to an approved plan shall be acted upon in the same manner as the original plan.
- (3) Whenever the development is by stages, plans for each successive stage shall require preliminary and final plan review pursuant to Chapter 210, Subdivision and Land Development, as amended, and shall comply with the original plan and developer's agreement.
- (4) Completion and maintenance of improvements:
  - (a) All improvements within a particular stage shall be completed contemporaneously with the completion of the construction of the buildings in such stage, together with all site improvements in the said stage.

- (b) Provisions for the completion and maintenance of all private streets, parking lots, sidewalks, curbs, street trees, storm sewers, sanitary sewers and all other improvements pursuant to the approved plan in forms satisfactory to the Township shall be a condition precedent to approval by the Township.
- (5) To ensure that the development will continue in a unified and harmonious manner, the applicant will submit to the Township Council for approval plan or plans at all stages and phases to ensure the compatibility of the character of buildings, signs, lighting and other site structures and improvements.



ARTICLE XXV  
**O Office District**

**§ 275-146. Purpose.**

The O Office District is designed to provide opportunity for office use and to regulate office development to promote effective site design and compatibility with adjoining properties and uses. The district is also designed to provide for varying design regulations relative to the size of the tract proposed for development.

**§ 275-147. Use regulations.**

- A. Permitted principal uses. A building may be erected, altered or used and land may be used, subject to the provisions in Articles XXIX and XXX, for any of the following purposes and no others:
- (1) Offices of business, professional or financial organizations.
  - (2) Offices of individuals and of such organizations as labor unions, civic, social, fraternal and other nonprofit groups.
  - (3) Schools, including nursery, kindergarten, elementary, junior and senior high schools.
  - (4) Day-care centers.
  - (5) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. [Added 9-14-1998 by Ord. No. 588]
- B. Accessory uses to permitted principal uses.
- (1) Accessory uses on the same lot and customarily incidental to the principal uses permitted in Subsection A.
  - (2) Parking in accordance with Article XXXI.
  - (3) Signs in accordance with Article XXXII.
- C. Conditional uses.
- (1) An office for professional occupations in Subsection A.
  - (2) Private club for recreation.
  - (3) Communications towers, subject to the standards for communications towers as conditional uses set forth at § 275-216.1, and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. [Added 9-14-1998 by Ord. No. 588]

**§ 275-148. Height regulations.**

The maximum height of buildings or other structures erected, enlarged or used shall be two stories and shall not exceed 35 feet, except as provided in Article XXXIV, Special Provisions, which provide for exceptions to height regulations for certain structures.

**§ 275-149. Area and bulk regulations.**

A. Permitted principal uses.

- (1) Minimum lot area: two acres for each principal permitted building.
- (2) Minimum lot width at building line: 150 feet.
- (3) Minimum lot width at street line: 100 feet.
- (4) Maximum impervious surface coverage: 40%.
- (5) Maximum building coverage: 20%.
- (6) Minimum depth of each front and rear yard: 75 feet.
- (7) Minimum aggregate width of side yards: 125 feet.
- (8) Minimum width of each individual side yard: 50 feet.
- (9) Minimum side yard abutting the street on a corner lot: 75 feet.

**§ 275-150. Special design and development requirements.**

A. Buffer area.

- (1) A buffer area of 25 feet shall be provided, of which at least 15 feet shall be landscaped in accordance with the provisions in Article XXXIV, except as provided below.
- (2) When any use in the O Office District abuts an area zoned residential, a buffer of 100 feet shall be provided, or which at least 25 feet shall be landscaped in accordance with the provisions in Article XXXIV.

B. Water and sewers. The tract must be served with public water and a public sanitary sewer system.

C. Illumination.

- (1) All driveways, parking areas and vehicle maneuvering areas shall be adequately illuminated.
- (2) All exterior lighting shall be directed in such a way so as not to create a nuisance to the adjoining properties or roadways.
- (3) All exterior lighting shall be arranged in such a manner so as to protect the street or highway and adjoining properties from any direct or indirect glare or interference of any kind. All such lighting shall be equipped with glare shielding devices and be at a height maximum approved by the Township.

D. Parking.

- (1) No parking area shall abut a street or highway, unless separated from said street or highway by a raised curb and a buffer planting strip of the minimum width, except for necessary accessways.

E. Clear sight triangle. A clear sight triangle consistent with good safety practices, but a minimum of 50 feet, shall be maintained at all street intersections and at all points where private vehicular driveways and accessways intersect public streets.

F. Ingress and egress.

- (1) There shall be no more than two access points to any street or highway for each 400 feet or less of frontage. No two access points shall be closer than 200 feet from each line, center line to center line.
  - (2) All accessways, driveways and maneuvering lanes shall be designed in a manner conducive to safe ingress and egress and shall not be less than 100 feet from the intersection of any street or highway right-of-way lines.
- G. Distance between buildings. On any lot containing more than one building, there shall be a minimum distance of 50 feet between buildings measured from the nearest point of any other building.
- H. All development shall be in accordance with the environmental controls in Article XXXIII.
- I. All refuse storage areas shall be maintained indoors.
- J. All development shall be served by public water and public sewer.

ARTICLE XXVI  
**OC-2 Office Campus 2 District**  
**[Added 5-8-1989 by Ord. No. 442]**

**§ 275-151. Purpose.**

- A. The Office Campus 2 District is designed to provide for office use for relatively large tracts of land where individual units in separate ownership are contemplated. The district is designed to provide regulations and controls relative to size, number of units, height regulations, density and form of development.

**§ 275-152. Use regulations.**

- A. A building may be erected, altered or used and land may be used, subject to the provisions of Articles XXIX and XXX, for any of the following purposes and no other:
- (1) Permitted principal uses.
    - (a) General and professional offices.
    - (b) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588]**
  - (2) Conditional uses. Communications towers, subject to the standards for communications towers as conditional uses set forth at § 275-216.1, and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588]**

**§ 275-153. Height regulations.**

- A. The maximum height of a building or other structure erected, enlarged or used shall be two floors above grade, except as provided for exceptions to height regulations for certain structures.

**§ 275-154. Area and bulk regulations.**

- A. Minimum tract area. In order to qualify for Office Campus 2 development, a tract of land shall contain a minimum of 7.5 acres.
- B. Lot area coverage.
- (1) The footprint of each unit in an Office Campus 2 development shall be a maximum of 1,250 feet.
  - (2) The maximum number of footprints per gross acre shall not exceed 3.5.
  - (3) In clustering units, there shall be no more than six units attached to each other. Up to nine units may be attached to each other when approved as a conditional use due to unique topography or other similar circumstances.
  - (4) The distance between clusters of units shall be at least 50 feet.
  - (5) In determining the gross acreage of a tract, the square footage of all existing easements and

rights-of-way encumbering the land excluding proposed development shall be subtracted from the total square footage.

- (6) No more than 10% of the total lot area shall be occupied by the buildings.
  - (7) No more than 50% of the total area of the tract to be developed shall be occupied by building(s), parking driveways, sidewalks and other impervious surfaces.
  - (8) No more than 4,500 square feet of space for office use per gross acre shall be permitted.
- C. Building setback. No building shall be situated closer than 100 feet from any existing public street or any property line contiguous with residential zoning. If the property line is contiguous with nonresidential zoning, the setback may be reduced to 50 feet. No building shall be situated closer than 35 feet from any internal street to be built, whether dedicated or not.

**§ 275-155. Special design and development requirements.**

- A. Buffer area. The following buffer areas shall be required in accordance with Article XXXIV:
- (1) A buffer area along each existing public street of not less than 100 feet from the edge of the public right-of-way and a buffer area along each internal street, public or private, of not less than 35 feet, which shall be free of all improvements, exclusive of parking lots, which shall be no closer than 20 feet from the paved edge of a roadway.
  - (2) A buffer dividing each parking area from each other parking areas of a minimum of 15 feet in width, landscaped, except for points of ingress and egress from one parking area to another parking area.
  - (3) A buffer area along each property line abutting a residentially zoned district of not less than 100 feet, which shall be landscaped and which shall contain a planted visual barrier in accordance with the provisions in Article XXXIV.
  - (4) A buffer area along each property line abutting a zoning district other than a residentially zoned district of a minimum of 50 feet, which shall be landscaped and which shall contain a planted visual barrier in accordance with the provisions of Article XXXIV.
- B. Streets. All streets, entrance drives and internal roads shall conform in all respects to Township standards and may be held in private ownership or may be dedicated to the Township, at the option of the Township, and shall be not less than 30 feet in paved width.
- C. Walkways. Each building shall have a minimum four-foot walkway around its entire perimeter unless the Township Council directs otherwise; and on at least one side of any walkway there shall be a six-foot planted area.
- D. Parking. **[Amended 8-24-1998 by Ord. No. 587]**
- (1) One space for vehicle parking shall be provided for each 200 square feet of gross floor area of the building. The Township Council may permit not more than 40% of the required parking spaces to be designated "reserve parking" pursuant to the provisions of 275-189 hereof.
  - (2) Driveways and vehicle maneuvering areas shall be not less than 26 feet in width.
  - (3) Each cluster within an Office Campus 2 development shall have its own parking area separate and apart from the parking areas serving other buildings in the Office Campus 2 development.

Each parking place for each unit shall be within 150 feet of said cluster.

- (4) There shall be a planted area equal in dimension to at least one parking space in each row of parking in intervals of 15 parking spaces or the equivalent area grouped together at the end of each row. If grouped, there shall be no more than 30 parking spaces in a row. Planted areas equal in dimension to one parking space shall contain at least one shade tree of three inches to 3 1/2 inches in caliper and shrubs and ground cover acceptable to the Township Council. Planted areas which are grouped together shall contain the amount of shade trees, shrubs and ground cover as would be equal to the sum of individual planted areas.
- E. Lighting. All parking areas shall be adequately lighted with lighting of such quality and type and with such shielding as will not present direct glare. Major lighting shall be extinguished at 12:00 midnight, except that lighting necessary for pedestrian safety.
- F. Signs. Signs advertising and identifying units shall be permitted as follows:
- (1) Each Office Campus 2 development shall be permitted the following types of signs:
    - (a) One sign at the entrance of the development designating the name and address of the development, provided that the sign shall not exceed 50 square feet in size. Such sign shall not be more than six feet above grade unless allowed by the Township for specified safety reasons.
    - (b) One freestanding sign at the entrance to each parking area driveway indicating court (cluster) names, the maximum size of the sign to be 12 square feet, exclusive of a decorative frame, and elevated to a maximum of seven feet above grade.
    - (c) One sign attached to the wall of each unit above the entrance setting forth the occupant of such unit. Such sign shall not exceed five square feet. The sign for each unit shall be uniform in color and size with the sign in every other unit within the Office Campus 2.
    - (d) One sign for each court or cluster identifying the court or cluster, the maximum size of which may not exceed 12 square feet. This sign shall be an integral part of the building, such as part of a window design.
  - (2) All signs permitted under Subsection F(1) above are also subject to the following restrictions:
    - (a) No sign shall contain anything except numbers, words or letters of the alphabet.
    - (b) No sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
    - (c) All real estate or lease signs shall be posted within five feet of the unit subject to lease or sale.
- G. Architectural design.
- (1) Where plans for an Office Campus 2 development provide for two or more buildings, such buildings shall be of compatible architectural design, one to the other.
  - (2) All mechanical equipment and trash, garbage, rubbish and debris disposal facilities not enclosed in a structure shall be fully and completely screened from view in a manner compatible with the architectural and landscaping style of the remainder of the tract. There shall be a central trash point for each cluster.

(3) All utilities shall be placed underground.

H. Ownership and development.

(1) A tract of land to be developed as an Office Campus 2 development shall be in one ownership or be the subject of a single application filed jointly by the owners of the entire tract.

(2) The entire tract of 7.5 acres or more shall be developed as a single project under a single development plan with a single application.

(3) The submission of a subdivision or land development plan shall also include a proposed condominium agreement.

I. All other provisions of this chapter shall apply to this district.

J. A landscaping plan in accordance with § 275-214 shall be submitted with the final plans.

ARTICLE XXVII  
**OC Office Campus Overlay District**

**§ 275-156. Purpose. [Amended 5-8-1989 by Ord. No. 441]**

The OC Office Campus District is designed to promote office campus use for relatively large tracts of land along Baltimore Pike/U.S. Route 1 as an overlay to the SU-1 District or as a freestanding district where designated on the Zoning Map. The district is designed to provide regulations and controls relative to size, frontage and form of development.

**§ 275-157. Use regulations.**

A building may be erected, altered or used and land may be used, subject to the provisions in Articles XXIX and XXX, for any of the following purposes and no other:

A. Permitted principal uses:

- (1) General and professional offices.
- (2) Communications antennas mounted on an existing public utility transmission tower, building or other structure and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588]**

B. Accessory uses to permitted principal uses:

- (1) Accessory uses on the same lot and customarily incidental to the principal uses permitted in Subsection A above and as governed by the general provisions in Article XXXIII.
- (2) Parking in accordance with Article XXXI.
- (3) Signs in accordance with Article XXXII.

C. Conditional uses.

- (1) Communications towers, subject to the standards for communications towers as conditional uses set forth at § 275-216.1, and communications equipment buildings. **[Added 9-14-1998 by Ord. No. 588]**

**§ 275-158. Height regulations.**

The maximum height of buildings and other structures erected, enlarged or used shall be 45 feet or three stories, without a mezzanine, except as provided in the special provisions of this chapter, which provide for exceptions to height regulations for certain structures. (See Article XXXIV.)

**§ 275-159. Area and bulk regulations.**

- A. Minimum tract area. In order to qualify for campus development, a tract of land shall contain a minimum of 7 1/2 acres.
- B. Minimum tract frontage. In order to qualify for campus development, a tract of land shall have a minimum of 500 feet of frontage along U.S. Route 1 (Baltimore Pike).
- C. Lot area coverage.



- (1) Each building in an office campus development shall be constructed on a parcel of land which shall have a minimum area of 2 1/2 acres.
  - (2) In determining the size of a tract, the square footage of all easements and rights-of-way encumbering the land shall be subtracted from the gross square footage.
  - (3) No more than 10% of total lot area of any 2 1/2 acre lot shall be occupied by the buildings.
  - (4) No more than 60% of the total area of the tract to be developed for office campus use shall be occupied by building(s), parking, driveways, sidewalks and other impervious surfaces.
- D. Building setback. No building shall be situated closer than 100 feet from any property line or any street and 35 feet from any internal street in the tract to be developed.

**§ 275-160. Special design and development requirements. [Amended 5-8-1989 by Ord. No. 441]**

- A. Buffer area. The following buffer areas shall be required in accordance with Article XXXIV:
- (1) A buffer area along each public street of not less than 50 feet from the edge of the right-of-way and a buffer area along each internal street of not less than 15 feet from the right-of-way which shall be free of all improvements with the exception of a single freestanding sign as permitted below.
  - (2) A buffer dividing each parking area from other parking areas of a minimum of 15 feet in width, landscaped, except for points of ingress and egress from one parking area to another parking area.
  - (3) A buffer area along each property line abutting a residentially zoned district of not less than 100 feet, which shall be landscaped and which shall contain a planted visual barrier in accordance with the provisions in Article XXXIV.
  - (4) A buffer area along each property line abutting a zoning district other than a residentially zoned district of a minimum of 50 feet, which shall be landscaped and which shall contain a planted visual barrier in accordance with the provisions in Article XXXIV.
  - (5) A buffer of 200 feet from the right-of-way line of U.S. Route 1.
- B. Access. There shall be no more than one single point of ingress and egress for each 500 feet of frontage.
- C. Streets. All streets shall conform in all respects to Township standards and shall be held in private ownership and shall be not less than 25 feet in paved width with a right-of-way line of five feet on either side of the paved cartway.
- D. Walkways. Each building shall have a minimum four-foot walkway around its entire perimeter; and on at least one side of such walkway, there shall be a six-foot planted area.
- E. Parking.
- (1) One space for vehicle parking shall be provided for each 350 square of gross floor area of the building.
  - (2) Driveways and vehicle maneuvering areas shall be not less than 25 feet in width.
  - (3) Each building within an office campus development shall have its own parking area separate

and apart from the parking areas serving other buildings in the office campus development.

- (4) There shall be a planted area equal in dimension to at least one parking space in each row of parking in intervals of 15 parking spaces or the equivalent area grouped together at the end of each row. Planted areas equal in dimension to one parking space shall contain at least one shade tree of three inches to 3 1/2 inches in caliper, and shrubs and ground cover acceptable to Township Council. Planted areas which are grouped together shall contain the amount of shade trees, shrubs and ground cover as would be equal to the sum of individual planted areas.
- F. Lighting. All parking areas shall be adequately lighted with lighting of such quality and type with such shielding as will not present direct glare, major lighting shall be extinguished at midnight except that lighting necessary for pedestrian safety.
- G. Signs. Signs advertising and identifying businesses and permitted uses in Office Campus Districts.
- (1) Each office campus development shall be permitted the following types of signs:
    - (a) One sign at the entrance of the development designating the name and address of the development, provided that the sign not exceed 50 square feet in size. Such sign shall be not more than six feet above grade unless allowed by Township Council for specified safety reasons.
    - (b) One sign attached to the wall of the building in the vicinity of the entrance setting forth the name of the building and listing of tenants therein. Said sign shall not exceed 25 square feet.
    - (c) One freestanding sign in the vicinity of the building, to identify only the building, not to exceed six square feet.
  - (2) All signs permitted under Subsection B(1) above are also subject to the following restrictions:
    - (a) No sign shall contain anything except numbers, words or letters of the alphabet.
    - (b) No sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- H. Distance between buildings. There shall be a distance between buildings of a minimum of 75 feet.
- I. Architectural design.
- (1) Where plans for an office campus development provide for two or more buildings, such buildings shall be of compatible architectural design, one to the other.
  - (2) All mechanical equipment and trash, garbage, rubbish and debris disposal facilities not enclosed in a structure shall be fully and completely screened from view in a manner compatible with the architectural and landscaping style of the remainder of the tract.
  - (3) All utilities shall be placed underground.
- J. Ownership and development.
- (1) A tract of land developed as an office campus development shall be in one ownership or be the subject of a single application filed jointly by the owners of the entire tract.
  - (2) The entire tract of 7 1/2 acres or more shall be developed as a single project under a single

development plan with a single application.

- K. Plan review requirements. Where a tract of land to be developed as an office campus development does not involve subdivision of land development, Article XXXIV, concerning special procedural and application requirements, shall apply.

ARTICLE XXVIII  
**M Manufacturing and Industrial District**

**§ 275-161. Purpose.**

The M Manufacturing and Industrial District is designed primarily to meet the special requirements of the Township's older, established industrial areas and to provide standards for the possible extension of general industrial development on the same lot or tract. The district regulations are intended to provide for a broad range of industrial and related activities which are responsive to the demands of modern industrial development. The regulations are also intended to safeguard adjoining properties and to avoid environmental disturbances.

**§ 275-162. Use regulations.**

A building or combination of buildings on a lot or within an industrial district may be erected, altered or used, and a lot or premises may be used, subject to the provisions in Articles XXIX and XXX, for any of the following purposes:

A. Permitted principal uses.

- (1) Scientific or industrial research, testing or experimental laboratory or similar establishment for research or product development, provided that no processing shall be permitted except insofar as such processing is incidental to a research, experimental or testing process.
- (2) Office building or office.
- (3) Manufacture and assembly of small home, commercial and industrial electrical appliances, supplies and equipment (not including electrical machinery); electrical or electronic instruments and devices, such as precision instruments and measuring and control devices; medical, dental, drafting and similar scientific and professional instruments; optical goods and equipment; clocks and watches; and jewelry, cameras and photographic equipment.
- (4) Manufacture and packaging of products from previously prepared and manufactured materials, such as canvas, cloth, glass, fur, feathers, felt, leather, paper, wood and plastics, including clothing and other textile products.
- (5) Printing, publishing, book binding or similar establishments.
- (6) Processing of dairy and confectionery products.
- (7) Light metal processes, including metal finishing, grinding, polishing and heat treatment, metal cutting and extrusion of small products (such as costume jewelry and pins); assembly and manufacture of radio and television receivers; manufacture of light machinery (such as business machines).
- (8) Indoor storage building or warehouse, to include warehousing known as "mini storage," consisting of multiple warehouses which are either leased or sold; bottling establishment.
- (9) Governmental or public utility use or building.
- (10) An industrial park designed to accommodate or comprise a group of any of the industrial uses permitted in this district.
- (11) Communications antennas mounted on an existing public utility transmission tower, building or

other structure and communications equipment buildings. **[Added 9-14-1998 by Ord. No. 588]**

B. Accessory uses to permitted principal uses.

- (1) Accessory use on the same lot with and customarily incidental to any of the above permitted uses, which use may include living quarters for watchmen and a restaurant or cafeteria facility for employees and occupants of a permitted use.
- (2) Parking in accordance with Article XXXI.
- (3) Signs in accordance with Article XXXII.

C. Conditional uses.

- (1) Any use permitted in the B Business District, except for a restaurant, personal service shop, motel, place of amusement, dwelling or similar use.
- (2) Distributing or trucking establishment.
- (3) Food products processing.
- (4) Chemical processes not involving noxious odors or danger from fire or explosion; compounding of perfumes and pharmaceutical products.
- (5) Quarrying, provided that the minimum tract area is 10 acres.
- (6) Any use of the same general character as any use permitted in this district above, not to include use normally considered as "heavy industry," including, but not limited to, such uses as abattoir, distillation of bones, coal or wood; the manufacture of fertilizer, fireworks, explosives, iron or steel, linoleum, paint or rubber; petroleum refining; leather tanning, or any use substantially similar thereto.
- (7) Communications towers, subject to the standards for communications towers as conditional uses set forth at § 275-216.1, and communications equipment buildings, subject to the regulations set forth in § 275-216 of Article XXXIV. **[Added 9-14-1998 by Ord. No. 588]**
- (8) Regional rail facilities. **[Added 7-25-2011 by Ord. No. 720]**

**§ 275-163. Height regulations.**

The maximum height of buildings and other structures erected, enlarged or used shall be 55 feet, except as provided in the Article XXXIV, Special Provisions, which provides for exceptions to height regulations for certain structures.

**§ 275-164. Area and bulk regulations.**

A. Permitted principal uses and conditional uses, except for § 275-162C(5).

- (1) Minimum lot area: two acres for each principal permitted building.
- (2) Minimum lot width at building line: 150 feet.
- (3) Minimum lot width at street line: 150 feet.
- (4) Maximum impervious surface area: 60%.

- (5) Maximum building coverage: 40%.
  - (6) Minimum depth of front and rear yard: 90 feet.
  - (7) Minimum aggregate width of side yards: 160 feet.
  - (8) Minimum width of each individual side yard: 75 feet.
  - (9) Minimum yard abutting the street on a corner lot: 90 feet.
- B. Other uses. For certain conditional uses, the area and bulk regulations shall be as follows: **[Added 7-25-2011 by Ord. No. 720]**
- (1) Regional rail facilities.
    - (a) There shall be no minimum tract or lot area requirements.
    - (b) Setbacks for parking garages, parking lots, station buildings and other occupied buildings shall be located no closer than 50 feet from adjacent residential property lines.
    - (c) There shall be no minimum setbacks from the street line.

**§ 275-165. Special design and development requirements.**

- A. Environmental controls. Each permitted use shall comply with the environmental controls contained in Article XXXIII which relate to the characteristics and conduct of a use relative to various air, water and land disturbances.
- B. Buffer area and landscaping. All uses in the M Districts shall provide and maintain landscaped grounds and make any other suitable screening provision which is necessary to adequately safeguard the character of adjacent districts. Along each property line which directly abuts a residential district, a buffer area not less than 100 feet in width shall be provided, of which at least 30 feet shall be landscaped with trees and shrubs. All buffer areas and landscaping shall be in accordance with Article XXXIV.
- C. Distance between buildings. The distance at the closest point between buildings or groups of buildings on a lot shall be at least 50 feet.

**§ 275-166. Plan submission, review and approval.**

Each application for a permit to erect, construct or alter any building within a M Manufacturing District or to modify a previously approved plan shall comply with the applicable provisions of Article XXXIV relating to plan submittal and review.

ARTICLE XXIX  
**Floodplain Conservation District**

**Statutory Authorization**

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Township Council of the Township of Middletown hereby ordains as follows:

**§ 275-167. Findings.**

- A. Flooding can result in loss of property and life, damage to structures, injury to people, disruption of public and private activities and services, burdensome public expenditures for flood protection and relief and the loss of public and private revenues. Much of the harm caused by flooding occurs because of:
  - (1) The cumulative effect of obstructions, land uses and activities in the natural floodplain which cause increased flood heights and velocity; and
  - (2) The development of uses vulnerable to floods in areas subject to flooding.

**§ 275-168. Statement of intent.**

- A. In addition to the general goals and objectives of this chapter, it is the purpose of this article to eliminate or minimize the harmful effects of flooding.
- B. This article is also intended to meet the requirements of the National Flood Insurance program and to comply with the Pennsylvania Floodplain Management Act, as amended, the regulations of the Pennsylvania Department of Community and Economic Development promulgated pursuant to the Act. However, in several respects, the provisions of this article are intended to exceed minimal statutory requirements.
- C. To reduce the threat of flooding, the provisions of this article are designed to:
  - (1) Minimize the public and private financial burdens caused by floods;
  - (2) Prevent the construction of buildings and other structures in areas unfit for such uses because of flooding;
  - (3) Discourage the creation of lots where the lot area is subject to flooding;
  - (4) Require that any new lot which is created with part of its area subject to flooding be configured so that it will provide a safe building site with adequate access;
  - (5) Require that prospective purchasers and/or lessees be given prior notice that the property being sold or leased is located within an area subject to flooding and/or that the existing use is permitted only as a conditional use or variance subject to conditions of this chapter;
  - (6) Permit only those uses in areas subject to flooding which are compatible with sound conservation practices and the preservation of desirable natural conditions which promote the maintenance of water flow rates throughout the year;
  - (7) Prevent downstream damage from increased flood volumes and rates of flow while permitting

- uses of the floodplain which are compatible with the preservation of natural conditions necessary to preserve stormwater conveyance functions of the floodplain;
- (8) Control development which, alone or in combination with other development, could create or contribute to flood damage and disruption;
  - (9) Permit certain uses which are appropriate for areas subject to flooding and which will not impede the flow of flood waters or otherwise create situations harmful to life or property either above or below their locations;
  - (10) Limit reconstruction of damaged or destroyed structures located in areas subject to flooding;
  - (11) Limit the expansion of structures and uses located in areas subject to flooding;
  - (12) Require that all uses in areas subject to flooding be appropriately protected against flood damage;
  - (13) Preserve the ability of floodplain areas to store and absorb stormwater runoff and protect their stormwater carrying capacity to stabilize the rate of stormwater discharge;
  - (14) Prevent increases in flood volume and upstream flood elevations which result from placing impervious surfaces and obstructions in floodplains and drainage channels;
  - (15) Preserve areas for stormwater-carried sediment to be deposited;
  - (16) Protect the integrity of stream banks and their immediately surrounding area from erosion and degradation;
  - (17) Conserve trees and other vegetation which help to prevent stream bank erosion and protect stream waters from sedimentation;
  - (18) Protect drainage courses necessary to carry abnormal stormwater volumes in periods of heavy precipitation;
  - (19) Prevent pollution of surface and subsurface water supplies and promote groundwater recharge.
  - (20) Promote the general health, welfare, and safety of the community. **[Added 11-8-2010 by Ord. No. 715]**

**§ 275-169. Warning and disclaimer of liability.**

- A. This article shall not create liability on the part of Middletown Township or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.
- B. The degree of flood protection required by this article is considered appropriate for regulatory purposes. These regulations are based upon available data. Areas subject to flooding by storms larger than the five-hundred-year storm are not regulated. Even the five-hundred-year floodplain may be larger than existing data reveals. Also, floodplains may change location or increase in size, and flood heights may be increased by man-made or natural causes. Areas outside the Floodplain Conservation District or land uses permitted within the District may be subject to flooding or flood damage.

**§ 275-170. Floodplain Conservation District Map. [Amended 10-25-1993 by Ord. No. 527]**



- A. The Floodplain Conservation District Map<sup>154</sup> is incorporated into this chapter and shall be an overlay district to the Zoning Map.
- B. Identified floodplain area. **[Amended 12-14-2009 by Ord. No. 709]**
- (1) The identified floodplain area shall be any areas of Middletown Township, subject to the one-hundred-year flood, identified as a special flood hazard area in the Flood Insurance Study (FIS) dated November 18, 2009, and the accompanying maps or most recent revisions thereof as issued by the Federal Emergency Management Agency, including all digital data developed as part of the Flood Insurance Study (FIS). The above-referenced FIS and Flood Insurance Rate Map (FIRM) and any subsequent revisions and amendments are hereby adopted by the Township of Middletown and declared to be a part of this chapter. The identified floodplain area shall consist of the following specific areas: **[Amended 11-8-2010 by Ord. No. 715]**
- (a) The floodway area shall be those areas identified in the FIS and the FIRM as "floodway" 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. **[Amended 8-24-2015 by Ord. No. 758]**
- [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 analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- [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 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. **[Amended 8-24-2015 by Ord. No. 758]**
- [1] 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.
- (c) The A Area 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 base flood elevation shall be determined by using the elevation of a point on the boundary of the identified Floodplain area which is nearest the construction site. **[Amended 8-24-2015 by Ord. No. 758]**
- (d) FA (General Floodplain Area) - The areas identified as Zone A in the FIS for which no

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154.Editor's Note: Said map is available in the online version of the Township Code and in the Township offices.

one-hundred-year flood elevations have been provided. When available, information from other federal, state, and other acceptable sources shall be used to determine the one-hundred-year elevation, as well as a floodway area, if possible. When no other information is available, the one-hundred-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 in sufficient detail to allow a thorough technical review by the Township.
- C. Amending the map. The delineation of the FW, AE and A portions of the Floodplain Conservation District may be revised, amended or modified by Council, in compliance with the National Flood Insurance Program when: **[Amended 12-14-2009 by Ord. No. 709; 8-24-2015 by Ord. No. 758]**
- (1) There are changes in flood elevations through natural or other causes.
  - (2) Different locations are identified by additional hydrologic, hydraulic or soils information.
- D. The identified floodplain area may be revised or modified by the Township Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency (FEMA). Additionally, as soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data. **[Amended 12-14-2009 by Ord. No. 709; 11-8-2010 by Ord. No. 715]**

#### **§ 275-171. Identifying areas subject to regulations.**

- A. Identifying map boundaries on the ground.
- (1) The boundaries of the Floodplain Conservation District and the four subdistricts shall be determined initially by scaling the distances as shown on the Floodplain Conservation District Map. Where there appears to be a conflict between a mapped boundary and actual field conditions, the Township Engineer shall determine the district and/or subdistrict boundaries using the best available information. The applicant may submit additional information in support of a proposed boundary relocation.
  - (2) The Township Engineer's determination shall be controlling unless appealed. Any party aggrieved by the Township Engineer's determination or other decision or determination under this Section may appeal to the Zoning Hearing Board. The person contesting the Township Engineer's determination shall have the burden of proof on any such appeal. If the Township Engineer's initial determination is challenged, the Township Engineer shall make a written report of the results of his initial determination, and the reasons therefor, which shall be made available to the applicant and any other appellants.
  - (3) No determination by Council or decision by the Zoning Hearing Board shall constitute a reduction of the FW or AE Area subdistricts until such reduction is approved by the Federal Emergency Management Agency. **[Amended 12-14-2009 by Ord. No. 709; 8-24-2015 by Ord.**

**No. 758]**

- B. The Floodplain regulations shall apply to all areas actually subject to flooding. Therefore, the Floodplain Conservation District, as mapped, is only a guide to the minimum area subject to these regulations.

**§ 275-172. Regulations.**

- A. Applicability. These provisions shall apply to all areas of Middletown Township which are within the Floodplain Conservation District and any other areas which are subject to flooding, now or in the future. This article supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this article, the more restrictive shall apply. **[Amended 12-14-2009 by Ord. No. 709]**
- B. Compliance. No structure, land or course or body of water shall be used, improved or developed and no structure shall be located, expanded, converted or structurally altered without full compliance with the terms of this section and all other applicable regulations. Such regulations include, but are not necessarily limited to, the Pennsylvania Sewage Facilities Act, as amended, the Pennsylvania Dam Safety and Encroachment Act, as amended, the Pennsylvania Clean Streams Act, as amended, and the Federal Clean Water Act.
- C. General performance standard.
- (1) Under no circumstances shall any use, activity and/or development in the Floodplain Conservation District adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch or any other drainage facility or system or any stormwater management system; or cause any increase in the area inundated by the one-hundred-year flood.
  - (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. **[Added 11-8-2010 by Ord. No. 715<sup>155</sup>]**
  - (3) Applicants shall file the following minimum information plus any other pertinent information as may be required by the Township Engineer to make the above determination: **[Added 12-14-2009 by Ord. No. 709]**
    - (a) A completed building permit application form.
    - (b) A plan of the entire site drawn at a scale of one inch being equal to 100 feet or less, showing the following: **[Amended 11-8-2010 by Ord. No. 715]**
      - [1] North arrow, scale and date;
      - [2] Topographic contour lines, if available;
      - [3] All property and lot lines including dimensions and the size of the site expressed in acres or square feet;
      - [4] The locations of all existing and proposed buildings, structures and other improvements, including the location of any existing or proposed subdivision and

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155.Editor's Note: This ordinance also renumbered former Subsection C(2) and (3) as Subsection C(3) and (4), respectively.

land development;

- [5] The location of all existing streets, drives and other accessways;
  - [6] 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;
  - [7] The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
  - [8] The elevation of the base flood;
  - [9] Supplemental information as may be necessary under 34 Pa. Code, the 2009 IBC or the 2009 IRC.
- (c) The following data and documentation: **[Added 11-8-2010 by Ord. No. 715]**
- [1] If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood elevation;
  - [2] Detailed information concerning any proposed floodproofing measures and corresponding elevations;
  - [3] Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within a floodway, when combined with all other existing and anticipated development, will not increase the base flood elevation at any point. **[Amended 8-24-2015 by Ord. No. 758]**
  - [4] A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood elevation. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.
  - [5] Detailed information needed to determine compliance with § 275-173A(2)(d), regarding storage, and § 275-173A(4)(d), regarding development which may endanger human life, including:
    - [a] The amount, location and purpose of any materials or substances referred to in § 275-173A(2)(d), regarding storage, and § 275-173A(4)(d), which are intended to be used, produced, stored or otherwise maintained on site.
    - [b] 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 § 275-173A(4)(d) during a base flood.
  - [6] The appropriate component of the Department of Environmental Protection's Planning Module for Land Development.
  - [7] Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control.

- (d) If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that: **[Added 11-8-2010 by Ord. No. 715]**
  - [1] All such proposals are consistent with the need to minimize flood damage and conform to the requirements of this and all other applicable codes and ordinances;
  - [2] All utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage;
  - [3] Adequate drainage is provided so as to reduce exposure to flood hazards;
  - [4] Structures will be anchored to prevent floatation, collapse, or lateral movement;
  - [5] Building materials are flood-resistant;
  - [6] Appropriate practices that minimize flood damage have been used;
  - [7] Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation.
- (e) Applications for permits shall be accompanied by a fee, payable to the municipality based upon the Township of Middletown master fee schedule resolution. **[Added 11-8-2010 by Ord. No. 715]**
- (4) Building permit required and issuance of building permit. **[Added 12-14-2009 by Ord. No. 709]**
  - (a) Building permits required. Building permits shall be required before any construction or development is undertaken within any area of the Township.
  - (b) Issuance of building permit. Prior to the issuance of any building or zoning permit, the Building Permit Officer shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1965-537, as amended)<sup>156</sup>; the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended)<sup>157</sup>; the Pennsylvania Clean Stream Act (Act 1937-394, as amended)<sup>158</sup>; and the U.S. Clean Water Act, Section 404, 33 U.S.C. § 1344. No permit shall be issued until this determination has been made.
- D. Alteration of watercourses. Before any stream or other watercourse within the Township is altered or relocated, a permit must be obtained from the Pennsylvania Department of Environmental Protection (DEP), Bureau of Dams and Waterway Management, or verification from DEP that such permit is not required. Notification of such a proposed alteration or relocation shall be given to all affected adjacent municipalities. Copies of such notifications shall also be forwarded to the Federal Emergency Management Agency and the Pennsylvania Department of Community and Economic Development.

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

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

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

- E. Special requirements for subdivisions. All subdivision proposals and development proposals containing at least 50 lots or at least five acres, whichever is the lesser, in flood hazard areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a conditional letter of map revision or letter of map revision. Submittal requirements and processing fees shall be the responsibility of the applicant. **[Added 11-8-2010 by Ord. No. 715]**
- F. Special requirements for recreational vehicles. Recreational vehicles in Zones A1-30, All and AE must either: **[Added 11-8-2010 by Ord. No. 715]**
- (1) Be on the site for fewer than 180 consecutive days;
  - (2) Be fully licensed and ready for highway use; or
  - (3) Be removed from the floodplain when a flood warning is issued. **[Amended 8-24-2015 by Ord. No. 758]**
- G. Floodplain Administrator. **[Added 11-8-2010 by Ord. No. 715]**
- (1) Designation of Floodplain Administrator. The Zoning Officer of the Township of Middletown is hereby appointed to administer and enforce this chapter and is referred to herein as the Floodplain Administrator.
  - (2) Duties and responsibilities of Floodplain Administrator.
    - (a) The Floodplain Administrator shall issue a permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
    - (b) Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended),<sup>159</sup> the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended),<sup>160</sup> the Pennsylvania Clean Streams Act (Act 1937-394, as amended);<sup>161</sup> and the U.S. Clean Water Act, Section 404, 33 U.S.C. 1344. No permit shall be issued until this determination has been made.
    - (c) In the case of existing structures, prior to the issuance of any development permit, the Floodplain Administrator shall review the history of repairs to the subject building so that any repetitive loss issues can be addressed before the permit is issued.
    - (d) During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
    - (e) In the discharge of his/her duties, the Floodplain Administrator shall have the authority to

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

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

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

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.

- (f) In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the permit and report such fact to the Township Council of the Township of Middletown for whatever action it considers necessary.
- (g) The Floodplain Administrator shall maintain in perpetuity all records associated with the requirements of this chapter, including, but not limited to, permitting, inspection and enforcement. **[Amended 8-24-2015 by Ord. No. 758]**
- (h) The Floodplain Administrator shall consider the requirements of the 34 Pa. Code and the 2009 International Building Code and the 2009 International Residential Code or latest revisions thereof.

**§ 275-173. Use regulations. [Amended 10-25-1993 by Ord. No. 527; 12-14-2009 by Ord. No. 709]**

A. The following uses and no others shall be permitted in all identified floodplain areas, provided that no buildings shall be erected. **[Amended 11-8-2010 by Ord. No. 715]**

- (1) Permitted uses. The following uses shall be permitted, provided that they will not cause an increase in the one-hundred-year flood height:
  - (a) Agricultural uses such as pastures, orchards, grazing and outdoor plant nurseries. Such activities shall be conducted in accordance with a plan approved by the Delaware County Soil and Water Conservation District or recognized soil conservation practices approved by the Township. No plowing shall be permitted.
  - (b) Selective cutting of trees, provided that desirable mature shade trees are not eliminated; particular attention is paid to retaining trees within 25 feet of any stream bank; and no mature trees growing upon a stream bank shall be removed unless dead, diseased or damaged and threatening the stability of the bank.
  - (c) Recreation uses such as parks, camps, picnic grounds, golf courses, golf driving ranges, archery and shooting ranges, hiking and riding trails, hunting and fishing areas, game farms and fish hatcheries, provided that no tennis or basketball courts or other uses involving significant paved areas and/or fences shall be permitted.
- (2) Conditional uses. The following uses are permitted only when Council grants a conditional use pursuant to a specific application. In considering applications for these conditional uses, Council shall be guided by the factors cited in § 275-174 of this article and Article XXXVI of this chapter:
  - (a) Storm and sanitary outlets, but not in the FW subdistricts;
  - (b) Circuses, festivals and similar transient amusement enterprises.
  - (c) Boat rentals, docks and piers.
  - (d) Storage of materials and equipment, provided that they are not buoyant, flammable or

explosive; are not prohibited by Subsection A(4)(c) and (d) below; are not subject to major damage by flooding; and provided that such material and equipment is firmly anchored to prevent flotation or movement and/or can be readily removed from the area within the time available after flood warning.

- (e) Other similar uses and activities, provided they cause no increase in the one-hundred-year flood heights, velocities and/or direction or otherwise represent a potential safety hazard. All uses, activities and structural improvements shall be undertaken in strict compliance with the floodproofing provisions contained herein and with all other applicable codes and ordinances.
- (3) Accessory uses. Accessory uses, which do not involve structures, customarily incidental to the permitted use or the approved conditional use.
- (4) Activities and uses specifically prohibited. The following activities and uses are not permitted whether proposed in conjunction with a permitted use or otherwise in all identified floodplain areas. **[Amended 11-8-2010 by Ord. No. 715]**
- (a) Clear-cutting.
    - [1] Clear-cutting of trees or the clearing of vegetation, except where such clearing is necessary to:
      - [a] The preparation of land for a permitted use or approved conditional use;
      - [b] A reforestation measure; or
      - [c] A means to eliminate dead, diseased or hazardous tree stands.
    - [2] Where a clear-cutting operation is deemed permissible for one of the above reasons, it shall be consistent with the terms of a woodland management plan approved by Council. Under no circumstances shall a clear-cutting operation be conducted within 50 feet of a stream.
  - (b) Sod farming.
  - (c) Storage of any material which, if inundated, would float; any flammable or toxic material; any other material which, if inundated, or otherwise released to the stream, would degrade or pollute the stream or cause damage if swept downstream.
  - (d) Under no circumstances will the following activities and/or development be located, enlarged or expanded since they present a special hazard to the safety and health of the public:
    - [1] Hospitals (public or private).
    - [2] Nursing homes (public or private).
    - [3] Jails or prisons.
    - [4] Individual mobile homes, new mobile home parks, mobile home subdivisions and substantial improvements thereto.
    - [5] Production and/or storage of the following toxic chemicals and the construction, enlargement or expansion of any structure which would be used for the production,



storage or maintenance of such toxic chemicals:

- [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] Phosphorous.
- [n] Potassium.
- [o] Sodium.
- [p] Sulphur and sulphur products.
- [q] Pesticides (including insecticides, fungicides and rodenticides).
- [r] Radioactive substances, insofar as such substances are not otherwise regulated.
- [s] Any other toxic and/or dangerous materials or substances regulated by the appropriate federal or state agencies.

(e) Depositing fill material.

(f) No part of any on-lot or on-site sewage disposal system.

(g) Any new construction, development, use, activity, or encroachment that would cause any increase in flood heights.

B. Special floodplain area (A Area). Within any A Area (special floodplain area), no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the one-hundred-year flood more than one foot at any point. **[Amended 8-24-2015 by Ord. No. 758]**

C. Development of lots partially within the Floodplain Conservation District. When part of a lot is in the Floodplain Conservation District and part is in another district and the part in such other district is to be developed, such development shall comply with the following:

- (1) To the extent not prohibited by other requirements of this chapter, parts of lots within the Floodplain Conservation District may be counted toward the minimum lot area and density requirements of the district where the development, use or activity is to be located.
  - (2) No part of any yard or setback required for any other district may be located within the Floodplain Conservation District.
- D. Existing nonconforming structures and uses. Existing structures and land uses within the Floodplain Conservation District which do not conform to the requirements of this section may continue but must comply with the following:
- (1) Existing structures located in the Floodway (FW) shall not be expanded or enlarged.
  - (2) Any modification, repair, reconstruction or improvement of any existing structure in the Floodway (FW) must be authorized by the Zoning Hearing Board as a special exception and must comply with the requirements listed in § 275-174 and in the Building Code,<sup>162</sup> provided that the cost of such construction shall not exceed 50% of the fair market value of the structure prior to the start of construction of the improvement. This term includes structures which have incurred substantial damage.
  - (3) Existing uses (other than structures) located in the Floodway (FW) may be expanded only when authorized as a special exception by the Zoning Hearing Board, provided that such expansion shall not cause an increase in flood levels.
  - (4) The expansion, enlargement or the substantial modification, alteration, repair, reconstruction or improvement of an existing structure or use located in the AE Area or A Area subdistricts must be authorized as a special exception by the Zoning Hearing Board and must comply with the requirements of § 275-174. **[Amended 8-24-2015 by Ord. No. 758]**
  - (5) No nonconforming structure located in the FW or AE Area subdistricts which is destroyed to an extent that reconstruction would cost 50% or more of its predamage fair market value shall be reconstructed. **[Amended 8-24-2015 by Ord. No. 758]**
  - (6) Council may authorize, as a conditional use, the expansion, enlargement, alteration, repair, improvement or reconstruction of any structure located in the Floodplain Conservation District which is listed in or determined to be eligible for the National Register of Historic Places or the Pennsylvania Inventory or Register of Historic Places. In deciding upon any such application, Council shall consider the degree to which the requested use will be essential to preserving the structure and weigh the preservation benefits of the proposed use against its potential impact on flood heights and velocities and the flood hazards attendant to the structure itself. In no event shall a conditional use be granted that would result in an increase in flood heights within the Floodway (FW) subdistrict.
- E. Improvements. The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:
- (1) No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the one-hundred-year flood.
  - (2) No expansion or enlargement of an existing structure shall be allowed within any A Area that would, together with all other existing and anticipated development, increase the one-hundred-

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162. Editor's Note: See Ch. 89, Art. II, Building Standards.

year flood elevation more than one foot at any point. **[Amended 8-24-2015 by Ord. No. 758]**

- (3) 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 article.
- (4) Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of "repetitive loss" shall be undertaken only in full compliance with the provisions of this chapter. **[Added 11-8-2010 by Ord. No. 715]**

F. Zoning applicable to land removed from the Floodplain Conservation District. Should the Floodplain Conservation District, which is an overlay district, become inapplicable to any tract by reason of amendment by Council or interpretation by Township Engineer or the Zoning Hearing Board or a court of competent jurisdiction, the zoning applicable to such tract shall be that of the (underlying) district in which the land is located.

**§ 275-174. Conditional use and special exception applications. [Amended 10-25-1993 by Ord. No. 527]**

- A. Burden of proof. The applicant for a conditional use or special exception must establish that the use proposed complies with all of the requirements of this section and the specific standards and criteria in Subsection C below. At the hearing on such an application, opponents who seek the denial of the application should be prepared to identify and establish specific aspects of the proposed use which do not comply with this chapter.
- B. Evidence in support of the application. **[Amended 12-14-2009 by Ord. No. 709]**
  - (1) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
    - (a) The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
    - (b) The elevation of the one-hundred-year flood;
    - (c) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one-hundred-year flood; and
    - (d) Detailed information concerning any proposed floodproofing measures and corresponding elevations. **[Amended 11-8-2010 by Ord. No. 715]**
    - (e) Supplemental information as may be necessary under 34 Pa. Code, Chapters 401-405 as amended, and Sections 1612.5.1, 104.7 and 109.3 of the 2003 IBC and Sections R106.1.3 and R104.7 of the 2003 IRC.
  - (2) The following data and documentation:
    - (a) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an A Area (special floodplain area), when combined with all other existing and anticipated development, will not increase the elevation of the one-hundred-year flood more than one foot at any point. **[Amended 8-24-2015 by Ord. No. 758]**

- (b) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the one-hundred-year 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.
  - (c) Detailed information needed to determine compliance with §§ 275-173A(2)(d) and 275-173A(4)(d)[5]. **[Amended 11-8-2010 by Ord. No. 715]**
  - (d) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
  - (e) Where any excavation of grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
- C. Standards and criteria to be applied to applications.
- (1) In addition to the standards and criteria stated in Article XXXVI of this chapter, Council, in deciding conditional use applications and the Zoning Hearing Board in deciding special exception applications, shall consider the following general criteria and apply the following specific standards:
    - (a) General criteria.
      - [1] The danger to life and property due to increased flood heights or velocities caused by encroachments.
      - [2] The danger that materials may be swept onto other lands or downstream to injure persons or property.
      - [3] The proposed water supply and sanitation systems and ability of these systems to prevent contamination and unsanitary conditions.
      - [4] The susceptibility of the proposed use to flood damage and the effect of such damage on the users.
      - [5] The importance of the use to the community.
      - [6] The need for a waterfront location for the use and any unique characteristics of the site.
      - [7] The availability of alternative locations not subject to flooding.
      - [8] The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
      - [9] The relationship of the proposed use to the comprehensive plan and the flood management facilities and needs of the area and the Township.
      - [10] The safety of and need for access to the use, during flooding, by both ordinary and emergency vehicles.
      - [11] The expected heights, velocity, duration, rate of rise and sediment transport of the

floodwaters expected at the site, the impact of these conditions on the proposed use and of the use on these flood characteristics.

- [12] The likelihood that the proposed use will result in extraordinary public expense or create public nuisance.
  - [13] The possibility that the proposed use will alter natural water flows or water temperatures.
  - [14] Any adverse effects, degradation or destruction of historic sites, structures or wildlife habitats.
  - [15] Any adverse impact, during construction or afterward, of the proposed use on stream bank and soil stability.
  - [16] Such other factors as are relevant to the purposes and intent of this chapter.
- (b) Specific standards.

- [1] No conditional use or special exception shall be granted for any proposed use, development or activity that will cause any increase in flood levels during the one-hundred-year flood.

- [2] Elevation. **[Amended 12-14-2009 by Ord. No. 709]**

- [a] Any new development, construction or substantial improvement to an existing structure shall have the lowest floor (including basement) elevated to 1 1/2 feet above the one-hundred-year flood level. All proposed lowest floor and basement elevations shall be shown in relation to mean sea level, based upon the North American Vertical Datum of 1988. However, in areas shown on the Federal Emergency Management Agency's Flood Insurance Rate Map as "AE Area," the required elevation shall be based on the profiles contained in the Flood Insurance Study of Delaware County, Pennsylvania, prepared by FEMA dated November 18, 2009, as may be revised, with the lowest floor elevated a minimum of 1 1/2 feet above the base flood height as shown therein. Also, in areas where no detailed study has been done, the required elevation shall be determined by selecting the point on the boundary of the Floodplain Conservation District, nearest to the site in question and locating the lowest floor of the structure 1 1/2 feet above such elevation. **[Amended 8-24-2015 by Ord. No. 758]**

- [b] Space below the lowest floor.

- [i] Partially enclosed and fully enclosed space below the lowest floor (including basement) is prohibited.
  - [ii] Consideration may be given to the requirements of 34 Pa. Code (Chapters 401-405 as amended) and the 2003 IRC (Sections R323.2.2 and R323.1.4) and the 2003 IBC (Sections 1612.4, 1612.5, 1202.3.2 and 1203.3.3) as amended.
- [3] All such structures shall be securely anchored to prevent flotation, collapse and lateral movement and shall employ construction materials and techniques to

minimize flood damage. Appropriate drainage shall be provided.

- [4] The provisions of all other federal and state rules and regulations are applicable to such construction.
- [5] Required floodproofing measures may include, without limitation because of specific enumeration, the following:
  - [a] Installation of watertight doors, bulkheads and shutters.
  - [b] Reinforcement of walls to resist water pressures.
  - [c] Use of paints, membranes or mortars to reduce seepage of water through walls.
  - [d] Addition of mass or weight to structures to resist flotation.
  - [e] Installation of pumps to lower water levels in structures.
  - [f] Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters.
  - [g] Pumping facilities for subsurface external foundation wall and basement floor pressures.
  - [h] Construction to resist rupture or collapse caused by water pressure or floating debris.
  - [i] Cutoff valves on sewer lines or the elimination of gravity flow basement drains.
- [6] The following minimum standards shall apply for all construction and development proposed within any identified floodplain area: **[Amended 12-14-2009 by Ord. No. 709]**
  - [a] Fill. If fill is used, it shall:
    - [i] Extend laterally at least 15 feet beyond the building line from all points;
    - [ii] Consist of soil or small rock materials only; sanitary landfills shall not be permitted;
    - [iii] Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
    - [iv] Be no steeper than one vertical to two horizontal feet unless substantiated data, justifying steeper slopes, are submitted to and approved by the Building Permit Officer; and
    - [v] Be used to the extent to which it does not adversely affect adjacent properties. The provisions contained in the 2003 IBC (Sections 1801.1 and 1803.4) shall be utilized.
  - [b] Water and sanitary sewer facilities and systems.
    - [i] All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.

- [ii] Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
  - [iii] No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
- [c] 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.
- [d] 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.
- [e] Anchoring.
  - [i] All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
  - [ii] 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.
  - [iii] The design and construction requirements of the UCC pertaining to this subsection as referred to in 34 Pa. Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Sections 1605.2.2, 1605.3.1.2, 1612.4 and Appendix G501.3), the IRC (Sections R301.1 & R323.1.1) and ASCE 24-98 (Section 5.6) shall be utilized.
- [f] Floors, walls and ceilings.
  - [i] 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.
  - [ii] Plywood used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
  - [iii] 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.
  - [iv] Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other water-resistant material.
  - [v] The provisions of the UCC pertaining to this subsection and referenced in the 34 Pa. Code (Chapters 401-405, as amended) and contained in the 2003 IBC (Sections 801.1.3, 1403.2, 1403.4, 1403.6 and 1404.2), the

2003 IRC (Sections R323.1.7 & R501.3) and ASCE 24-98 (Chapter 6).

[g] Paints and adhesives.

- [i] Paints and other finishes used at or below the regulatory flood elevation shall be of marine or water-resistant quality.
- [ii] Adhesives used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
- [iii] All wooden components (doors, trim, cabinets, etc.) shall be finished with a marine or water-resistant paint or other finishing material.
- [iv] The standards and specifications contained in 34 Pa. Code (Chapters 401-405, as amended) the 2003 IBC (Sections 801.1.3, 1403.7 and Appendix G) and the 2003 IRC (Section R323.1.7.).

[h] Electrical components.

- [i] Electrical distribution panels shall be at least three feet above the one-hundred-year flood elevation.
- [ii] Separate electrical circuits shall serve lower levels and shall be dropped from above.
- [iii] The provisions pertaining to the above provisions and referenced in the UCC and 34 Pa. Code (Chapters 401-405) as amended and contained in the 2003 IBC (Section 1612.4), the IRC (Section R323.1.5), the 2000 IFGC (Sections R301.5 and R1601.3.8) and ASCE 24 (Chapter 8) shall be utilized.

[i] Equipment.

- [i] 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.
- [ii] The provisions pertaining to the above provision and referenced in the UCC and 34 Pa. Code (Chapters 401-405), as amended and contained in the 2003 IBC (Section 1612.4), the 2003 IRC (Section R323.1.5) the 2000 IFGC (Sections R301.5 and R1601.3.8) and ASCE 24 (Chapter 8) shall be utilized.

D. Council, in deciding conditional use applications, and the Zoning Hearing Board, in deciding special exception applications, shall attach such conditions to approved uses as are necessary implement the intent of this section in terms of the specific use and site.

**§ 275-175. Appeals to the Zoning Hearing Board.**

The Zoning Hearing Board shall hear and decide all appeals from administrative actions and determinations under this article.

**§ 275-176. Variances.**



- A. The Zoning Hearing Board shall hear and decide all requests for variances from the terms of this article. In making its decision, the Board shall consider the factors listed in Section 912 of the Pennsylvania Municipalities Planning Code, as amended,<sup>163</sup> and those listed in § 275-174C(1)(a). Council has determined that no variance from the terms of this article is de minimus and, therefore, to be entitled to relief, the applicant for a variance must establish that this article imposes an unnecessary hardship.
- B. In reviewing any request for a variance, the Township 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:
    - (a) Neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety or extraordinary public expense; nor
    - (b) Create nuisances, cause fraud on or victimize the public or conflict with any other applicable state statute or regulation.
- C. If the Board determines that a variance from the terms of this article shall be granted, the Board shall attach such conditions to the approved application as are necessary to maximize the proposed use's compliance with the intent of this section. Whenever a variance is granted to permit the erection or expansion of a structure, the Board shall require, as a condition, that the terms of the approval be recorded so that they appear within the chain of title of the property. Appropriate conditions may include, but are not limited to, the following:
- (1) Special designs for waste disposal and water supply facilities.
  - (2) Imposition of operational controls, sureties and deed restrictions.
  - (3) Floodproofing measures such as the following:
    - (a) Anchorage to resist flotation, collapse or lateral movement of any structure.
    - (b) Installation of watertight doors, bulkheads and shutters.
    - (c) Reinforcement of walls to resist water pressures.
    - (d) Use of paints, membranes or mortars to reduce seepage of water through walls.
    - (e) Addition of mass or weight to structures to resist flotation.
    - (f) Installation of pumps to lower water levels in structures.
    - (g) Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters.
    - (h) Pumping facilities for subsurface external foundation wall and basement floor pressures.
    - (i) Construction to resist rupture or collapse caused by water pressure or floating debris.

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**163.Editor's Note: See 53 P.S. § 10912.**

- (j) Cutoff valves on sewer lines or the elimination of gravity flow basement drains.
  - (k) Elevation of structures to reduce likelihood of flood damage.
- D. No variance shall be granted for any construction, development, use or activity: **[Amended 12-14-2009 by Ord. No. 709]**
  - (1) Within any floodway (FW) area that would cause any increase in the one-hundred-year flood elevation. All structures shall be designed and constructed so as to have the capability of resisting the one-hundred-year flood.
  - (2) Within any A Area that would, together with all other existing and anticipated development, increase the one-hundred-year flood elevation more than one foot at any point. **[Amended 8-24-2015 by Ord. No. 758]**
- E. Whenever a variance is granted, the Township shall notify the applicant in writing that:
  - (1) The granting of the variance may result in increased premium rates for flood insurance.
  - (2) Such variances may increase the risks to life and property.
- F. A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.

**§ 275-176.1. Severability. [Added 8-24-2015 by Ord. No. 758]**

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

ARTICLE XXX  
**Steep Slope Conservation District**

**§ 275-177. Purpose.**

The purpose of this article is to expand upon the community development objectives associated with environmental protection and the preservation of natural resources expressed in Article I and to complement the provisions in Article XXXV relating to open space. Further, the provisions of this article are designed to encourage the sensitive treatment of hillsides and their related soil and vegetation resources in an effort to minimize adverse environmental impacts. The following objectives serve to complement these specific purposes and the overall purposes of this chapter:

- A. To conserve and protect steep and very steep slopes from inappropriate development such as excessive grading, land form alteration and extensive vegetation removal.
- B. To avoid potential hazards to property and the disruption of ecological balance which may be caused by increased runoff, flooding, soil erosion and sedimentation, blasting and ripping of rock and landslide and soil failure.
- C. To encourage the use of steep and very steep slopes for open space and other uses which are compatible with the preservation of natural resources and protection of areas of environmental concern.

**§ 275-178. Scope. [Added 7-27-1994 by Ord. No. 542]**

The provisions of this Article XXX shall only apply in those instances where the particular development, land use, building permit application or other zoning permission or approval is of such nature and scope that application for land development plan approval or subdivision plan approval is not required under and pursuant to Chapter 210, Subdivision and Land Development. In those instances where Chapter 210, Subdivision and Land Development, is applicable, Article IX, Steep Slope Conservation Districts, of that chapter shall govern and prevail.

**§ 275-179. General provisions. [Amended 8-14-1989 by Ord. No. 449; 6-27-1994 by Ord. No. 542]**

- A. Compliance. No area within the Steep Slope Conservation District shall hereafter be used without full compliance with the terms of this article and other applicable regulations.
- B. Preservation of other restrictions. It is not intended by this article to repeal, abrogate or impair any regulations set forth in any other articles herein any regulations set forth in any other articles herein, any regulations of Chapter 210, Subdivision and Land Development, or any easements, covenants or deed restrictions, except that where this article imposes greater restrictions, its provisions shall prevail. Further, nothing contained in this article shall diminish in any way the provisions of the Clean Streams Law<sup>164</sup> and/or Chapter 102 of the Department of Environmental Protection's rules and regulations, or any other applicable state, federal, county or Township regulations, codes, ordinances and the like.
- C. Boundary definition and mapping.
  - (1) The Steep Slope Conservation District is comprised of areas of steep and very steep slopes, as shown on the Steep Slope Conservation District Map, which is attached to and made part of this

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<sup>164</sup>Editor's Note: See 35 P.S. § 691.1 et seq.

chapter. The map constitutes only a general representation of steep and very steep slopes, based on the analysis of the contours displayed on the most recent United States Geological Survey (USGS) quadrangles for Media, Pennsylvania, and Marcus Hook, Pennsylvania. As such, refined mapping will be required to more accurately define the district, as specified in Subsection C(5) below.

- (2) Areas of steep slope are characterized by a change in elevation from 15 to 25% over the distance and contour interval specified in Subsection C(5) below.
- (3) Areas of very steep slope are characterized by a change in elevation greater than or equal to 25% over the distance and contour interval specified in Subsection C(5) below.
- (4) The Steep Slope Conservation District Map shall be considered as an overlay to the Middletown Township Zoning Map, subject to the following:
  - (a) The district shall have no effect on the permitted uses in the underlying zoning district, except where said uses, intended to be located within the boundaries of the district, are in conflict with the permitted uses set forth in § 275-180.
  - (b) In those areas of the Township where the district applies, the limitations of the Steep Slope Conservation District, as set forth herein, shall be in addition to the requirements of the underlying zoning district or districts.
  - (c) Should the district boundaries be revised as a result of judicial decision, the zoning requirements applicable to the area in question shall revert to the requirements of the underlying zoning district(s) without consideration of this section.
- (5) Interpretation of district boundaries.
  - (a) The applicant shall use an actual field topographic survey as the source of contour information and the basis for depicting steep and very steep slopes as described below.
  - (b) The Steep Slope Conservation District Map (based on the ten-foot contour interval from USGS) shall be used as a general guide for determining the boundaries of the district. In any application for subdivision and/or land development, the applicant shall, using the contour interval as required in Chapter 210, Subdivision and Land Development, delineate slopes from 15% to 25% and greater than or equal to 25%.
  - (c) Mapping of steep and very steep slopes shall be performed using a tick-strip or other suitable measuring device.
  - (d) Whenever five-foot contour intervals are required by Chapter 210, Subdivision and Land Development, for minor subdivisions, the applicant shall delineate all steep and very steep slopes on this basis. However, the use regulations of this article will be invoked only when there is a cumulative steep or very steep slope over a ten-foot or more vertical change in grade. Thus, the representative sample of steep and/or very steep slopes for minor subdivisions will be 10 or more feet of vertical grade change.
  - (e) Whenever two-foot contour intervals are required by Chapter 210, Subdivision and Land Development, for major subdivisions and/or land developments or as required for an environmental impact assessment under Article XXXIV, the applicant shall delineate all steep and very steep slopes on this basis. However, the use regulations of this article will be invoked only when there is a cumulative steep or very steep slope over a six foot or

more vertical change in grade. Thus, the representative sample of steep and/or very steep slopes for major subdivisions and/or land developments will be six or more feet of vertical grade change.

- (f) The mapping by the applicant will be reviewed by the Township Engineer. The applicant will be required to follow all regulations of this article for those areas which reflect steep slope and very steep slope conditions, as determined through the Township Engineer's review.

**§ 275-180. Use regulations. [Amended 8-14-1989 by Ord. No. 449; 9-26-1994 by Ord. No. 544]**

**A. Areas of very steep slope (greater than 25%).**

**(1) Permitted principal uses.**

- (a) Agricultural uses that do not require cultivation or structures.
- (b) Conservation and recreation uses not requiring structures.
- (c) Front, rear or side yards of any lot or tract.
- (d) Structures existing prior to the effective date of this chapter.

**(2) Uses permitted as conditional uses.**

- (a) Conservation and recreation uses requiring structures.
- (b) Agricultural structures and cultivation.
- (c) Utility lines for public utilities, such as but not limited to sewer, gas, electrical, telephone and cable television.
- (d) Accessory structures to any uses permitted in Subsection A(1) and/or A(2)(a), (b) and/or (c) above.
- (e) Roads and driveways only when no viable alternative alignment or location is feasible, provided that such roads and driveways are aligned predominantly parallel to the contours.
- (f) Uses permitted in the underlying zoning district.

**(3) Prohibited uses and activities.**

- (a) Cut and fill, other than in association with any uses related to Subsection A(1) and/or (2) above.
- (b) Soil, rock or mineral extraction and/or removal, other than in association with any uses related to Subsection A(1) and/or A(2) above.
- (c) Removal of topsoil, other than in association with any uses related to Subsection A(1) and/or A(2) above.
- (d) Stormwater management facilities other than in association with any of the uses related to Subsection A(1) and/or A(2) above.

**B. Areas of steep slope (15% to 25%).**

- (1) Permitted principal uses.
  - (a) Any principal use permitted in Subsection A(1).
- (2) Use permitted as conditional uses.
  - (a) Any uses identified in Subsection A(2) and the following:
    - [1] Stormwater management facilities.
    - [2] Sanitary sewers and sewage pumping stations.
    - [3] Accessory uses and structures customarily incidental to the foregoing.
- (3) Prohibited uses and activities.
  - (a) Cut and fill other than in association with any uses related to Subsection B(1) and/or B(2) above.
  - (b) Soil, rock or mineral extraction and/or removal other than in association with any uses related to Subsection B(1) and/or B(2) above.
  - (c) Removal of topsoil other than in association with any uses related to Subsection B(1) and/or B(2).

**§ 275-181. Application procedure. [Amended 9-26-1994 by Ord. No. 544]**

- A. All applicants for any use of land within the Steep Slope Conservation District shall include the submission of the following materials and information:
- (1) Plans drawn to a scale of at least one inch equals 50 feet, sealed by a registered professional engineer, depicting the following:
    - (a) The location, dimensions and elevation of the property.
    - (b) Existing and proposed uses and development.
    - (c) Existing and proposed contours at two-foot intervals.
    - (d) The location and boundaries of steep slopes and very steep slopes as described in § 275-179C(5).
    - (e) Typical cross-sections and elevations of the property and proposed structures at intervals prescribed by the Township Engineer.
    - (f) Existing land cover characteristics of that portion of the property within the Steep Slope Conservation District indicating wooded areas, open areas and their ground cover type and any areas with impervious surfaces. The modifications proposed to the existing land cover shall also be indicated.
    - (g) Photographs showing existing uses, vegetation and topography of areas within the Steep Slope Conservation District.
    - (h) A report describing the slope, soil and vegetation characteristics of that portion of the property within the subject district. Such report shall also describe the proposed type and

methods of proposed building construction, the type of foundation system(s) to be employed and proposals for landscaping, sewage disposal and water supply. Further, the report shall describe all sediment and erosion control measures to be used as required by Middletown Township, the Department of Environmental Protection and/or the Delaware County Conservation District, and any and all additional engineering and conservation techniques designed to alleviate environmental impacts which may be created by proposed development activities.

**§ 275-181.1. Standards for approval of conditional uses.**

- A. In addition to the standards described in Article XXXVI pertaining to conditional uses, the Township Council shall consider the following:
  - (1) The degree of modification, proposed within the district, to the topographic, soil and vegetation resources and the techniques proposed to mitigate potential adverse environmental impacts.
  - (2) The effect the development of the subject district would have on adjacent properties.
  - (3) The relationship of the proposed uses to the objectives described in § 275-177.
- B. Any use(s) or structure(s) approved as a conditional use shall provide evidence that:
  - (1) The Steep Slope Conservation District is being proposed for development since no other alternative location is feasible or practical.
  - (2) Earthmoving activities and vegetation removal will be conducted only to the extent necessary to accommodate proposed uses and structures and in a manner that will not cause excessive surface water runoff, erosion, sedimentation and unstable soil conditions.
  - (3) Mitigation techniques will be utilized, including but not limited to retaining walls, tree wells, the establishment of ground covers and/or low spreading shrubs, the use of erosion control fabric and the like. Such techniques shall be evidenced through the submission of plans and construction details which depict, delineate and otherwise describe the land development proposal.
  - (4) Proposed buildings and structures will be of sound engineering design and footings will be designed in response to the site's slope, soil and bedrock characteristics. Such design shall be evidenced through the submission of plans and construction details which depict, delineate and otherwise describe the land development proposal.

ARTICLE XXXI  
Off-Street Parking and Loading

**§ 275-182. Required off-street parking spaces.**

- A. Unless specified otherwise in another article of this chapter, all off-street parking spaces shall be provided and satisfactorily maintained in accordance with the following provisions for each building or use which, after the effective date of this chapter, is established, erected, enlarged or altered for any of the following purposes or uses in any district. For uses not specifically listed, the requirements for the most similar use listed shall be followed: **[Amended 8-26-2002 by Ord. No. 631; 11-8-2004 by Ord. No. 658; 10-27-2008 by Ord. No. 698]**

Use	Off-Street Parking Space Required
Agricultural Uses	
Agriculture	1 for each full-time employee
Residential Uses	
Apartments with 3 or more bedrooms	2 1/2 for every such apartment unit
Other dwelling units	2 for every dwelling unit
Home professional offices and home occupations	2 in addition to the spaces for the dwelling unit, plus 1 for every 100 square feet of space used for the office
Public or Private Recreational Uses	
Private clubs, lodges	1 for every 100 square feet of floor area available to patrons
Golf course	5 for each hole plus club requirement as listed above
Golf driving range	2 for each tee
Miniature golf	1 for each hole
Bowling alley	5 for each lane
Gymnasium, stadium	1 for every 4 seats
Public swimming pool	1 for every 12 square feet of water surface or 1 for every 5 persons for whom dressing facilities are provided (whichever is greater)
Outdoor commercial recreation	1 for every 1,500 square feet of area
Indoor commercial recreation	1 for every 150 square feet of gross floor area devoted to such use
Governmental, Institutional and Educational Uses	



**Use****Off-Street Parking Space Required**

Places of public or private assembly including churches, auditoriums, theatres and assembly halls

1 for every 4 permanent or temporary seats plus 1 for every 100 square feet of meeting room area (where the capacity is not determined by the number of fixed seats, 1 for every 60 square feet of floor area devoted to seating area)

Club, lodge

1 for every 50 square feet of assembly area or 1 for every 5 persons of total capacity (whichever is greater)

Community center, library, museum

1 for every 250 square feet of floor area in public use

Hospital, convalescent home, nursing home, sanitarium

1 for each bed plus 1 for each employee on the shift of greatest employment

Private kindergarten or child institutional home

1 for each adult attendant plus 1 for every 500 square feet of gross floor area

Schools

1 for each faculty member and other full-time employee, plus 2 for each classroom, plus 1 for every 12 students aged 16 years or older

Dormitory

1 for every 4 residents

**Retail, Commercial and Other Business Uses**

Retail store, shop or personal service establishment (not a part of a shopping center)

1 for every 100 square feet of gross sales floor area or area serving customers

Department store or supermarket

1 for every 75 square feet of store sales floor area or other area serving customers

Personal service businesses such as barber shops, photo shops, tailor, beautician, shoe repair and the like

1 for every 100 square feet of gross floor area or area serving customers

Restaurant, cafeteria, tavern or cafe

1 for every 50 square of floor space devoted to patron use, plus 1 for each employee on the maximum shift

Self-service laundromat

1 for every 50 square feet of gross floor area

Automobile service and repair

4 for each bay, or 1 every 200 square feet of floor and ground area devoted to service and repair (whichever is greater), plus 1 for each employee

<b>Use</b>	<b>Off-Street Parking Space Required</b>
New and used automobile sales and service agency	1 for every 200 square feet of floor and ground area devoted to sales, service and repair, plus 1 for each employee (parking within a building may be used to meet this requirement)
Banks, credit unions and the like	1 for every 75 square feet of floor area for serving customers
Medical or dental offices and clinics	6 for each practitioner
Funeral home	1 for every 4 seats for patron use or 1 for every 50 square feet of gross floor area, whichever is greater
Professional offices and businesses	
Office building having less than 100,000 square feet of gross floor area	1 for every 200 square feet of gross floor area
Office building having 100,000 square feet or more of gross floor area	1 for every 250 square feet of gross floor area
Shopping center	4 for every 1,000 square feet of gross leasable areas for centers having a gross leasable area from 25,000 to 400,000 square feet 4 1/4 for every 1,000 square feet of gross leasable area for centers having a gross leasable area greater than 400,000 square feet
Movie theatre	1 for every 4 seats plus 1 for every employee on the shift of greatest employment
Hotel, motel or inn	1.2 for each rental room or suite plus 1 for every 3 seats in restaurants or meeting rooms
Temporary places where Christmas trees, flowers, produce or other goods are sold	10 minimum, plus any additional spaces as determined by the Code Enforcement Officer after personally observing traffic conditions at such locations
Industrial and other related uses	1 for each employee on the shift of greatest employment, or 1 for every 1,000 square feet of gross floor area (whichever is greater), plus 1 for each company vehicle

**Use**

Convenience store

**Off-Street Parking Space Required**

One for every 100 square feet of net floor area of the building(s) on the lot, and one for each fueling position used for the dispensing of automotive fuel, plus one space for each employee on the largest shift

B. Buildings or uses other than those specified above.

- (1) Determination of the appropriate parking space requirements shall be made by the Township Council consistent with the standards set forth herein for comparable buildings or uses.

**§ 275-183. General regulations for off-street parking.**

- A. Existing parking. Structures and uses in existence at the date of adoption of this chapter shall not be subject to the requirements of this article, provided that the type or extent of use is not changed, and further provided that off-street parking facilities existing at the effective date of this chapter shall not subsequently be reduced to an amount less than required under this chapter for a similar new building or new use.
- B. Off-street parking facilities provided to comply with the provisions of this chapter shall not subsequently be reduced below the requirements of this chapter.
- C. Changes in use. Whenever a structure is altered or a use is changed or extended which increases its parking requirements, then the total additional parking required for the alteration, change or extension shall be provided in accordance with the requirements of § 275-182.
- D. Conflict with other uses. No parking area shall be used for any use that interferes with its availability for the parking need it is required to serve.
- E. Continuing character of obligation. All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking facilities shall not be reduced in total extent except when such reduction is in conformity with the requirements of this article.
- F. Location of parking spaces. Required off-street parking spaces shall be on the same lot or premises with the principal use served. However, in all cases where it is sought to utilize adjacent premises for parking facilities, the applicant or owner shall be required to enter into an appropriate agreement, duly acknowledged, for recording, reciting that the property upon which aforesaid establishment is erected and the said adjacent premises are both owned by the applicant; that they are to be used with relation to each other, as above provided; and that neither property shall be separately sold or encumbered, unless other provisions for compliance with this chapter have first been entered into in writing and fully approved by the Township Council.
- G. Fractional spaces. Where the computation of required parking spaces results in a fractional number, the fraction of 1/2 or more shall be counted as one.
- H. Maintenance of parking areas. All parking areas, loading areas, and driveways shall be graded and surfaced with asphalt or other suitable materials to prevent dust and erosion. Such areas shall also be drained in conformance with municipal standards to prevent excessive water flow onto streets or adjoining properties. All parking spaces and parking areas shall be clearly line striped and maintained.

- I. Lighting. All artificial lighting used to illuminate any parking area shall be arranged to prevent glare on adjoining properties.
- J. Handicapped persons parking. All uses shall designate reserved parking spaces for handicapped persons as close as possible to the main entrance of the building with the exception of single-family or twin dwellings, service stations, garages, cemeteries or any other use for which 10 or fewer parking spaces are required under this chapter. Said spaces shall be considered as part of the required spaces and shall be appropriately marked with signs to designate handicapped use, as approved by the Township Council.

**§ 275-184. Parking area design standards.**

- A. All parking areas shall be in accordance with Chapter 210, Subdivision and Land Development.
- B. For purposes of this chapter, a parking space shall be a space in a garage or on a lot which meets the size and other requirement of this section, is reserved for the parking of a motor vehicle and which has direct access from a street. Each parking space shall be not less than 9 1/2 feet wide and 19 feet in length, except as otherwise provided for in the PRD District, the I-1 District, and the I-2 District; and within the SU-1 District, for parking areas associated with adjacent regional rail facilities, each parking space shall be not less than 8 1/2 feet wide and 18 feet in length. **[Amended 5-11-2009 by Ord. No. 704; 7-25-2011 by Ord. No. 720]**
- C. The aisle space between rows or banks of parking spaces shall be not less than 25 feet for 90° parking and not less than 20 feet for parking at angles of 60° or less.
- D. Parking areas shall be graded to provide convenient vehicular access and proper drainage and shall be paved in accordance with Township specifications, provided that the Township Council may authorize that the paving of a portion of the required parking area be deferred until such time as the unpaved area is required to meet parking needs. All parking, access or other vehicular service areas shall be adequately illuminated during night hours of use. Such lighting shall be arranged so as to protect the highway and adjoining property from direct glare or hazardous interference of any kind.
- E. Every parking lot or area for off-street parking shall be separated from the street or highway by a raised curb, planting strip, wall or other suitable barrier against unchanneled motor vehicle entrance or exit, except for necessary accessways or exits, and the layout of such lot or area shall be such as not to require vehicles to back out directly onto a street.
- F. Parking spaces provided to serve accessory uses or other nonresidence uses in Residence Districts shall be located to the rear of the required front yard. Such parking spaces shall be appropriately landscaped to screen such lot from adjoining or opposite residential properties.
- G. All parking shall be accessible from a street and an individual or shared driveway.

**§ 275-185. Shared parking and conditions.**

- A. Two or more uses may provide for required parking in a common parking lot if the total space provided is not less than the sum of the spaces required for each use individually; however, the total number of spaces required in a common parking facility may be reduced if:
  - (1) It is demonstrated to the Township Council that the hours or days of peak parking demand for the uses are so different that a lower overall total of parking spaces will adequately provide for the uses to be served.

- (2) Such demonstration and proof shall be provided by a registered Transportation Engineer, the fees for whom shall be paid by the landowner(s).

**§ 275-186. Design and layout of off-street loading facilities.**

- A. In addition to the off-street parking space required in this article, any building erected, converted and/or enlarged for any nonresidential use shall provide off-street areas for loading and unloading and commercial vehicle parking space adequate for their needs.
- B. The minimum size loading space shall be 50 feet in depth, 12 feet in width, with an overhead clearance of 15 feet exclusive of drives and maneuvering space, and located entirely on the lot being served. Any overhead canopy should extend a minimum of four feet beyond a loading dock.
- C. All loading space shall have adequate access from a street or way which does not block or interfere with the required parking as specified in § 275-167. This required space will be provided in addition to established requirements for patron and employee parking.
- D. In no case shall public rights-of-way be used for loading or unloading of materials. Furthermore, no loading dock or space shall be located or arranged in such a way that it is necessary to back any vehicle into or off any public right-of-way nor require the use of any public right-of-way for maneuvering space.
- E. Two-way driveways shall have a minimum width of 25 feet and a maximum width of 36 feet. One-way driveways shall have a minimum width of 12 feet.
- F. All accessory driveways and entrance ways shall be graded, paved and drained to Township standards, to the extent necessary to prevent nuisance of dust, erosion or excessive water flow across streets and adjoining properties.
- G. All off-street loading berths shall be provided on either the side or rear of the lot. In no case shall off-street loading berths be provided in the front of the lot.
- H. Such facilities shall be designed and used in such a manner as to at no time constitute a nuisance, a hazard or an impediment to traffic.
- I. All lighting fixtures used to illuminate parking areas shall be arranged to prevent glare into public streets and adjoining properties.

**§ 275-187. Access for off-street parking and loading areas.**

Access to and from all off-street parking, loading and vehicle service areas along public rights-of-way shall consist of well-defined separate or common entrances and exits and shall comply with the following provisions:

- A. Access drives shall not open upon any public right-of-way within 150 feet of the nearest right-of-way line of any intersecting public street or highway.
- B. The required sight distance for access drives which open upon any street or highway shall be in accordance with the regulations of the Pennsylvania Department of Transportation.

**§ 275-188. Screening and landscaping requirements.**

All screening and landscaping shall conform to the provisions of Article XXXIV and the following:

- A. Screening between any parking area and the street line shall be effective at the time of occupancy, subject to the following provisions:
- (1) All off-street parking areas which provide more than five parking spaces shall be screened from any abutting property of a more restrictive zoning district.
  - (2) Effective screens may be accomplished through the use of the following: plant materials, fencing or walls and/or mounding through the use of earthen berm forming a continuous visual buffer.
  - (3) The area for planting and fencing walls or earthen berms shall not extend beyond the street line. No off-street parking or loading and unloading facilities shall be located within 20 feet of the street line, unless otherwise provided in other sections of this chapter.
  - (4) When planting screens are employed, the following shall apply:
    - (a) A buffer planting strip shall be provided. It shall be a minimum of 15 feet in width unless required otherwise in this chapter.
    - (b) Planting screens shall be of sufficient height and sufficient density to constitute a continuous visual buffer five feet in height at the time of planting except as provided below. The type and spacing of plant materials shall be subject to review and approval by the Township Council.
    - (c) At all intersections of accessways, the required screening shall not be greater than 18 inches in height for a distance of 10 feet from the street.
  - (5) Whenever fencing or walls are employed, the effective height of the continuous visual buffer shall be no less than five or more than six feet, subject to other regulations of this chapter.
  - (6) Whenever earthen berms are employed, the effective height of the continuous visual buffer shall be no less than five feet in height.
- B. Landscaping within any parking area which provides more than five parking spaces shall be subject to the following provisions:
- (1) Off-street parking areas and parking lots shall be landscaped to reduce wind and air turbulence, heat and noise and the glare of automobile lights; to reduce the level of carbon dioxide; to provide shade; to ameliorate stormwater drainage problems; to replenish the groundwater table; and to provide for a more attractive setting.
  - (2) Each parking lot shall have one shade tree of three inches to 3 1/2 inches in caliper for every five parking spaces if there are no existing shade trees. Shrubs, ground covers and other plant materials are encouraged to be used to complement the trees but shall not be the sole contribution to the landscaping.
  - (3) The landscaping and planting areas shall be reasonably dispersed throughout the parking lot; except where there are 20 or more parking spaces, in which case, the following shall apply:
    - (a) Landscaped "islands" shall be provided at the end of each parking bay which contains 20 parking spaces. Such "islands" shall be a minimum of eight feet in width and 18 feet in length. Such "islands" shall be provided to enhance the appearance of the parking area and to control access and movement within the parking area.

- (4) All planting islands and planting beds within a parking lot shall be surfaced with ground covers and/or dwarf shrubs and shall not be grassed. Stone mulch may be used in conjunction with shrubs and ground covers, and shredded hardwood mulch shall only be used to form the plant saucers.
- (5) The type, location, arrangement and dispersal of planting areas and plant materials shall be subject to the review and approval of the Township Council.

**§ 275-189. Reserve parking.**

A. Conditions. The Township Council may, in its sole discretion, permit not more than 40% of the number of parking spaces required by the Township for a building, use or purpose to be designated "reserve parking," subject to the following conditions, together with any other reasonable conditions imposed by the Township:

- (1) The owner of the property on which the reserve parking will be located must provide financial security which:
  - (a) Is acceptable to the Township; and
  - (b) Is in a form as provided in Article V of the Pennsylvania Municipalities Planning Code,<sup>165</sup> or any successor provisions thereto; and
  - (c) Guarantees the cost of completing the reserve parking, including the cost of all improvements necessary to construct, install, pave and complete the reserve parking. Such improvements shall include, but not be limited to, improvements relating to stormwater management and landscaping as well as to the physical construction of the reserve parking.
- (2) The owner of the property on which the reserve parking will be located must enter into an agreement or agreements with the Township relating to the completion of the reserve parking and the provision of financial security therefor [reserve parking agreement(s)]. The form of the agreements must be approved by the Township Solicitor.
- (3) The amount of financial security may not exceed 110% of the estimated cost of completing the reserve parking as approved by the Township Engineer and may be increased for each one-year period beyond the first anniversary date of the initial posting of the financial security to an amount not exceeding 110% of the cost of completing the reserve parking as then determined and approved by the Township Engineer.
- (4) The financial security must be maintained for a period beginning on the date the financial security is posted and ending on a date which is 10 years from the date of completion of the development on which the reserve parking is located or for such lesser time period which is approved by the Township Council (the reserve parking period).
- (5) The reserve parking must be appropriately designated on plans specified by the Township and in a manner approved by the Township.

B. Construction and completion.

- (1) At any time, either before, during or after the reserve parking period, the Township Council may, in its sole discretion, require and direct that all or any portion of the reserve parking,

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<sup>165</sup>Editor's Note: See 53 P.S. § 10501 et seq.

including all improvements necessary to construct, install, pave and complete the reserve parking, be completed within the time frame specified by the Township. The foregoing time frame may not be less than 180 days from the date of the Township's written notice or direction to complete. After the reserve parking period ends, the obligation to construct, install, pave and complete the reserve parking and the reserve parking agreement(s) (with the exception of the financial security requirements) shall continue until such time as either the reserve parking is completed to the Township's satisfaction; or, if earlier, the number of satisfactorily completed parking spaces is equal to or greater than the number required by the laws, ordinances and regulations then in effect.

- (2) The reserve parking which the Township requires to be completed must be installed, constructed, paved and completed in a good and workmanlike manner at no cost or expense whatsoever to the Township and in strict conformity with all applicable agreements, plans, permits, laws, ordinances, resolutions, regulations and Township specifications. The construction, installation, paving and completion of the reserve parking shall be subject to inspection by and approval of the Township Engineer.
  - (3) If the required reserve parking is not completed in the manner and within the time frame required, then the Township may cause the reserve parking to be completed. In such event, the Township may pay for the cost thereof from the financial security provided or, if the reserved parking period has ended and the financial security has been released or if for any other reason the financial security is insufficient to cover all Township costs of completion, then the Township may require direct payment of or reimbursement for all such costs from the landowner.
  - (4) The Township may, in accordance with procedures set forth in the reserve parking agreement(s), authorize the release of portions of the financial security during the reserve parking period as portions of the reserve parking are satisfactorily completed.
  - (5) The Township shall authorize the release of all of the remaining financial security upon the earlier to occur of:
    - (a) The satisfactory completion of all of the reserve parking and the compliance with all requirements of the reserve parking agreement(s); or
    - (b) The expiration of the reserve parking period; and the satisfactory completion of all of the reserve parking which the Township has, during the reserve parking period, required be completed; and the compliance with all requirements of the reserve parking agreements.
- C. Change in use. In the event that the use of property subject to reserve parking obligations changes at any time, either before, during or after the reserve parking period, the property owner shall have the obligation to inform the Township of the change and to construct, install, pave and complete any additional parking required by the this chapter and other laws, ordinances and regulations then in effect, unless the Township either approves of the creation of reserve parking pursuant to and in accordance with the requirements of this section, including, but not limited to, the execution of reserve parking agreements, the posting of financial security and the commencement of a reserve parking period, or approves of the continuation of any existing reserve parking agreements applicable to the property.
- D. Protective period under the Pennsylvania Municipalities Planning Code. The construction, installation, paving and completion of the reserve parking spaces shall be governed by the laws, ordinances and regulations in effect at the time of such construction, installation, paving or



completion, unless otherwise required by Section 508(4) of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10508(4), or any successor provision thereto governing the effect of ordinance changes on approved plats. This section is not intended to and shall not be interpreted as extending the five-year period or any other protective period described in 53 P.S. § 10508(4) or any successor provision. **[Added 8-24-1998 by Ord. No. 587]**

## ARTICLE XXXII

**Signs****§ 275-190. Scope and applicability.**

- A. Any sign hereafter erected or maintained shall conform with the provisions of this chapter any other ordinance or regulations of the Township relating thereto. Any sign not specifically authorized by the provisions of this chapter shall not be erected or maintained in the Township.
- B. It shall be unlawful for any person, firm, corporation or individual to erect and maintain signs, ground signboards, roof signboards, wall bulletins, projecting signs, marquees and marquee signs without first obtaining a permit from the Township, except those listed specifically in § 275-193.
- C. No display sign shall hereafter be erected or attached to, suspended from or supported on a building or structure, and no display sign shall hereafter be altered, rebuilt, enlarged, extended or relocated until a permit for the same has been obtained, except those listed specifically hereafter in § 275-193.
- D. Application for such permits shall be made in writing to the Township in accordance with § 275-194 and shall present full particulars as to size, shape, material, supports, location and height above the sidewalk or ground, together with the written consent of the owner of the property on which the sign is to be located. All applications shall be accompanied by a plan drawn to scale, showing the sign, its size and its location with respect to the building and to the boundaries of the lot upon which it is situated.
- E. Nonconforming signs. Signs and their respective illumination existing at the time of the passage of this chapter and which do not conform to the requirements of this chapter shall be considered nonconforming signs, and once destroyed or removed for any reason, shall be replaced only with conforming signs and lighting. Nonconforming signs may be painted, repaired (including lighting) and altered in their wording provided such modifications do not exceed the dimensions of the existing signs.
- F. Abandoned signs. No person shall maintain or permit to be maintained on any premises owned or controlled by him a sign which has been abandoned. An "abandoned sign," for the purpose of this chapter, is a sign erected on and/or related to the use of a property which becomes vacant and unoccupied for a period of six months or more; or any sign which was erected for a prior occupant or business; or any sign which relates to a time, event or purpose which is past. Any such abandoned sign shall be removed by the landowner or person controlling the property within 10 days of the abandonment as described above.
- G. The Code Enforcement Officer is hereby authorized and empowered to revoke any permit issued by the Township, upon failure of the holder thereof to comply with any provision of this article.
- H. The provisions of this article shall not apply where signage is erected and maintained by Township Council for Township purposes, provided that all other required governmental permits are obtained by Township Council prior to such Township use.

**§ 275-191. Determination of size of signs.**

- A. The size of any sign shall be determined in accordance with the provisions of this article and the following:
  - (1) When a sign consists of letters, numbers and/or logos and not a lettered board and such sign is

erected on or attached to a building wall or other similar surface, the size of such sign shall be measured by the rectangle or square formed by the extreme outside edge of the largest letters, numbers or logos contained in the sign.

- (2) When a sign consists of a letterhead board and such sign is erected on or attached to a building wall or other similar surface, the size of such sign shall be determined by calculating the area of the lettered board.
- (3) When a sign is a freestanding sign, the size of such freestanding sign shall be determined by calculating the area of the lettered board or the area of the combination of letters, numbers and/or logos without a lettered board, as the case may be, and the area of the largest single surface of each support upon which such sign is erected.

**§ 275-192. Sign restrictions and standards. [Amended 7-24-1989 by Ord. No. 447; 7-24-2006 by Ord. No. 676]**

A. Prohibited signs. It is unlawful to erect or maintain the following signs:

- (1) Spinning, animated, twirling or any other moving objects used for advertising purposes, whether containing a message or not.
- (2) Flashing, blinking, twinkling, spinning, animated or lighted moving signs of any type including automatic color-changing and rotating lamps of other displays that call attention to a sign.
- (3) Advertising cloth or paper banner or signs of any similar character suspended or hung on any property, except for temporary banners which may be permitted through special permission of the Township.
- (4) Wall bulletins or any other signs painted directly on the facade of a building or other structure.
- (5) Signs on mobile stands which can be moved from place to place and thereby not permanently affixed to the ground and other portable signs, be they freestanding, on the ground or temporarily attached to a building or other support.
- (6) Curb or sidewalk signs or signs painted, attached or suspended from any outdoor bench, chair or other structure.
- (7) Swinging and hanging signs.
- (8) Any signs which are not internally illuminated (example: direct flood lighting onto a wood pole sign).
- (9) Signs, letters and advertisements which are tacked, pasted, tied or otherwise affixed to poles, posts, trees, buildings, fences or other structures located on public property in the Township of Middletown.
- (10) No sign shall be temporarily or permanently placed, erected, attached or painted on any vehicle if such sign identifies, advertises or gives information with respect to a premises or a part thereof, or any sale or special event or other circumstance. A sign is permitted on a vehicle when:
  - (a) Such sign is required by law;
  - (b) Such sign is in transit from one location to another, for permanent installation, for a time

not to exceed three days;

- (c) The sign which is permanently painted or affixed to a vehicle and is incidental to the use of a currently licensed vehicle when that use is a means of transportation;
  - (d) The vehicle, capable of sheltering a use or occupancy, is used as a construction shed or is located as prescribed for buildings in the zoning regulation regulating the premises and is used and occupied for a purpose permitted by the zoning regulation. In such a case, the sign shall otherwise comply with this chapter.
- (11) Neon signs placed in windows of premises which can be seen from the outside are specifically prohibited.
- (12) Unsafe and lawful signs. If the Code Enforcement Officer shall find that sign or other advertising structure regulated herein is unsafe or insecure or is a menace to the public or has been constructed or erected or is being maintained in the violation of the provisions of this chapter, he shall give written notice thereof to the permittee. If the permittee fails to remove or alter the structure so as to comply with the standards set forth herein within 10 days after such notice, such sign or other advertising structure may be removed or altered to comply by the Code Enforcement Officer at the expense of the permittee or owner of the property upon which it is located. The Code Enforcement Officer shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed. The Code Enforcement Officer may cause any sign or other advertising structure which is an immediate peril to persons or property to be removed summarily and without notice.
- (13) Signs placed, inscribed or supported upon the roofline or any structure which extends above the roofline of any building.
- (14) Hot- or cold-air balloons or other floating devices, with or without a message, placed or tethered on any property or structure, except for balloons used for human conveyance, which may be permitted upon approval of the Township Council.

B. General restrictions and standards. The following restrictions shall apply to all permitted signs:

- (1) No sign shall be located, arranged or placed in a position that it will cause danger to traffic or will interfere with traffic through: glare; blocking of required sight lines for streets, sidewalks or driveways; confusion with a traffic-control device by reason of color, location, shape or other characteristic; or through any other means.
- (2) All signs constructed or erected under the provisions of this chapter shall comply with the standards set forth in both Article XXXII of the BOCA National Building Code, as amended, and the National Electric Code, as amended.
- (3) No sign shall be erected within the right-of-way lines of any public street, nor shall any such sign be closer than 15 feet to the curbline of a public street, unless specifically authorized by other ordinances and regulations of Middletown Township or other governmental bodies or agencies having jurisdiction or regulatory authority in the matter.
- (4) No sign shall be designed or lighted in such a manner or placed in such a position or location that it will cause danger to traffic on a street by obstructing or hindering the view.
- (5) No sign shall be designed or lighted in such a manner or placed in such a position or location that it will present an unreasonable risk of injury to persons or property.

- (6) All external illuminated signs shall be turned off 1/2 hour after closing of the business or entity which they identify or advertise.
- (7) No illuminated sign shall be lighted on days when the business or permitted use is not open for business.
- (8) Every sign must be constructed of durable materials and shall be solidly and firmly attached, supported and/or anchored to the supports or framework.
- (9) Every sign must be kept in good condition and repair. Any sign which is allowed to become dilapidated shall be removed by and at the expense of the landowner or lessee of the property on which is located.
- (10) All permanent signs affixed to any permitted building shall be integrated into the architectural design of the building on which they are placed.

C. Double-faced signs.

- (1) A sign may be double faced providing it has two parallel surfaces that are directly opposite and matching in size and shape and, except as specifically provided in § 275-195B(4)(a)[3], are not over 24 inches apart. Should the two surfaces deviate from being parallel, the sign shall be considered as two signs.
- (2) Should the faces of double-faced sign be parallel, the sign shall be considered as one sign and only one face shall be used to calculate the total size of the sign.
- (3) Each face of a double-faced sign shall be equal in size. Should the faces of a double-faced sign differ in size, then the area of both faces shall be used to calculate the size of the sign.

D. Multifaced signs. A freestanding sign may be multifaced beyond two faces provided that:

- (1) The combined area of all of the sign faces is no more than 50% greater than the combined area of both faces of a permitted double-faced sign in that district.
- (2) No single perimeter dimension of any sign face shall be more than 50% greater than any other perimeter dimension of the same sign face.
- (3) No place or planes on any multifaced signs shall be open.
- (4) All sign faces shall be of the same dimensions.

E. Ground signs.

- (1) The overall height of any ground sign, including support structure, shall not exceed six feet above the ground and any message portion of the sign may be displayed on both sides of the structure to which it is attached. **[Amended 3-25-2013 by Ord. No. 737]**
- (2) All single-post ground signs shall be made of metal or steel, except for those used in residential districts, which may be made of pressure-treated timbers. All such posts shall be embedded in the ground at least three feet six inches unless otherwise so directed by the Code Enforcement Officer.
- (3) Ground signs will be permitted in residential areas only when set back a distance of 10 feet from the front property line.

- F. Projecting signs. Such signs may be erected and maintained, provided that:
- (1) No such sign shall project more than 12 inches beyond the building line if internally illuminated and not more than four inches if it is not internally illuminated, except that no sign shall project over a public sidewalk area.
  - (2) All projecting signs shall be rigidly affixed to the building and to all supporting and framing structures, attachments and hardware.
  - (3) No part of the projecting sign shall be less than eight feet or more than 14 feet above the ground on walkway level.
  - (4) No projecting sign shall be permitted within 25 feet of any other projecting sign.
- G. Each sign shall be removed within 10 days of the time when the circumstances leading to its erection no longer apply, or as provided for otherwise herein.
- H. All sign provisions of this article shall apply to smokestacks, water towers, silos and other similar structures.

**§ 275-193. Permitted signs for which a permit is not required.**

- A. The following signs, exactly as described below, are exempt from the need to secure a permit, but are subject to the provisions of §§ 275-190 to 275-192.
- (1) Decorations for a recognized officially designated holiday, provided they do not create a traffic or fire hazard.
  - (2) Official and governmental signs which shall include safety signs, trespassing signs, signs indicating scenic or historical points of interest and traffic signs.
  - (3) Signs designated the name of the owner or occupant of a property, the address of such property, the private ownership or roadways or other property provided:
    - (a) Such sign is not in excess of one square foot in area.
    - (b) Not more than one such sign is erected for each use.
  - (4) Temporary yard sale or garage sale signs, provided such signs:
    - (a) Do not exceed two square feet in area.
    - (b) Shall be removed within 24 hours after said sale.
  - (5) Temporary signs announcing a political, public, educational, charitable, civic, religious or similar campaign or event provided:
    - (a) Such sign may be erected for a period not to exceed 30 days in any calendar year.
    - (b) Such sign shall not exceed in size the area permitted for permanent signs as provided for each zoning district.
    - (c) Such sign shall not be placed in such a position that it will cause danger to traffic on a street by obscuring the view.

- (d) Such sign shall be no closer than 10 feet to the curblin of a public street, unless specifically approved by the Township Council.
- (6) Window signs. Such signs, excluding neon signs, shall be used to serve as an accessory sign to the sign associated with the principal use.
  - (a) Window signs shall be permitted in Commercial Districts and where nonconforming commercial uses occur in other districts.
  - (b) The total area of window signs shall not exceed 25% of the total glass area of the window in which it is placed.
- (7) Official traffic signs.
- (8) Trespassing signs indicating the private nature of a driveway or premises, provided that the size of any such sign shall not exceed two square feet.
- (9) Real estate signs which do not exceed six square feet.
  - (a) Signs advertising the sale or rental of the premises or lot upon which they are erected provided that:
    - [1] No more than one such sign shall be erected for any premises or lot held in single and separate ownership.
    - [2] No such sign shall be illuminated.
    - [3] All such signs shall be removed on the date of settlement.
- (10) Signs of contractors, mechanics and artisans, provided that:
  - (a) Such signs shall be erected only on the premises or lot where such work is being performed.
  - (b) The size of any such sign shall not exceed 12 square feet.
  - (c) No such sign shall be illuminated.
  - (d) Such signs shall be removed promptly upon completion of the work by the contractor, mechanic or artisan.
  - (e) Not more than one such sign shall be erected for any premises or lot held in single and separate ownership.
- (11) Signs advertising sale of farm products grown on the premises, provided that:
  - (a) The size of any such sign shall not exceed six square feet.
  - (b) Not more than one such sign shall be erected on the premises, unless such premises fronts on more than one street, in which case one such sign may be erected on each street frontage.
  - (c) No such sign shall be illuminated.
  - (d) Such signs shall be displayed only when farm products are on sale.

- (12) Informational signs such as: "entrance," "exit," "no parking," "visitor's parking," "no hunting," "no trespassing," "keep off the grass" and the like, on the same lot as the use to which the sign relates or the prohibition of the use to which the sign relates, provided that:
- (a) The area of said sign shall not exceed six square feet in area.
  - (b) Such sign shall not contain any advertising.
- (13) Signs installed at an athletic field or other exterior athletic facility owned, operated or utilized by a governmental or not-for-profit entity, advertising a product, business or activity not provided or conducted on the premises where such signs are installed, provided: **[Added 9-10-2007 by Ord. No. 687]**
- (a) A plan depicting the location, number and size of all signs proposed to be installed pursuant to this section shall be submitted to the Township of Middletown for review and approval by the Zoning Officer prior to the installation of such signs.
  - (b) Such signs shall be installed so that the message face side of each sign is directed toward the playing surface or spectator seating area, or both;
  - (c) Such signs shall be attached to a fence, wall or other surface within the athletic facility so that the message face of the sign is not visible from the nearest public street or residential property;
  - (d) The side of a sign opposite the message face when installed on a fence or other structure which is open to view from outside the athletic field or facility shall be painted or otherwise colored the same as the color of the fence or other structure on which the sign is installed;
  - (e) No individual sign shall exceed 15 square feet;
  - (f) No such sign shall be illuminated or animated;
  - (g) All such signs shall advertise legal products, businesses or activities.

#### **§ 275-194. Permits.**

- A. Except as otherwise provided in § 275-193, no sign shall be erected in the Township until a permit therefor has been obtained in the following manner:
- (1) An application in writing shall be made to the Township's Code Enforcement Officer by the person desiring the permit.
  - (2) The application submitted to the Township's Code Enforcement Officer shall give full particulars regarding the size, shape, material and supports of the sign as well as a sketch or sketches showing the location of the sign on the building or lot, the distance from the curbline and the height of the sign. The application shall be sufficiently specific to enable the Township's Code Enforcement Officer to determine if the sign complies with the Township Zoning Ordinance as well as any other ordinance or regulation of the Township relating thereto.
  - (3) If the person submitting the application is not the owner of the property upon which the sign is to be erected, the written consent of the owner of the property on which the sign is to be erected shall accompany the application.



- B. Except as otherwise provided in § 275-193, whenever any sign is replaced by another sign, enlarged in any manner or altered, dismantled, damaged or otherwise destroyed to the extent of more than 75% of its value, a permit shall be required as provided in Subsection A(1) above before the sign is replaced, enlarged, altered or repaired.

**§ 275-195. Permitted signs for which permit is required. [Amended 8-27-1990 by Ord. No.472; 7-26-1993 by Ord. No. 5245-9-1994 by Ord. No. 539; 10-23-1995 by Ord. No. 549]**

The following signs, exactly as described under each specific district are permitted, provided a sign permit has been obtained for such sign.

- A. Signs in residence and similar districts. The following types of signs and no other shall be permitted in R-1A, R-1, R-2, R-3, R-4, R-5, PRC and Planned Residential Development Districts.

(1) Signs of a permanent nature.

- (a) Professional, accessory use or name signs indicating the name, profession or activity of the occupant of a dwelling, provided that:

- [1] The size of any such sign shall not exceed 200 square inches.
- [2] Not more than one such sign shall be erected for each permitted use or dwelling.
- [3] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.

- (b) Identification signs for apartment complexes, schools, colleges, churches, hospitals, sanitariums and other permitted uses other than dwellings, provided that: **[Amended 3-26-2012 by Ord. No. 727]**

- [1] The size of any such signs shall not exceed 20 square feet.
- [2] Not more than one such sign shall be erected on the premises.
- [3] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- [4] Schools are permitted, in addition to the sign permitted under Subsection A(1)(b)[1] above, one manual changeable copy sign not to exceed 25 square feet installed along the principal road frontage of the facility, or, in the alternative, one sign consisting of an identification portion not to exceed 20 square feet and the changeable copy portion not to exceed 25 square feet within a single structure.

(2) Signs of a temporary nature.

- (a) Real estate signs from six to 20 square feet.

- [1] Signs advertising the sale or rental of the premises or lot upon which they are erected, provided that:

- [a] Not more than one such sign shall be erected for any premises or lot held single and separate ownership.
- [b] No such sign shall be illuminated.

- [c] All such signs shall be removed on the date of settlement.
  - [2] Signs advertising the development of the premises upon which they are erected, provided that:
    - [a] The size of any such sign shall not exceed 20 square feet.
    - [b] Not more than one such sign shall be erected on the premises or lot unless such premises fronts on more than one street, in which case one such sign may be erected on each street frontage.
    - [c] No such sign shall be illuminated.
    - [d] All such signs shall be removed upon settlement of all lots on the premises in all approved phases of the development.
  - [3] Signs indicating the location and direction of premises in the process of development, provided that:
    - [a] The size of any such sign shall not exceed six square feet.
    - [b] Nor more than one such sign shall be erected on each 500 feet of street frontage.
    - [c] No such sign shall be illuminated.
    - [d] All such signs shall be removed upon settlement of all lots in all approved phases of development.
- B. Signs in B General Business Districts, B-1 Neighborhood Shopping Center Districts, B-2 Major Shopping Center Districts and Special Use Districts.
- (1) General provisions. The following types of signs shall be permitted in B, B-1, B-2 and Special Use Districts:
    - (a) Any sign permitted in Residence Districts which relate to a use permitted in such districts.
    - (b) Real estate signs advertising the sale or rental of the premises upon which they are erected, provided that:
      - [1] Not more than one such sign shall be erected for any premises held in single and separate ownership, unless such premises fronts on more than one street, in which case one such sign may be erected on each street frontage.
      - [2] The size of any such signs shall not exceed 24 square feet.
      - [3] No such sign shall be illuminated.
      - [4] All such signs shall be removed on the date of settlement.
    - (c) Real estate development signs advertising the development of the premises upon which they are erected, provided that:
      - [1] Not more than one such sign shall be erected on any premises held in single and separate ownership, unless such premises fronts on more than one street, in which case one such sign may be erected on each street frontage.

- [2] The size of any such sign shall not exceed 50 square feet.
  - [3] No such sign shall be illuminated.
  - [4] All such signs shall be removed when all the buildings, stores or lots on the premises have been rented or sold within one year from the date the application for such signs was approved, whichever occurs first. Such signs shall be permitted for additional periods of six months upon application to the Township Code Enforcement Officer provided that at the time said application is filed not more than 90% of the buildings, stores or lots on the premises have been rented or sold.
- (2) B General Business Districts. Signs advertising and identifying businesses or permitted commercial uses in General Business Districts.
- (a) Except as provided in Subsection B(2)(b) below, not more than one freestanding sign for each building or combination of buildings on the premises held in single and separate ownership shall be erected regardless of the number of uses or businesses in each building or combination of buildings, provided that:
    - [1] No such freestanding sign shall be less than seven feet nor more than 15 feet in height above the grade of the center line of the nearest public roadway. In the interest of public safety, a sign of greater height may be permitted by unanimous vote of Township Council.
    - [2] The size of any sign shall not exceed 25 square feet.
    - [3] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
  - (b) A restaurant with drive-through service may erect one additional freestanding sign which is a menu sign, provided that:
    - [1] Such sign shall not exceed 25 square feet.
  - (c) Each occupant in the building or combination of buildings on the premises with a direct public entrance from a parking lot or street shall be permitted one sign, provided that:
    - [1] Such sign shall be attached to the wall of the building or combination of buildings on the premises.
    - [2] The size of any such sign shall not exceed 25 square feet.
    - [3] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
  - (d) All occupants in the building or combination of buildings on the premises with no direct public entrance from a parking lot or street shall be permitted one sign, which sign shall identify all such occupants, provided that:
    - [1] Such sign shall be attached to the wall of the building or combination of buildings on the premises and shall be located in the immediate vicinity of the public entrance to the building or combination of buildings.
    - [2] The size of any such sign shall not exceed 25 square feet.

- [3] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- (e) A motel or hotel that regularly provides as part of its operation banquet facilities and/or conference and meeting rooms for group social functions shall be permitted, in addition to other permitted signage, a fifty-square-foot reader board sign to advertise special functions on such hotel or motel premises.
- (3) B-1 Neighborhood Shopping Center Districts. Signs advertising and identifying shopping centers in B-1 Districts.
  - (a) Not more than one freestanding sign advertising and identifying each shopping center held in single and separate ownership shall be erected for each street upon which the shopping center has frontage, provided that:
    - [1] No such freestanding sign shall be less than seven feet nor more than 15 feet in height above the grade of the center line of the nearest public roadway. In the interest of public safety, a sign of greater height may be permitted by unanimous vote of the Township Council.
    - [2] The size of any such sign shall not exceed 50 square feet.
    - [3] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
  - (b) Each occupant in the shopping center with a direct public entrance to a parking lot or street shall be permitted one sign, provided that:
    - [1] The sign shall be attached to the wall of the building or combination of buildings on the premises.
    - [2] The size of any such sign shall not exceed 25 square feet.
    - [3] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
  - (c) All occupants in the shopping center with no direct public entrance to a parking lot or street shall be permitted one sign, which sign shall identify all such occupants, provided that:
    - [1] Such sign shall be attached to the wall of the building or combination of buildings on the premises and shall be located in the immediate vicinity of the public entrance to the shopping center.
    - [2] The size of any such sign shall not exceed 25 square feet.
    - [3] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- (4) B-2 Major Shopping Center Districts. Signs advertising and identifying major shopping centers and occupants of major shopping centers in B-2 Districts. **[Amended 5-24-2010 by Ord. No. 713]**
  - (a) Not more than two freestanding signs identifying or advertising each shopping center shall

be erected for each street upon which the shopping center has frontage, provided that:

- [1] One of the said freestanding signs on each street frontage shall not exceed 42 feet in height above the grade of the center line of the nearest public roadway and the height of the second freestanding sign on the same street shall not exceed 20 feet in height above the grade of the center line of the nearest public roadway.
  - [2] The size of any one of such signs on any given street frontage shall not exceed 600 square feet, and the size of the other such sign on that same street frontage shall not exceed 100 square feet.
  - [3] No such sign shall have a distance between the faces thereon in excess of six feet.
  - [4] All such signs shall be set back at least 15 feet from any street or highway right-of-way line.
  - [5] No such sign shall be illuminated except by lighting concealed or indirectly attached to the sign itself.
- (b) In addition to the freestanding signs provided for in Subsection B(4)(a) above, one freestanding sign shall be permitted at each access drive into the shopping center, provided that:
- [1] The size of any such sign shall not exceed 25 square feet.
  - [2] No such sign shall exceed six feet in height above the grade of the center line of the nearest public roadway. In the interest of public safety, a sign of greater height may be permitted by unanimous vote of the Township Council.
  - [3] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- (c) The occupant of an anchor store, the principal occupant of a multi-occupancy building and the occupant of a single-occupancy building occupying 20,000 square feet or more of gross floor area shall be permitted signs on the exterior of said building, provided that:
- [1] Not more than two signs shall be permitted on the wall of any one side of the building.
  - [2] Not more than a total of six such signs shall be permitted on the four sides of the building.
  - [3] Such signs shall be attached to the walls of the building.
  - [4] No one sign shall exceed 360 square feet or have a length of more than 35 feet.
  - [5] The total square footage of all signs shall not exceed either 0.08% of the gross floor area of the building or 1,250 square feet, whichever is less.
  - [6] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- (d) Except for the principal occupant, each occupant of a multi-occupancy building, having a tenant space with direct public access to a parking area or street, shall be permitted one sign on the exterior of said building, provided that:

- [1] Such sign shall be attached to the wall of the building.
  - [2] Such sign shall be located in the immediate vicinity of said occupant's direct public access to the parking area or street.
  - [3] The size of any such sign shall not exceed 50 square feet, and the length thereof shall not exceed 30 feet.
  - [4] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- (e) The occupant of a single occupancy building occupying a tenant space with less than 20,000 square feet of gross floor area shall be permitted signs on the exterior of said building, provided that:
- [1] Not more than one sign shall be permitted on each side of the building.
  - [2] Not more than two such signs shall be permitted.
  - [3] Signs shall be attached to the wall of the building.
  - [4] The total size of all signs shall not exceed an area equal to 0.08% of the gross floor area of the building, except that buildings having gross floor areas of less than 6,300 square feet may have two signs with a total area of not more than 50 square feet.
  - [5] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- (f) All occupants in a multi-occupancy building which do not have a direct public access to a parking area or street shall not be permitted an exterior sign.
- (g) Interior signs shall be permitted within the immediate vicinity of the store front of each individual tenant space with direct access to a common mall area.
- (h) Directional signs for the purpose of directing vehicular and pedestrian traffic within the shopping center shall be permitted in proximity to the entrances to the shopping center and at selected locations within the shopping center. The directional signs shall be for the convenience and safety of vehicular and pedestrian traffic, giving direction to specific stores and buildings within the shopping center.
- [1] The size of any such sign shall not exceed 50 square feet.
  - [2] The height of any such sign above grade immediately surrounding same shall not exceed eight feet.
  - [3] No such sign shall be illuminated, except by lighting concealed or indirectly attached to the sign itself.
  - [4] No such sign shall advertise any particular item, program or product but rather shall be limited to the giving of directions to particular stores or buildings within the shopping center.
  - [5] The location and placement of directional signs as permitted by this subsection shall be pursuant to a master plan depicting all such signs filed with the Township.

- [6] "Entrance," "exit," "pick-up," "loading area" and similar directional signs shall be permitted by the Township Code Enforcement Officer if necessary for the safety and protection of the public, provided no such sign shall exceed six square feet in area and no such sign shall contain any advertising.
- (5) Special use districts. Signs advertising and identifying businesses and permitted uses in Special Use Districts.
  - (a) The following types of signs advertising conforming special uses on conforming lots shall be permitted:
    - [1] When the use of business is other than an office building or office complex, not more than one sign for the building or combination of buildings on the premises held in single and separate ownership shall be erected for each street upon which the special use has frontage, regardless of the number of uses or businesses in the building or combination of buildings, provided that:
      - [a] Where the sign is a freestanding sign:
        - [i] No such freestanding sign shall exceed 10 feet in height measured from the mean grade at the base of the sign.
        - [ii] The size of any such sign shall be determined as follows:
          - [A] One square foot of sign shall be permitted for every four linear feet of street frontage on the street where the sign is erected up to a maximum size of 125 square feet.
          - [B] Where a special use has street frontage on more than one street, the linear feet along all streets where the special use has frontage may be used to calculate the size of such sign up to a maximum size of 125 square feet, provided that the Township Council unanimously agrees to permit the use of this type of calculation, and further provided that if this method of calculating the size of a sign is used, only one freestanding sign shall be permitted.
    - [b] Where the sign is attached to the wall of the building on the premises, the size of such sign shall be determined as follows:
      - [i] One square foot of sign shall be permitted for every four linear feet of building on the side facing the street where the sign is erected, up to a maximum size of 125 square feet.
      - [ii] Where the special use has street frontage on more than one street, the linear feet of building on all sides with street frontage may be used to calculate the size of such sign, up to a maximum size of 125 square feet, provided that Township Council unanimously agrees to permit the use of this type of calculation, and further provided that if this method of calculating the size of a sign is used, only one wall sign shall be permitted.
    - [c] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.

- [2] When the use of a business is an office building or office complex, the following types of signs are permitted:
  - [a] One freestanding sign designating the name and address of the building or combination of buildings, and identifying the occupants of said building or buildings, provided that:
    - [i] The size of such sign shall not exceed 36 square feet.
    - [ii] No such freestanding sign shall exceed 10 feet in height measured from the mean grade at the base of the sign.
    - [iii] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
  - [b] One sign for each occupant on the exterior of the office building identifying the occupant and his business or occupation, provided that:
    - [i] Such sign is attached to the wall of the building where the occupant is located.
    - [ii] The size of such sign shall not exceed 500 square inches.
    - [iii] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
  - [c] Such directional signs as are necessary to promote the safe and convenient movement of traffic within the driveways and parking areas, provided that:
    - [i] The size of such sign shall not exceed the product of the number of occupants listed on such directory multiplied by 250 square inches.
    - [ii] Such sign shall be erected perpendicular to the driveway nearest their location.
    - [iii] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- (b) The following types of signs advertising nonconforming uses on conforming lots, or conforming uses on nonconforming lots or nonconforming uses on nonconforming lots shall be permitted:
  - [1] Not more than one freestanding sign designating the name and address of the building or combination of buildings on the premises held in single and separate ownership and identifying the occupants of said building or combination of buildings shall be erected, provided that:
    - [a] No such freestanding sign shall be more than 15 feet in height above the grade of the center line of the nearest public roadway. In the interest of public safety, a sign of greater height may be permitted by unanimous vote of Township Council.
    - [b] The size of such sign shall not exceed 25 square feet.
    - [c] No such sign shall be illuminated except by lighting, concealed or indirect,



attached to the sign itself.

- [2] Each occupant in the building or combination of buildings on the premises with a direct public entrance from a parking lot or street shall be permitted one sign, provided that:
    - [a] The sign shall be attached to the wall of the building or combination of buildings on the premises.
    - [b] The size of any such sign shall not exceed 25 square feet.
    - [c] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
  - [3] All occupants in the building or combination of buildings on the premises with no direct public entrance from a parking lot or street shall be permitted one sign which sign shall identify all such occupants and tenants, provided that:
    - [a] Such sign shall be attached to the wall of the building or combination of buildings and shall be located in the immediate vicinity of the public entrance to the building or combination of buildings.
    - [b] The size of any such sign shall not exceed 25 square feet.
    - [c] No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
- (c) Signs identifying conditional uses in SU Special Use Districts.
- [1] One freestanding sign, provided that:
    - [a] The size of such sign shall not exceed 36 square feet.
    - [b] No such sign shall exceed 10 feet in height above the grade of the center line of the nearest public roadway. In the interest of public safety, a sign of greater height may be permitted by Township Council.
- (6) Office districts.
- (a) The following types of signs shall be permitted in Office Districts:
    - [1] One sign on the exterior of each office building designating the name and address of the building, provided that:
      - [a] Such sign shall be attached to the wall of the building on the premises.
      - [b] The size of such sign shall not exceed 36 square feet.
    - [2] One freestanding sign designating the name and address of the building or office complex, if more than one building, and identifying the occupants of said building or buildings, provided that:
      - [a] The size of such sign shall not exceed 36 square feet.
      - [b] No such sign shall exceed 10 feet in height above the grade of the center line of the nearest public roadway. In the interest of public safety, a sign of greater

height may be permitted by Township Council.

- [3] One sign for each occupant on the exterior of the office building identifying the occupant and his business or occupation, provided that:

[a] Such sign shall be attached to the wall of the building where the occupant is located.

[b] The size of such sign shall not exceed 500 square inches.

- [4] Such directional signs as are necessary to promote the safe and convenient movement of traffic within the driveways and parking areas, provided that:

[a] The size of such sign shall not exceed the product of the number of occupants listed on such directory multiplied by 250 square inches.

[b] Such sign shall be erected perpendicular to the driveway nearest their location.

- (b) All signs permitted under Subsection B(1) above are also subject to the following restrictions:

[1] No sign shall contain anything except numbers, words or letters of the alphabet.

[2] No sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.

- (c) Signs as permitted in Subsection C(1) below.

- C. Signs which are nonconforming and signs which identify and advertise nonconforming uses shall be permitted in accordance with the following regulations, except as otherwise provided in this chapter:

- (1) A sign which is nonconforming at the effective date of this chapter may be continued although such sign does not conform with the provisions of this chapter, but the size of any such nonconforming sign shall not be enlarged.
- (2) A nonconforming sign may be changed to or replaced by another nonconforming sign, when authorized as a special exception by the Zoning Hearing Board. Whenever a nonconforming sign has been changed to a more restricted nonconforming sign, such sign shall not thereafter be changed to a less restricted nonconforming sign.
- (3) No nonconforming sign which has been dismantled, damaged or otherwise destroyed to the extent of more than 75% of its value shall be repaired or rebuilt, except as a conforming sign, except when authorized to be repaired or rebuilt as a nonconforming sign as a special exception by the Zoning Hearing Board.
- (4) If a nonconforming use of a building ceases or is discontinued for a continuous period of one year or more and such nonconforming use is deemed to be abandoned by virtue of the applicable provisions of other ordinances and regulations of the Township of Middletown, any nonconforming sign or any subsequent signs erected or maintained on the premises shall be in conformity with the provisions of this chapter.
- (5) Signs which are conforming at the effective date of this chapter and which identify and advertise nonconforming uses shall be maintained as conforming signs in accordance with the provisions of this chapter.

D. O-R Outdoor Recreation Districts.

- (1) OR-1 Outdoor Recreation District. One identification sign shall be permitted on a property or properties under single ownership and management. The sign shall not exceed 50 square feet in area.
- (2) OR-2 Outdoor Recreation District. One identification sign shall be permitted on a property or properties under single ownership and management. The sign shall not exceed 12 square feet in area.
- (3) OR-3 Outdoor and Indoor Recreation District. One identification wall sign, not to exceed 50 square feet, shall be permitted on the wall of the building facing the front property line. If the main entrance to the building is located on a wall opposite the wall facing the front property line, one additional identification wall sign, not to exceed 50 square feet, shall be permitted on the opposite wall. If a vehicular entrance is not on the property of the Community Center Building, one additional sign, not to exceed 50 square feet, shall be permitted at not more than two entrances. **[Added 2-23-1998 by Ord. No. 582; amended 2-26-2001 by Ord. No. 610]**

E. Manufacturing and industrial districts. In M Manufacturing and Industrial Districts, the regulations provided for in B General Business Districts shall apply.

F. Off-premises signs. Signs may be erected and maintained that advertise a product, activity or business not conducted on the premises where the business is located, provided that: **[Added 7-24-2006 by Ord. No. 676]**

- (1) No such sign shall be permitted in the R-1, R-1A, R-2, R-3, R-4, R-5, PRC or PRD District.
- (2) Each off-premises sign shall be subject to the number, size, setback, height and lighting of the signage provisions of the zoning district in which it is located, and shall be included in the total signage permitted on the premises where the sign is located.

G. Changeable signs. changeable signs shall be permitted in the I-1 Institutional District, I-2 Institutional District, I-3 Institutional District, I-4 Institutional District, OR-3 Outdoor and Indoor Recreational District, SU-1 Special Use District, SU-1-A Mixed Use District, SU-2 Special Use District, B General Business District, B-1 Neighborhood Shopping Center District, B-2 Major Shopping Center District, PBC Planned Business Center District, O Office District, OC-2 Office Campus 2 District, OC Office Campus Overlay District or M Manufacturing and Industrial District, subject to the following restrictions and limitations: **[Added 3-25-2013 by Ord. No. 737]**

- (1) The maximum square footage of the portion of a changeable sign dedicated to electrical changeable copy display or manual changeable copy display for any property is limited to a maximum of 50% of the freestanding signage permitted for the property in the zoning district in which the property is located; provided, however, that the electrical changeable copy display or manual changeable copy display shall not exceed 50 square feet.
- (2) Each property permitted to install a changeable sign shall be limited to one on-premises changeable sign, subject to the limitations herein, which may only be installed along the principal road frontage of the property.
- (3) All signs constructed or erected hereunder shall not be subject to restrictions set forth in § 275-195B(2)(a)[3]; (3)(a)[3]; (4)(a)[5] and (b)[3]; and (5)(a)[1][c], (a)[2][a][iii] and (b)[1][c]
- (4) The following restrictions and limitations shall apply to all permitted changeable signs with an

electrical changeable copy display:

- (a) All signs constructed or erected hereunder shall comply with the Commonwealth of Pennsylvania regulations related to outdoor advertising. See 36 P.S. § 2718.101 et seq.; 67 Pa. Code, Chapter 445.
  - (b) All signs constructed or erected hereunder shall be subject to the prohibitions and restrictions set forth in § 275-192A(1) and (2).
  - (c) All signs constructed or erected hereunder shall maintain a minimum static display time of 30 seconds.
  - (d) No sign shall display a message which changes in intensity or color during the fixed display period.
  - (e) The display message shall contain only words, numbers, pictures and/or symbols, none of which may be animated.
  - (f) Message change sequence. The time interval used to change from one complete message display to the next complete message display shall be a maximum of one second.
  - (g) All signs constructed or erected hereunder shall utilize automatic dimming controls in response to changing ambient light conditions and be equipped with light intensity limit via manual controls.
  - (h) All signs constructed or erected hereunder shall have a maximum luminance level of 4,000 nits during daylight hours, and, if illuminated at night, must have a maximum luminance level at 750 nits, regardless of the method of illumination, at least 1/2 hour before apparent sunset, as determined by the National Oceanic and Atmospheric Administration (NOAA) and throughout the night, if the sign is energized, until apparent sunrise, as determined by the NOAA.
- (5) Changeable signs permitted under § 275-195A(1)(b)[4] shall not be subject to the restrictions and limitations set forth hereunder.

ARTICLE XXXIII  
**General Provisions**

**§ 275-196. Purpose.**

The overall intent of these general provisions is to state the supplementary regulations and standards which are common to all uses in any zoning district.

**§ 275-197. Applicability.**

This chapter shall not apply to any existing or proposed building or extension thereof, used or to be used by a public utility corporation, if upon petition of such corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. For the purposes of this section and chapter, a "public utility" shall be defined and limited as provided under the terms of the Pennsylvania Utility Code.

**§ 275-198. Use requirements and restrictions.**

- A. General restrictions on use. No building may be erected, altered or used, and no lot or premises may be used for any trade, industry or business that is hazardous to the public whether by fire, explosion or otherwise. In determining whether a proposed use is hazardous, each such use shall be analyzed according to the environmental controls of this article.
- B. No internal combustion engine shall be used unless objectionable noise and vibration are eliminated and safe disposition is made of exhaust gases.
- C. No more than one permitted principal use shall be permitted on a lot.
- D. No activities which require the moving of earth or the filling or excavation of an area shall occur without a permit issued by the Township Engineer. Finish grading or incidental grading of a lot and minor earth moving from one place to another on a lot for such activities as landscaping or pond maintenance may not require such a permit. The deposit and storage of soils, detritus or other debris shall be done in a way which is not unsightly or detrimental to surrounding properties, streets, sewers and natural watercourses.
- E. It shall be unlawful for any person, persons or business entity of any type, or their principals, officers, agents, and employees, to engage in earthmoving, drilling, grading or any type of excavation work, including, but not limited to, any activities that require a permit pursuant to § 275-198D, within a right-of-way occupied by a natural gas liquids pipeline that is within 1/4 mile of the property line of any school in the Township during the hours of 7:00 a.m. to 6:00 p.m. while the school is in session. **[Added 9-10-2018 by Ord. No. 795]**
- F. Any person, persons or business entity found guilty of violating any of the foregoing provisions shall be subject to a fine of \$600 per day per violation, upon conviction before a Magisterial District Judge. Should any act of assembly permit a fine in an amount greater than \$600, the greater of that amount or \$600 shall be permissible. **[Added 9-10-2018 by Ord. No. 795]**

**§ 275-199. Lot and yard requirements. [Amended 10-24-1988 by Ord. No. 425; 1-8-1990 by Ord. No. 461; 7-23-1990 by Ord. No. 470; 10-26-1992 by Ord. No. 510; 8-14-1995 by Ord. No. 556]**

- A. Minimum lot size and setbacks. No lot area shall be so reduced that the area of the lot or the

dimensions of the setbacks creating the various yard areas shall be made smaller than herein prescribed. Further, each principal use shall have its own separate lot area which cannot be counted as the lot areas for any other principal use. No chimney, tower, antenna or tank shall be located closer to a lot line than the height of the tower, chimney, antenna or tank.

- B. Special exceptions for lot width. In the case of a lot held in bona fide single and separate ownership at the effective date of this chapter which does not fulfill the requirements for minimum width for the district in which it is located, a building may be erected or altered thereon, provided that all other yard and setback requirements of the district are observed.
- C. Lot width at the street line. Every principal permitted building shall be built upon a lot with frontage upon a public or private street which is improved to meet Township standards or for which such improvements are required by a subdivision or land development plan, except as provided below.
- D. The following regulations shall apply to existing interior lots: **[Amended 7-13-2020 by Ord. No. 817]**
- (1) For one or two existing interior lots, a common driveway may be provided subject to compliance with the following requirements:
    - (a) A private driveway providing public street access to one or two existing interior lots shall have a recorded easement right-of-way of 50 feet in width and a paved cartway of not less than 16 feet in width. The paved cartway shall have a minimum setback of 50 feet from any existing dwelling. The fifty-foot-wide easement shall be unobstructed by any building.
    - (b) A private driveway providing access to a public street for the one or two existing interior lots may also provide access for one lot which must have a minimum lot width at the street line as specified for the residence zoning district in which the lot is located.
    - (c) In order to protect the public health, safety and general welfare of persons residing in dwellings on lots adjacent to a private driveway providing public street access to an existing interior lot or lots, buffer planting strips shall be provided within the easement area at appropriate locations to prevent the headlights of motor vehicles using the private driveway from shining directly on any dwelling or dwellings on any adjacent lots or lots. The buffer planting area shall be in accordance with Article XXXIV.
    - (d) If an existing interior lot exceeds the lot area required for the residence zoning district in which the lot is located, the existing interior lot may not be further subdivided to create any additional interior lots, and the owner of the existing interior lot shall record a restriction against further subdivision of the existing interior lot.
- E. The following regulations shall apply to flag lots and interior lots: **[Added 7-13-2020 by Ord. No. 817<sup>166</sup>]**
- (1) Flag lots and interior lots shall be permitted only within the R-1 and R-1A Residential Districts and shall be subject to all regulations of this section and the applicable district regulations.
  - (2) Flag lots and interior lots shall be permitted within a subdivision when no other reasonable alternative can be achieved.
  - (3) No more than one flag lot or one interior lot may be created from a parent tract. **[Amended**

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166.Editor's Note: Subsequent subsections of this section were renumbered to accommodate this addition.

**3-28-2022 by Ord. No. 841]**

- (4) The access strip serving any flag lot shall have a minimum width of 50 feet at the street line and shall not exceed 300 feet in length, as measured from the street right-of-way to the flag front line.
  - (5) The flag lot access strip shall be excluded from the required minimum lot area (net lot area) calculation imposed by the district regulations.
  - (6) The private driveway providing access to a public street for one flag lot may also share a driveway with any lot which fronts completely on the street. The recorded easement shall not be less than 25 feet in width and a paved cartway of not less than 12 feet in width. The paved cartway shall have a minimum setback of 25 feet from any existing dwelling and be a minimum of four feet from a property line. The twenty-five-foot-wide easement shall be unobstructed by any building or structure.
  - (7) If a subdivision of a parent tract results in the creation of an interior lot, the access easement to the interior lot shall be 50 feet in width and must have a paved cartway which is constructed in accordance with the design standards for streets as set forth in the Township Subdivision and Land Development Ordinance.<sup>167</sup> The paved cartway shall have a minimum setback of 25 feet from any existing dwelling and be a minimum of four feet from a property line. The fifty-foot-wide easement shall be unobstructed by any building or structure.
- F. Front and side yards of corner lots. Corner lots shall be provided for equal setbacks on both streets.
- G. Front yard regulations. No building, accessory building, structure or accessory structure shall be located or constructed within the front yard except for the following structures, unless any such structures are specifically prohibited within required buffer areas or buffer planting strips: landscaping features such as walkways, benches, fences and retaining walls; lighting; signs; off-street parking; access drives and points of ingress/egress; and aboveground utility structures approved by Township Council.
- H. Side and rear yard regulations.
- (1) Where a minimum width of side yard is required, no building, accessory building, structure or accessory structure shall be erected within the minimum side yard area, except as provided in Subsections I and/or J, §§ 275-200 and/or 275-203C below.
  - (2) All residential reverse frontage lots shall have a rear yard with a minimum of 75 feet and, within such rear yard and immediately adjacent to the street line of the major road, shall have a landscaped buffer consisting of hedges, walls, trees or earthen berms arranged so as to create a continuous visual barrier in accordance with § 275-213 of this chapter.
- I. Projections or encroachments into required yards. Except as provided in Subsections G, H, J, §§ 275-200 and 275-203C, no building, accessory building, structure or accessory structure or part thereof shall be erected within, or shall project into, any required yard except for patios, decks or other uncovered spaces, unenclosed fire escapes, unenclosed steps and Class A and Class C accessory buildings or accessory structures as provided in § 275-203C. However, except for fences and approved driveways and except as otherwise provided in this chapter, all Class A or Class C accessory buildings or accessory structures must be located at least 10 feet from a property line.

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167. Editor's Note: See Ch. 210, Subdivision and Land Development.

- J. Projections or encroachments into required yards in residence districts. Buildings, accessory buildings, structures or accessory structures located in residence districts may be constructed or altered so that the following projections or encroachments are made into the required yard:
- (1) Cornices, eaves, gutters or chimneys may not project more than 18 inches into any front, side or rear yard.
  - (2) Steps, balconies and bay windows not extending through more than one story may project no more than five feet into any front, side or rear yard.
  - (3) Any Class A accessory building or accessory structure may be constructed in or may project into a required side and/or rear yard if both of the following occur: the Class A accessory building or accessory structure is located at least 10 feet from any side or rear property line, unless a closer distance is authorized by the Zoning Hearing Board as a special exception; and the Class A accessory building or accessory structure is located at least 10 feet back from the rearmost portion of the main building on the lot.
  - (4) Anything herein to the contrary notwithstanding, tennis courts, swimming pools and similar accessory uses, accessory buildings or accessory structures may extend into the required side and rear yards only when authorized by the Zoning Hearing Board as a special exception.
- K. Lot area for Township easements on private property for stormwater facilities. In the case where an easement is granted to the Township on private property for a stormwater facility (basin or like structure constructed as a BMP to store water) for use in part as a Township facility, that portion of the private property on which the basin easement is located shall not be deducted from the lot area. **[Added 9-27-2021 by Ord. No. 834]**

**§ 275-200. Height limitations of fences and walls.**

No fence or wall (except a retaining wall or wall of a building permitted under the terms of this chapter) over six feet in height shall be erected within any of the required open yard areas, provided that a portion of the fence or wall may exceed six feet in height if such portion contains openings therein equal to 50% or more of the area of said portion of the fence or wall and further provided that any fence or wall is in accordance with § 275-203.

**§ 275-201. Corner vision obstruction.**

On any lot, no wall, fence, berm or other structure shall be erected or maintained and no hedge, tree, shrub or other growth shall be maintained which may cause danger to traffic on a street by obscuring the view. No obstruction shall be placed or maintained within the clear sight triangle as defined by the design standards and required improvements for streets set forth in Chapter 210, Subdivision and Land Development.

**§ 275-202. Underground electric and telephone wiring.**

Electric, telephone and cable television wiring shall be placed underground for every structure, dwelling or other use in all residential districts and in the Outdoor Recreation District, unless approved otherwise by Township Council.

**§ 275-203. Accessory uses and accessory buildings or accessory structures. [Amended 8-14-1995 by Ord. No. 556]**

Accessory uses and accessory buildings or accessory structures may include but not necessarily be limited



to the following:

A. Uses, buildings and structures accessory to agriculture.

- (1) The sale of farm products produced on the property, provided that no roadside stands used for such sale shall remain on the property during seasons when products are not sold and that adequate parking and provisions for safe ingress and egress be provided.
- (2) Signs for the sale of farm products shall be in accordance with Article XXXII.

B. Uses, buildings and structures accessory to dwellings.

- (1) Detached private garage, private parking area, private stable on lot of not less than one acre, private noncommercial barn, shed, shelter for pets, swimming pools in accordance with this section, bath house and private noncommercial greenhouse.
- (2) Quarters for guests and servants, when authorized as a special exception.
- (3) Pole, mast, tower or other structure for amateur radio operations, subject to the determination made by the Township Council as defined in Article XXXIV.
- (4) Swimming pools. Swimming pools permitted as an accessory use to a principal residential use shall comply with the following conditions and requirements:
  - (a) The pool is intended, and is to be used, solely for the enjoyment of the occupants of the principal permitted use of the property on which it is located, and their guests, and may not be operated commercially.
  - (b) Swimming pools designated to contain more than 18 inches of water shall be erected in conformity with the following:
    - [1] A permit shall be required to locate, construct or maintain a swimming pool as a residential accessory use.
    - [2] Swimming pools may be in the rear or side yard setback area only when authorized as a special exception and shall not be in the front yard. In no case shall such pool be located under any electrical lines or over any utility lines (including sewer and water lines).
    - [3] Every in-ground swimming pool shall be entirely enclosed with a good-quality chain link, wooden or other equivalent fence of not less than four feet in height, equipped with a locking gate. Such fence shall be placed either near or adjacent to the pool or at such other place on the owner's premises as to constitute an adequate barrier against entrance onto the owner's land or into said pool.
    - [4] If the water for such pool is supplied from a private well, there shall be no cross-connection with a public water supply system.
    - [5] If the water for such pool is supplied from a public water supply system, the inlet shall be above the overflow level of said pool.
    - [6] No permit shall be granted for the installation or construction of any in-ground pool, permanent pool or portable pool having a capacity of 15,000 gallons or more, unless the Township Engineer has certified that the drainage of such pool is adequate and

will not interfere with the water supply system, existing sanitary facilities or public streets.

- (5) Tennis courts. A tennis court may be located in a rear or side yard setback area only when authorized by a special exception and shall not be located in a front yard. Tennis court fences may be constructed but shall not exceed 10 feet in height.
- (6) Recreational vehicles and travel trailers. Recreational vehicles and/or travel trailers may be stored in the rear or side yard of the principal permitted use or in a garage or roofed structure and shall be no closer to a property line than the setback line created by the various yard requirements when stored outside. Such vehicles and/or trailers shall be screened from adjacent properties.
- (7) No-impact home-based businesses. **[Added 5-24-2010 by Ord. No. 712]**
  - (a) In residential districts, a no-impact home-based business shall be permitted as an accessory use in a dwelling unit.
  - (b) Anyone who operates a no-impact home-based business shall file an application for and secure a certificate of occupancy and an annual business license from the Township.

C. Accessory buildings or accessory structures in yards.

- (1) Unless otherwise specified in this chapter, Class A and Class C accessory buildings or accessory structures may be located, erected or maintained in a side yard that does not abut the street or in a rear yard, provided that in no case shall such Class A or Class C accessory buildings or accessory structures be any closer than 10 feet to any lot line except for: fences, landscaping, approved driveways and, when authorized as a conditional use by Township Council, other structures for which no other viable alternative location is feasible.
- (2) Unless this chapter expressly provides otherwise, no accessory building or accessory structure may be located in a required front yard or required side yard which abuts a street except for permitted signs, fences and/or structures associated with ingress and egress and structures required by the Township for stormwater management, provided that they are no closer to the street than 15 feet from the street line.
- (3) No Class B accessory building or accessory structure may be located, erected or maintained in any front yard, side yard or rear yard.

D. Home professional offices.

- (1) In residential districts, all dwelling units except apartment units may be used for a home professional office when approved as a conditional use.
- (2) A home professional office may be permitted if the principal person using the office is the resident of the dwelling unit. Such office shall be incidental or secondary to the principal use of the property as a residence.
- (3) Professions for which an accessory use office may be operated in a residentially zoned dwelling may include a physician, attorney, dentist, accountant, architect, professional engineer, or similar profession who customarily has an office in the home. A professional office shall not be interpreted to include a real estate office or other commercial office, shop or use such as a barber shop, beauty shop, hair stylist or a funeral home.

- (4) Off-street parking spaces, in accordance with Article XXXI, are required when a professional office is operated as an accessory use in a dwelling. Such parking shall be screened from the view of surrounding dwellings with landscaping approved by the Township.
- (5) In addition to the owner-occupant, or more than one, or the equivalent of one, full-time employee shall be employed at a professional office operated as an accessory use in a dwelling.
- (6) The area used for a home professional office shall occupy no more than 25% of the total usable floor area of the dwelling unit.
- (7) No manufacturing, repairing or other mechanical work performed in connection with such home professional office shall be performed in any open and/or outdoor area. Such activity shall be conducted in such a way that no noise, odor, vibration, electromagnetic interference or smoke shall be noticeable at or beyond the property line.
- (8) No storage of materials or products shall be permitted in open and/or outdoor areas.
- (9) No external alterations shall be permitted to the dwelling unit which are not consistent with the principal residential character and design.
- (10) No products shall be sold on the premises.
- (11) Signs or outside advertisement may be permitted only in accordance with the provisions of Article XXXII.
- (12) The operation of any home occupation involving the physical presence of customers, clients or other business visitors shall be limited to 7:00 a.m. to 9:00 p.m., except that any business conducted between 9:00 p.m. of one day and 7:00 a.m. of the following day may take place only if authorized by Township Council upon the determination that the privacy and tranquility of the surrounding residential area will not be disrupted by the proposed hours of operation.

E. Home occupations.

- (1) In residential districts, all dwelling units except apartments may be used for home occupations as a conditional use when approved by the Township Council.
- (2) A home occupation shall be permitted, provided that the principal person engaged in the home occupation is a resident of the dwelling unit. Such home occupation shall be incidental or secondary to the use of the property as a residence and is limited to those occupations listed below.
- (3) Occupations which may be authorized as an accessory use include the following occupations: manufacturer's representative, dressmaker, milliner, music teacher, teacher, artist or like occupation which is lawfully conducted for pecuniary gain by a resident within the dwelling unit. A home occupation shall not be interpreted to include such facilities as: a barber shop, beauty shop or hair stylist; tea room, tourist home, funeral home, convalescent home, kennel or similar use of a commercial nature.
- (4) Off-street parking spaces in accordance with Article XXXI shall be screened from the view of surrounding residential homes by landscaping approved by the Township.
- (5) No individuals shall be employed on the premises by the operator of a home occupation.
- (6) The area of dwelling used for the home occupation shall be no more than 25% of the total usable

floor area of the dwelling unit.

- (7) No manufacturing, repairing or other mechanical work, performed in connection with such home occupation, shall be performed in any open and/or outdoor area. Such activity shall be conducted in such a way that no noise, odor, vibration, electromagnetic interference or smoke shall be noticeable at or beyond the property line.
- (8) No storage of materials or products shall be permitted in open and/or outdoor areas.
- (9) No external alterations shall be permitted to the dwelling unit except those customarily conducted for residential buildings.
- (10) Signs or outside advertisement may be permitted only in accordance with the provisions of Article XXXII.
- (11) The operation of any home occupation involving the physical presence of customers, clients or other business visitors shall be limited to 7:00 a.m. to 9:00 p.m., except that any business conducted between 9:00 p.m. of one day and 7:00 a.m. of the following day may take place only if authorized by Township Council upon the determination that the privacy and tranquility of the surrounding residential area will not be disrupted by the proposed hours of operation.

**§ 275-204. Conversion into two-family or multiple-family dwellings.**

The Township Council may permit, as a conditional use, the conversion of a building in any residence district to a dwelling for more than one family, provided that:

- A. The plans for the conversion of said dwelling shall be submitted to the Township Council.
- B. Such plans shall provide adequate and suitable parking in accordance with Article XXXI.
- C. In order to qualify for conversion, the building must be located on a lot with an area not less than the product of the minimum single-family lot area of the district multiplied by the number of dwelling units to which such building is to be converted.
- D. There shall be no external alteration of the building, except as may be necessary for reasons of safety, that will disrupt the residential character of the surrounding area. Fire escapes and outside stairways shall, where practicable, be located in the rear of the building.

**§ 275-205. Restrictions on keeping and storing junk vehicles. [Amended 1-9-1989 by Ord. No. 434; 1-8-1990 by Ord. No. 461]**

The following regulations shall apply to all vehicles:

- A. Junk vehicles or unregistered vehicles or registered vehicles under repair may not be kept or stored outdoors on public or private property for longer than 96 hours during any thirty-day period, provided that junk vehicles or unregistered vehicles or registered vehicles under repair may be worked on or stored within a garage or other fully enclosed structure. This regulation does not apply to the following:
  - (1) Commercial businesses which are permitted principal land uses and are normally involved in the repair or assembly of such vehicles.
  - (2) Vehicles designed for farming when these vehicles are stored on an active farm.

- (3) Antique cars or other automobiles in the process of being reconstructed for purposes of qualifying as antique cars and which have been registered with the Township Zoning Officer, provided that:
  - (a) Such vehicles shall be suitably covered at all times when not actively being worked on.
  - (b) The vehicles must receive antique registration within one year from the date of initial registration of the vehicles with the Township Zoning Officer as provided herein.

**§ 275-206. Nonconformities. [Amended 1-8-1990 by Ord. No. 461]**

- A. Continuation. All structures, uses of structures and uses of land that do not conform to the regulations of the district in which they are located after the effective date of this chapter shall be regarded as nonconforming, and the following regulations shall apply to them.
- B. Alteration or extension.
  - (1) Nonconforming structures. Nonconforming structures may be altered or enlarged, provided that such alteration or enlargement does not, on the effective date of this chapter, increase the extent of the nonconformity of the overall structure more than 10%, except patios, decks and screened and open porches. These excepted extensions of the nonconforming structure shall not protrude any further into the setbacks but can align with the structure the extent to which it is already nonconforming. In the case of a nonconforming structure which is used by a nonconforming use, such alteration or enlargement shall also meet the requirements of Subsection G below.
  - (2) Nonconforming lots. A building may be constructed on any lot which was lawful when created and which, prior to the effective date of this chapter, was in separate ownership duly recorded by plan or deed, provided that the yard requirements of this chapter are observed.
  - (3) Nonconforming uses. Nonconforming uses shall not be altered or enlarged, except in accordance with the following provisions:
    - (a) Such alteration or enlargement shall be permitted only by conditional use under the provisions of Article XXXVI.
    - (b) Such alteration or enlargement shall be upon only the same lot as was in existence on the date the use became nonconforming.
    - (c) Any increase in volume or area of the nonconforming use shall not exceed an aggregate of more than 10% of said volume of floor area during the life of the nonconformity.
- C. Restoration. A nonconforming building or any building containing a nonconforming use wholly or partially destroyed by fire, explosion, flood or other phenomenon or legally condemned may be reconstructed and used for the same nonconforming use, provided that reconstruction of the building shall be commenced within one year from the date the building was destroyed or condemned, and shall be carried on without interruption, or else the nonconforming building or use shall be deemed to be abandoned.
- D. Ownership. Whenever a lot is sold to a new owner, a previously lawful nonconforming use may be continued by the new owner, provided that there is no enlargement or change in the nonconformity.
- E. Abandonment. If a nonconforming use of a building or land is abandoned for 12 consecutive months, whereby the owner discontinues the use with the intention neither of transferring rights of the

property to another owner nor of resuming the use of the property, the subsequent use of such building or land shall conform to the regulations of the district in which it is located, unless another nonconforming use is approved by the Township Council in accordance with Subsection F and that such approved use be initiated within 30 days after the end of the twelve-month period.

- F. Changes. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to another equally restrictive or more restrictive nonconforming use only if permitted as a conditional use by the Township Council and subject to the following conditions:
- (1) The applicant shall show that a nonconforming use cannot reasonably be changed to a conforming use.
  - (2) The applicant shall show that the proposed change will be no more objectionable in external effects than the existing nonconforming use with regard to:
    - (a) Traffic generation and congestion.
    - (b) Noise, smoke, dust, fumes, vapors, gases heat, odor, glare or vibration.
    - (c) Outdoor storage.
    - (d) Sanitary sewage disposal.
  - (3) In the case of an application for a conditional use to alter or enlarge a nonconforming use or to change a nonconforming use to another nonconforming use, the applicant shall be responsible for establishing to the satisfaction of the Township Council that the proposed expansion or change in use will not cause an increased detrimental effect on surrounding properties or the neighborhood in which it is located. In making its decision on the relative detriment, the Township Council shall also take into consideration the standards included in Article XXXVI. Any alteration or enlargement authorized by the Township Council shall represent the minimum modification that will afford the relief required.
- G. District changes. Whenever the boundaries of a district are changed so as to transfer an area from one district to another district, the foregoing provisions shall also apply to any nonconforming uses of structures existing in the district to which the area was transferred.

#### **§ 275-207. Environmental controls.**

- A. No building may be erected, altered or used and no lot or premises may be used for any trade, industry, business or other activity that is noxious or offensive by reason of odor, dust, smoke, gas, vibration, illumination, noise, toxic chemicals or other disturbance which constitutes a public hazard, whether by fire, explosion or otherwise. In determining whether a proposed use is or may become noxious, hazardous or offensive, each such use shall comply with the performance standards below; and no internal combustion engine shall be used unless objectionable noise and vibration are eliminated and proper disposition is made of exhaust gases.
- B. It is the intent of these regulations to prevent land or buildings, including those permitted by right, conditional use or special exception, from being used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable condition such as fire, explosion or other hazards; noise or vibration; glare or heat; condition conducive to the breeding of rodents or insects; or other substance, adversely affecting the surrounding area. All uses shall operate in conformance with the environmental controls set forth herein and relevant statutes, codes, rules and other

regulations of the United States Government, the Commonwealth of Pennsylvania, Delaware County and governmental, quasi-governmental and governmentally regulated bodies, companies and authority entities. The most stringent regulation applicable shall be used.

- C. All plans for proposed development in the Township shall illustrate, depict, note or otherwise demonstrate compliance with this section and in accordance with the requirements of Chapter 210, Subdivision and Land Development, and § 275-198A through F, if applicable. **[Amended 9-10-2018 by Ord. No. 795]**
- D. Noise controls.
- (1) The sound level of any operation (other than the operation of motor vehicles or other transportation facilities, operations involved in the construction or demolition of structures, emergency alarm signals or time signals) shall not exceed the decibel levels in the designated octave bands as stated below. The sound pressure level shall be measured with a sound level meter and an octave band analyzer that conform to specifications published by the American Standards Association (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, American Standards Association, Inc., New York, New York, and the American Standard Specifications for an Octave Bank Filter Set for the Analysis of Noise and Other Sounds, Z24.10-1953, American Standards Association, Inc., New York, New York, shall be used).
  - (2) The maximum permissible sound-pressure levels for noise shall be as follows (all of the decibel levels stated below shall apply in each case):

Frequency Band (cycles per second)	Maximum Permitted Sound-Pressure Level (decibels)
0 to 150	67
150 to 300	59
300 to 600	52
600 to 1200	46
1200 to 2400	40
2400 to 4800	34
Above to 4800	32

- (3) The measurement of sound levels called for in this section shall be at the property line which abuts the nearest residential district.
- E. Smoke. No smoke shall be emitted from any chimney or other source of visible gray opacity greater than No. 1 on the Ringelmann Smoke Chart as published by the U.S. Bureau of Mines, except that smoke of a shade not darker than No. 2 on the Ringelmann Chart may be emitted for not more than four minutes in any thirty-minute period.
- F. Dust, fumes, vapors and gases.
- (1) The emission of dust, dirt, fly ash, fumes, vapors or gases which can cause any damage to human health, animals or vegetation, or to other forms of property or which can cause any

soiling or staining of persons or property at any point beyond the lot line of the use creating the emission in herewith prohibited.

- (2) Except as otherwise designated below under specific contaminants in Subsection F(3) of this section, no emission of liquid or solid particles from any chimney or otherwise shall exceed 0.3 grains per cubic foot of the covering gas at any point beyond the lot line of the use creating the emission. For measurement of the amount of particles in gases resulting from combustions, standard correction shall be applied to a stack temperature of 500° F. and 50% excess air in the stack at full load.
- (3) Specific contaminants. The Ambient Air Quality Standards for the Commonwealth of Pennsylvania shall apply to the release or airborne toxic materials across lot lines. Specific contaminant standards are as follows:
  - (a) Fugitive emissions. As required by Sections 123.1 and 123.2, Chapter 123, Article III, Sub-Part C, Part I, Title 25 of the Rules and Regulations of the Pennsylvania Department of Environmental Protection, as revised 27 January 1972, or as may be revised in the future.
  - (b) Particulate Matter Emissions. As required by Sections 123.11, 123.12, and 123.13, Chapter 123, Article III, Sub-Part C, Part I, Title 25 of the Rules and Regulations of the Pennsylvania Department of Environmental Protection, as revised 27 January 1972, or as may be revised in the future.
  - (c) Sulfur compound emissions. As required by Sections 123.21, 123.22, and 123.23, Chapter 123, Article III, Sub-Part C, Part I, Title 25 of the Rules and Regulations of the Pennsylvania Department of Environmental Protection, as revised 27 January 1972, or as may be revised in the future.

Where there are, in addition to the above regulations, relevant air pollution regulations of the United States Government or of the Commonwealth of Pennsylvania, the most stringent regulation applicable shall be used.

- G. Heat and glare. No use shall produce heat perceptible beyond its lot lines. The specific Rules and Regulations of the Pennsylvania Department of Environmental Protection with respect to heat and glare shall apply.
- H. Odor. No use shall emit odorous gases or other odorous matter in such quantities as to be offensive at any point on or beyond its lot lines. The guide for determining such quantities of offensive odors shall be the most restrictive provisions of Table III (odor thresholds) in Chapter 5, "Air Pollution Abatement Manual," copyright 1951 by Manufacturing Chemists' Association, Inc., Washington, D.C., as revised.
- I. Vibrations. No use shall cause earth vibrations or concussions detectable beyond its lot lines without aid of instruments with the exception of that vibration produced as a result of construction activity.
- J. Storage and waste disposal.
  - (1) All storage of flammable materials shall comply with the provisions of the Middletown Township Fire Code.



- (2) No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces, nor shall any substance which can contaminate a stream or watercourse undesirable as a source of water supply or recreation, or which will destroy aquatic life, be allowed to enter any stream or watercourse.
- (3) All materials or wastes which might 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 if enclosed in containers which are adequate to eliminate such hazards or any leaching to substratum.

K. Soil erosion, sedimentation and grading control.

- (1) No construction or development activity shall occur unless in strict compliance with Chapter 210, Subdivision and Land Development, and all other Code provisions. Such reference is made to call particular attention to the controls which shall be exercised when clearing trees and other vegetation or otherwise changing or altering the landform.

L. Slope controls. Refer to Article XXX.

M. Traffic control.

- (1) No activity shall occur which would adversely affect traffic flow and/or present traffic controls within the Township by creating a level of service below that which is specified in this subsection.
- (2) To minimize potential adverse conditions, the level of service for traffic along any portion of a road which leads to the points of ingress and egress of a tract or other proposed property shall be a level of service "C" or better. The term "level of service" and the categories thereof are used herein in accordance with the definitions or meaning ascribed thereto in the document entitled "Trip Generation, An Institute of Transportation Engineers Informational Report, Second Edition, 1979," or the edition in use at the time a development or other building application is made.
- (3) The determination of levels of service shall be made after an experienced Transportation Engineer/Traffic Consultant conducts a traffic study, the cost of which shall be borne by the owner of the tract or other property owner. Said study shall be based in part on the aforementioned report and in part on the Pennsylvania Department of Transportation Handbook of Vehicle Code Regulations, in particular, the following chapters: 471-610 pertaining to Engineering and Traffic Studies; 471-611 pertaining to Maintenance and Protection of Traffic; and 471-615 pertaining to Official Traffic-Control Devices. Said study shall indicate compliance with the requirement for a level of service "C" or better as set forth in Subsection M(1) above and shall include the data upon which the conclusions of said study are based, including, without limitation, traffic counts, the hours thereof, the dates thereof and the types of motor vehicles comprising such counts.
- (4) All streets and/or intersections showing a level or service below "C" shall be considered deficient, and specific recommendations for the elimination of these problems shall be listed. This listing of recommended improvements shall include, but not be limited to, the following elements: internal circulation design, site access location and design, external street and intersection design and improvements traffic signal installation and operation, including signal timing.

**§ 275-208. Microwave antennas for satellite communication.**

- A. All parabolic ground- or roof-based reflectors, together with the pedestal and any other attachments and parts, commonly referred to as a "dish-shaped antenna," used or intended to receive radio or electromagnetic waves from an overhead satellite, shall conform to the following:
- (1) The diameter of a ground-based reflector shall not exceed 10 feet.
  - (2) The entire structure, including the microwave antenna, shall not exceed 18 feet in height.
  - (3) Any such structure, including the microwave antenna, shall not exceed 18 feet in height.
  - (4) No more than one microwave antenna shall be permitted on any lot.
  - (5) Before erecting any structure, a building permit shall be obtained.
  - (6) All such structures shall be screened by landscaping or fencing approved by Township Council.

**§ 275-209. Rotorcraft helicopters, fixed-wing aircraft, amateur-built aircraft and non-fixed-wing aircraft, including power gliders, ultra lights, etc.**

- A. No helicopter or related fixed- or non-fixed-wing aircraft (hereinafter referred to as "aircraft") shall be flown or power tested in any manner on any lot except in conformance with the following standards:
- (1) Each lot proposed to be utilized for the flight or testing of such aircraft shall be a minimum of seven acres.
  - (2) The aircraft shall be owned or operated by the owner or occupant of the lot. An aircraft not owned by the owner or occupant of a lot may be operated on such lot on an infrequent basis with the owner's permission.
  - (3) Each flight or power test shall be conducted in accordance with applicable Federal Aviation Administration rules and regulations. Prior to flight or power test, amateur-built aircraft must obtain an FAA airworthiness certificate setting forth aircraft operating limitations that specify the flight test area for the aircraft.
  - (4) Each flight or power test shall be conducted in a manner as to prevent the creation of any unsafe condition or annoyance to adjacent property owners.
  - (5) Each flight or power test shall be conducted under visual flight rules, daylight hours only.
  - (6) Prior to initiation of any flight or power test activity, the owner or occupant of said lot shall obtain a permit pursuant to applicable provisions of the Township Fire Code. Said permit shall be valid only for the calendar year in which it was issued and shall be renewed on an annual basis.
  - (7) No aircraft may take off, land, taxi or maneuver upon a lot unless operated by a person possessing proof of having attained a national standard of competence in the operation of that aircraft, where required by an applicable governmental agency.
- B. Permanent heliports licensed by the Federal Aviation Administration and the Pennsylvania Department of Transportation's Bureau of Aviation are exempt from the regulations contained in this section.

- C. Nothing in this section shall prevent or restrict the use of aircraft operated by an agency of the federal or state government or aircraft associated with police, fire or emergency medical incidents when said aircraft are being operated under the direction and control of a bona fide public safety agency serving Middletown Township. **[Amended 11-27-1989 by Ord. No. 457]**

ARTICLE XXXIV  
**Special Provisions**

**§ 275-210. Purpose.**

The intent of these provisions is to set forth standards and requirements which pertain to special types of projects, special land development practices and other circumstances which apply to certain districts or conditions. These provisions relate to height exceptions, environmental impact assessment for special projects, plan review and evaluation for certain individual buildings and regulations for buffer areas, buffer planting strips and landscaping.

**§ 275-211. Exceptions to height regulations for buildings and structures. [Amended 9-14-1998 by Ord. No. 588]**

The Township Council shall determine that the height regulations prescribed within this chapter may be exempted for spires, steeples, belfries, cupolas or domes not used for human occupancy or for chimneys, ventilating fans, air-conditioning equipment, roof structures for the housing of elevators and/or stairways, fire or parapet walls, skylights, flagpoles, water tanks, utility poles or towers, windmills, silos, smokestacks and ornamental or other necessary mechanical appurtenances. The height regulations set forth in Articles IV through XIII and Article XVI through Article XXVIII shall not apply to communication antennas. The height regulations set forth in Articles XII, XIII, XIX through XXVIII shall not apply to communications towers. The height regulations for communication antennas and communications towers shall be as set forth in §§ 275-216 and 275-216.1.

**§ 275-212. Floodlighting and spot lighting restrictions.**

No building shall be illuminated on the exterior by floodlighting, spotlighting or similar-type lighting, except for security lighting, which shall be approved by Township Council.

**§ 275-213. Buffer area standards.**

- A. Buffer areas, as defined in Article II and required in various districts, shall be adjacent to a property boundary.
- B. Buffer areas shall be landscaped and maintained in accordance with § 275-214.
- C. All plantings shall be installed and maintained for the full width required in a particular district, except that certain structures may be placed within the buffer area, including:
  - (1) The required plantings and related landscape treatment, such as berms, fences or walls which aid in screening and do not conflict with the character of adjoining properties or block the clear sight distance required at intersections.
  - (2) Appurtenant landscaping structures such as: tree wells, tree guards and tree grates and retaining walls used to preserve stands of existing trees or used for other functional purposes.
  - (3) Roads which provide direct ingress/egress for the tract, including appurtenant structures within such road rights-of-way such as curbs, sidewalks, signs, lighting standards or benches.
  - (4) Underground utilities.
- D. No structures other than those set forth in § 275-213C shall be placed within a buffer area, and no parking of any kind shall be permitted within the required buffer area.

**§ 275-214. Landscaping requirements.**

- A. Landscaping as required in this chapter shall be installed and maintained in accordance with a landscaping plan approved by the Township Council. A landscaping plan shall depict all proposed plantings as required within buffer areas in the form of a buffer planting strip and in other landscaped areas which relate to, complement, screen or accentuate buildings roads, parking areas, sidewalks, walkways, sitting areas, service or maintenance structures, courtyards and other site features.
- B. A landscaping plan shall be submitted at the time when all other required applications and/or plans are submitted. It shall be based on the reflect the following:
  - (1) The functional and aesthetic factors which relate to the tract and to the principal and accessory buildings and other structures.
  - (2) Concealing views to the tract.
  - (3) Enhancing views from and within the tract.
  - (4) Screening and complimenting proposed buildings and other structures.
  - (5) Creating visual interest for the users and/or residents of the proposed project.
  - (6) Using plant materials which are hardy and acclimated to the conditions at the tract and within the Township.
- C. The landscaping plan shall include notes, diagrams, sketches or other depictions to present the consideration and analysis of the following:
  - (1) An analysis of the site in terms of: the existing views to and from the areas which are proposed for development, the existing topography and vegetation conditions and other existing conditions which are relevant to the site.
  - (2) An analysis of proposed planting and other landscaping needs as related to: screening views of buildings, screening buildings and sections of buildings, screening parking areas and other areas where vehicles are parked, screening storage areas, screening site utilities, and other appropriate types of screening.
  - (3) The consideration of locations where plantings and other landscaping is needed to: provide visual interest; define outdoor spaces; complement the proposed architectural style; and achieve other functional and aesthetic requirements for buffer areas, buffer planting strips and other landscaped areas.
- D. A preliminary and final landscaping plan shall reflect the following detailed criteria, unless more specific criteria are provided for in other articles of this chapter:
  - (1) Buffer planting strips shall be installed and maintained in the buffer areas at the width required in this chapter to form a continuous visual buffer. In addition to ground covers and evergreen shrubs, the buffer planting strips shall be comprised of evergreen trees which are six to eight feet in height at the time of planting and shall be spaced at nine foot centers. The combined evergreen shrubs and tree plantings shall constitute a continuous visual screen at the time of occupancy of any buildings and/or at the time of initiation of any use.
  - (2) Shade trees shall be provided along all streets and shall be located at least three feet beyond the right-of-way line. No less than one tree of 3 1/2 inches to four inches in caliper shall be planted

for each 30 feet of roadway length. Such trees shall be planted in alternating rows whereby trees on one side of the street are placed at intervals of 60 feet. However, such trees may be grouped in certain cases to achieve a particular design objective when approved by the Township Council.

- (3) The outer perimeter of all parking areas shall be screened. Effective screens may be accomplished through the use of plant materials, fencing or walls and/or mounding through the use of earthen berms.
  - (4) Parking lots shall be landscaped as required in Article XXXI.
  - (5) All buildings shall be landscaped in accordance with the following criteria:
    - (a) A combination of evergreen and deciduous trees and shrubs shall be used as "foundation" plantings, i.e., plantings to be installed in reasonably close proximity to the facades.
    - (b) One specimen deciduous tree of 3 1/2 inches to four inches in caliper shall be planted for every fifty-foot length of building facade measured from end to end of buildings, without regard to indentations and the like in the buildings or facades, and excluding any enclosed walkway connectors and elevator cores, such trees shall be a minimum of 11 feet to 13 feet in height at the time of planting; and one eight-foot to ten-foot specimen evergreen tree shall be planted for every 50 feet of length of building facade.
    - (c) Five evergreen and/or deciduous shrubs shall be planted for every 20 feet of length of building facade.
    - (d) Trees and shrubs shall be grouped in accordance with specific needs and objectives.
  - (6) Other landscaping including trees, shrubs and ground covers shall be provided along walkways, in courtyards, around sitting areas, at the entrance to the site and in other highly visible locations, especially on the outer side of any internal access roads which are visible from a public street which may adjoin a tract, at the entrance to buildings and around structures used for service, storage or maintenance purposes.
  - (7) The location, type, size, height and other characteristics of landscaping shall be subject to the review and approval of the Township Council.
- E. The preliminary landscaping plan shall be drawn at a scale of at least one inch equals 50 feet. It shall be totally coordinated with the overall site plan and shall contain the following:
- (1) A delineation of existing and proposed plant materials.
  - (2) A delineation of other landscaping features such as berms, planting beds to be used for herbaceous plants, areas to be devoted to lawns and other elements of the proposed improvements such as fences, walls, berms, retaining walls, lighting, benches, signs, paving, stone, tree wells and the like.
  - (3) One color rendering of the preliminary landscaping plan shall be submitted for review by the Township in addition to the number of prints which are otherwise required. The color-rendering shall reflect total coordination with the overall site plan in terms of its relationship to proposed buildings, roads, parking areas, walks, walls, fencing, benches, signs, lighting and other like structures.
  - (4) A written narrative of the analysis and objectives for plantings as required under Subsection C above.

- F. After the Township has reviewed the preliminary landscaping plan and submitted comments on the plan to the applicant, a final landscaping plan shall be submitted. The final landscaping plan shall be drawn in greater detail than the preliminary plan. It shall be totally coordinated with the overall site plan and shall contain the following:
- (1) A final version of all of the plan requirements stated in Subsection E above, for a preliminary plan.
  - (2) A plant list wherein the botanical and common names of proposed plants are tabulated, along with the quantity, caliper, height and other characteristics.
  - (3) Details for the planting and staking of trees, the planting of shrubs and any other details which depict other related installation.
  - (4) Information in the form of notes or specifications concerning planting beds to be used for herbaceous plants, areas to be devoted to lawns and the like. Such information shall convey the proposals for seeding, sodding, mulching and the like.
  - (5) Information regarding the continued maintenance of all plantings and notes indicating that all plantings will be installed, maintained and replaced, if dead or diseased, in locations as shown on the approved landscaping plan.
- G. Plant characteristics and maintenance.
- (1) All plants shall conform with the standards for nursery stock of the American Association of Nurserymen.
  - (2) Trees and shrubs shall be typical of their species and variety, have normal growth habits, well developed, densely foliated branches and vigorous, fibrous root systems.
  - (3) Trees and shrubs shall be free from defects and injuries and certified by appropriate federal and state authorities to be free from diseases and insect infestations.
  - (4) Trees and shrubs shall be freshly dug and nursery grown. They shall have been grown under climatic conditions similar to those in locality of the project or properly acclimated to conditions of the locality of the project.
  - (5) Any tree or shrub which dies within one year of planting shall be replaced. Any tree or shrub which within one year of planting or replanting is deemed, in the opinion of the Township, not to have survived or grown in a manner characteristic of its type shall be replaced. Substitutions for certain species of plants may be made only when approved by the Township Council.
  - (6) It shall be the responsibility of the landowners, tenants and/or other occupants of the premises to adequately and properly maintain the landscaped areas, which responsibility shall include watering, cleaning of weeds and debris, pruning and trimming, replacement of dead or diseased plantings and fertilizing to maintain healthy growth.
  - (7) All trees along the right-of-way of any property shall be kept trimmed nine feet above the sidewalk and 11 feet above all streets.
  - (8) All shrubs and other growth abutting the sidewalks shall be kept cut back six inches from the edge of the sidewalks.
  - (9) Existing trees and shrubs at the corner of an intersection and/or driveway shall be cut to the

height of 18 inches from point of intersection of corner property lines back 25 feet to avoid blocking sight distance to oncoming traffic, and shrubs or ground covers to be planted shall be of the dwarf variety and shall not exceed 18 inches in height at maturity.

**§ 275-215. Environmental impact assessment report.**

- A. An environmental impact assessment (EIA) report shall be submitted with the following types of applications or plans in order to more effectively evaluate subdivision, land development or other building and construction proposals:
- (1) Applications for tentative and final plan approval for planned residential developments.
  - (2) Applications for preliminary plan approval for any subdivision and/or land development in the PRC, B-2, SU-1, M or OC Districts.
  - (3) Applications for building or construction permits for any proposed industrial, commercial or institutional use; provided, however, that the applicant may request a finding of inapplicability of certain sections of the EIA report by Township Council in accordance with Subsection D.
  - (4) Applications and/or plans for any proposed residential, commercial or industrial use which is governed by the special exception or conditional use provisions of this chapter; provided, however, that the applicant may request a finding of inapplicability of certain sections of the EIA report by Township Council in accordance with Subsection D.
  - (5) Preliminary plans for any proposed subdivision of land for residential purposes consisting of 25 or more dwellings.
  - (6) Applications or plans for other uses which Township Council finds potentially to have significant environmental consequences or effects.
  - (7) For the purposes of this section, a community center shall not constitute an industrial, commercial or institutional use. **[Added 2-23-1998 by Ord. No. 582]**
- B. The EIA report shall disclose the environmental consequences or effects of proposed projects and the actions proposed to avoid, remedy and/or mitigate adverse impacts. The EIA report shall contain text, maps and analysis in accordance with Subsection C below. The EIA report may be cross-referenced to plans prepared for a subdivision or land development and may utilize such plans to fulfill some of the required plan data requested below.
- C. Twenty-six copies of the EIA report shall be submitted in accordance with the format and content specified below. Within the EIA report, specific emphasis shall be directed toward the proposed project's effects on the relationship to applicable site, neighborhood (including areas in adjacent townships, where applicable) and Township-wide resources, conditions or characteristics. The EIA report shall include text, tables, maps and analyses for the purpose of describing the project site, proposed use(s), environmental characteristics and the environmental effects of the proposal as follows:
- (1) An identification of the site location and area by use of a location map, drawn at a scale of not more than 2,000 feet to the inch. The location map shall depict all streets, adjoining properties, zoning district boundaries and municipal boundaries within 1,000 feet of any part of the property. In the case of development of a section of the entire tract, the location map shall also show the relationship of the section to the entire tract.



- (2) An identification of site character and appearance through the presentation of black-and-white photographs or copies thereof. Such photographs shall provide a representation of what the site looks like from the ground. Photographs shall be properly identified or captioned and shall be keyed into a map of the site.
- (3) An identification of the nature of the proposal through the presentation of the following:
  - (a) A site development plan including notes pertaining to the number and type of lots or units, the square footage and/or acreage of the tract and depiction of the features which are proposed such as streets, driveways, parking areas, buildings and other structures and other impervious surfaces. The plan shall be drawn at a scale of not more than 100 feet to the inch and may be either incorporated into the EIA report or submitted as an attachment to the report. The plan shall reflect all the information required under the plan requirements section of Chapter 210, Subdivision and Land Development; however, existing and proposed contours shall be depicted at vertical intervals of two feet or less.
  - (b) Floor plans and elevations depicting the proposed size, square footage, height, number of rooms or bedrooms (where applicable), of buildings and/or other structures.
  - (c) A statement indicating the existing and proposed ownership of the tract and, where applicable, the type of ownership, operation and maintenance proposed for areas devoted to open space or otherwise not under the control of a single lot owner.
  - (d) A statement indicating the proposed staging or phasing of the project, where applicable, and a map depicting the boundaries of each stage or phase of the project. It is suggested that such boundaries be superimposed on a version of the site development plan.
- (4) An identification of physical resources associated with the natural environment of the tract including such features as topography, soils, hydrology and the like. The identification of physical resources shall include a narrative description of the qualitative and quantitative aspects of each of the resources mentioned above. In addition, these resources shall be mapped at a scale of not more than 100 feet to the inch as specified below and either may be incorporated into the EIA report or submitted as attachment to the report.
  - (a) A map depicting the topographical characteristics of the site. Such map shall contain contours with at least two-foot intervals and shall depict slopes from 0% to 8%, 8% to 15%, 15% to 25% and greater than 25%.
  - (b) A map depicting the soil characteristics of the site. Such map shall depict all soil types and shall include a table identifying soil characteristics pertinent to the proposed development such as depth to bedrock, depth to water table, flood hazard potential and, where applicable, limitations for septic tank filter fields.
  - (c) A map depicting the hydrological characteristics of the site. Such map shall depict surface water resources, their drainage characteristics, watersheds and floodplains and groundwater resources. Surface water resources include features such as creeks, runs and other streams, ponds, other natural bodies of water, springs, wetlands and any man-made impoundments. Groundwater resources include features such as aquifers and aquifer recharge areas.
- (5) An identification of biological resources associated with the natural environment of the site including such features as vegetation. The identification of biological resources shall include a

narrative description of each of the resources mentioned above. In addition, these resources shall be mapped at a scale of not more than 100 feet to the inch as specified below and may be either incorporated into the EIA report or submitted as attachments to the report.

- (a) A map depicting the vegetation characteristics of the site. Such map shall define the locations and boundaries of the wooded areas of the tract and shall note the types of vegetation associations which exist in terms of their species, types and size. In addition, all trees 12 inches or greater in caliper shall be accurately located on the map.
- (6) An identification of the land use conditions and characteristics associated with the site such as current and past use, land cover and physical encumbrances and the relationship of these to adjacent sites. The identification of land use condition and characteristics shall include a narrative description of the above. In addition, the following maps, drawn at a scale of not more than 100 feet to the inch, unless otherwise noted, shall be incorporated into the EIA report or submitted as attachments to it.
  - (a) A map depicting the land cover characteristics of the site. Such map shall define existing features including, where applicable: paved or other impervious surfaces, wooded areas, cultivated areas, pasture, old fields, lawns and ornamentally landscaped areas and the like.
  - (b) A map depicting any physical encumbrances to the subject property. Such map shall define, where applicable, easements and areas where certain use privileges exist.
  - (c) A map depicting the land uses adjacent to the proposed tract. Such map may be at the same scale as the location map, i.e., one inch equals 2,000 feet.
- (7) An identification of the historic resources associated with the site such as areas, structures and/or roads and trails which are significant. Areas, structures and/or routes included on the National Register of Historic Places, the Pennsylvania Inventory of Historic Places and the Historic American Building Survey and those depicted on the Township's Historic Sites Map shall be identified. The identification of historic resources shall include a narrative description of the above. In addition, a map drawn at a scale of not more than 100 feet to the inch depicting historic resources shall be incorporated into the EIA report or submitted as an attachment to the report.
- (8) An identification of the visual resources associated with the site such as areas which have a particular amenity value and areas which offer interest in viewing the tract. The identification of visual resources shall include a narrative description of the above. In addition, a map drawn at a scale of not more than 100 feet to the inch depicting visual resources shall be incorporated into the EIA report or submitted as an attachment to the report.
- (9) An identification of the community facility needs associated with the users and/or residents of the proposed project. The community facility needs assessment shall indicate in narrative form the types of services which will be in demand. Where applicable, community facilities (such as schools, park and recreation areas, libraries, hospitals and other health care facilities, fire protection, police protection, ambulance and rescue service and postal services) shall be discussed in terms of the ability of existing facilities and services to accommodate the demands of future users and/or residents of the site and the need for additional or expanded community facilities.
- (10) An identification of the utility needs associated with the users and/or residents of the proposed project. The utility needs assessment shall indicate in narrative form the type of installations which will be in demand. Where applicable, utilities (such as those used for water supply,

sewage disposal, refuse disposal, storm drainage, communications and electrical transmission) shall be discussed in terms of: the ability of existing utility installations to accommodate the demands of future users and/or residents of the lots and/or tract; the need for additional or expanded utility installations; the ability to achieve an adequate, potable quantity of water wherever individual wells are proposed; the ability to achieve an adequate system for on-site sewage disposal wherever such a system is proposed; and the ability to achieve an adequate system for storm drainage and stormwater management.

- (11) An identification of the relationship of the transportation and circulation system needs of the proposed project to the existing street or highway network. A discussion of this relationship shall be in narrative form and shall indicate factors such as methods to be used for traffic control within the site and at points of ingress to and egress from it and expected traffic volumes generated from the project including their relationship to existing traffic volumes on existing streets for peak hour and nonpeak hour conditions. In addition, there shall be a discussion of the physical condition of existing streets which will service the proposed project to remedy any physical deficiencies. The analysis and evaluation of traffic shall be conducted in accordance with the following:
- (a) No activity shall occur which would adversely affect traffic flow and/or present traffic controls within the Township by creating a level of service below that which is specified in this subsection.
  - (b) To minimize potential adverse conditions, the level of service for traffic along any portion of a road which leads to the points of ingress and egress of a tract or other proposed property shall be a level of service "C" or better. The term "level of service" and the categories thereof are used herein in accordance with the definitions or meanings ascribed thereto in this document entitled "Trip Generation, An Institute of Transportation Engineers Informational Report, Second Edition, 1979," or the edition in use at the time a development or other building application is made.
  - (c) The determination of levels of service shall be made after an experienced transportation engineer/traffic consultant conducts a traffic study, the cost of which shall be borne by the owner of the tract or other property owner. Said study shall be based in part on the aforementioned report and in part on the Pennsylvania Department of Transportation Handbook of Vehicle Code Regulations, in particular the following chapters: 471-610 pertaining to Engineering and Traffic Studies, 471-611 pertaining to maintenance and Protection of Traffic and 471-615 pertaining to Official Traffic Control Devices. Said study shall indicate compliance with the requirement for a level of service "C" or better as set forth in Subsection C(9)(b) above and shall include the data upon which the conclusions of said study are based including, without limitation, traffic counts, the hours thereof, the dates thereof and the types of motor vehicles comprising such counts.
  - (d) All streets and/or intersections showing a level or service below "C" shall be considered deficient, and specific recommendation for the elimination of these problems shall be listed. This listing of recommended improvements shall include, but not be limited to, the following elements: internal circulation design, site access location and design, external street and intersection design and improvements and traffic signal installation and operation including signal timing.
- (12) An identification of the social and demographic characteristics related to the proposed project. The characteristics which shall be presented in narrative form shall include a profile of the future

users and/or residents including information such as the number of people expected to work or live at the tract. Such information shall be related to initial and completed project conditions.

- (13) An identification of the economic and fiscal characteristics related to the proposed project. The characteristics which shall be presented in narrative form shall include a profile of the Township; county and school district revenues which the proposal may generate; and the Township, county and school district costs it may create. Such information shall be related to initial and completed project conditions.
- (14) An identification of characteristics and conditions associated with existing and potential air and water quality and noise levels, vibration, toxic materials, electrical interference, odor, glare and heat, radioactive materials, smoke, dust, fumes, vapors, gases or other emissions.
- (15) An identification of compliance with the environmental controls/performance standards as required in Article XXXIII.
- (16) The implications of the proposed project in terms of the type of beneficial or adverse effects which may result from it and the duration of these effects in terms of their short-term or long-term nature. To indicate such effects, there shall be a discussion of the implications of the proposed project to the resources, conditions and characteristics described in Subsection C(1) through (15) above. In addition to a narrative presentation of implications, the applicant shall display where the project adversely affects the resources of the tract, conditions or characteristics, by mapping same at a scale of not more than 100 feet to the inch, wherein the areas adversely affected from the proposed development are highlighted. Such map either may be incorporated into the EIA report or submitted as an attachment to the report. Further, the applicant must demonstrate and specify in the EIA report how and where the findings in the EIA report and its attachments are reflected in the proposed plans in terms of avoiding or reducing potential adverse effects.
- (17) Alternatives to the proposed project. The applicant shall comment on how alternatives such as revised location, redesign, layout or siting of buildings, roads and other structures; alternate methods for sewage disposal and water supply; reduction in the size of proposed structures or number of structures; and the like, would preclude, reduce or lessen potential adverse impact to produce beneficial effects. In addition, the applicant shall submit exhibits or diagrams which will depict the type of alternatives described in narrative form.
- (18) Probable adverse effects which cannot be precluded. In indicating such effects, a discussion shall be presented regarding whether they will have primary or secondary implications, that is, whether the adverse effects will have direct or indirect influence on a particular resource, condition or characteristic.
- (19) Measures to mitigate adverse effects. To indicate such measures, the applicant shall submit exhibits or diagrams which will depict the type of remedial, protective and mitigative measures described in narrative form. These measures shall include those required through existing procedures and standards and those unique to a specific project, as follows:
  - (a) Mitigation measures which pertain to existing procedures and standards are those related to current requirements of the state, county and/or Township for remedial or protective action, such as sedimentation and erosion control, water quality control, air quality control and the like.
  - (b) Mitigation measures related to impacts which may be unique to a specific subdivision and/

or land development or other project are those related to efforts such as revegetation, screening, fencing, emission control, traffic control, noise control, relocation of people and/or businesses, land acquisition and the like.

- (20) Any irreversible environmental changes which would occur due to the proposed subdivision and/or land development or other project should it be implemented. To indicate such changes, the use of nonrenewable resources during the initial and continued phases of the subdivision and/or land development or other project shall be discussed. Further, the loss of environmental resources shall be indicated through a presentation of the quantity of loss and related qualitative effects.
- D. In making its evaluation, the Township Council and/or the Planning Commission may request any additional information it deems necessary to adequately assess potential environmental impacts. Further, whenever any information required in this section is not applicable to the proposed subdivision and/or land development or other project, the applicant shall indicate such inapplicability in the narrative of the EIA report and state why such information is considered to be inapplicable in the case or the particular subdivision or land development in question.
- E. The EIA report shall be prepared by an engineer, architect, landscape architect or land planner.

**§ 275-216. Communications antennas and communications equipment buildings. [Amended 9-14-1998 by Ord. No. 588]**

- A. Building-mounted communications antennas shall not be located on any single-family dwelling or two-family dwelling.
- B. Communications antennas mounted on lawfully existing buildings or structures, other than communications towers, shall be permitted to exceed the height of said lawfully existing buildings or other structures by no more than 15 feet.
- C. Omnidirectional or whip communications antennas shall not exceed 20 feet in height and seven inches in diameter.
- D. Directional or panel communications antennas shall not exceed five feet in height and three feet in width, and a maximum of eight directional or panel communications antennas shall be permitted on any single building where communications antennas are permitted. This limitation on the maximum number of directional or panel communications antennas shall not be applicable to communications towers or water towers where communications antennas are permitted.
- E. 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.
- F. Any applicant proposing communications antennas to be mounted on a building or other structure shall require a building permit and shall submit detailed construction and elevation drawings indicating how the antennas will be mounted on the structure for review by the building inspector for compliance with the Middletown Township's Building Code<sup>168</sup> and other applicable law.
- G. Any applicant proposing communications antennas to be mounted on a building or other structure

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**168.Editor's Note: See Ch. 89, Construction Codes, Art. II, Building Standards.**

shall submit evidence of agreements and/or easements necessary to provide access to the building or structure on which the communications antennas are to be mounted so that installation and maintenance of the antennas and communications equipment building can be accomplished.

- H. Communications antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- I. Communications antennas shall not cause radio frequency interference with other communications facilities located in the Township.
- J. A communications equipment building shall be subject to the height and setback requirements of the applicable Zoning District and shall be screened by suitable evergreen landscaping from abutting properties and streets.
- K. All utilities and wiring for communications antennas and communications equipment buildings shall be located underground or within a building or other enclosure whenever possible.
- L. The owner or operator of communications antennas shall be licensed by the Federal Communications Commission to operate such communications antennas.

**§ 275-216.1. Standards for communications towers as conditional uses. [Amended 9-14-1998 by Ord. No. 588]**

- A. The applicant shall demonstrate that it is licensed by the Federal Communications Commission to operate a communications tower, if applicable, and communications antennas.
- B. 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.
- C. Communications towers shall comply with all applicable Federal Aviation Administration and Commonwealth Bureau of Aviation Regulations.
- D. 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 1/4 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:
  - (1) 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.
  - (2) 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.
  - (3) 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.
  - (4) 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.
  - (5) A commercially reasonable agreement could not be reached with the owners of such structures.

- E. 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 25 feet in width and shall be improved to a width of at least 12 feet with a dust-free, all-weather surface for its entire length.
- F. A communications tower may be located on a lot occupied by other principal structures and may occupy a leased parcel within a lot, provided that the lot meets the size requirements for the Zoning District.
- G. Recording of a plat of land development shall be required for a lot on which a communications tower is proposed to be constructed.
- H. The applicant shall demonstrate that the proposed height of the communications tower is the minimum height necessary to perform its function.
- I. In all zoning districts where communications towers are permitted, 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 that 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.
- J. The foundation and base of any communications tower shall be set back from a property line a distance equal to the height of the communications tower.
- K. The base of a communications tower shall be landscaped so as to screen the foundation and base and communications equipment building from abutting properties and streets.
- L. The communications equipment building shall comply with the required yards and height requirements of the applicable zoning district.
- M. 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 the Township's Building Code.<sup>169</sup>
- N. 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 \$2,000,000 per occurrence and property damage coverage in the minimum amount of \$2,000,000 per occurrence covering the communications tower and communications antennas.
- O. 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.
- P. All utilities and wiring for communications towers shall be located underground or within a building or other enclosure whenever possible.
- Q. The site of a communications tower shall be secured by a fence with a minimum height of six feet to limit accessibility by the general public.
- R. No signs or lights shall be mounted on a communications tower, except as may be required by the

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**169.Editor's Note: See Ch. 89, Construction Codes, Art. II, Building Standards.**

Federal Communications Commission, Federal Aviation Administration or other governmental agency which has jurisdiction.

- S. Communications towers shall be constructed, protected and maintained in accordance with the requirements of the Township's Building Code.<sup>170</sup>
- T. 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 the expiration of such twelve-month period.
- U. One off-street parking space shall be provided within the fenced area.

**§ 275-216.2. Purposes of permitting billboards as conditional uses. [Added 9-14-2009 by 707]**

- A. Purpose. It is the intent of this section to recite the purposes of permitting billboards as conditional uses in the SU-2 Special Use District and B-2 Major Shopping Center District, subject to the area and bulk regulations in § 275-216.3 and the standards and criteria for approval of billboard conditional uses in § 275-216.4 and the general standards and criteria for approval of conditional uses in § 275-236.
- B. The purposes of permitting billboards are:
  - (1) To support the First Amendment rights of advertisers to promote legal products and services while retaining the sense of community and protecting the character of the Township.
  - (2) To ensure that billboards are provided for in the Township and are located safely and appropriately where they can be viewed by the traveling public with the least distraction and degradation in driving performance.
  - (3) To place reasonable limits on the size and total number of billboards within the Township.
  - (4) To promote the quality, appearance and safety of billboards through the use of the latest digital technology.

**§ 275-216.3. Billboard area and bulk regulations. [Added 9-14-2009 by Ord. No. 707]**

The following area and bulk regulations shall govern the regulation of billboards:

- A. The minimum lot size for a billboard shall be 20,000 square feet.
- B. Only one billboard shall be permitted on any one lot. The lot shall be free from all other buildings, structures and improvements, except those required for the operation, maintenance and security of the billboard.
- C. The maximum height of the highest point of the billboard, including its supporting structure, shall not exceed 35 feet.
- D. The minimum lot width at both the street line and the front yard setback line shall be 100 feet.
- E. The minimum setback from the street line shall be 35 feet, and the minimum setback from all other property lines shall be 25 feet.

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**170.Editor's Note: See Ch. 89, Construction Codes, Art. II, Building Standards.**



- F. Billboards shall have no more than two display faces, neither of which may exceed 150 square feet. The display faces shall be back-to-back and shall not be more than four feet apart.
- G. No billboard shall be located closer than 500 feet to any other billboard, as measured between the closest points of each billboard, including the supporting structure.
- H. No billboard shall be located closer than 500 feet to any residential district.

**§ 275-216.4. Standards and criteria for approval of billboard conditional uses. [Added 9-14-2009 by Ord. No. 707]**

In addition to the standards and criteria for approval of conditional uses set forth in § 275-236, the following standards and criteria shall apply to a billboard conditional use:

- A. No billboard shall be located within the safe clear sight distance or safe stopping distance of a signalized intersection, which distance shall be determined in accordance with applicable Pennsylvania Department of Transportation standards, and no part of a billboard shall interfere with or obstruct vehicle traffic, travel or ingress and egress to a public street.
- B. All billboards shall be stationary and shall utilize digital technology to produce static images which may be changeable. Billboards shall not scroll, flash or twinkle, feature motion pictures, moving images or moving lights, or have mechanical or animated movement.
- C. Only one advertisement, display or message may appear on a billboard face at any one time. When a billboard has two sides, each of the two sides of a billboard may contain a separate advertisement.
- D. Changes from one advertisement, display or message to another may occur no more frequently than three times per side in any twenty-four-hour period and no more than one time per six-hour period, with transitions that do not have the effect of moving text images or lights.
- E. Each face of a billboard shall be demonstrated to be oriented toward the road upon which the billboard fronts or faces to cause the least visual impact upon neighboring properties.
- F. The billboard shall not be used to advertise, display or otherwise direct attention to a product, activity, message or business within the SU-2 Special Use District or B-2 Major Shopping Center District wherein the billboard is located, except where the advertisement, display, attention or message is not for the local product, activity, message or business but is part of an off-site regional or national campaign or program.
- G. All billboards shall be internally lit. No exterior lighting shall be permitted, except in connection with safety or maintenance and as approved by the Township. Illumination of billboard signs shall, at a minimum, follow the standards and requirements of the Illuminating Engineering Society of North America (IESNA) and shall be subject to review and approval by the Township.
- H. Where billboards are visible from a residential district or use, the billboard shall be extinguished automatically by a form of programmable controller, with Eastern standard time and daylight saving time control and spring or battery outage reset, from 12:00 midnight until 5:00 a.m. on the following day.
- I. Billboards shall be freestanding and selfsupporting. No part or portion of a billboard shall be attached or connected to any other building or structure. All utilities serving the billboard shall be located below the ground.

- J. Billboards shall be properly and adequately secured to prevent unauthorized access.
- K. Billboards, including support structures, shall be properly and regularly maintained and shall at all times be kept in safe and operational manner.
- L. There shall be no objects or other structures attached to a billboard or its support structure, except as may be necessary for the proper and safe operation and maintenance of the billboard.
- M. A permanent means of vehicular ingress and egress to the billboard lot shall be provided.
- N. It shall be the burden of an applicant wishing to construct a billboard to demonstrate compliance with the requirements of this section, as well as those of § 275-236.
- O. The provisions of the Middletown Township Subdivision and Land Development Ordinance,<sup>171</sup> as amended, shall apply.
- P. A bond, or other security acceptable to the Township, in form and amount satisfactory to the Township, shall be posted with the Township to ensure that the billboard will be properly removed upon termination of use for a period of one year.
- Q. Billboards shall require a building permit and related permits and shall be constructed in accordance with the applicable provisions of the Building Code<sup>172</sup> of the Township of Middletown.
- R. To the extent of any conflict between the provisions of this section and any other section of the Zoning Ordinance, the provisions of this section shall be controlling as to billboards.

**§ 275-216.5. Residential group homes. [Added 11-27-2023 by Ord. No. 856]**

- A. Purpose. The purpose of this section is to authorize residential group homes in residentially zoned districts within the Township as a conditional use subject to certain standards and requirements necessary to protect and maintain the residential character of neighborhoods, provide for effective use and regulation of utilities, emergency and other Township services, and ensure that appropriate county, state and federal requirements have been met.
- B. Conditional use. Residential group homes, as defined in Article II, are authorized in all residential zoning districts as a conditional use subject to the standard application procedures for conditional uses set forth in § 275-37, subject to standards and criteria for approval of residential group homes set forth § 275-216.5C, herein and the general standards and criteria for approval of conditional uses in § 275-236.
- C. Standards. Prior to occupying a property in connection with a residential group home (as used sometimes herein, "home"), the owner of the property or operator of the home shall demonstrate or otherwise be subject to the following:
  - (1) The lot upon which the residential group home is situated shall meet the minimum bulk and area requirements established in the zoning district for which the home is to be located. The residential group home shall not be maintained in an accessory building or unit.
  - (2) Residential group homes shall be used and maintained as a single housekeeping unit with shared use of living areas, eating areas, bathrooms, and food preparation, and serving areas.

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<sup>171</sup>.Editor's Note: See Ch. 210, Subdivision and Land Development.

<sup>172</sup>.Editor's Note: See Ch. 89, Construction Codes.

- (3) The maximum number of residents in the residential group home shall not exceed the number of occupants or residents permitted by the applicable Township Building Codes or other state and federal regulations applicable to such homes. Sewage disposal and water supply facilities shall be sufficient to handle the anticipated loading created by the number of proposed residents and shall meet all requirements of the Pennsylvania Department of Environmental Protection and/or applicable requirements of the Middletown Township Sewer Authority.
- (4) Residential group homes shall, to the extent practicable, conform to the type and outward appearance of the residences in the area in which they are located. This provision shall in no way restrict the installation of any ramp or other special features required to serve residents of the home.
- (5) No signage other than that authorized under § 275-195A shall be permitted, except as otherwise required by law.
- (6) In order to ensure the integration of the residential group home into a neighborhood and to ensure proper use, availability and regulation of emergency and other Township services, a residential group home shall be located no closer than 1,000 feet to another residential group home, measured on a straight-line radius from the property line so used, to the property to be used.
- (7) Off-street parking must be adequate to accommodate the needs of the residents and staff. At a minimum, the residential group home must meet the minimum requirements for the zoning district in which it is located.
- (8) Notwithstanding any provision of the Township Building Code, the residential group home must maintain an automatic sprinkler system.
- (9) The residential group home shall obtain any and all permits or licenses required by county, state, or federal agencies prior to commencing occupancy of the home.
- (10) The residential group home shall provide the Township, in writing, the following prior to commencing occupancy of the home: the location of the home, the individual(s) responsible for operation or maintenance of the home and/or appropriate emergency contact personnel and a summary of the specialized treatment/care provided to the residents of the home as may be necessary to aid Township emergency service personnel in the event of an emergency. The owner of the property or operator of the home shall update the information required herein within five business days of any change thereof.

ARTICLE XXXV  
**Open Space Provisions**<sup>173</sup>

**§ 275-217. Purpose.**

These provisions are designed to:

- A. Provide an effective means for identifying, organizing and maintaining open space.
- B. Provide for necessary active and passive recreation areas to complement existing open space and recreational uses.
- C. Preserve natural environmental resources and maintain ecological stability by:
  - (1) Encouraging the preservation of land contiguous to floodplains and thus supplementing existing floodplain district regulations;
  - (2) Limiting the development of steep slopes;
  - (3) Encouraging the preservation of open areas for groundwater recharge (aquifers);
  - (4) Limiting the disruption of existing woodlands;
  - (5) Encouraging the preservation of land surrounding natural resources as open space.
- D. Encourage the preservation of existing and potential agricultural land, particularly land with prime agricultural soils.
- E. Preserve historic and cultural resources by:
  - (1) Encouraging the use of historic sites as open space.
  - (2) Protecting the character of historic and cultural sites and structures by encouraging the preservation of surrounding land as open space.
- F. Aid in the implementation of the Comprehensive Plan and the attainment of its goals, objectives and strategies.

**§ 275-218. Required open space. [Amended 8-13-2001 by Ord. No. 615]**

- A. The provisions of this article are applicable to:
  - (1) The cluster option where open space is required in the R-1 and R-2 Districts.
  - (2) The association with townhouses and apartments in the R-4 and R-5 Districts.
  - (3) Common open space in the PRD Districts.
  - (4) Designated open space within a mobile home park in the SU-2 Overlay District.
- B. Open space shall be provided in subdivisions and land developments in accordance with §§ 210-40 and 210-41 of Chapter 210, Subdivision and Land Development.

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**173.Note:** These provisions are intended to establish interrelated use regulations, performance standards and design and locational criteria for all designated open space land. Designated open space is land, as shown on a developer's plan, to be held in perpetuity for recreational use or other open space purposes.

**§ 275-219. Use regulations.**

Land designated as open space may be used for any of the following purposes and no other:

A. Permitted principal open space uses:

- (1) Conservation uses including woodlands and other natural areas such as grassland, marshes, lakes, ponds, streams and floodplains.
- (2) Agricultural uses, including cropland, pasture, silvaculture and nurseries.
- (3) Passive recreational uses such as parks and natural trails.
- (4) Active recreational uses including playing fields and playgrounds.
- (5) Planted areas used for visual screening purposes and noise control.
- (6) Presently existing structures may be used only in connection with the open space.

B. Conditional open space uses when approved by Township Council are as follows. The design of all recreational buildings and structures must be compatible with the character of the surrounding area, other open spaces and the development as a whole. An architect's or landscape architect's analysis of the compatibility of the proposed design, siting, materials and colors should accompany all applications for conditional use approval.

- (1) Bridges.
- (2) Signs which are accessory to permitted open space uses. Whenever reasonably possible, signs should be placed outside of designated open space areas (also, see Article XXXII, Signs).
- (3) Boundary fences and walls.
- (4) Recreational structures.

C. Accessory uses:

- (1) No new parking facilities shall be located in designated open space areas.
- (2) Retail sales of agricultural products, including those grown or raised on the premises, shall not be located in designated open space areas.

**§ 275-220. Calculating open space areas.**

The following are limitations on land which can be counted for the purposes of determining compliance with open space requirements:

- A. The surface area of existing bodies of water, areas with seasonal high water table soils as designated in the soil survey, utility easements, rights-of-way, buffer areas to be used for permanent sedimentation and erosion control or stormwater management facilities shall not be counted.
- B. When land with slopes of 15% or more is designated as open space, only 1/2 of such land may be counted, provided that only one-quarter of the land with slopes of 25% or more may be counted.
- C. When land which is in the floodplain, as described in Article XXIX, is designated as open space, only one-quarter of such land may be counted.

- D. No area within 100 feet of an area used for retail sales of agricultural products, whether or not grown or raised on the premises, shall be counted. Such retail uses include all accessory parking areas.
- E. Any parking areas accessory to a noncommercial use in a designated open space area.

**§ 275-221. Delineating open space areas.**

- A. Locational criteria. Land designated for open space must be suitable for the proposed open space use. The location and proposed use of land designated to meet open space requirements must be shown on a preliminary and final subdivision and land development plans and on planned residential development plans.
- B. In planning a development, land with the following characteristics should be given a high priority for designation as open space:
  - (1) Land contiguous to floodplains, as described in Article XXIX, or as depicted on the Flood Hazard Map;
  - (2) Important farmlands as defined by the USDA Natural Resources Conservation Service, including prime farmlands and farmlands of statewide importance, identified in the Comprehensive Plan;
  - (3) Areas with steep and very steep slopes as depicted on the Steep Slope Conservation District Map;
  - (4) Prime woodlands, as defined by the Pennsylvania Office of State Planning and Development, and stands of trees where the majority of trees are greater than 12 inches in caliper;
  - (5) Land surrounding surface water resources such as lakes, ponds, streams and springs;
  - (6) Significant groundwater recharge areas (aquifers);
  - (7) Land surrounding historic and cultural sites and structures including:
    - (a) Residential, farm and other structures on sites on, or candidates for, the National Register of Historic Places, the Pennsylvania Inventory of Historic Places or the Historic Building Survey;
    - (b) Sites and/or structures identified as being historically or culturally significant in the Comprehensive Plan;
  - (8) Lands already used for various passive or active recreational purposes and land surrounding such areas.

**§ 275-222. Design standards. [Amended 8-13-2001 by Ord. No. 615]**

The open space designated within a development area shall not be only left over or otherwise unusable land. Such open space areas shall be laid out according to sound site design principles and shall provide appropriate access for residents and occupants of the development. Open space designated to meet minimum open space area requirements must meet the following design standards:

- A. Minimum contiguous area. A designated open space parcel shall have a contiguous area of not less than 1/2 acre.

- B. Minimum parcel width. An open space parcel shall have a minimum width of 30 feet at all points and a minimum average width of 50 feet.
- C. Maximum impervious coverage. Not more than 5% of the total designated open space area shall be covered by impervious surfaces.
- D. Minimum setback.
  - (1) New property lines shall be located so that any recreational or historic buildings or existing structures within the designated open space shall be no less than 50 feet from any lot line created by the proposed subdivision.
  - (2) New structures, including recreational structures, but not signs, boundary fences, walls, benches, light standards and landscaping, shall have a setback of at least 100 feet from all property lines.
- E. Minimum active recreational area.
  - (1) At least 25% of the required open space shall be designed, improved and maintained for playgrounds, or other active recreational facilities, unless the applicant or developer pays the recreational fee in lieu thereof, in accordance with § 210-40 of Chapter 210, Subdivision and Land Development.
  - (2) Areas within a development designated as open space for recreational use shall be contiguous to the developed area and not separated from it by existing roads, railroads, or public ways unless safe pedestrian access can be demonstrated. Whenever practical, such recreational uses shall be proposed on a single parcel, or minimum number of parcels, linked by a common means of circulation and access.
  - (3) Whenever practical, designated open space shall be arranged to supplement other designated open space or similar areas on adjacent properties, either by providing direct contact or some common means of circulation and access. In open space areas, provision of pedestrian pathways, to be available for general public use, is encouraged, where appropriate, in order to create an interconnected open space network throughout the Township.

**§ 275-223. Open space ownership and maintenance.**

- A. The developer shall restrict the open space areas so that their use will be limited to the use which is proposed and insure that it will be appropriately maintained in perpetuity. The developer shall also identify who will own the open space.
- B. The Township Solicitor shall review the open space ownership and legal method used to insure compliance with the provisions and shall determine whether it is effective. It is important to the Township that the open space owner be financially responsible and have both the means and incentive to pay the taxes and maintain the property.
- C. The following are some specific criteria applicable to alternative methods for restricting open space use:
  - (1) Fee simple dedication. The Township may, but shall not be required to, accept an offer of a deed of dedication, provided that:
    - (a) Such land is accessible to the residents of the Township.

- (b) The Township shall be reimbursed for all costs pursuant to the transfer of ownership.
  - (c) The Township will have access to the open space.
  - (d) The Township may require a maintenance escrow and a title certificate.
- (2) Homeowners' association: the establishment of a nonprofit homeowners' association. Such an association may dedicate an easement for public use of the open space land. The Township Council may, but shall not be required to, accept such an easement if an agreement is reached concerning the scope of public use and the future maintenance of the easement area.
- (3) Condominium agreement. The open space may be controlled through the use of condominium agreements. All open space land so controlled shall be held as "common element."
- (4) Dedication of easements. The Township may, but shall not be required to, accept easements for public use of any portion of open space land, provided that:
- (a) Such land is accessible to the residents of the Township.
  - (b) The Township incurs no cost pursuant to the transfer.
  - (c) There is a satisfactory maintenance agreement with the owner of the open space.
- (5) Transfer to a private conservation organization. With permission of the Township Council, the landowner or developer may transfer either the fee simple title with appropriate deed restrictions running in favor of the Township, or the development rights or easements, to a private, nonprofit organization among whose purposes are to conserve open space land, provided that:
- (a) The organization is acceptable to the Township Council and is a bona fide conservation organization with perpetual existence.
  - (b) The organization is chartered under the laws of the Commonwealth of Pennsylvania to administer deed restrictions limiting eventual disposition of such property for the purposes stated in their Articles of Incorporation.
  - (c) The conveyance contains appropriate provisions for reversion of title in the event that the organization becomes unwilling or unable to continue to function.
- D. If a homeowners' association is formed, it shall be governed according to the following regulations:
- (1) The landowner or developer shall provide Township Council with the legal framework for the association, including its bylaws and methods for maintaining open space, which shall be acceptable to the Township Solicitor.
  - (2) The association is to be organized by the landowner or developer and operating before the sale of any lots within the development.
  - (3) Membership in the association is mandatory for all purchasers of dwelling units therein and their successors.
  - (4) The members of the association shall share equitably the costs of maintaining the open spaces. If a member fails to pay his pro rata share, then a lien against an individual property may be made in accordance with the provisions for same in the bylaws of the organization.
  - (5) The association shall be responsible for maintenance of insurance and taxes on open space.



- (6) The association shall have or hire adequate staff to administer common facilities and maintain the open space to the satisfaction of the Township Council.
  - (7) The association shall have the authority and ability to promptly correct hazard conditions in the open space areas.
- E. The Township shall have the right and the documents creating the association and shall acknowledge that in the event that the association established to own and maintain open space, or any successor organization, shall at any time after designation fail to maintain the open space in reasonable order and condition in accordance with any and all approved plans, the Township may serve written notice upon such organization or upon the residents and owners, setting forth the manner in which the organization has failed to maintain the open space in reasonable condition; and said notice shall include a demand that such deficiencies be cured within 30 days thereof and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice.
- (1) At such hearing, Township Council may modify the terms of the original notice as to the deficiencies and may give an extension of the time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said 30 days or any extension thereof, the Township, in order to preserve the taxable values of the properties and to prevent the open space from becoming a public nuisance, may enter upon said open space and maintain the same for a period of one year at the expense of the organization. The cost of any such maintenance shall be borne by the owners of lots within the development from which the open space was derived. Said entry and maintenance shall not vest in the public any rights to use the open space except when the same is voluntarily dedicated to the public by the residents and owners.
  - (2) Before the expiration of said year, Township Council shall, upon its initiative or upon the request of the organization thereto before responsible for the maintenance of the open space, call a public hearing upon notice to such organization, or to the residents and owners of the project, to show cause why such maintenance by the Township shall not, at the election of the Township, continue for a succeeding year. If the Township shall determine that such organization is ready and able to maintain said open space in reasonable condition, the Township shall cease to maintain said open space at the end of said year. If the Township shall determine such organization is not ready and able to maintain said open space in a reasonable condition, the Township may, at its discretion, continue to maintain said open space during the next succeeding year and subject to a similar hearing and determination, in each year thereafter. The decision of the Township, in any such case, shall constitute a full administrative decision subject to judicial review at the expense of the homeowners' association.
  - (3) The cost of such maintenance by the Township shall be assessed ratably against the properties within the project that have a right of enjoyment of the open space and shall become a municipal lien on said properties. The Township, at the time of entering upon said open space for the purpose of maintenance, shall file a notice of such lien in the office of Judicial Support of Delaware County, upon the properties affected.
- F. The landowner of any subdivision or land development which is proposed to contain open space or common open space shall, when applicable, arrange with the Delaware County Board of Assessment a method of assessment of the open space which will allocate to each tax parcel in the development a share of the total assessment for such open space.

## ARTICLE XXXVI

**Administration****§ 275-224. Administration and enforcement. [Amended 1-8-1990 by Ord. No. 461]**

- A. There shall be a Zoning Officer, who shall be appointed by the Township and be responsible for the administration and enforcement of this chapter. The Zoning Officer shall meet qualifications established by the Township and shall demonstrate to the satisfaction of the Township experience and a working knowledge of municipal zoning, subdivision and land development standards and construction principles. The Zoning Officer shall not hold any elected office in the Township. The duties of the Zoning Officer shall include, but not be limited to, the following:
- (1) Enforce all provisions of this chapter and all amendments thereto.
  - (2) Receive, examine record and file all applications and fees for building permits and issue building permits only for any use which conforms to this chapter.
  - (3) Refer applications for special exceptions to the Zoning Hearing Board.
  - (4) Issue permits for construction of uses requiring a special exception or variance only upon order of the Zoning Hearing Board. Permits requiring approval by the Township Council shall be issued only after receipt of an authorization from the Township Council.
  - (5) Following refusal of a permit, receive applications for interpretation appeals and variances and forward these applications to the Zoning Hearing Board for action thereon.
  - (6) Conduct inspections and surveys to determine compliance or noncompliance with the terms of this chapter.
  - (7) Issue stop, cease and desist orders and order, in writing, correction of all conditions found to be in violation of the provisions of this chapter. Such written orders shall be served personally or by certified mail upon persons, firms or corporations deemed by the Zoning Officer to be violating the terms of this chapter. It shall be unlawful for any person to violate any such order lawfully issued by the Zoning Officer, and any person violating such order shall be guilty of a violation of this chapter.
  - (8) Keep an official record of all business and activities, including complaints of a violation of any of the provisions of this chapter and of the subsequent action taken on each such complaint.
  - (9) Maintain or cause to have maintained a map or maps showing the current zoning classifications of all land in the Township.
  - (10) Identify and register all nonconforming uses and nonconforming structures created as a result of the adoptions of this chapter or created as a result of amendments thereto.
  - (11) Issue use and occupancy permits in accordance with the terms of this article.
  - (12) Make such reports as the Township Council may require.

**§ 275-225. Requirements for zoning permits. [Amended 5-24-2004 by Ord. No. 652; 10-25-2004 by Ord. No. 656]**

- A. A zoning permit shall be required prior to the use or change in use of a building or land and prior to the change or extension of a nonconforming use and for the followings structures if the structure has

a building area of 1,000 square feet or less and is accessory to a detached one-family dwelling.

(1) Carport.

(2) Detached private garage.

(3) Greenhouse.

(4) Shed.

- B. A zoning permit shall be required for an agricultural building as defined by the Pennsylvania Construction Code Act of 1999, No. 45.<sup>174</sup>
- C. A zoning permit shall be required for manufactured or industrialized housing certified by the manufacturer to conform to applicable federal and state construction and safety standards, as identified in Section 901 of the Pennsylvania Construction Code Act of 1999, No. 45.
- D. Applications for permits shall be made, in writing, to the Zoning Officer on such forms as may be furnished by the Township. Such application shall contain all information necessary for the Zoning Officer to ascertain whether the proposed erection, alteration, use or change in use complies with the provisions of this chapter.

**§ 275-226. Application for zoning permits. [Amended 5-24-2004 by Ord. No. 652]**

- A. An application for a zoning permit shall be made, in writing, by the landowner or his authorized agent on forms furnished by the Township and shall be accompanied by a plot plan drawn to scale, showing the exact size and location of any buildings or other structures existing on the subject lot and the setback lines within which the proposed building or other structure shall be erected or altered and the location of any easements or rights-of-way existing on the lot. In addition, there shall be included with the application such other plans, documents and information as may be necessary to enable the Zoning Officer to ascertain compliance with this chapter and all other pertinent ordinances, codes and regulations.

**§ 275-227. Issuance of zoning permits. [Amended 5-24-2004 by Ord. No. 652]**

Zoning permits shall be granted or denied within 30 days after the written application has been filed with the Zoning Officer.

**§ 275-228. Requirement for use and occupancy permit. [Amended 1-8-1990 by Ord. No. 461]**

- A. Upon completion of the erection or alteration of any building or portion thereof authorized by any permit and prior to occupancy or use, the holder of such permit shall notify the Zoning Officer of such completion. No permit shall be considered complete or permanently effective until the Zoning Officer has certified that the work has been inspected and approved as being in conformity with the provisions of this chapter and other applicable ordinances and regulations, including permits by other agencies.
- B. A use and occupancy permit shall be required prior to any of the following:
- (1) Use and occupancy of any building or other structure hereafter erected or altered, for which a building permit is required.

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<sup>174</sup>Editor's Note: See 35 P.S. § 7210.101 et seq.

- (2) Change in use of any building or other structure or any part thereof.
  - (3) Use of land or change in the use thereof, except that the placing of vacant land under cultivation shall not require a use and occupancy permit.
  - (4) Change in use or extension of a nonconforming use.
- C. It shall be unlawful for any person to use or occupy any building or other structure or land until a use and occupancy permit, if required, has been duly issued.

**§ 275-229. Applications for use and occupancy permits. [Amended 1-8-1990 by Ord. No. 461]**

All applications for use and occupancy permits shall be made, in writing, by the landowner or his authorized agent on forms furnished by the Township and shall include all information necessary to enable the Zoning Officer to ascertain compliance with this chapter.

**§ 275-230. Issuance of use and occupancy permits. [Amended 1-8-1990 by Ord. No. 461]**

No use and occupancy permit shall be issued until the Zoning Officer has certified that the proposed use complies with all the provisions of this chapter and all other ordinances, regulations and codes of Middletown Township; provided, however, that a temporary use and occupancy permit may be issued by the Zoning Officer for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such a temporary permit requires any needed conditions and safeguards which will protect the safety of the occupants and the public.

**§ 275-231. Issuance or refusal of permits.**

If the Code Enforcement Officer determines that an application is in compliance with the provisions of this chapter, it shall be his/her duty to issue the appropriate permit, and, if he/she determines that an application is not in compliance with the provisions of this chapter, it shall be his/her duty to refuse the permit, in which case, he/she shall instruct the applicant in the method of appeal or application to the Zoning Hearing Board or the Township Council, whichever is applicable. No permit shall be issued to any applicant until any and all fees incurred, which are payable to the Township, are paid in full.

**§ 275-232. Fees. [Amended 1-8-1990 by Ord. No. 461]**

- A. The Township Council shall establish, by resolution, a schedule of fees, charges and expenses and collection procedures for building permits, occupancy permits, sign permits, special exceptions, variances, appeals, conditional uses, amendments and others pertaining to this chapter.
- B. The schedule of fees shall be posted in the office of the Zoning Officer and may be altered or amended only by the Township Council.
- C. No action shall be taken on any application for any special exception, variance or appeal until all application fees, charges and expenses have been paid in full.

**§ 275-233. Enforcement notice. [Amended 1-8-1990 by Ord. No. 461]**

- A. If it appears to the Township that a violation of any provision of this chapter occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
- B. 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.

C. An enforcement notice shall state the following:

- (1) The name of the owner of record and any other person against whom the Township intends to take action.
- (2) The location of the property in violation.
- (3) The specific violation, with a description of the requirements which have not been met, citing in each instance the applicable provision of this chapter.
- (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- (5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this chapter.
- (6) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

**§ 275-234. Causes of action. [Amended 1-8-1990 by Ord. No. 461]**

In case any building, structure, landscaping or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of any provision of this chapter, the Township Council or, with the approval of the Township Council, an officer of the Township or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Township at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Township Council. No such action may be maintained until such notice has been given.

**§ 275-235. Enforcement remedies. [Amended 1-8-1990 by Ord. No. 461]**

- A. Any person, partnership or corporation who or which has violated or permitted the violation of a provision of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500, plus all court costs, including reasonable attorneys' fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the 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, unless the Magisterial District Judge determining that there has been a violation further determines that there was a good-faith basis for the person, partnership or corporation violating the ordinance to have believed that there was not 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 judgment, costs and reasonable attorneys' fees collected for the violation of the ordinances shall be paid over to the Township.

- B. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- C. Nothing contained in this section shall be construed or interpreted to granting to any person or entity other than the Township the right to commence any action for enforcement pursuant to this section.
- D. Magisterial District Judges shall have initial jurisdiction over proceedings brought under this section.

**§ 275-236. Standards and criteria for approval of conditional uses by Township Council and special exceptions by Zoning Hearing Board.**

- A. In evaluating an application before the Township Council for a conditional use or before the Zoning Hearing Board for a special exception, the Council and the Board shall require the applicant to provide reports, maps, plans and other related papers to ensure that the proposal:
  - (1) Will be consistent with the community development objectives articulated in this chapter (pursuant to Section 606 of the Municipalities Planning Code<sup>175</sup>).
  - (2) Will be consistent with the statement of purpose articulated for the district in which the use is proposed.
  - (3) Will be consistent with the Middletown Township Comprehensive Plan and, in particular, the plans for land use, community facilities, utilities and the map depicting areas of environmental concern.
  - (4) Will conform to all requirements of Chapter 210, Subdivision and Land Development, and all other applicable ordinances, codes or regulations.
  - (5) Will not adversely affect the health, safety and general welfare of the surrounding area and the Township.
  - (6) Will promote the harmonious and orderly development of the zoning district involved.
  - (7) Will be compatible with the character and type of development existing in the area which surrounds the site in terms of the size, scale, height and bulk of the proposed uses and the size, shape and placement of buildings and other structures.
  - (8) Will not detract from or cause harm to neighboring properties by creating a negative impact on the aesthetic character of the community.
  - (9) Will be compatible with the uses permitted in the surrounding area in terms of the density and/or intensity of land use.
  - (10) Will reflect effective site planning and design in terms of energy efficiency, environmental protection and aesthetic composition.
  - (11) Will be reflective of sound engineering and land development design and construction principles, practices and techniques.
  - (12) Will be consistent with the logical, efficient and cost-effective extension of public services and utilities and will not adversely affect the public services and utilities of surrounding properties of the Township, as a whole, in terms of public water, sewers, police and fire protection and

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<sup>175</sup>.Editor's Note: See 53 P.S. § 10606.

schools.

- (13) Will include proposals for the effective disposal of solid waste.
  - (14) Will provide safe and efficient access to roads and will not create traffic congestion, hazardous traffic conditions or excessive traffic volumes.
  - (15) Will be developed so as to limit the number of access points along a major public street and to develop frontage of buildings on access roads which are parallel or perpendicular to a major public street.
  - (16) Will provide any improvements needed to guarantee compatibility with adjoining roads.
  - (17) Will provide continuity of existing circulation systems including roads, sidewalks, trails and other walkways.
  - (18) Will provide adequate off-street parking and loading which will be minimally visible from adjoining public streets.
  - (19) Will utilize effective stormwater management techniques and soil erosion and sedimentation control techniques which are in character with and complementary to the proposed site grading and landscaping.
  - (20) Will provide for adequate environmental controls and performance standards to minimize noise, vibration, glare, heat, odor, smoke, dust, fumes, vapors, gases, air emissions, water emissions and outdoor storage.
  - (21) Will preserve, to the maximum extent possible, woodlands and other trees existing at the site.
  - (22) Will not be disruptive to existing topography, surface water resources and groundwater resources.
  - (23) Will include proposals for effective mitigation of potential adverse environmental impacts through a satisfactory environmental impact assessment report.
  - (24) Will provide landscaping to buffer and screen the use from surrounding properties, to complement buildings and other structures on the site and to enhance the overall character of the development.
  - (25) Will include proposed landscaping, in addition to that required as stated above, in areas such as the entrance, along property boundaries, in areas which are highly visible such as along roads, walks or trails and in other places where the use of trees, shrubs and ground cover would be functional and appropriate.
  - (26) Will provide fencing, walls, berming, terraces, walkways and other site improvement features to complement the proposed landscaping.
  - (27) Will provide effective, subdued lighting using light posts and fixtures complementary to the proposed architecture and the character of the surrounding properties.
- B. The Township Council and the Zoning Hearing Board may attach such conditions and safeguards, in addition to those already required by this chapter, as they may deem necessary to implement the purposes of the Municipalities Planning Code and this chapter and to protect the public welfare, which conditions and safeguards may relate to, but are not limited to, the design of buildings, roads

and parking areas, landscaping and its maintenance as a sight or sound screen, lighting, noise, safety and the prevention of noxious, offensive or hazardous conditions.

- C. Conditional uses or special exceptions related to the Floodplain Conservation District, Steep Slope Conservation District or other districts shall also be evaluated in accordance with additional standards and criteria set forth in the provisions for the respective districts.
- D. Special exceptions shall also be evaluated in accordance with the provisions of Article XXXIV.

**§ 275-237. Procedures for special exceptions and conditional uses. [Amended 1-8-1990 by Ord. No. 461]**

- A. The Zoning Hearing Board shall be governed by the provisions of the Pennsylvania Municipalities Planning Code, Act 247, as amended, and Article XXXIV.
- B. In the case of an application for conditional use, the Planning Commission shall perform a review and provide counsel to the Township Council concerning the grant of approval or disapproval of the proposed use. Such review shall be conducted and a written report submitted to the Township Council within 45 days of the date of the first Planning Commission meeting following the date of the complete details of the plan have been filed. The Planning Commission shall discuss the application at at least one of its regularly scheduled public meetings during the review period.
- C. The Township Council shall, in the case of an application for conditional use, schedule a hearing for public review and comment pursuant to public notice as defined in Article II of this chapter. Should the Township Council deem it necessary, a second public hearing shall be held, at which time the public record may be enlarged. Within 90 days, the Township Council, at a regularly scheduled meeting or special meeting, shall take action to either approve or disapprove the use.
- D. The Planning Commission and Township Council shall be responsible for providing notification to the applicant, no less than 20 days prior to the occurrence of any hearing at which testimony will be heard and/or action taken upon approval or disapproval in order that he/she may present his/her case at such hearing. Subsequent to the receipt of such notification, the applicant shall be responsible for notifying, no less than 10 days prior to such hearing, all abutting property owners.
- E. Proof of proper notification shall be required as a precondition before any formal action on the application.
- F. Notification of the action taken by the Township Council shall be made, in writing, to the applicant. In the event of disapproval, it shall be accompanied by a statement of the reasons therefor. In the event of disapproval, the applicant may file a new application for conditional use or for subdivision and/or land development for another use of the subject property.
- G. In the event of conditional use approval, should the applicant fail to obtain all the necessary final plan approvals and building and related permits within 12 months of notification or, having obtained the necessary approvals and permits, fail to commence work thereunder within six additional months, it shall be conclusively presumed that the applicant has waived, withdrawn or abandoned his/her appeal or application, and all provisions, conditional uses(s) and permits granted to him/her shall be deemed automatically rescinded by the Township Council. If the Township Council finds that a good reason exists for the failure to comply with the time periods specified above, an extension may be granted.
- H. The grant of approval by the Township Council for a conditional use shall in no way release the applicant from his/her obligation to comply with the applicable provisions of this chapter, Chapter



210, Subdivision and Land Development, or any other applicable Township, state and federal regulations.

- I. All notices, hearings and orders shall be made or shall occur in conformance with the provisions of this chapter and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

ARTICLE XXXVII  
**Zoning Hearing Board**

**§ 275-238. Creation of Board.**

A Zoning Hearing Board is hereby established by the Township Council in accordance with the provisions of Article IX of the Pennsylvania Municipalities Planning Code,<sup>176</sup> as amended. Hereinafter, as used in this article, the term "Board" shall refer to the Zoning Hearing Board, and the term "Planning Code" shall refer to the Pennsylvania Municipalities Planning Code.

**§ 275-239. Membership and organization of Board. [Amended 1-8-1990 by Ord. No. 461]**

- A. The membership of the Board shall consist of five residents of the Township appointed by the Township Council. Their terms of office shall be five years and shall be so fixed that the term of office of one member shall expire each year; provided, however, that if a three-member Board is changed to a five-member Board, the members of the existing three-member Board shall continue in office until their term of office would expire under their current appointment and Township Council shall appoint two additional members to the Board with terms scheduled to expire in accordance with the provisions of this subsection. Appointments to fill vacancies shall be only for the unexpired portion of the term of the member whose seat was vacated. **[Amended 3-25-2002 by Ord. No. 620]**
- B. The Township Council may appoint by resolution at least one but no more than three residents of the Township to serve as alternate members of the Board. The term of office of an alternate member shall be three years. When seated pursuant to the provisions of this section, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this chapter and as otherwise provided by law. Alternates shall hold no other office in the Township, including membership on the Planning Commission and Code Enforcement Office. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated pursuant to the Municipalities Planning Code unless designated as a voting alternate member pursuant to this section.
- C. Removal of members. Any Board member may be removed for cause by a majority vote of the Township Council, 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.
- D. Organization of Board.
  - (1) The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board. As provided for by the Planning Code, the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf, and the parties may waive further action by the Board as provided in § 275-242 below. **[Amended 3-25-2002 by Ord. No. 620]**
  - (2) The Zoning Hearing Board shall adopt rules and forms for its procedure in accordance with the provisions of this chapter. Meetings of the Zoning Hearing Board shall be held at the call of the

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<sup>176</sup>Editor's Note: See 53 P.S. § 10901 et seq.

Chairman and at such other times as the Zoning Hearing Board may determine. Such Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Hearing Board shall be open to the public.

- (3) The Zoning Hearing Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Township Manager and shall be a public record.
- (4) Once a year, the Zoning Hearing Board shall submit a report of its activities to the Township Council.
- (5) If, by reason of absence or disqualification of member, a quorum is not reached, the Chairman of the Board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.
- (6) Within the limits of funds appropriated by the Township Council, the Board shall employ or contract for secretaries, clerks, attorneys, consultants and other technical and clerical services. However, the Solicitor for the Zoning Hearing Board shall be a different individual and from a different firm than the Solicitor for the Township Council.

**§ 275-240. Functions of Board. [Amended 1-8-1990 by Ord. No. 461]**

- A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
  - (1) Challenge to the validity of the Zoning Ordinance or Zoning Map. The Zoning Hearing Board shall hear challenges to the validity of the Zoning Ordinance or Map as follows:
    - (a) A landowner who, on substantive grounds, desires to challenge the validity of the ordinance or map or any provision thereof which prohibits or restricts the use of development of land in which he has an interest shall submit the challenge to either the Zoning Hearing Board or the Township Council.
    - (b) Persons aggrieved by a use or development permitted on the land of another by the ordinance or map or any provision thereof who desire to challenge its validity shall:
      - [1] Submit their challenge pursuant to the Sections 909.1 and 609.1 of Act 247,<sup>177</sup> as amended by Act 170.
    - (c) In addition to the procedures set forth in Section 916.1 of the Municipalities Planning Code,<sup>178</sup> in all such challenges, the Zoning Hearing Board shall decide all contested questions and shall make findings on all relevant issues of fact and of interpretation and submit such findings as part of the record on appeal to the court.
  - (2) Substantive challenges to the validity of this chapter, except those brought before the Board

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<sup>177</sup>.Editor's Note: See 53 P.S. §§ 10909.1 and 10609.1.

<sup>178</sup>.Editor's Note: See 53 P.S. § 10916.1.

pursuant to Sections 609.1 and 916.1(a)(2) of Act 247,<sup>179</sup> as amended by Act 170.

- (3) Challenges to the validity of this chapter raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance.
- (4) Appeals from the determination of the Zoning Officer, including but not limited to the granting or denial of any permit or failure to act on the application therefor or the issuance of any cease-and-desist order.
- (5) Appeals from a determination by the Township Engineer or the Zoning Officer with reference to the administration of the Flood Hazard District provisions of this chapter.
- (6) Appeals from the Zoning Officer's determination under Section 916.2 of the Municipalities Planning Code.<sup>180</sup>
- (7) Appeals from the determination of the Zoning Officer or Township Engineer in the administration of this chapter or provision thereof with reference to sedimentation and soil erosion control and stormwater management, insofar as the same relate to development.
- (8) Requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant, subject to the standards prescribed by law and contained in § 272-243 below.
- (9) Requests for special exceptions where this chapter states that a special exception may be granted or denied by the Board in accordance with express standards and criteria contained in this chapter.
- (10) In granting any variance or special exception, the Board shall comply with the provisions and standards of § 275-243 below and Article XXXVI.

**§ 275-241. Hearings and decisions. [Amended 1-8-1990 by Ord. No. 461]**

The Board shall conduct hearings and make decisions in accordance with the requirements of the Planning Code and any pertinent provisions of this chapter or the Rules of the Board:

- A. Upon the filing of an appeal with the Board, an application for a special exception or variance from the terms of this chapter or a challenge, the Board shall fix a time and place for a public hearing thereon, subject to the provisions of the Planning Code, and shall give notice thereof in accordance with the provisions of Subsection E below.
- B. The hearings shall be conducted by the Board, or the Board may appoint any member as a hearing officer. The decision or, where no decision is called for, the findings shall be made by the Board; but the parties may waive decision or findings by the Board and accept the decisions or findings of the hearing officer as final. The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance or record before the Board and any other person including civic or community organizations permitted to appear by the Board.
- C. The Chairman, Acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of

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179. Editor's Note: See 53 P.S. §§ 10609.1 and 10916.1(a)(2).

180. Editor's Note: See 53 P.S. § 10916.2.

relevant documents and papers, including witnesses and documents requested by the parties. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and cross-examine adverse witnesses on all relevant issues. At the hearing, any party may appear in person, by agent or by attorney.

- D. The 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 at cost to any party requesting such materials.
- E. Notice requirements. In any case where the Zoning Hearing Board shall hold a public hearing, the Board shall, at the minimum, give notice of such hearing as follows, which notice shall state the time and the place of the hearing and the particular nature of the matter to be considered at the hearing:
  - (1) By publishing a notice thereof once each week for two successive weeks in a newspaper of general circulation in the Township, provided that the first publication shall be not more than 30 days or less than 14 days from the date of the hearing.
  - (2) By mailing or delivering due notice thereof to the applicant and other parties in interest, who shall be at least those persons whose properties adjoin the property in question, to the Township Council, the Township Manager, the Chairman of the Township Planning Commission and to every association of residents of the Township who shall have registered their names and addresses for this purpose with the Zoning Hearing Board for the current year.
  - (3) Notice of hearings, both published and written, shall state, in addition to the time, place and purpose of the hearing, the location of the lot, tract or structure involved and the nature and extent of the relief sought and the general nature of the question involved. Notice of said hearing shall be conspicuously posted at least one week prior on the affected tract of land. The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed, in writing, to an extension of time.
- F. Notice of decision.
  - (1) The 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 Board or hearing officer, subject to all additional requirements of the Planning Code. Where the Board has power to render a decision and the Board or the hearing officer, as the case may be, fails to render the same within the period required by the Planning Code, 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.
  - (2) A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide, by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.
  - (3) Unless otherwise specified by the Board, a special exception or variance shall expire if the applicant fails to obtain a building permit within one year from the date of authorization thereof. The opinion of the Zoning Hearing Board shall set forth the date on which relief granted shall expire.
    - (a) The applicant shall have the right to seek an extension of the one-year limitation for a

period not to exceed one additional year by making application to the Zoning Hearing Board at least 30 days prior to the expiration date set forth in the Zoning Board opinion or decision. A hearing shall be thereafter promptly scheduled to hear evidence on the application for an extension.

- (b) The filing of the application and the hearing thereon shall be advertised and notice given as provided in the Municipalities Planning Code for other applications before the Zoning Hearing Board. Applications for a one-year extension shall be granted unless opposition is registered in person or by letter.
- (c) At the time of the hearing, the Zoning Hearing Board shall consider whether the evidence presented demonstrates a change of circumstances which has occurred since the time relief was originally granted and whether such change in circumstances would have an adverse impact on the health, safety and welfare of the citizens of the Township of Middletown. Evidence offered by the applicant at the prior hearing shall be received into evidence as prima facie proof of the applicant's right to relief.
- (d) In no event shall the Zoning Hearing Board extend the relief granted more than one time. The relief granted is void, not voidable, two years beyond the date relief was first granted.

#### **§ 275-242. Zoning appeals.**

- A. Appeals before Zoning Board and to court. All appeals, applications or challenges which properly come before the Board in accordance with the requirements of the Planning Code and all appeals to courts shall be subject to the time limitations and requirements of Article X and any other applicable provision of said code. Appeals and proceedings to challenge an ordinance may be filed with the Board, in writing, by the landowner affected, any officer or agency of the Township or any person aggrieved. Requests for a variance and for special exception may be filed with the Board by any landowner or any tenant with the permission of such landowner.
- B. Time limitations. No person shall be allowed to file any proceeding with the Board later than 30 days after any application for development, preliminary or final, has been approved by the 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 had 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.

#### **§ 275-243. Standards for variances and special exceptions.**

In any instance where the Zoning Hearing Board is required to consider a special exception or variance in the Zoning Ordinance or Zoning Map in accordance with the provisions of this chapter, the Board shall, among other things, consider the following standards:

- A. In the case of a variance:
  - (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 generally created by the provisions of this chapter in the neighborhood or district in which the property is located;
  - (2) That because of such physical circumstances or conditions, there is no possibility that the

property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is 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, nor substantially or permanently impair the appropriate use or development or adjacent property, not 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 in issue.
- B. In the case of a special exception, the Board shall consider all standards and criteria as set forth in Article XXXIV and the following matters in determining whether or not the proposed special exception is appropriate and in harmony with the general purpose and intent of the ordinance:
- (1) The size, scope, extent and character of the exception desired.
  - (2) The character and type of development in the area surrounding the location for which the exception is desired.
  - (3) Whether or not the proposed exception would be an appropriate use in the area or whether it would be detrimental to the surrounding area.
  - (4) The zoning classification of the area affected.
  - (5) The number, extent and scope of nonconforming uses, if any, in the area.
  - (6) The anticipated future development of the area.
  - (7) The effect, if any, of the proposed exception on other properties in the area.
  - (8) Whether or not the proposed exception would affect the health, safety, morals and general welfare of the people of the residents in the surrounding area.
  - (9) The effect of the proposed exception on traffic in the area and the nature of the surrounding traffic conditions, so that appropriate regulations may be imposed on any proposed uses to provide for off-street parking either equal to or greater than the off-street parking facilities required within the area by any other then applicable ordinance.
  - (10) Whether the special exception authorized will represent the minimum modification to use the area requirements to afford necessary relief.
  - (11) The effect of the proposed exception upon the logical, efficient and economical extension of public services and facilities such as public water, sewers, police, fire protection and schools.
- C. In granting any variance or special exception, 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 purposes of the Planning Code and Zoning Ordinance, which conditions and safeguards may relate to, but are not limited to, the harmonious design of buildings, planting and its maintenance as a sight or sound screen, lighting, noise, safety and the minimizing of noxious, offensive or hazardous elements.
- D. In the case of a special exception or variance, it shall be the responsibility of the applicant to present such evidence as is necessary to demonstrate that the proposed use or modification complies with the

pertinent criteria and standards set forth in this section.

**§ 275-244. Physical requirements for granting special exceptions.**

The following are specific physical requirements governing the granting of special exceptions:

- A. Private school, parochial school, school dormitory, church, religious use, philanthropic use, hospital or sanitarium for human beings not heretofore erected or established shall provide for adequate off-street parking in the rear or at the sides of the building to accommodate its staff, visitors or persons in any way accommodated or using the grounds and buildings of such institutions.
- B. Nonprofit club, lodge, public stable or riding academy in Residential Districts shall be permitted only under the following limitations: Where the club or organization proposes the operation of a swimming pool, the Zoning Hearing Board shall determine whether or not appropriate arrangements are made for the following items, and if so, shall impose conditions and restrictions with respect to:
  - (1) Location of pool and buildings such as club, change or pump house on tract;
  - (2) Hours of operation;
  - (3) Off-street parking facilities;
  - (4) Lighting;
  - (5) Amplification system;
  - (6) Landscaping;
  - (7) Sanitary and safety regulations and noise control;
  - (8) Allied activities;
  - (9) Number of members;
  - (10) Drainage regulations;
  - (11) Regulations governing water supply;
  - (12) Operation of pool including requirements for lifeguard, watchman or supervision; and
  - (13) Such other regulations as may be determined by the Zoning Hearing Board.
- C. With respect to all other clubs, lodges, public stables or riding academies, the Zoning Hearing Board shall determine whether or not appropriate arrangements are made for the following items and if so shall impose conditions and restrictions with respect to:
  - (1) Location of the buildings;
  - (2) Hours of operation;
  - (3) Off-street parking facilities;
  - (4) Lighting;
  - (5) Landscaping;



- (6) Sanitary and safety regulations and noise control;
  - (7) Allied activities;
  - (8) Drainage regulations;
  - (9) Screening and planting to avoid unnecessary interference with enjoyment of adjoining premises; and
  - (10) Such other regulations as may be determined by the Zoning Hearing Board.
- D. Public garage, motor vehicle sales, service or repair shop, gasoline service station and motor vehicle parking lot:
- (1) No body and fender vehicle sales, service or repair shop, gasoline service station and motor vehicle parking lot.
  - (2) Major repair and sales of automobiles shall not be permitted in gasoline service stations.
  - (3) Lights must be shielded so that they do not reflect toward adjacent residential properties.
  - (4) If such premises are adjacent to any other premises used or zoned for residential purposes, any special exception, if granted, shall be conditioned upon the applicant and/or the owner or owners of such premises to provide, construct, plant and maintain appropriate walls, shrubbery, plantings or other landscaping necessary to provide reasonable, adequate screening along such portions of said premises as are adjacent to residential areas.
- E. Golf courses. Where the applicant seeks the operation of a golf course as a special exception, such use may be permitted on a tract of land which complies with the minimum area and other requirements for such uses in OR Outdoor Recreation Districts, in Articles XVI and XVII, provided that all of said land is devoted and committed exclusively for golf purposes, and the Zoning Hearing Board shall determine whether or not appropriate arrangements are made with respect to:
- (1) Location of golf course on tract as well as location of clubhouse and parking facilities;
  - (2) Hours of operation;
  - (3) Off-street parking facilities;
  - (4) Outside lighting;
  - (5) Outside amplification system;
  - (6) Allied activities;
  - (7) Number of members;
  - (8) Drainage regulations; and
  - (9) Such other regulations as may be determined by the Zoning Hearing Board.

**§ 275-245. Fees and charges. [Amended 1-8-1990 by Ord. No. 461]**

- A. When any person, firm or corporation shall appeal to the Zoning Hearing Board or shall apply to the Zoning Board for a variance and/or special exception, each such application and/or appeal, as the case

may be, shall be accompanied by the payment of an application fee, which shall be payable to the Township of Middletown. Said fee shall be in accordance with the Township fee schedule and be used by the Township of Middletown to defray the costs for each hearing held in connection with the application and/or appeal. The fee for all other applications to the Zoning Hearing Board relating to zoning, including challenges to the Zoning Ordinance or Map, shall be governed by the Township fee schedule.

B. Fees are to be used to defray costs such as:

- (1) The appearance fee for a stenographer, which shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or shall be paid by the person appealing from the decision of the Board if such appeal is made, and, in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.
- (2) Advertising required by law for hearing or hearings.
- (3) Postage and photocopy costs incurred by the Township of Middletown.
- (4) Salaries of Township Council or Zoning Hearing Board members in attendance at hearing or hearings, as the case may be.
- (5) Such other reasonable and necessary costs incurred by the Township Council or Zoning Hearing Board, as the case may be, in connection with the application or appeal. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.

- C. In the event that a hearing on an application or appeal is conducted by the Township Council or the Zoning Hearing Board on the same date as another hearing or hearings which are subject to the provisions of this section and there are costs incurred by the Township which are not assignable to one particular application or appeal, said common costs shall be prorated by the Township among the various applicants in accordance with the Municipalities Planning Code and other applicable law.
- D. In the event that the costs set forth above exceed the payment made to the Township as required by this section, said applicant shall, upon demand by the Township, make payment to the Township of such additional costs as have been or will be incurred by the Township in connection with the application or appeal.
- E. In the event that the total costs payable to the Township authorized therein do not exceed payment or payments made by an applicant to the Township, the balance shall be returned to the applicant at the conclusion of the application or appeal.

ARTICLE XXXVIII  
Amendments

**§ 275-246. Authority.**

The Township Council may from time to time amend, supplement, change, modify or repeal this chapter, including the Zoning Map, by amending the ordinance in accordance with the provisions of Article VI of the Pennsylvania Municipalities Planning Code and this section. In the case of a curative amendment submitted by a landowner, the special requirements of Section 609.1<sup>181</sup> and Article X<sup>182</sup> of the Planning Code shall apply, as well as all other applicable provisions of the Planning Code and of this article.

**§ 275-247. Amendment procedures. [Amended 1-8-1990 by Ord. No. 461]**

- A. Before voting on the enactment of an amendment, the Township Council shall hold a public hearing thereon, pursuant to public notice as defined by this chapter.
- B. At least 30 days prior to the Township Council's hearing on a proposed zoning amendment, the Council shall submit:
  - (1) Any amendment other than one prepared by the Township Planning Commission to the Township Planning Commission in order to provide the Commission with an opportunity to submit its recommendations prior to final action;
  - (2) A copy of any proposed amendment to the County Planning Department. Whenever the Township Council has adopted a Comprehensive Plan or any part thereof, the recommendations of the County Planning Department shall include a specific statement as to whether or not the proposed action on any zoning amendment is in accordance with the intent of the formally adopted portion of said Comprehensive Plan; and
  - (3) If the proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the Township along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.
- C. If, after any public hearing held upon an amendment, the proposed amendment is revised or further revised to include land previously not affected by it, the Township Council shall hold another public hearing before proceeding to vote on the amendment.
- D. Within 30 days after enactment, a copy of the amendment to the Zoning Ordinance shall be forwarded to the County Planning Department.

**§ 275-248. Amendment standards.**

- A. All amendments should be decided in accordance with the following standards to ensure that:
  - (1) The proposed use is consistent with the purpose of the article whereby it is permitted, the overall purpose of the zoning as contained in Article I and all other applicable provisions of this chapter.
  - (2) The proposed use will satisfy all of the relevant provisions and requirements of Chapter 210, Subdivision and Land Development, and any other applicable codes, ordinances and/or

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**181.Editor's Note:** See 53 P.S. § 10609.1

**182.Editor's Note:** Said article was repealed 12-21-1988 by P.L. 1329, No. 170; see now 53 P.S. § 11001-A.

regulations.

- (3) The proposed use and its location are consistent with the Comprehensive Plan.
- (4) There is a demonstrated need for the proposed use and the use is in the best overall interest of the Township. (The applicant or petitioner shall have the burden of proof to so demonstrate.)
- (5) That the proposed use will contribute to the maintenance of the health, safety, morals and general welfare of the Township.
- (6) The proposed use is consistent with the nature of the uses existing on any immediately adjacent properties and it will not detract from or cause harm to neighboring properties and will be maintained in a manner in keeping with the character of the neighborhood.
- (7) The proposed use is consistent in concept and design with other amendments for which approval has been heretofore granted.
- (8) The proposed use is consistent with the logical extension of public services and will not measurably affect the public services and utilities of the surrounding properties.
- (9) If the use is one which traditionally adheres to some unique location criteria, the site for which the use is proposed is not one which obviates such criteria.
- (10) Any proposed construction will be consistent with good design principles and sound engineering and land development practices and is in keeping with the character of any existing construction within the neighborhood.
- (11) The proposed use will provide safe and adequate access to roads and public services (existing or proposed) and will not result in excessive traffic volumes or will make any improvements needed to guarantee compatibility with adjacent roads and public services.
- (12) The proposed use has provided for adequate sanitation.
- (13) The proposed use will provide for adequate screening as required under Article XXXIV or otherwise specified by the Township Council, parking according to Article XXXI, signage according to Article XXXII and all environmental controls according to Article XXXIII.
- (14) The proposed use will conform with all standards and criteria as set forth in Article XXXVI regarding conditional uses.

**Appendix**

**Chapter A281**

**CABLE TELEVISION FRANCHISE**

**ARTICLE I**

**Comcast of Southeastern Pennsylvania, LLC  
Franchise Agreement**

**ARTICLE II**

**Verizon Pennsylvania, Inc. Franchise  
Agreement**

**§ A281-1. Grant of franchise.**

**§ A281-2. Grant of franchise.**

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

**GENERAL REFERENCES**

**Cable television — See Ch. 81.**

ARTICLE I

**Comcast of Southeastern Pennsylvania, LLC Franchise Agreement**  
**[Adopted 8-25-2014 by Ord. No. 750<sup>183</sup>]**

**§ A281-1. Grant of franchise.**

The Township Council does hereby approve the attached cable franchise agreement<sup>184</sup> and related side letter negotiated with Comcast, including all of the terms and conditions contained therein, and does hereby authorize the execution of such agreements.

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**183.Editor's Note: This ordinance also supersedes former Art. I, Comcast Cablevision of Southeast Pennsylvania, Inc. Franchise Agreement, adopted 4-14-2003 by Ord. No. 645.**

**184.Editor's Note: The franchise agreement is on file in the Township offices.**

ARTICLE II

**Verizon Pennsylvania, Inc. Franchise Agreement**  
**[Adopted 3-20-2024 by Ord. No. 861<sup>185</sup>]**

**§ A281-2. Grant of franchise.**

The Township Council of the Township of Middletown does hereby approve and adopt the cable franchise agreement<sup>186</sup> and related side letters negotiated with Verizon, including all of the terms and conditions contained therein, and does hereby authorize the execution of such agreements.

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**185.Editor's Note: This ordinance also superseded former Art. II, Verizon Pennsylvania, Inc. Franchise Agreement, adopted 4-14-2003 by Ord. No. 645.**

**186.Editor's Note: The franchise agreement is on file in the Township offices.**



**Derivation Table**

**Chapter DT****DERIVATION TABLE****§ DT-1. Derivation Table of 1976 Code to 2009 Code**

**In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and articles of the 1976 Code have been included in the 2009 Code, or the reason for exclusion.**

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**§ DT-1. Derivation Table of 1976 Code to 2009 Code**

NCM	=	Not Code material (legislation is not general or permanent in nature).
REP	=	Repealed effective with adoption of Code; see Ch. 1, Art. II.
NI	=	Not included in Code but saved from repeal.
NLP	=	New legislation is pending.

<b>Chapter/Title From 1976 Code</b>	<b>Location in 2009 Code</b>
Ch. I, Administration and Government	
Article 1, Officers	
101, Township Manager	REP
Article 2, Commissions, Boards and Authorities	
201, Township Planning Commission	Superseded by Ord. No. 221
202, Sewer Authority	Ch. 8, Art. I
Article 3, Fringe Benefits	
301, Social Security	REP
Article 4, Environmental Advisory Council	
401, Environmental Advisory Council Regulations	Ch. 23
Ch. II, Taxation	
Article 1, Mercantile Tax	Ch. 215, Art. I
Article 2, Business Privilege Tax	Ch. 215, Art. II
Article 3, Enforcement and Collection Procedures	Ch. 215, Art. III
Article 4, Reality Transfer Tax	Ch. 215, Art. IV
Ch. III, Licenses and Permits	
Article 1, Business Licenses	

<b>Chapter/Title From 1976 Code</b>	<b>Location in 2009 Code</b>
101, Peddling	Ch. 167
102, Garbage or Refuse Haulers License	See Ch. 192, Art. I
Article 2, Permits	
201, Highway Construction Permit	Ch. 204, Art. II
202 - 210, Reserved	
211, Erosion, Sediment and Stormwater Control	Superseded by Ord. No. 654; see Ch. 186
Article 3, Cable Television and Communications	Ch. 81
Article 4, Cable TV Franchise	Ch. A281
Ch. IV, Nuisances	
Article 1, Animals	Ch. 63
Article 2, Vegetation	Ch. 266
Article 3, Littering	Ch. 148
Article 4, Motorized Vehicles, Models and Toys	Superseded by Ord. No. 422; see Ch. 161
Article 5, Firearms	Ch. 112
Article 6, Keeping of Animals	See Ch. 63
Article 7, Noise	Ch. 155
Ch. V, Streets, Sidewalks and Alleys	
Article 1, Construction Regulations	Ch. 204, Art. I
Article 2, Traffic Regulations	Ch. 235
Article 3, Parking Regulations	Ch. 235
Ch. VI, Public Utilities and Services	
Article 1, Garbage and Refuse	
101, Collection and Disposal of Refuse	Ch. 192, Art. I
102, Junkyards	Ch. 139
Article 2, Sewers	
201, Sewers and Sewage Disposal Regulations	Ch. 180, Art. I
202, Connection Fees and Sewer Charges	Ch. 180, Art. II
Article 3, Water	
301, Connection Requirement for Water District No. 5	Ch. 242, Art. I
Article 4, Municipal Recycling Program	Ch. 192, Art. III
Article 5, Municipal Solid Waste Disposal	Ch. 192, Art. II
Article 6, Wastewater Treatment	Ch. 180, Art. IV
Ch. VII, Public Safety	

**Chapter/Title From 1976 Code****Location in 2009 Code**

Article 1, Building Code	Ch. 89, Art. II
Article 2, Plumbing Code	Ch. 89, Art. III
Article 3, Fire Prevention Code	Ch. 89, Art. IV
Article 4, Electrical Code	Superseded by Ord. No. 653; see Ch. 89, Art. I
Article 5, Firearms	REP
Article 6, Holding Tanks	Ch. 180, Art. III
Article 7, Automatic Protection Device Regulations	Ch. 60
Article 8, Township Park and Recreation Areas	Ch. 161
Ch. VIII, Subdivision and Land Development	Ch. 210
Ch. IX, Zoning	Ch. 275
Ch. X, Enforcement	
Article 1, Procedures and Penalties	Ch. 1, Art. I
Article 2, Validity	REP
Article 3, Repeal of Inconsistent Ordinances	REP
Ch. XI, Health Code	
Article 1, Food Establishments	Ch. 127
Article 2, Public Bathing Places	Ch. 67
Administrative Code	Ch. 4

**Disposition List**

**Chapter DL****DISPOSITION LIST****§ DL-1. Disposition of legislation.**

**The following is a chronological listing of legislation of the Township of Middletown adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the original publication of the Code was Ord. No. 695, adopted 6-23-2008.**

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**§ DL-1. Disposition of legislation.**

<b>Ord. No.</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
696	8-25-2008	Zoning Map amendment	NCM
697	9-8-2008	Street acceptances	NCM
698	10-27-2008	Zoning amendment	Ch. 275
699	11-10-2008	Administration of government amendment; vehicles and traffic amendment	Chs. 4; 235
700	11-10-2008	Vehicles and traffic amendment	Ch. 235
701	11-24-2008	Connection fees and sewer charges amendment	Ch. 180, Art. II
702	1-5-2009	2009 tax rates	NCM
703	4-13-2009	Vehicles and traffic amendment	Ch. 235
704	5-11-2009	Zoning amendment	Ch. 275
705	7-27-2009	Fire prevention amendment	Ch. 89, Art. IV
706	7-27-2009	Recycling amendment	Ch. 192, Art. III
707	9-14-2009	Zoning amendment	Ch. 275
708	9-28-2009	Adoption of Code	Ch. 1, Art. II
709	12-14-2009	Zoning amendment	Ch. 275
710	1-11-2010	2010 tax rates	NCM
711	3-22-2010	Subdivision and land development amendment	Ch. 210
712	5-24-2010	Zoning amendment	Ch. 275
713	5-24-2010	Zoning amendment	Ch. 275
714	6-28-2010	Bond	NCM

<b>Ord. No.</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
715	11-8-2010	Zoning amendment	Ch. 275
716	11-22-2010	Connection fees and sewer charges amendment	Ch. 180, Art. II
717	11-22-2010	Administration of government amendment	Ch. 4
718	1-3-2011	2011 tax rates	NCM
719	6-17-2011	Street vacation	NCM
720	7-25-2011	Zoning amendment	Ch. 275
721	11-14-2011	General obligation bonds	NCM
722	12-12-2011	Zoning amendment	Ch. 275
723	12-12-2011	Zoning Map amendment	NCM
724	1-3-2012	2012 tax rates	NCM
725	1-23-2012	Zoning amendment	Ch. 275
726	1-23-2012	Zoning Map amendment	NCM
727	3-26-2012	Zoning amendment	Ch. 275
728	4-9-2012	Administration of government amendment	Ch. 4
729	5-24-2012	Construction codes: adoption of standards amendment	Ch. 89, Art. I
730	7-9-2012	Vehicles and traffic amendment	Ch. 235
731	8-27-2012	Stormwater management	Ch. 189
732	10-22-2012	Construction codes: adoption of standards amendment	Ch. 89, Art. II
733	11-26-2012	Accepting deed of dedication for parcel of land	NCM
734	12-10-2012	Connection fees and sewer charges amendment	Ch. 180, Art. II
735	1-7-2013	2013 tax rates	NCM
736	2-11-2013	Zoning amendment	Ch. 275
737	3-25-2013	Zoning amendment	Ch. 275
738	4-22-2013	Zoning Map amendment	NCM
739	8-26-2013	Vehicles and traffic amendment	Ch. 235
740	8-26-2013	Vehicles and traffic amendment	Ch. 235
741	11-25-2013	Local services tax	Ch. 215, Art. V
742	12-9-2013	Connection fees and sewer charges amendment	Ch. 180, Art. II

<b>Ord. No.</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
743	12-23-2013	Land conservation easement amendment	NCM
744	12-23-2013	Zoning amendment	Ch. 275
745	1-6-2014	2014 tax rates	NCM
746	2-24-2014	Zoning amendment	Ch. 275
747	6-23-2014	Bond	NCM
748	7-14-2014	Sewer Authority Articles of Incorporation amendment	Ch. 8, footnote only
749	8-11-2014	Bond	NCM
750	8-25-2014	Comcast of Southeastern Pennsylvania, LLC franchise agreement	Ch. A281, Art. I
751	10-27-2014	Right-of-way and easement agreement	NCM
752	11-10-2014	Easement agreement	NCM
753	11-24-2014	Connection fees and sewer charges amendment	Ch. 180, Art. II
754	1-5-2015	2015 tax rates	NCM
755	2-9-2015	Accepting deed of dedication for land and public improvements	NCM
756	4-13-2015	Vehicles and traffic amendment	Ch. 235
757	4-27-2015	Sunoco pipeline easement	NCM
758	8-24-2015	Zoning amendment	Ch. 275
759	9-14-2015	Authorization to purchase certain property	NCM
760	11-9-2015	Zoning amendment	Ch. 275
761	11-9-2015	Stormwater management amendment	Ch. 198
762	11-23-2015	Sewers: connection fees and sewer charges amendment	Ch. 180, Art. II
763	1-11-2016	2016 tax rates	NCM
764	1-11-2016	Amendment to 2015 budget	NCM
765	1-11-2016	Zoning Map amendment	NCM
766	2-22-2016	Zoning amendment	Ch. 275
767	4-25-2016	Municipal solid waste disposal amendment	Ch. 192, Art. II
768	9-26-2016	Sunoco pipeline easement	NCM
769	9-26-2016	Authorization to purchase certain property	NCM
770	9-26-2016	Authorizing lease rental debt for sewer project	NCM

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771	9-26-2016	Zoning amendment	Ch. 275
772	1-3-2017	2017 tax rates	NCM
773	1-3-2017	Budget amendment	NCM
774	1-3-2017	Sewers: connection fees and sewer charges amendment	Ch. 180, Art. II
775	2-27-2017	Vehicles and traffic amendment	Ch. 235
776	4-24-2017	Authorization to purchase certain property	NCM
777	4-24-2017	Acceptance of road right-of-way	NCM
778	7-10-2017	Acceptance of land dedication	NCM
779	7-24-2017	Zoning Map amendment	NCM
780	7-24-2017	Zoning amendment	Ch. 275
781	7-24-2017	Acceptance of easement	NCM
782	7-24-2017	Transit Revitalization Investment Area Project Plan	NCM
783	8-28-2017	Zoning amendment	Ch. 275
784	8-28-2017	Granting of easements	NCM
785	8-28-2017	Street acceptance	NCM
786	8-28-2017	Street acceptance	NCM
787	8-28-2017	Street acceptance	NCM
788	12-11-2017	Granting of Easements	NCM
789	12-11-2017	Sewers: Connection Fees and Sewer Charges Amendment	Ch. 180, Art. II
790	1-2-2018	2018 Tax Rates	NCM
791	3-26-2018	Granting Authority to Acquire Easements	NCM
792	6-11-2018	Vehicles and Traffic Amendment	Ch. 235
793	6-11-2018	Accepting Deed of Dedication	NCM
794	6-25-2018	Zoning Amendment	Ch. 275
795	9-10-2018	Soil Erosion and Sedimentation Control Amendment; Zoning Amendment	Ch. 186; Ch. 275
796	10-22-2018	Zoning Amendment	Ch. 275
797	10-22-2018	Zoning Amendment	Ch. 275
798	11-12-2018	Purchase of Land	NCM
799	1-7-2019	Tax Levy	NCM
800	2-11-2019	Administration of Government Amendment	Ch. 4



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802	2-11-2019	Administration of Government Amendment	Ch. 4
803	2-25-2019	Purchase of Property	NCM

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804	6-10-2019	Zoning Map Amendment	NCM	20
805	6-10-2019	Zoning Amendment	Ch. 275	20
806	6-10-2019	Bond	NCM	20
807	6-24-2019	Zoning Amendment	Ch. 275	20
808	7-8-2019	Project Approval	NCM	20
809	9-9-2019	Bond	NCM	20
810	2-10-2020	Zoning Amendment	Ch. 275	21
811	9-23-2019	Peddling and Soliciting Amendment	Ch. 167	20
812	10-14-2019	Vehicles and Traffic Amendment	Ch. 235	20
813	12-9-2019	Stormwater Management	Ch. 198	21
814	12-9-2019	Grading and Excavating Amendment	Ch. 186	21
815	1-27-2020	Zoning Map Amendment	NCM	21
816	12-9-2019	2020 Tax Rates	NCM	21
817	7-13-2020	Zoning Amendment	Ch. 275	22
818	6-8-2020	Vehicles and Traffic Amendment	Ch. 235	21
819			Pending Adoption	
820	4-1-2020	2019 Taxation Filing Extension	NCM	21
821	4-27-2020	2019 Taxation Filing Extension	NCM	21
822	6-8-2020	Weeds and Vegetation Amendment	Ch. 266	21
823	6-8-2020	Tree Maintenance	Ch. 220	21

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824	6-8-2020	2019 Taxation Filing Extension	NCM	22
825			Pending Adoption	
826			Pending Adoption	
827	10-1-2020	Bond	NCM	22
828	1-11-2021	Tax Rates	NCM	23
829	4-12-2021	Extending Tax Return Deadlines	NCM	23
830	5-10-2021	Taxation: Mercantile Tax Amendment; Taxation: Business Privilege Tax Amendment	Ch. 215, Art. I; Ch. 215, Art. II	23
831	6-28-2021	Purchase of Property	NCM	23
832	7-12-2021	Sewer System Project	NCM	23
833	8-23-2021	Lease	NCM	23
834	9-27-2021	Zoning Amendment	Ch. 275	23
835	9-27-2021	Lease	NCM	23
836			Pending Adoption	23
837	9-27-2021	Lease	NCM	23
838	12-13-2021	Bamboo	Ch. 65	23
839	12-13-2021	Sewers Amendment	Ch. 180	23
840	1-10-2022	Tax Rates	NCM	23
841	3-28-2022	Zoning Amendment	Ch. 275	24
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843	8-22-2022	Acquisition of Property	NCM	24
844	8-22-2022	Easement	NCM	24
845	10-24-2022	Taxation: Enforcement and Collection Procedures Amendment	Ch. 215, Art. III	24
846	11-28-2022	Sewers: Connection Fees and Sewer Charges Amendment	Ch. 180, Art. II	24
847	3-27-2023	Zoning Amendment	Ch. 275	25

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848	1-9-2023	Tax Rates	NCM	25
849	1-23-2023	Vehicles and Traffic Amendment	Ch. 235	25
850	1-23-2023	Vehicles and Traffic Amendment	Ch. 235	25
851	3-13-2023	Vehicles and Traffic Amendment	Ch. 235	25
852	4-24-2023	Acquisition of Property	NCM	25
853	4-24-2023	Acquisition of Property	NCM	25
854	9-25-2023	Subdivision and Land Development Amendment	Ch. 210	25
855	11-27-2023	Hotels, Motels and Inns	Ch. 133	25
856	11-27-2023	Zoning Amendment	Ch. 275	25
857	12-11-2023	Alarms and Alarm Devices Amendment	Ch. 60	25
858	12-11-2023	Emergency Services Reimbursement	Ch. 108	25
859	1-10-2024	Tax Rates	NCM	26
860	1-24-2024	Subdivision and Land Development Amendment	Ch. 210	26
861	3-20-2024	Cable Television Franchise: Verizon Pennsylvania, Inc. Franchise Agreement	Ch. A281, Art. II	26
862	9-18-2024	Special Events and Temporary Special Event Structures	Ch. 195	27
863	9-18-2024	Purchase of Property	NCM	27