

Administrative Legislation

Chapter 1

GENERAL PROVISIONS

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

ARTICLE I
Adoption of Code
[Adopted 6-2-2014 by Ord. No. 422-14]

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

Pursuant to Section 1601(d) of the Second Class Township Code [53 P.S. § 66601(d)], the codification of a complete body of legislation for the Township of Easttown, County of Chester, Commonwealth of Pennsylvania, as revised, codified and consolidated into chapters, articles and sections by General Code, and consisting of Chapters 1 through 455, together with an Appendix, is hereby approved, adopted, ordained and enacted as a single ordinance of the Township of Easttown, which shall be known and is hereby designated as the "Code of the Township of Easttown," hereinafter referred to as the "Code."

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

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 Only such provisions of former ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below, and only new or changed provisions, as described in § 1-6 below, shall be deemed to be enacted from the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

§ 1-3. Inconsistent legislation repealed.

Except as provided in § 1-4, Legislation saved from repeal; matters not affected by repeal, below, all ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed as of the effective date given in § 1-15; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Township of Easttown which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

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

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

- A. Any ordinance adopted subsequent to November 18, 2013.
- B. Any right or liability established, accrued or incurred under any legislative provision of the Township prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability or any cause of action acquired or existing.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the Township or any penalty, punishment or forfeiture which may result therefrom.

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

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

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

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

- A. Nonsubstantive changes. In compiling and preparing the ordinances and resolutions of the Township for adoption and revision as part of the Code, certain nonsubstantive grammatical and style changes were made in one or more of said ordinances and resolutions. It is the intention of the Board of Supervisors that all such changes be adopted as part of the Code as if the ordinances and resolutions so changed had been previously formally amended to read as such.
- B. Substantive changes and revisions. In addition to the changes and revisions described above, changes and revisions of a substantive nature, as set forth in Schedule A attached hereto and made a part hereof, are hereby made to various ordinances and resolutions included in the Code. These changes are enacted to bring provisions into conformity with the desired policies of the Board of Supervisors, and it is the intent of the Board of Supervisors that all such changes be adopted as part of the Code as if the legislation so changed had been previously formally amended to read as such. All such changes and revisions shall be deemed to be in effect as of the effective date of the Code specified in § 1-15.¹
- C. Nomenclature.
 - (1) Throughout the Code, references to the following agencies or officials are updated as indicated:
 - (a) "Justice of the Peace," "District Magistrate" and "District Justice" are changed to "Magisterial District Judge."
 - (b) "Department of Environmental Resources" and "DER" are changed to "Department of Environmental Protection" and "DEP."
 - (c) "Soil Conservation Service" and "SCS" are changed to "Natural Resources Conservation Service" and "NRCS."
 - (2) Throughout Chapter 274, Natural Resources Protection, "special relief" is changed to "special exception."

§ 1-7. Interpretation of provisions.

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

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

- A. Chapter and article titles, headings and titles of sections and other divisions in the Code or in supplements made to the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.
 - B. Editor's notes indicating sources of sections, giving other information or referring to the statutes or to
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1. **Editor's Note:** In accordance with § 1-6B, the chapters, parts and sections which were added, amended, adopted or deleted by this ordinance are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 6-2-2014 by Ord. No. 422-14." Schedule A, which contains a complete description of all changes, is on file in the Township offices.

other parts of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.

§ 1-9. Filing of 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 Secretary and shall remain there for use and examination by the public. Upon adoption, such copy or copies shall be certified to by the Township Secretary, as provided by law, and such certified copy or copies shall remain on file in the office of the Township Secretary, available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-10. Amendments to Code.

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

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

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

§ 1-12. Publication of notices.

The Township Secretary, pursuant to law, shall cause to be published in the manner required a notice of the introduction of the Code in a newspaper of general circulation in the Township. The enactment and application of this ordinance, coupled with the publication of the notice of introduction, the availability of 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.

§ 1-13. Altering or tampering with Code; violations and penalties.

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 shall, upon being found liable therefor in a civil enforcement proceeding, 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 and/or court. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance

herewith.

§ 1-14. Severability.

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

§ 1-15. Effective date.

All provisions of this ordinance and of the Code shall be in force and effect five days after enactment as provided for by law.

ARTICLE II**Penalties; Enforcement of Ordinances**

[Adopted 10-7-1996 by Ord. No. 293-96; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 1-16. Title.

This article shall be known as the "Ordinance for Enforcement of Ordinance Violations."

§ 1-17. Penalties for violators.

Any person who violates or permits the violation of any provision of any ordinance or regulation of Easttown Township, whether such ordinance or regulation was heretofore or hereafter adopted and enacted, shall, upon being found liable in a civil or criminal enforcement proceeding before a Magisterial District Judge or court having jurisdiction, pay a civil or criminal penalty, costs, fees and attorneys' fees assessed as provided for hereinafter.

§ 1-18. Enforcement officers; responsibilities.

- A. The following Township officers or officials are designated enforcement officers for the assessment and enforcement of violations of Township ordinances and regulations: any Township police officer, the Township Manager, the Assistant Township Manager, the Zoning Officer, the Township Code Enforcement Official, the Township Secretary and the Assistant Township Secretary.
- B. The Township enforcement officer will determine in each instance whether violation has occurred under the provisions of a Township ordinance or regulation. Upon determination that such violation has occurred, a notice of violation shall be directed to the violator, hereinafter referred to as "defendant." Such notice shall be served on the defendant in person or directed to the defendant by first-class U.S. Mail, postage prepaid, at the last known address of defendant as determined by the enforcement officer.
- C. The enforcement officer shall assess a penalty for each violation in such amount as such officer shall determine, but limited as follows: for violation of a building, housing, property maintenance, health, fire and public safety code or ordinance, and for water, air and noise pollution violations, not exceeding \$1,000; for violation of any other Township ordinance or regulations, not exceeding \$600, except as otherwise specified in the Code of the Township of Easttown. Each day that a violation continues unabated may be assessed as a separate violation.
- D. The enforcement officer may, in that officer's discretion, provide for a reasonable period of time, not to exceed 30 days (grace period), for the defendant to abate such violation, during which grace period no penalty shall be imposed, provided that the violation is abated prior to the expiration of such period.

§ 1-19. Enforcement proceedings.

In the event defendant fails to pay the penalty as assessed, or to cure the violation within the time set forth in the notice of violation, the enforcement officer may proceed to file enforcement proceedings to collect a civil or criminal penalty, as the case may be, before a Magisterial District Judge or a court of record having jurisdiction. Thereafter, the enforcement proceedings shall proceed as provided for by law. Any complaint filed with the Magisterial District Judge or court, in addition to the penalty assessed by the Code Enforcement Officer, may include a claim for all court costs and fees and reasonable attorneys' fees of the

Township.

§ 1-20. Severability.

Determination by the court having jurisdiction that any provision of this article is invalid, unenforceable or unconstitutional will not affect that validity or enforceability of the remaining provisions, which shall be deemed to be separate and apart from the provisions so determined.

§ 1-21. Inconsistent provisions.

The provisions of any ordinance or regulation of Easttown Township which are inconsistent with the provisions of this article shall be deemed to be supplemented and amended to be consistent with this article.

AUTHORITIES

Chapter 7

AUTHORITIES

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

ARTICLE I
Easttown Municipal Authority
[Adopted 12-2-1968 by Ord. No. 87]

§ 7-1. Intent to organize.

The Board of Supervisors of this Township hereby signifies its intention to organize an Authority under the provisions of the Municipality Authorities Act of 1945 (Act of May 2, 1945, P.L. 382, as amended).²

§ 7-2. Articles of Incorporation.³

The name of the proposed Authority is "Easttown Municipal Authority." In pursuance of said intention, the Articles of Incorporation of the said Authority are hereby approved and adopted in the following form:

**ARTICLES OF INCORPORATION
EASTTOWN MUNICIPAL AUTHORITY**

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 Easttown, Chester 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 "Easttown Municipal Authority."
- (B) The 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 said Township of Easttown.
- (D) The name of the incorporating municipality is the Township of Easttown, Chester County, Pennsylvania, and the names and addresses of the members of the Board of Supervisors of said Township are as follows:⁴
- (E) The names, addresses and terms of office of the first members of the Board of said Authority, each being a citizen of the Township of Easttown, are as follows:⁵

The terms 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 day of January 1969.

IN WITNESS WHEREOF, the Board of Supervisors of the Township of Easttown, Pennsylvania, has caused these Articles of Incorporation to be duly executed on behalf of said Township by its duly authorized officers and the Township Seal to be duly affixed and attested this _____ day of _____ 1968.

THE TOWNSHIP OF EASTTOWN

2. **Editor's Note:** The Municipality Authorities Act of 1945 (53 P.S. § 301 et seq.) was repealed by Act 22 of 2001 (June 19, 2001, P.L. 287, No. 22). See now the Municipality Authorities Act, 53 Pa.C.S.A. § 5601 et seq.

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

4. **Editor's Note:** Information regarding the names and addresses of said members is available in the Township offices.

5. **Editor's Note:** Information regarding the names, addresses and terms of the original members is available in the Township offices.

(Seal)

By _____
Chairman
Board of Supervisors

Attest:

Township Secretary

COMMONWEALTH OF
PENNSYLVANIA

: SS

COUNTY OF CHESTER

:

On this _____ day of _____, 1968, before me a Notary Public in and for said Commonwealth, personally appeared the above-named _____, who stated that their official positions in the Township of Easttown are respectively the Chairman and Secretary of its Board of Supervisors, and who, in due form of law, acknowledged the foregoing Articles of Incorporation to be the act and deed of said Township for the purposes therein specified.

Notary Public
My Commission Expires:

(NOTARIAL SEAL)

§ 7-3. Appointment of first Board members.

The first members of the Board of said Authority, named in the aforesaid Articles of Incorporation, are hereby specifically appointed members of said Board for the terms set after their respective names, commencing on the date of appointment and computed from the first day of January 1969.

§ 7-4. Authorization to execute Articles of Incorporation; filing.

The Chairman of the Board of Supervisors of this Township is hereby authorized and directed to execute said Articles of Incorporation on behalf of said Township, and the Secretary is hereby authorized and directed to affix thereto and attest the Seal of said Township. Said officers are further authorized and directed to 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 article and required proofs of publication, with the Secretary of the Commonwealth of Pennsylvania and to take all such action as they may deem necessary or appropriate to effect and establish said Authority.

§ 7-5. Initial project.

The initial project to be undertaken by said Authority is as follows: to acquire, hold, construct, improve, maintain, operate, own and lease, either in the capacity of lessor or lessee, sewers, sewer systems or parts thereof, sewage treatment works, including works for treating and disposing of industrial waste, for the Township of Easttown and for such other territory as it may be authorized to serve.

BOARDS, COMMISSIONS AND COMMITTEES

Chapter 13

BOARDS, COMMISSIONS AND COMMITTEES

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

ARTICLE I**Planning Commission**

[Adopted 1-18-1960 by Ord. No. 50; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 13-1. Establishment.

A Planning Commission consisting of five members is hereby created and established for the Township of Easttown, Chester County, Pennsylvania, pursuant to the provisions of Article II, Section 201, of the Pennsylvania Municipalities Planning Code, as established by the Act of July 31, 1968, P.L. 805, No. 247, as amended and reenacted (53 P.S. § 10201).

§ 13-2. Appointments; terms of office. [Amended 1-15-2018 by Ord. No. 433-18]

The Planning Commission shall be comprised of five members who shall be appointed for terms of office for four years, or until a successor is appointed and qualified, except that the terms of office for three of the original members shall be fixed at one year, two years and three years, respectively, and the terms of office for two of the original members shall be fixed at four years, to be established on a series of overlapping terms with one term expiring each year, except for the one year in which two terms shall expire. The Board of Supervisors may appoint by resolution at least one, but no more than three, residents to serve as alternate members of the Planning Commission. The term of office of an alternate member shall be four years.

§ 13-3. Powers and duties. [Amended 1-15-2018 by Ord. No. 433-18]

The Planning Commission shall have all the powers and duties conferred and imposed upon it as set forth in the Pennsylvania Municipalities Planning Code, established by the Act of July 31, 1968, P.L. 805, No. 247, as amended and reenacted (53 P.S. § 10101 et seq.). Any alternative members appointed by the Board of Supervisors shall participate in accordance with and have the powers and duties as set forth in the Municipalities Planning Code.

ARTICLE II**Parks and Recreation Board**

[Adopted 8-3-1970 by Ord. No. 107; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 13-4. Creation; membership.

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

§ 13-5. Appointments; terms of office.

The members of the Board shall be appointed by the Board of Supervisors for terms of five years, in such order that at least one member's term shall expire annually. The aforesaid appointments for a specified term notwithstanding, a Board member may stay in office until a successor qualifies or is appointed, except that the members first appointed shall be appointed so that the terms of not more than two members expire annually. All persons appointed shall serve their full terms unless voluntarily resigned or removed by the Board of Supervisors for dereliction or neglect of duty.

§ 13-6. Service without pay; vacancies.

The members of the Board shall serve without pay but may be reimbursed by the Township for all expenses incurred in performing their duties. Vacancies occurring other than by expiration of term shall be for the unexpired term and shall be filled in the same manner as original appointments.

§ 13-7. Officers.

- A. The Parks and Recreation Board shall elect its own Chairman and Secretary and any other officers deemed necessary, to serve for a period of one year.
- B. The Township Manager shall be the administrative officer responsible for effectuating the policies and program of the Parks and Recreation Board, which policies shall be recommended by the Parks and Recreation Board and approved by the Board of Supervisors. The Township Manager will monitor the recreation program and expenditures from the annual budget prior to the effectuation of any such program and the expenditures of any funds.

§ 13-8. Powers and duties.

The Parks and Recreation Board shall initiate, provide and recommend to the Board of Supervisors, from time to time, plans for the acquisition of or construction of, improvement of, maintenance of, equipping of, operation of, financing of and regulation of public parks, parkways, playgrounds, play fields, swimming pools, bathing places and indoor and outdoor recreation places and facilities. The Board may cooperate with one or more municipalities for these purposes.

§ 13-9. Rules and regulations; expenses.

The Parks and Recreation Board shall make and alter rules and regulations for its organization and procedure, provided that said rules and regulations shall be consistent with the ordinances of the Township of Easttown, the laws of the Commonwealth of Pennsylvania and shall be approved by the Board of Supervisors. The Parks and Recreation Board may incur expenses only when authorized by and approved

by the Board of Supervisors.

§ 13-10. Annual budget. [Amended 12-15-2014 by Ord. No. 424-14]

The Parks and Recreation Board, at such times as directed by the Board of Supervisors, shall annually review the proposed budgets for the ensuing year as prepared by the Township Manager to be submitted to and approved by the Board of Supervisors. The Parks and Recreation Board shall not in any manner obligate the Township for the payment of any Township funds until the same is appropriated by the Board of Supervisors.

§ 13-11. Authority of Board.

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

ARTICLE III

Easttown Citizen's Advisory Committee**[Adopted 1-6-2003 by Ord. No. 343-03; amended in its entirety 6-2-2014 by Ord. No. 422-14]****§ 13-12. Creation; appointments; terms of office.**

- A. The Board of Supervisors has the authority to create advisory bodies from time to time to aid it in the execution of its corporate powers and has determined the need to engage various skills and capabilities of the Township citizenry to advise it on the best approaches and practices in addressing current and future needs.
- B. There is hereby created and established the Easttown Citizen's Advisory Committee ("ECAC").
- C. The ECAC shall be comprised of not less than five and not more than nine members, serving three-year terms (subject to the interim term schedule set forth by § 13-12D herein). Members are to be appointed in all cases by the Board of Supervisors. ECAC may make appointment recommendations to the Board of Supervisors and shall follow a process of recruiting and interviewing prospective candidates who possess skills, including, but not limited to: accounting, human resources and benefits, information technology, insurance, risk management, labor relations, management, and procurement. **[Amended 12-7-2020 by Ord. No. 446-20]**
- D. The change from two-year terms to three-year terms by operation of this section shall not affect the duration of any currently serving ECAC member's existing term. In order to stagger ECAC membership terms going forward, and to provide continuity of service, the Board of Supervisors may appoint the next occurring ECAC regular-term vacancies as follows: **[Added 12-7-2020 by Ord. No. 446-20]**
 - (1) For the three ECAC seats currently expiring in December of 2020, the Board of Supervisors may fill any of those seats, up to three, for three-year terms beginning in January of 2021, and expiring in December of 2023.
 - (2) For the six ECAC seats currently expiring in December of 2021, the Board of Supervisors may fill any of those seats in accordance with the following schedule:
 - (a) For three seats, the Board of Supervisors may fill any of those seats, up to three, for three-year terms beginning in January of 2022, and expiring in December of 2024; and
 - (b) For three seats, the Board of Supervisors shall fill any of those seats, up to three, for four-year terms beginning in January of 2022, and expiring in December of 2025.
 - (3) Thereafter, any ECAC member appointed to any subsequent term shall be appointed to serve on ECAC for a three-year term.
- E. The Board of Supervisors reserves the right to fill such number of seats as it may determine, in its sole discretion, to create ECAC membership of not less than five, nor greater than nine, members. **[Added 12-7-2020 by Ord. No. 446-20]**

§ 13-13. Officers; meetings.

- A. The ECAC shall appoint a Chairman and Recording Secretary. The Recording Secretary shall take minutes of the public meetings and record them in a minute book. Public meetings shall be conducted monthly on the second Monday of the month at 6:15 p.m.

- B. The ECAC is at all times subject to the Pennsylvania Sunshine Act, the Pennsylvania Right-to-Know Law and the Pennsylvania Public Official and Employee Ethics Act,⁶ as an agency of the Township. Members of the ECAC shall not release Township information without clearance from the Township Right-to-Know Officer.

§ 13-14. Powers and duties.

- A. The mission of the ECAC shall be to evaluate and make recommendations to the Board of Supervisors that improve the financial position and operational effectiveness of the Township. The ECAC may advise the Board of Supervisors in the following functional areas:
- (1) Debt and bond obligation.
 - (2) Revenue and taxation.
 - (3) Expenses and cost containment.
 - (4) Pension funding.
 - (5) Pension performance and planning targets.
 - (6) Optimization of Township assets.
 - (7) Capital planning and project control.
 - (8) Improvement of business processes, including but not limited to budgeting and planning.
 - (9) Service delivery assessments and decisions regarding allocation of resources.
 - (10) Identification of savings opportunities and revenue enhancements.
 - (11) Bench marking critical comparative metrics with neighboring townships.
 - (12) Easttown Municipal Authority.
- B. The ECAC is an advisory function to the Board of Supervisors and as such has no audit or watchdog responsibilities in day-to-day operations. The ECAC will primarily focus on needs and solutions that have a future and strategic impact on the Township. Such audit and controls are part of Township operations and are a critical responsibility of the Board of Supervisors.
- C. The ECAC may engage in review of the Township's financial systems and procedures, operations, etc., that meet the advisory mission. The review may encompass any activities, programs, departments, policies, procedures, processes, operations, contracts, agreements and plans that produce or consume Township resources.
- D. The ECAC is strictly advisory in nature. It will make observations, analyses and recommendations. Approval and implementation of any of the ECAC's recommendations shall be solely the responsibility of the Board of Supervisors. As a follow-on to the advisory nature of the ECAC, the ECAC has no audit, compliance, certification or verification authority and thus no corresponding responsibilities or accountabilities in these areas.
- E. The ECAC is charged to make reports on any findings or recommendations it may have. The ECAC's recommendations are advisory only and not binding on the Board of Supervisors. **[Amended]**

6. Editor's Note: See 65 Pa.C.S.A. § 701 et seq., 65 P.S. § 67.101 et seq. and 65 Pa.C.S.A. § 1101 et seq., respectively.

10-16-2023 by Ord. No. 458-23]

- F. The ECAC is prohibited from incurring expenses, making payments, entering contracts, leases or obligations without the expressed consent of the Board of Supervisors.
- G. Township staff shall facilitate ECAC document and material requests, subject to limitations for certain personnel and legal-related matters or other material confidential by law.
- H. The ECAC may be aided from time to time by experts or advisors in their particular area of study. No expert, advisor or consultant shall be contracted without the express consent of the liaison to the Board of Supervisors.

ARTICLE IV
Historical Commission
[Adopted 3-5-2007 by Ord. No. 375-07]

§ 13-15. Creation.

There is hereby established a Commission to be known as the "Easttown Township Historical Commission."

§ 13-16. Responsibilities.

The Commission shall serve in an advisory capacity for historical preservation information facilitation to the citizens of the Township. To accomplish this purpose, the Commission shall:

- A. Identify significant architectural, historical, and natural sites in Easttown Township and maintain a detailed inventory and map(s) of these historical resources, including informational data appropriately classified;
- B. Create an awareness of the history of the Township from the earliest residents to the present day, including their cultural, agricultural, business, educational, and religious endeavors;
- C. Research and report the history of Easttown Township and serve as an advisory resource for owners of historical sites involved with the rehabilitation, preservation and/or restoration;
- D. Prepare appropriate reports for the Board of Supervisors, as well as reports which may be requested by the Board of Supervisors;
- E. The Historical Commission shall cooperate with and advise the Board of Supervisors, the Township Planning Commission, and all other Township officials and agencies in relation to the exterior renovation, rehabilitation, preservation, protection, adaptive reuse, and restoration of significant historical structures and sites as well as any proposed demolition. **[Amended 11-21-2022 by Ord. No. 453-22]**
 - (1) Village of Berwyn Zoning Districts. Within the Village of Berwyn Zoning Districts, the Historical Commission shall review and advise as to all proposed exterior demolition, exterior renovation, or other exterior construction, restoration, or installation work requiring a permit in the Village of Berwyn Zoning Districts, including the review, analysis, and evaluation of aesthetic design for new construction, in order to maintain the character, streetscape, and massing of all structures within public view within the Village of Berwyn Zoning Districts. Such review in the Village of Berwyn Zoning Districts shall include, but is not limited to, Class 1 or Class 2 Historic Resources.
 - (2) All other zoning districts. In all zoning districts outside of the Village of Berwyn Zoning Districts, the Historical Commission shall review and advise only as to Class 1 or Class 2 Historic Resources, where demolition, exterior renovation, or other exterior construction, restoration, or installation work proposed as to Class 1 or Class 2 Historic Resources requires a permit and is within public view, including the review, analysis, and evaluation of the proposed work.
- F. Consider, promote, and, with approval of the Board of Supervisors, apply for technical and financial assistance from all appropriate local, county, state, federal, and other agencies in the preservation of significant architectural, natural, and historical sites within Easttown Township, and report all related

- action to the Board of Supervisors;
- G. When requested, cooperate with all Township officials regarding the possible acquisition and use of significant historic structures and sites, including their research and nomination to the National Register of Historic Places in accordance with the provisions of the National Historical Preservation Act of 1966, as amended; and
- H. Perform other related duties as may be delegated by the Board of Supervisors.

§ 13-17. Appointments; terms of office; compensation; officers.

- A. The said Historical Commission shall:
- (1) Consist of a minimum of five members who must be residents of Easttown Township;
 - (2) Be appointed by the Board of Supervisors;
 - (3) Serve a term of office for three years, except for the initial terms, which should be two members for one year, two members for two years and one member for three years;
 - (4) Serve without compensation but may be reimbursed for expenses necessary to conduct the responsibilities of the Commission when authorized by the Board of Supervisors;
 - (5) Elect annually a Chairperson, Vice Chairperson, Secretary, Archivist, and other officers as deemed necessary by the Commission.
- B. A vacancy of the Commission shall be filled by a resident appointed by the Board of Supervisors for the unexpired term. The Commission shall have the right to make recommendations for appointees to the Board of Supervisors for unfulfilled terms and for full terms. The Commission shall have the right to establish appropriate committees to assist with research, to lend expertise, and to perform other duties as assigned by the Commission. Each committee shall be chaired by a member of the Historical Commission.

§ 13-18. Meetings.

Monthly meetings and periodic executive sessions shall be held to conduct the business of the Commission. The Commission shall keep records of its meetings and activities, submitting monthly reports to the Board of Supervisors.

§ 13-19. Assistance and budget.

In order to carry out its responsibilities, the Historical Commission may, with the consent of the Board of Supervisors, utilize personnel or other assistance made available by the county, the commonwealth, or federal governments, or any of their agencies or from private sources. The Board of Supervisors may enter into agreements or contracts regarding the acceptance or utilization of the funds or assistance in accordance with the Township procedures. The Easttown Township Historical Commission shall submit a proposed budget to the Board of Supervisors during the regular Township budget process.

ARTICLE V
Environmental Advisory Council
[Adopted 12-7-2020 by Ord. No. 445-20]

§ 13-20. Establishment; membership.

There is hereby created, effective January 4, 2021, the "Easttown Township Environmental Advisory Council" ("EAC" or "Council"), which shall exist and function until this article is revoked. The EAC shall be comprised of a minimum of three and a maximum of seven members, who are residents of the Township.

§ 13-21. Appointments; terms; vacancies.

Council members shall be appointed in accordance with the following procedures:

- A. All Council members shall be appointed by the Township Board of Supervisors.
- B. Council members' terms of office shall expire on December 31 of a given term.
- C. Duly appointed Council members shall serve a term of three years, except as originally established herein, so that initial appointments shall variously expire on an annual basis.
 - (1) Initial terms.
 - (a) The initial members of the EAC shall be appointed to terms of office as follows:
 - [1] One member for a term to expire January 4, 2022;
 - [2] Two members for terms to expire January 3, 2023; and
 - [3] Two members for terms to expire January 2, 2024.
 - (b) If the Board of Supervisors appoints a sixth and/or seventh member, the initial terms shall expire January 4, 2022 and January 3, 2023, respectively.
 - D. The Easttown Township Planning Commission shall annually appoint one Planning Commission member to be a liaison to the EAC.
 - E. The Board of Supervisors shall fill vacancies in the term of EAC membership for the unexpired term.
 - F. The Board of Supervisors shall appoint a Board of Supervisor liaison to the EAC.

§ 13-22. Chairperson; Secretary; officers.

- A. Pursuant to 53 Pa.C.S.A. § 2323(d), the Township Board of Supervisors has statutory authority to designate the Chair of the Council. The Township Board of Supervisors hereby delegates the authority for naming an EAC Chairperson to the Council itself. The EAC shall select the Chair annually. **[Amended 10-16-2023 by Ord. No. 458-23]**
- B. The EAC shall elect all other necessary officers, including a Secretary, at its annual organization meeting (i.e., the first regular meeting each calendar year). All officers shall be elected for a period of one year, being coterminous with the calendar year.
- C. The Secretary shall keep minutes of all meetings of the Council and provide a copy to the Township

Secretary.

- D. The Council shall make an annual report to the Board of Supervisors. Each calendar year, the EAC and the Township Board of Supervisors shall mutually establish agreed-to goals and focuses for the EAC, and annual reports shall identify the goals and focuses from the prior year, and progress made. The annual report shall include a summary of the activities of the EAC, with particular reference to the extent and adequacy of the program and its effectiveness in use of public expenditures, as well as achievement of Township objectives in service of its citizenry. [Amended 10-16-2023 by Ord. No. 458-23]

§ 13-23. Powers and duties.

The Environmental Advisory Council (EAC) shall have the following power and responsibilities:

- A. The EAC is to be advisory to and shall coordinate its activities with the Board of Supervisors, Township Administration, Planning Commission, Parks and Recreation Board, Citizen's Advisory Committee, Historical Commission, and other such Township entities as may now or hereafter exist;
- B. The EAC shall advise the Board of Supervisors regarding the identification of environmental problems, issues, conditions, and matters of concern;
- C. The EAC shall 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;
- D. The EAC shall make recommendations as to the possible use of open land areas of the Township;
- E. The EAC shall provide for and promote a community environmental program, which shall include a community education component to highlight awareness and knowledge as to environmental priorities, protections, or regulatory requirements in the Township;
- F. The EAC shall create and maintain an index of all open areas, publicly or privately owned, including, but not limited to, flood prone areas, wetlands, swamps, and other unique natural areas, including, but not limited to, areas of steep slope and wooded areas;
- G. The EAC shall advise the appropriate agencies of the Township in the acquisition of property, both real and personal; and
- H. The EAC shall undertake such environmental tasks as requested or directed by the Township Board of Supervisors, as they relate specifically to the acquisition, protection, preservation, and management of open space in the Township. If directed or requested by the Township Board of Supervisors, specific initiatives may include, but shall not be limited to, the review of proposed ordinance provisions and proposed land development plans. Each calendar year, the EAC and the Township Board of Supervisors shall mutually establish agreed-to goals and focuses for the EAC pursuant to § 13-22D.

§ 13-24. Rules; regulations; meetings.

The EAC shall adopt rules and regulations for the conduct of its own meetings and Council business. Said rules and regulations shall comply with all applicable Township policies and practices, as well as statutory regulations, including, but not limited to, the Sunshine Act (65 Pa.C.S.A. § 701, et seq.) and PA Act 177 of 1996, as amended (53 Pa.C.S.A. § 2322, et seq.).

§ 13-25. Compensation; reimbursement for expenses.

Council members are Township volunteers and shall receive no compensation for their services, but may be reimbursed for reasonable and authorized expenses actually and necessarily incurred by them in the performance of their duties, subject in all cases to such expenses being approved in advance by the Township Board of Supervisors. The Township Board of Supervisors may, from time to time, appropriate funds for the expenses incurred by the Council. Such expenses require approval in advance by the Township Board of Supervisors.

ARTICLE VI
Stormwater Management Advisory Committee
[Adopted 3-21-2022 by Ord. No. 449-22]

§ 13-26. Creation; appointments; terms of office.

- A. The Board of Supervisors has the authority to create advisory bodies from time to time to aid it in the execution of its corporate powers and has determined the need to engage various skills and capabilities of the Township citizenry to advise it on the best approaches and practices in addressing current and future needs.
- B. There is hereby created and established the Stormwater Management Advisory Committee ("SMAC").
- C. The SMAC shall be comprised of five members, who must be residents of Easttown Township and possess skills including, but not limited to: accounting, finance, banking, engineering, hydrology, meteorology, geology, landscape architecture, architecture, environmental science, political science, and law. Committee members shall be appointed in accordance with the following procedures:
 - (1) All committee members shall be appointed by the Township Board of Supervisors.
 - (2) Committee members' terms of office shall expire on December 31 of a given term.
 - (3) Duly appointed committee members shall serve a term of three years, except as originally established herein, so that initial appointments shall variously expire on an annual basis.
 - (a) Initial terms.
 - [1] The initial members of the SMAC shall be appointed to terms of office as follows:
 - [a] One member for a term to expire December 31, 2022;
 - [b] Two members for terms to expire December 31, 2023; and
 - [c] Two members for terms to expire December 31, 2024.
 - [2] The Board of Supervisors shall fill vacancies in the term of SMAC membership for an unexpired term.
 - [3] The Board of Supervisors shall appoint a Board of Supervisor liaison to the SMAC.

§ 13-27. Officers; meetings.

- A. The SMAC shall annually elect a Chairman, Vice Chairman, and Secretary at its annual organization meeting (i.e., the first regular meeting each calendar year). All officers shall be elected for a period of one year, being coterminous with the calendar year.
- B. The Secretary shall keep minutes of all meetings of the Council and provide a copy to the Township Secretary.
- C. The SMAC is at all times subject to the Pennsylvania Sunshine Act, the Pennsylvania Right-to-Know Law and the Pennsylvania Public Official and Employee Ethics Act, as an agency of the Township. Members of the SMAC shall not release Township information without clearance from the Township Right-to-Know Officer.

§ 13-28. Powers and duties.

- A. The SMAC shall have the following power and responsibilities:
 - (1) Shall evaluate issues, answer questions, and make recommendations as directed by the Board of Supervisors.
 - (2) Shall evaluate and make recommendations to the Board of Supervisors that improve the effectiveness of the operations of stormwater management of the Township. The SMAC may advise the Board of Supervisors on the following:
 - (a) Debt and bond obligation;
 - (b) Revenue and taxation, including fees;
 - (c) Expenses and cost containment;
 - (d) Optimization of Township assets;
 - (e) Project control;
 - (f) Service delivery assessments and decisions regarding allocation of resources;
 - (g) Identification of savings opportunities and revenue enhancements;
 - (h) Benchmarking critical comparative metrics with neighboring townships;
 - (i) Stormwater infrastructure mapping;
 - (j) Stormwater engineering improvements;
 - (k) Forecasting future stormwater impacts;
 - (l) Easttown Municipal Authority involvement;
 - (m) Stormwater code amendments;
 - (n) Stormwater education;
 - (o) Prospective projects identified by the Board of Supervisors;
 - (p) Preliminary engineering associated with projects;
 - (q) Construction schedules of projects; and
 - (r) Costs, benefits, and sensitivity of prospective projects.
- B. The SMAC is strictly advisory in nature. It will make observations, analyses, and recommendations. Approval and implementation of any of the SMAC's recommendations shall be solely the responsibility of the Board of Supervisors. As a follow-on to the advisory nature of the SMAC, the SMAC has no audit, compliance, certification or verification authority and thus, no corresponding responsibilities or accountabilities in these areas.
- C. The SMAC is charged to make reports on any findings or recommendations it may have. The SMAC's recommendations are advisory only and not binding on the Board of Supervisors.
- D. The SMAC shall make an annual report to the Board of Supervisors. Each calendar year, the SMAC

and the Township Board of Supervisors shall mutually establish agreed-to goals and focuses for the SMAC, and annual reports shall identify the goals and focuses from the prior year, and progress made. The annual report shall include a summary of the activities of the SMAC, with particular reference to the extent and adequacy of the program and its effectiveness in use of public expenditures, as well as achievement of Township objectives in service of its citizenry. [Amended 10-16-2023 by Ord. No. 458-23]

- E. The SMAC is prohibited from incurring expenses, making payments, entering contracts, leases or obligations without the expressed consent of the Board of Supervisors.
- F. Township staff shall facilitate SMAC document and material requests, subject to limitations for certain personnel and legal-related matters or other material confidential by law.
- G. The SMAC may be aided from time to time by experts or advisors in their particular area of study. No expert, advisor or consultant shall be contracted without the express consent of the Board of Supervisors or the staff.

FIRE COMPANIES

Chapter 28

FIRE COMPANIES

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 11-15-1993 by Ord.

No. 268-93. Amendments noted where applicable.]

§ 28-1. Fire companies recognized.

Berwyn Fire Company, organized and existing in the Township of Easttown, Chester County, Pennsylvania, and Paoli Fire Company, organized and existing in the Township of Tredyffrin, are hereby recognized as the official fire companies for the Township, in order that Berwyn Fire Company and Paoli Fire Company and their members may derive the full benefit of governmental immunity and workers' compensation statutes, rules and regulations.

§ 28-2. Authorized activities of fire companies.

Berwyn Fire Company and Paoli Fire Company are hereby authorized to provide such services to the Township as may be necessary for the protection of property and persons situate therein, including, by way of example but not of limitation, the following:

- A. Prevention of loss or injury to persons and property from fire, automobile accidents, medical emergencies, hazardous materials and like dangerous eventualities;
- B. Removal of water from property after storms, assistance in the removal, abatement and prevention of damage or injury to persons or property, whether through natural or man-made causes, and performance of like public service functions of an emergency or nonemergency nature;
- C. Conducting and participation in such educational or training activities, either within or outside of Easttown Township, as may be deemed necessary by the officers of the Companies to maintain proficiency in providing service; and
- D. Responding to calls and providing service to municipalities outside of Easttown Township.

§ 28-3. Authorized activities of fire company members.

In addition to participating in the activities authorized in § 28-2 above, or in going to or returning from any authorized activity, the members of Berwyn Fire Company and Paoli Fire Company are authorized to do the following when properly approved by an officer of the Companies:

- A. Participate in any type of drill, training, education, ceremony, practice, test or parade;
- B. Engage in fund-raising activities benefiting Berwyn Fire Company or Paoli Fire Company;
- C. Engage in the performance of any other duty or activity intended for the proper benefit of Berwyn Fire Company or Paoli Fire Company.

Chapter 44**MANAGER**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 1-20-1969 by Ord.

No. 88. Amendments noted where applicable.]

§ 44-1. Creation of office.

The office of Township Manager is hereby created by the Township of Easttown.

§ 44-2. Appointment and removal. [Amended 9-7-1994 by Ord. No. 273-94; 6-2-2014 by Ord. No. 422-14]

The Manager shall be elected for an indefinite term by majority vote of the members of the Board. The Manager shall serve at the pleasure of the Board, and he/she may be removed at any time by a majority vote of all its members. An employment agreement, if desired, may be entered into with the Township in accordance with the Second Class Township Code.

§ 44-3. Qualifications. [Added 9-7-1994 by Ord. No. 273-94]

The Manager shall be chosen on the basis of executive, administrative and financial abilities, with special reference to training and experience in municipal government. The Manager need not be a resident of the Township and may reside outside of the Township while in office with the approval of the Board.

§ 44-4. Compensation. [Amended 9-7-1994 by Ord. No. 273-94; 6-2-2014 by Ord. No. 422-14]

The salary of the Township Manager shall be fixed by the Supervisors at the time of his/her employment and may be adjusted from time to time in the same manner.

§ 44-5. Bond. [Added 9-7-1994 by Ord. No. 273-94; amended 6-2-2014 by Ord. No. 422-14]

The Manager shall give a bond to the Township with sufficient surety to be approved by the Board, conditioned on the faithful performance of his/her duties, the premium for said bond to be paid by the Township.

§ 44-6. Powers and duties. [Amended 9-7-1994 by Ord. No. 273-94]

- A. The Manager shall be the chief administrative officer of the Township and shall be responsible to the Board for the proper, efficient and economical administration of the affairs of the Township. The Manager shall conduct himself/herself at all times with fidelity and in a way that will reflect credit upon, and benefit to, the Township and its government as a whole. The powers and duties of the administration of Township business shall be vested in the Manager, unless expressly imposed or conferred by statute upon other Township officers.
- B. The duties and powers of the Township Manager shall be as set forth in this chapter and any amendments hereto and shall include such of the nonlegislative duties and powers of the Board as shall herein be delegated to the Manager, subject to recall by the Board of any part or all of the duties and/or powers herein conferred. The Manager shall have general supervision of the business affairs of the Township and administration of Township business, which duties and powers shall include the following:

- (1) The Manager shall supervise and be responsible for all Township departments. The Manager shall assist the Chief of Police or ranking officer in the administration of that department, but shall not exercise operational control or supervision over the activities of the Police Department. **[Amended 12-15-2014 by Ord. No. 424-14]**
- (2) The Manager shall hire and, when deemed necessary, shall suspend or discharge any employee of the Township, other than a police officer; provided, however, such hiring or discharge of department heads or appointees shall require approval of the Board.
- (3) The Manager shall prepare and submit to the Board, not less than 45 days before the close of each fiscal year, a proposed budget for the next fiscal year. In preparing the proposed budget, the Manager, or any person designated by the Manager, shall obtain from the head of each department, agency, board or commission, or any qualified member thereof, estimates of revenues and expenditures for the next fiscal year and such other data as the Manager shall require. The Manager shall review such estimates and give them due consideration before submitting to the Board the proposed budget for the next fiscal years; however, the Manager shall not be bound by any such estimates.
- (4) The Manager shall be responsible for the administration of the budget after its adoption by the Board.
- (5) The Manager shall hold such other Township offices and head such departments as the Board may from time to time direct and are not deemed incompatible by law.
- (6) The Manager shall normally attend all meetings of the Board and shall have the right to take part in its discussions. The Manager shall receive notice of meetings of all other Township boards, agencies, or commissions and shall have the right to attend all such meetings personally or through a designee.
- (7) The Manager shall prepare an agenda for each meeting of the Board and shall supply such information to the Board as he/she deems pertinent thereto or as requested by the Board.
- (8) The Manager shall keep the Board informed as to the conduct of Township affairs; shall submit periodic reports on the condition of Township finances; shall submit such other reports as he/she deems advisable or as the Board shall request; and shall make such recommendations to the Board as he/she deems advisable.
- (9) The Manager shall submit to the Board, as soon as possible after the close of each fiscal year, a complete report on the finances of the Township for the preceding year.
- (10) The Manager shall oversee the administration of all Township ordinances as well as all such franchises, leases, permits and privileges as may from time to time be granted by the Township and such contracts as may be entered into by the Township and shall see that all the terms and conditions of all of the foregoing are observed.
- (11) The Manager shall recommend to the Board the employment of such experts and consultants as the Manager deems advisable to perform work and/or to offer advice in connection with any of the functions of the Township, and the Manager shall recommend to the Board compensation to be paid to any such expert or consultant so hired.
- (12) The Manager shall attend to the letting of contracts in form, substance and manner as provided by law, and the Manager shall supervise the performance and faithful execution of same, except insofar as such duties are expressly imposed by statute or ordinance upon some other Township

officer or official.

- (13) The Manager shall see that all money owed the Township is promptly paid and that proper proceedings are taken for the security and collection of all claims of the Township.
- (14) The Manager shall be the purchasing officer of the Township and shall purchase in accordance with the provisions of the Second Class Township Code⁷ all supplies and equipment for the Township and for its departments and for such other agencies, boards and commissions as the Board may from time to time direct.
- (15) All complaints regarding Township services shall be referred to the Township Manager. The Manager or such other person as the Manager shall designate shall investigate and, insofar as possible, resolve such complaints, and the Manager shall report thereon to the Board.
- (16) The Manager shall thoroughly analyze all matters requiring Board action and shall fairly and objectively present to the Board all facts and other information pertinent to such action.
- (17) The Manager shall use his/her best efforts to maintain a high level of public relations for all elements of the Township government and shall prepare such periodic reports of Township activity and such other information as may be directed from time to time by the Board.
- (18) The Manager shall assume such other responsibilities and perform such other duties as the Board may from time to time direct and in conformity with all applicable statutes, ordinances and regulations.

§ 44-7. Disability or absence of Manager. [Added 9-7-1994 by Ord. No. 273-94; amended 12-15-2014 by Ord. No. 424-14]

Should the Manager become ill or be absent from the Township, he/she shall designate the Assistant Township Manager, or in the absence of the Assistant Township Manager, one qualified member of the Township administrative staff to perform the duties of Manager during his/her absence or disability. The person so designated shall not perform these duties for a period longer than two weeks without the approval of the Board.

7. Editor's Note: See 53 P.S. § 65101 et seq.

Chapter 56

PENSIONS

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

ARTICLE I
Nonuniformed Employees Pension Plan
[Adopted 5-20-1974 by Ord. No. 120]

§ 56-1. Establishment of plan; statutory authority.

A revised Employees Pension Plan and Trust (hereinafter designated "plan") is hereby established for the benefit of the eligible employees of Easttown Township. The existing pension fund plan is hereby replaced. The aforesaid establishment and replacement are as provided for in the Act of May 1, 1933, P.L. 103, Article VII, Section 702, Clause XIII, as amended.⁸

§ 56-2. Effective date.

The plan adopted hereby is effective as of January 1, 1974.

§ 56-3. Trust agreement between Township and bank.

A certain trust agreement by and between Easttown Township and Provident National Bank as trustee is on file in the office of the Township Secretary. The proper officers of the Township are authorized to execute said trust agreement on behalf of the Township (together with such amendments as the Township may deem proper).

§ 56-4. Agreement on file in Township offices.

The aforementioned trust agreement shall remain on file in the office of the Township Secretary and may be inspected during normal business hours by interested employees and citizens of the Township.

§ 56-5. Adoption of plan; provisions.

The Supervisors of Easttown Township shall adopt by resolution the Employees Pension Plan of Easttown Township. Such plan shall designate the beneficiaries of said plan and the terms under which benefits shall be paid to such beneficiaries and shall provide for appropriations and contributions to such fund and shall provide regulations with respect to the eligibility, participation, contribution and retirement under such plan and shall fix the amount of benefits and provide for the proper administration of said plan.

§ 56-6. Authorization to establish administration procedures.

The Township Secretary is hereby authorized to establish the necessary system of payroll deductions and accounting procedures necessary for the proper administration of the plan.

§ 56-7. Authorization to appropriate funds.

The Supervisors are hereby authorized to appropriate from the proper funds of the Township such amounts as may from time to time be necessary for the funding of the plan.

§ 56-8. Transfer of funds to plan.

All funds, accounts or credits held or accrued under the existing plan known as the "Pension Plan" shall, as may be deemed appropriate by the Supervisors, be transferred and incorporated in the plan and trust

8. Editor's Note: See 53 P.S. § 66512.

agreement established hereunder.

§ 56-9. Administration.

The plan shall be administered under the direction of the Board of Supervisors of Easttown Township pursuant to the applicable laws of the Commonwealth of Pennsylvania.

ARTICLE II
Uniformed Employees Pension Plan
[Adopted 5-20-1974 by Ord. No. 121]

§ 56-10. Establishment of plan; statutory authority.

A revised Uniformed Employees Pension Plan and Trust (hereinafter designated "plan") is hereby established for the benefit of the eligible uniformed employees of Easttown Township. The existing police pension fund plan is hereby replaced. The aforesaid establishment and replacement are as provided for in the Act of May 29, 1956, P.L. (1955) 1804, as amended.⁹

§ 56-11. Effective date.

The plan adopted hereby is effective as of January 1, 1974.

§ 56-12. Trust agreement between Township and bank.

A certain trust agreement by and between Easttown Township and Provident National Bank as trustee is on file in the office of the Township Secretary. The proper officers of the Township are authorized to execute said trust agreement on behalf of the Township (together with such amendments as the Township may deem proper).

§ 56-13. Agreement on file in Township offices.

The aforementioned trust agreement shall remain on file in the office of the Township Secretary and may be inspected during normal business hours by interested employees and citizens of the Township.

§ 56-14. Adoption of plan; provisions.

The Supervisors of Easttown Township shall adopt by resolution the Uniformed Employees Pension Plan of Easttown Township. Such plan shall designate the beneficiaries of said plan and the terms under which benefits shall be paid to such beneficiaries and shall provide for appropriations and contributions to such fund and shall provide regulations with respect to the eligibility, participation, contribution and retirement under such plan and shall fix the amount of benefits and provide for the proper administration of said plan.

§ 56-15. Authorization to establish administration procedures.

The Township Secretary is hereby authorized to establish the necessary system of payroll deductions and accounting procedures necessary for the proper administration of the plan.

§ 56-16. Authorization to appropriate funds.

The Supervisors are hereby authorized to appropriate from the proper funds of the Township such amounts as may from time to time be necessary for the funding of the plan.

§ 56-17. Transfer of funds to plan.

All funds, accounts or credits held or accrued under the existing plan known as the "Police Pension Fund" shall, as may be deemed appropriate by the Supervisors, be transferred and incorporated in the plan and

9. Editor's Note: See 53 P.S. § 767 et seq.

trust agreement established hereunder.

§ 56-18. Administration.

The plan shall be administered under the direction of the Board of Supervisors of Easttown Township pursuant to the applicable laws of the Commonwealth of Pennsylvania.

SCHOOL CROSSING GUARDS

Chapter 79

SCHOOL CROSSING GUARDS

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 12-8-2017 by Ord.

No. 432-17.¹⁰ Amendments noted where applicable.]

§ 79-1. Hiring and oversight.

The Board of Supervisors of Easttown Township, Chester County, Pennsylvania, hereby approves the request of the Tredyffrin/Easttown School District ("school district") to permit the school district to assume the hiring and overseeing of school crossing guards at the school district's facilities and functions.

§ 79-2. Cost of compensation.

The school district shall assume full and complete responsibility for the cost of compensation, and any other related costs, of the school crossing guards. An agreement regarding any and all past cost allocations between the Township and school district as to crossing guards shall be by and through a memorandum of understanding or other agreement approved by the respective parties. All prior ordinances, resolutions or agreements as to cost of school crossing guards inconsistent with this chapter are hereby superseded by this chapter.

§ 79-3. School district and Township cooperation.

The school district shall consult with the Easttown Township Police Department as to crossing locations and functions of school crossing guards. The Easttown Township Police Department and the school district shall jointly provide for an efficient and prompt method by which school crossing guards may request any necessary assistance from police and other emergency personnel if the need arises.

10. Editor's Note: This ordinance also repealed former Ch. 79, School Crossing Guards, adopted 11-16-2009 by Ord. No. 392-09.

Chapter 85**SOCIAL SECURITY**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 7-20-1953 by Ord.

No. 12. Amendments noted where applicable.]

§ 85-1. Extension to employees and officers.

It is the considered opinion of this body that the extension of the social security system to employees and officers of the Township of Easttown will be of great benefit, not only to the employees of said Township by providing that said employees and officers may participate in the provisions of the old-age and survivors insurance system, but will also be of great benefit to the said Township by enabling it to attract and retain in employment the best of personnel and thus increase the efficiency of its government.

§ 85-2. Statutory authority.

The 1951 Session of the General Assembly of the Commonwealth of Pennsylvania, in regular session, enacted a statute, known as Act No. 491, which is the enabling Act provided for in Section 218 of Public Law 734, 81st Congress, which designated the Secretary of Labor and Industry of the Commonwealth of Pennsylvania to act as the state agency to implement the coverage of employees and officers under the said old-age and survivors insurance system. The Township of Easttown, aforesaid, is hereby authorized to execute and deliver to the state agency a plan, or plans, and agreement, required under Section 6 of said enabling Act and the Social Security Act,¹¹ to extend coverage to employees and officers of the Township of Easttown, aforesaid, and do all other necessary things to effectuate coverage of employees and officers under the old-age and survivors insurance system.

§ 85-3. Establishment of payroll deductions.

The Clerk is hereby authorized to establish a system of payroll deduction to be matched by payments by the Township of Easttown to be made into the contribution fund of the Social Security Act through the office of the state agency and to make charges of this tax to the fund, or funds, from which wage or salary payments are issued to employees of the Township of Easttown. Such payments are to be made in accordance with the provisions of the law and regulations promulgated by the state agency and the Federal Security Administrator. Such payments which are delinquent shall bear interest at the rate of 1/2 of 1% per month until such time as payments are made.

§ 85-4. Appropriation of funds; agreement with state agency.

Appropriation is hereby made from the proper fund, or funds, of the Township of Easttown in the necessary amount to pay into the contribution fund as provided in Section 4 of the enabling Act and in accordance with the plan, or plans, and agreement. Authority is given to the Chairman of the Board of Supervisors and the Township Secretary of the Township of Easttown to enter into an agreement with the state agency, which agreement shall be in accordance with Act No. 491 and with Paragraph 218 of the Social Security Act.¹² Such plan and agreement shall provide that the participation of this Township of Easttown shall commence as of January 1, 1951.

General Legislation

11. Editor's Note: See 42 U.S.C. § 301 et seq.

12. Editor's Note: See 42 U.S.C. § 418.

Chapter 110

ALARM SYSTEMS AND EMERGENCY COMMUNICATIONS SYSTEMS

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

**ARTICLE I
Alarm Devices**

[Adopted 11-6-1989 by Ord. No. 227-89; amended in its entirety 6-20-2011 by Ord. No. 404-11]

§ 110-1. Title.

This article shall be known as the "Easttown Township Alarm Device Ordinance."

§ 110-2. Definitions.

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

ALARM — A communication to a public safety agency indicating that a crime, fire or other emergency warranting immediate action by the public safety agency has occurred or is occurring.

ALARM DEVICE — A device designed to automatically transmit an alarm:

- A. Directly to a public safety agency; or
- B. To a person that is instructed to notify the public safety agency of the alarm.

ALARM DEVICE SUPPLIER — Any person who sells, leases and/or installs alarm devices.

AUDIBLE ALARM — Any device, bell, horn or siren which is attached in the interior or exterior of a building and emits a warning signal audible outside the building and is designed to attract attention when activated by a criminal act or other emergency requiring the public safety agency to respond.

AUTOMATIC DIALING DEVICE — A device which is interconnected to a telephone line and preprogrammed to transmit the coded signal of an alarm to a dedicated telephone trunk line or to dial a predetermined phone number to an alarm to a public safety agency.

DEDICATED TELEPHONE TRUNK LINE — A telephone line or lines which serve a public safety agency which is dedicated to receiving transmission from an automatic dialing device.

FALSE ALARM — The activation of an alarm device to which a public safety agency responds when a crime, fire, or other emergency has not occurred.

KEY — To use a telephone or recording equipment to transmit a message either directly or indirectly by alarm device.

PERSON — An individual, corporation, partnership, incorporated association or other similar entity.

PUBLIC SAFETY AGENCY — The Pennsylvania State Police or any municipal police or fire department.

TOWNSHIP — The Township of Easttown, Chester County, Pennsylvania.

§ 110-3. Audible alarm restrictions.

All alarm devices which are connected to audible alarms shall be equipped with timing devices which shut off the audible alarm after a maximum period of 15 minutes. Audible alarms without such a timing device will be unlawful in the Township and shall be disconnected by the owner or lessee within 60 days of the effective date of this article.

§ 110-4. Alarm devices keyed to county. [Amended 6-2-2014 by Ord. No. 422-14]

Alarm devices shall not be keyed to the local public safety agencies but may be keyed to the Chester County Police/Fire Radio Network or any successor in interest. Permission to key the alarm devices shall

be obtained in accordance with 18 Pa.C.S.A. § 7511(a), as amended.

§ 110-5. Alarm devices keyed to other receivers.

It is permissible for owners or lessees of alarm devices to key alarms to a telephone or radio which is available to them or to a private agency, subject to the regulations set forth in this article.

§ 110-6. Operational requirements.

Alarm devices installed in the Township that are keyed to the Chester County Police/Fire Radio Network or any successor in interest shall meet the following requirements:

- A. The type and content of recorded messages shall be intelligible and in a format approved prior to installation by the Chester County Police/Fire Radio Network or any successor in interest.
- B. No more than one call shall be made to the Chester County Police/Fire Radio Network or any successor in interest as a result of a single activation of the alarm device.
- C. The time for transmitting each recorded message shall not exceed 15 seconds.
- D. Recorded messages may be repeated during one call, but the interval between each recorded message shall not be less than eight seconds nor more than 12 seconds.
- E. The sensory mechanisms used in connection with the alarm device shall be adjusted to suppress false indications of intrusion so that the devices will not be activated by changing pressure in the water pipes, short flashes of light, the rattling or vibrations to the premises caused by the passing of vehicles or other force not related to a genuine alarm.
- F. All components comprising such an alarm device shall be maintained by the owner or lessee in good repair to assure maximum reliability of operation.

§ 110-7. Malfunctioning devices.

When messages evidencing failure to comply with the operational requirements set forth in § 110-6 hereof are received by the Chester County Police/Fire Radio Network or any successor in interest and the Township concludes that the alarm device sending such messages is malfunctioning, the Township is authorized to require that the owner or lessee of the device or his representative disconnect the device until it is made to comply with the operational requirements. If this disconnection of the defective device is not accomplished within 48 hours of notification by the Township, the Township may then take appropriate action to disconnect the defective alarm device. For purpose of this provision, two or more false alarms within any thirty-day period shall be sufficient evidence for the Township to determine that the device is malfunctioning.

§ 110-8. Electrical standards.

Alarm device suppliers shall conform to the requirements contained in the National Electrical Code.

§ 110-9. Inspections.

For the purposes of enforcing this article, the Police Chief, Fire Marshal and/or the Township Manager, or their duly authorized designees, are hereby authorized to enter upon a lessee's or owner's premises upon written notice or in the event of an emergency at any time to make inspections of installation and/or

operation of alarm devices.

§ 110-10. Testing.

No person shall conduct any test or demonstrations of an alarm device without first obtaining permission from the Township and/or the Chester County Police/Fire Radio Network or other successor in interest.

§ 110-11. Suppliers and installers to furnish copies of article.

Alarm device suppliers and installers shall furnish, at or prior to the time of contracting and at their expense, a copy of this article to owners, lessees or users of the equipment or services to be supplied.

§ 110-12. False alarms.

The Township shall comply with Pennsylvania law on false alarm enforcement. The Township hereby authorizes certain local public safety agencies, the Fire Chief for the Berwyn Fire Company and/or his designees, the Fire Chief for the Paoli Fire Company and/or his designees and the Chief of Police for the Easttown Township Police Department and/or his designees to be added to the list maintained by Magisterial District Court 15-1-02, or any other Magisterial District Court that may in the future have jurisdiction over the Township, of persons permitted to issue citations for the violation of 18 Pa.C.S.A. § 7511(c)(1), as may be amended, and directs that this article be provided to the Magisterial District Court, or courts having jurisdiction, for inclusion in that Court's database.

§ 110-13. Violations and penalties. [Amended 10-7-1996 by Ord. No. 293-96]

Any person who violates or permits a violation of this article shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$600, plus all court costs, including reasonable attorneys' fees, incurred by the Township in the enforcement of this article. 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.

§ 110-14. Title and preamble.

This article shall be known as "Emergency Communication Systems." The Board of Supervisors finds that the ability of the police, fire, ambulance, and other emergency providers and personnel to communicate with each other within buildings and structures, and to communicate from within structures and buildings to personnel and locations outside the building and structure, is of vital public importance. A breakdown in communications among emergency providers and personnel creates a serious risk of harm to and is a serious threat to the safety and welfare of emergency personnel, the citizens of Easttown Township and the public in general. Therefore, pursuant to the police power, the Board enacts this article to protect the public health, safety and welfare.

§ 110-15. Definitions.

The following words and terms shall, for the purposes of this article and as used elsewhere in this Code, have the meanings shown herein.

APCO — Association of Public Safety Communications Officials International.

CCDES — Chester County Department of Emergency Services.

FCC — Federal Communications Commission.

GROSS FLOOR AREA — The total area of the floor measured to the outside finished surfaces of permanent outer building walls, without any deductions. All enclosed area on the floor, including basements, attic, garages, mechanical equipment floors, penthouses, and the like, shall be calculated as a part of gross floor area.

NPSPAC — National Public Safety Planning Advisory Committee.

§ 110-16. General provisions.

- A. Except as otherwise provided, no person shall erect, construct, alter, refit, change the use of, or provide an addition of more than 20% of the existing gross floor area to any building or structure or any part thereof, or cause the same to be done, which fails to support adequate radio coverage for CCDES, the Berwyn and Paoli Fire Companies, and the Easttown Township Police Department. For the purposes of this article, adequate radio coverage shall include all of the following:
 - (1) A minimum signal strength of -95dBm available in 95% for the gross floor area of each floor of the building.
 - (2) A minimum signal strength of -95dBm received at the closest CCDES radio communications site when transmitted from 95% of the gross floor area of each floor of the building.
 - (3) The frequency range which must be supported shall be between 763 MHz and 861 MHz.
 - (4) A 90% reliability factor.
 - (5) Signal strength measurements, for the purpose of measuring the performance of a bi-directional amplifier, shall be based on one input signal adequate to obtain a maximum continuous operating output level.
- B. The provisions of this article shall become applicable upon notification to the property owner that unacceptable performance levels exist. The property owner shall have 90 days from date of notification to enhance radio coverage and bring it within the acceptable limits of these provisions.

§ 110-17. Amplification systems allowed.

Buildings and structures which cannot support the required level of radio coverage shall be equipped with either a radiating cable system or an internal multiple antenna system with or without FCC type accepted bi-directional 700/800 MHz amplifiers as needed. If any part of the installed system or systems contains an electrically powered component, the system shall be capable of operating on an independent battery and/or generator system for a period of at least 12 hours without external power input. The battery system shall charge in the presence of an external power input.

§ 110-18. Testing procedures.

- A. Acceptance test procedure.
 - (1) When an in-building radio system is required, and upon completion of installation, it will be the building owner's responsibility to have the radio system tested to ensure that two-way coverage

on each floor of the building is a minimum of 95%. Each floor of the building shall be divided into a grid of approximately 20 equal areas. A maximum of two nonadjacent areas will be allowed to fail the test. In the event that three of the areas fail the test, in order to be more statistically accurate, the floor may be divided in 40 equal areas. In such event, a maximum of four nonadjacent areas will be allowed to fail the test. After the forty-area test, if the system continues to fail, the building owner shall have the system altered to meet the 95% coverage requirement.

- (2) The test shall be conducted using the most current portable radio or its equivalent, available to the Easttown Township Police Department and the Berwyn and Paoli Fire Companies, talking through the CCDES as specified by the authority having jurisdiction. A spot located approximately in the center of a grid area will be selected for the test, then the radio will be keyed to verify two-way communications to and from the outside of the building through the CCDES. Once the spot has been selected, prospecting for a better spot within the grid area will not be permitted.
 - (3) The gain values of all amplifiers shall be measured and the test measurement results shall be kept on file with the building owner so that the measurements can be verified each year during the annual tests. In the event that the measurements results become lost, the building owner will be required to rerun the acceptance test to reestablish the gain values.
- B. Biennial tests. When an in-building radio system is required, the building owner shall test all active components of the system, including but not limited to amplifiers, power supplies and backup batteries, a minimum of once every 24 months. Amplifiers shall be tested to ensure that the gain is the same as it was upon initial installation and acceptance. Backup batteries and power supplies shall be tested under load for a period of one hour to verify that they will properly operate during an actual power outage. If within the one-hour test period, in the opinion of the testing technician, the battery exhibits symptoms of failure, the test shall be extended for additional one-hour periods until the testing technician confirms the integrity of the battery. All other active components shall be checked to determine that they are operating within the manufacturer's specifications for the intended period. A copy of the accepted tests shall be provided to the Chester County Department of Emergency Services, Berwyn and Paoli Fire Companies' Chiefs and the Easttown Township Police Chief.
- C. Eight-year tests. In addition to the annual test, the building owner shall perform a radio coverage test a minimum of once every eight years to insure that the radio system continues to meet the requirements of the original acceptance test. The procedure set forth above shall apply to such tests. A copy of the accepted tests shall be provided to the Chester County Department of Emergency Services, Berwyn and Paoli Fire Companies' Chiefs and the Easttown Township Police Chief.
- D. Qualifications of testing personnel. All tests shall be conducted, documented and signed by a person in possession of a current FCC technician license, or a current technician certification issued by APCO, NABER, or PCIA. All test records shall be retained on the inspected premises by the building owner and a copy submitted to the Berwyn and Paoli Fire Companies' Chiefs and the Easttown Township Police Chief.

§ 110-19. Field testing.

Police and fire personnel, after providing reasonable notice to the owner or his representative, shall have the right to enter onto the property to conduct field testing to be certain that the required level of radio coverage is present.

§ 110-20. Exemptions.

This article does not apply to structures in Use Groups R-3 and R-4 of the International Building Code; any building constructed of wood frame; any building 35 feet high or less; as long as none of the aforementioned buildings make use of any metal construction or any underground storage or parking areas. For the purposes of this article, parking structures and stairwells are included in the definition of "building" and stair shafts are included in the definition of "all parts of a building," but elevators may be excluded.

§ 110-21. Existing buildings and structures.

Any nonexempt building or structure existing, under construction, or for which a building permit application is pending or has been approved as of the effective date of this article shall comply with the requirements of this article if the CCDES, Easttown Township Police Department and the Berwyn and Paoli Fire Companies determine that adequate radio coverage as set forth herein do not exist in the building or structure. The owner of the building or structure shall be notified in writing of the inadequacy of the coverage and shall have a period of 90 consecutive calendar days from the date of notice to comply with this article, including but not limited to enhancing radio coverage and bringing it within the acceptable limits of this article.

§ 110-22. Violations and penalties.

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

Chapter 112

ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 1-15-2018 by Ord. No. 433-18. Amendments noted where applicable.]

§ 112-1. Definitions.

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

ALCOHOLIC BEVERAGE — Any liquor or brewed or malt beverage as defined by the Liquor Code of the Commonwealth of Pennsylvania, as amended, 47 P.S. § 1-101 et seq.

OPEN CONTAINER — An open, unsealed, resealed, or partially refilled container, can, or bottle containing an alcoholic beverage.

PUBLIC PLACE — Any location, of whatever nature, that is open to the use of the public as a matter of right, including but not limited to public parks, parking lots and buildings in the Township. This shall also include private parking lots or other private areas open to public use in the Township.

PUBLIC WAY — Every street, road, alley, sidewalk, steps, ramps, trail or path that is open to the use of the public as a matter of right in the Township. This shall also include private streets, roads, alleys, sidewalks, steps, ramps, trails or paths that are open to the use of the public in the Township.

§ 112-2. Drinking in certain public areas prohibited.

No person shall drink any alcoholic beverage in any vehicle or otherwise upon a public place or right-of-way in the Township.

§ 112-3. Carrying or possession in certain public areas prohibited.

No person shall carry or possess alcoholic beverages with the intention of consuming the same upon a public place or way.

§ 112-4. Possession of an open container; presumption of intent.

The possession of any open container containing an alcoholic beverage in a vehicle or otherwise upon public place or way shall be presumed to be with the intent to consume such beverage.

§ 112-5. Exceptions.

- A. Any facility or establishment licensed or permitted to serve or dispense alcoholic beverages by the State Liquor Control Board or other body pursuant to the laws of the Commonwealth of Pennsylvania and persons who are patrons of any such facilities or establishments are exempt from this chapter, provided that the patrons remain within the confines of said facilities or establishments with the alcoholic beverages.
- B. A person seated at a table which is contained within an approved outdoor cafe, as defined in Chapter 455, Zoning, is exempt from this chapter, provided the person remains seated in the approved outdoor cafe area.
- C. A special event, approved by the Township as set forth in Chapter 382, Special Events, and permitted by the Pennsylvania Liquor Control Board, is exempt from this chapter, provided this exemption is

specifically addressed in the Township approval.

- D. To the extent any provision contained herein is inconsistent with the Pennsylvania Vehicle Code, as amended, 75 Pa.C.S.A. § 101 et seq., the Pennsylvania Vehicle Code shall control.

§ 112-6. Lawful use of private premises.

No provision of this chapter shall be construed in derogation of the rights of owner or tenant of any private property to legally use said premises or to grant permission to others for the lawful use thereof.

§ 112-7. Violations and penalties.

Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution, including reasonable attorneys' fees. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 30 days. Each day or portion thereof that such violation is found to exist, continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

ANIMALS

Chapter 118

ANIMALS

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

ARTICLE I
Domestic Animals Running at Large
[Adopted 10-7-1974 by Ord. No. 129]

§ 118-1. Responsibilities of owners or keepers.

No owner or keeper of any domestic or pet-type animal (other than dogs) shall allow such animal to run at large within the Township of Easttown on the property of others, except with their consent, or upon the property open to the public, or belonging to the public, unless said animal is properly restrained or controlled by such owner or keeper or his agent.

§ 118-2. Authorization to seize and detain.

Any such animal which is allowed to run at large in violation of § 118-1 may be seized and detained by any police officer of the Township or his agent.

§ 118-3. Use of reasonable force.

Any police officer or his agent may use such force or control as may be reasonably necessary to effect such seizure and detainment.

§ 118-4. Consent to use of force or destruction.

Any owner or keeper who shall allow any such animal to run at large in violation of § 118-1 hereunder shall be deemed to have consented to the use of such force, including destruction by any police officer or his agent as may be necessary to enforce the terms of this article and to protect the health, cleanliness, comfort and safety of the citizens of the Township.

§ 118-5. Disposal of unclaimed animals.

Any animal seized as being in violation of this article shall be detained for a period of three days, unless, because of the nature, health or condition of the animal, or the lack of available facilities, such detainment cannot be reasonably accomplished. There shall be no duty on the part of the Township or the Police Department or its agents to ascertain or notify the owner or keeper of any such animal of its detention. If, after three days, said animal remains unclaimed by its owner or keeper, the Chief of Police or his agent shall dispose of said animal by sale, gift or destruction in some humane manner. No animal shall be disposed of for the purposes of vivisection.

§ 118-6. Payment of detention expenses.

If said animal is claimed by its owner or keeper, or their agent, such person shall pay all reasonable expenses incurred by reason of its detention under the provisions of this article.

§ 118-7. Violations and penalties. [Amended 10-7-1996 by Ord. No. 293-96¹³]

Any person who violates or permits a violation of this article shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution, including reasonable attorneys' fees. In default of payment thereof, the defendant may

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

be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

ARTICLE II
Dogs Running at Large; Control of Dogs
[Adopted 4-8-1980 by Ord. No. 161-80]

§ 118-8. Dogs running at large prohibited.

It shall be unlawful for any owner of any dog or dogs, licensed or unlicensed, to permit such dog or dogs to run at large unaccompanied by the owner. The word "owner," as used in this article, shall include every person having a right of proprietorship or ownership in a dog or has it in his care, and every person who permits a dog to remain on or about any premises occupied by him. A dog shall be deemed to be at large if off the premises of its owner and not under the immediate control of a responsible person.

§ 118-9. Seizure and detention.¹⁴

Any dog that is allowed to run at large in violation of § 118-8 and the Dog Law shall be seized, detained, disposed of and/or destroyed in accordance with the Dog Law, 3 P.S. § 459-101 et seq., as may be amended from time to time.

§ 118-10. Noise restrictions.¹⁵

It shall be unlawful for the owner of any animal to allow any barking, howling, yelping or otherwise making noise continuously in excess of 15 minutes or intermittently in excess of 30 minutes so that such barking can be heard by persons outside of the property of the owner of the animal; provided, however, that noise from an animal due to someone threatening to or trespassing upon the property upon which the animal is located or caused by teasing or mistreatment of the animal by someone other than the owner, handler or custodian or keeper of the animal shall not be considered a violation of this section.

§ 118-11. Injury to humans prohibited.

It shall be unlawful for the owner of any dog to permit said dog to injure any human being by biting, jumping on, knocking down or attacking said human being.¹⁶

§ 118-12. Legislative intent.

It is the intent that this article shall be supplemental to any laws of the Commonwealth of Pennsylvania hereinbefore or hereafter adopted covering dogs within the Commonwealth of Pennsylvania and specifically in the Township of Easttown.

§ 118-13. Animal Warden.

The Supervisors of Easttown Township are hereby authorized to engage the service of any qualified person or corporation to serve as the official Animal Warden of Easttown Township to enforce the provisions of this article.

§ 118-14. Enforcement; violations and penalties.

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

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

16. Editor's Note: The original sections titled "Notice of seizure; payment of expenses" and "Disposition of unclaimed dogs," which immediately followed this section, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- A. In cases involving the violation of this article, it shall be the duty of the police officers and/or Animal Warden of Easttown Township to deliver to the license holder a written notice within 48 hours of the violation, either by personally serving the same upon the owner or by mailing the same to the owner at his last known address by certified mail, return receipt requested, which notice shall specify the license number of the dog, if any, a general description of the dog and the date, time, place and nature of the violation. **[Amended 6-2-2014 by Ord. No. 422-14]**
- B. Each such owner may, within five days from the time of receipt of said notice, pay at the police headquarters as a penalty for and in full consideration of such violation the sum of \$50, as well as reasonable expenses incurred by reason of the dog's detention. **[Amended 6-2-2014 by Ord. No. 422-14]**
- C. Unless otherwise provided for herein, any person who violates any provision of this article commits the following: **[Amended 10-7-1996 by Ord. No. 293-96; 10-16-2023 by Ord. No. 458-23]**
 - (1) For the first offense, a summary offense, and shall, upon conviction thereof in an action brought by a nontraffic citation before a District Justice under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine of not less than \$100 nor more than \$500 plus costs or to imprisonment for not more than 90 days, or both. Each day that a violation of this article continues or each section of this article that shall be found to have been violated shall constitute a separate offense.
 - (2) For a first offense that occurs within one year of sentencing for the prior violation, a misdemeanor of the third degree, and shall, upon conviction thereof in an action brought by a nontraffic citation before a District Justice in the manner provided for under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine of not less than \$500 nor more than \$1,000 plus costs or to imprisonment for not more than one year, or both. Each day that a violation of this article continues or each section of this article that shall be found to have been violated shall constitute a separate offense.
- D. In addition to any other remedies set forth herein, a violation of this article may be abated in any other manner provided for at law or equity. **[Added 10-16-2023 by Ord. No. 458-23]**
- E. Any officer of the Easttown Township Police Department or the Easttown Township Code Enforcement Officer is hereby authorized to commence a proceeding under this subsection. **[Added 10-16-2023 by Ord. No. 458-23]**

ARTICLE III
Disposal of Animal Waste
[Adopted 5-20-2002 by Ord. No. 338-02]

§ 118-15. Removal and cleanup required.

Any person having custody or control of any domesticated animal shall remove and clean up any feces of such animal from any place open to or used by members of the public, including any street, driveway, gutter, curb, sidewalk, parking area, floor or stairway of any building, including any public park or open space.

§ 118-16. Manner of disposal.

Any feces removed as required in § 118-15 above shall be disposed of in a proper sanitary and non-nuisance manner.

§ 118-17. Violations and penalties.¹⁷

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

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

Chapter 141**CABLE TELEVISION**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 7-18-2005 by Ord. No. 364A-05. Amendments noted where applicable.]

§ 141-1. Title.

This chapter shall be known and may be cited as the "Easttown Township Cable Television Ordinance."

§ 141-2. Grant of right to erect, maintain and operate facilities.

- A. Upon application duly made, the Township of Easttown may grant the right to erect, maintain and operate cable television transmission and distribution facilities and additions thereof in, under, over, along, across and upon the streets, lanes, avenues, sidewalks, alleys and other public places in the Township of Easttown (hereinafter referred to as the "Township") and subsequent additions thereof, for the purpose of transmission and distribution of audio and visual impulses and television energy in accordance with the laws and regulations of the United States of America, of the Commonwealth of Pennsylvania and of the Township. The Township may promulgate a form for the making of application pursuant hereto, and in the event that such a form is promulgated, then application shall be made only on such form. Any right granted pursuant to this chapter shall be conditioned on the faithful performance and observance of the conditions, regulations and reservations herein specified and shall further be conditioned upon the prompt payments of the amounts provided for herein.
- B. Notwithstanding any other provisions or terms of this chapter, and to the extent permitted by federal or state law, the Township shall apply the requirements of this chapter to similarly situated users or occupiers of the streets, lanes, avenues, sidewalks, alleys and other public places in the Township.

§ 141-3. Definitions.

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

CABLE SERVICE — The one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service, or as "cable service" is otherwise now or hereafter defined by applicable state or federal law or regulation.

§ 141-4. Poles; fees; tree trimming; service requirements.

- A. To the extent possible, all facilities erected, maintained or operated pursuant to this chapter shall be attached to poles already in existence in the Township. To the extent that existing poles are insufficient for the purposes hereof, or if anyone being granted the right hereunder (hereinafter referred to as "licensee") is unable to negotiate agreements satisfactory to the licensee providing for use of existing poles, the licensee shall have the right to erect and maintain its own poles as necessary for the construction and maintenance of its television distribution system, with the approval of locating such poles by the Township Engineer; provided, however, that the approval of the Township Engineer shall not be granted for the installation of such poles when, in the professional opinion of the Township Engineer, the installation of such new transmission facilities underground is feasible, considering engineering criteria only, and provided further that all residential areas of the Township which are served by underground electrical utilities shall be served only by underground transmission and distribution facilities. Otherwise, the approval of the Township Engineer shall not be

unreasonably withheld.

- B. The licensee shall have the right, authority, power and privilege to attach any of its system facilities to any existing or future poles, towers or other electrical facilities owned by the Township in a manner which will not interfere with the use of such poles, towers and other electrical facilities by the Township, provided that no such attachment shall take place unless 72 hours' prior notice has been given to the Township and the Township has failed to object to such attachment. The Township shall not unreasonably object to any such attachment.
- C. The licensee shall pay to the Township an annual fee for each pole utilized by the licensee owned by the Township, which fee shall not be less than \$1.50 per pole. If the licensee shall negotiate a contract with other entities for the use of their poles, then the annual fee payable hereunder shall be the same as the fee payable pursuant to such negotiated contracts, but not less than the minimum as aforesaid.
- D. In the event that the licensee negotiates a contract fee per year per pole with other entities, providing for different fees to each of those entities, the annual fee per pole payable to the Township for each pole owned by the Township and utilized by the licensee shall be the higher of the two negotiated contract fees, subject to the minimum as aforesaid.
- E. In the event that the licensee does not negotiate an agreement for the use of the poles of other entities, the fee payable by the licensee to the Township shall be the minimum as aforesaid, an annual fee of \$1.50 for each pole owned by the Township and utilized by the licensee. In the event that a licensee shall use a pole for less than a full year, then the charge for such pole shall be prorated from the day when the use of the pole began.
- F. The Township hereby states its desire that all holders of public licenses and franchises within the corporate limits of the Township shall cooperate with every licensee hereunder to allow usage of existing poles and pole line facilities wherever possible and wherever such usage does not interfere with the normal operation of said pole and pole line so that the number of new or additional poles constructed in the Township shall be minimized.
- G. Each licensee shall extend to the Township, free of any expense, joint use of any and all poles owned by any licensee for any proper Township purpose insofar as may be accomplished without interference with the use and enjoyment of the licensee's own or other preexisting wires and fixtures. The Township shall hold each licensee harmless from any and all action, causes of action or damage caused by any action of the Township in placing wires or appurtenances upon the poles of the licensee. **[Amended 12-15-2014 by Ord. No. 424-14]**
- H. Insofar as it is within the power of the Township to grant the following right, the approval of any application made hereunder shall grant to the licensee whose application is approved the authority to trim trees upon and overhanging all streets, alleys, easements, sidewalks and other public places within the Township, so as to prevent the branches of such trees from coming into contact with the facilities of the licensee.
- I. The Township shall condition approval of any application, either at the time application is made or at the time of renewal application, upon the licensee making cable service available to all areas of the Township that have a density of at least 35 dwelling units per mile of extension from the licensee's then-existing cable distribution facilities.
- J. Each licensee shall provide to subscribers a diversity of programming services. Any system installed, constructed, upgraded or reconstructed shall be materially equivalent to that provided to other municipalities served by the licensee within the County of Chester.

K. Use of channel capacity for public, educational and governmental ("PEG") access shall be provided by the licensee in accordance with the Cable Communications Policy Act ("Cable Act"), as amended, at Section 611,¹⁸ and as further set forth below. Upon written request of the Township, the licensee shall nonexclusively reserve for noncommercial educational and governmental uses, without charge, a minimum of two channels for PEG use, delivering a signal, the technical quality of which is equivalent to the technical quality of other channels on the system. The licensee and the Township may evaluate from time to time the need for provision of additional PEG access channels. When additional PEG access channels are deemed necessary by agreement between the Township and the licensee after an evaluation, the licensee shall reserve the same for PEG use. Nothing herein shall require the Township to offer any programming described herein unless the Township so authorizes. Further, nothing herein shall require the licensee to provide more than the use of two channels for noncommercial PEG programming absent agreement between the Township and the licensee. Nothing in this chapter or any prior franchise agreement is or was intended to confer third-party beneficiary status of any member of the public to enforce the terms of this chapter or a franchise granted to the licensee.

- (1) Because blank or underutilized PEG channels are not in the public interest, in the event the Township elects to not fully program the channel(s), the licensee may program unused time on those channels in accordance with the Cable Act, subject to reclamation by the Township upon no less than 60 days' notice.
 - (2) The licensee does not relinquish its ownership of or ultimate right of control over a channel location by designating it for PEG use. A PEG access user, whether an individual, educational or government user, acquires no property or other interest by virtue of the use of a channel so designated and may not rely on the continued use of a particular channel number, no matter how long the same channel may have been designated for such use.
- L. The licensee shall provide free basic and standard cable service and free installation at a minimum of one outlet to each Township-owned or -leased building designed for occupation and located within the Township, as well as all Township accessory buildings or structures, if said accessory buildings or structures are within 150 feet of the primary Township building. The licensee shall provide the Township with one complimentary high-speed internet connection and service at one Township building as selected by the Township.
- (1) The licensee shall further provide free basic and standard cable service and free installation at a minimum of one outlet to any fire department, police department, ambulance service, or public library located within the Township and within 125 feet of the licensee's distribution line.
 - (2) In addition, the licensee shall provide free basic and standard cable service and free installation at one outlet to each public K-12 school and each nonpublic K-12 school that receives funding pursuant to Title I of the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended, not including home schools, located within the Township and within 125 feet of the licensee's distribution line.
- M. The licensee shall meet or exceed customer service standards as set forth in Part 76 of the FCC regulations, 47 CFR 76.309, as amended, and any other applicable FCC customer service standards or requirements.

§ 141-5. Interference; maintenance.

18. Editor's Note: See 47 U.S.C. § 521 et seq.

- A. All structures, lines and equipment erected by any licensee within the Township shall be located so as to minimize or eliminate, if possible, interference with the use of streets, alleys, easements and other public ways and places and with the rights and reasonable convenience of property owners, and each licensee shall comply with all ordinances of the Township now or hereafter in force.
- B. In case of any disturbance of pavement, sidewalk, driveway or other surface, the licensee shall, at its own expense and in a manner approved by the Township, remove, replace and restore all pavement, sidewalk, driveway or surface so disturbed to as good a condition as before any such disturbance.
- C. In the event that the Township shall at any time lawfully elect to alter or change any street, alley or other public way requiring the relocation of any of the facilities of any licensee, upon reasonable notice, the licensee shall remove and relocate any such facilities at the licensee's own expense.
- D. Whenever it shall be necessary for any licensee to raise or lower its lines to permit the moving of any building or other structure, the licensee shall accomplish the same upon the request of any person lawfully entitled to move such building or other structure. The actual expense of raising or lowering or temporarily removing the licensee's lines shall be paid by the person requesting the same, and the licensee shall have the right to require payment in advance of the reasonably estimated cost of such raising, lowering or temporary removal. If it shall be necessary for Township purposes and shall be done at the request of the Township, then such raising, lowering or temporary removal shall be accomplished by the licensee at no charge to the Township.
- E. All poles, lines, structures and other facilities of the licensee in, on, over or under the streets, sidewalks, alleys, easements and other public grounds or places within the Township shall be maintained at all times by the licensee in a safe and appropriate condition.

§ 141-6. Compliance with regulations.

- A. Nothing herein contained shall be deemed to render any licensee a public utility, except as may be otherwise provided by the laws of the Commonwealth of Pennsylvania.
- B. Each licensee shall maintain and operate its system and render service in accordance with this chapter and any grant of franchise or license authorized herein.
- C. Whenever it is necessary to shut off or interrupt service for the purpose of making repairs, installations or adjustments, the licensee shall do so at such time as will cause the least amount of inconvenience to its customers, consistent with the needs and requirements of the licensee.
- D. Each licensee shall maintain a customer service telephone number, which shall be toll-free to the caller for calls originating from within Easttown Township, for the purposes of receiving inquiries and complaints from the licensee's customers and from the general public. Each licensee shall provide sufficient maintenance personnel to respond to routine service calls during normal business hours, seven days per week, except in the case of major outages due to storms, civil unrest or acts of God. Upon written request, each licensee shall report to the Township Manager of Easttown Township as to compliance with Part 76 of the FCC regulations, 47 CFR 76.309, as amended, and any other applicable FCC customer service standards or requirements.

§ 141-7. Insurance requirements.

- A. Throughout the term of any franchise agreement granted under this chapter, the licensee shall, at its own cost and expense, maintain comprehensive general liability insurance and provide the Township with certificates of insurance designating the Township and its officers, boards, commissions,

councils, elected officials, agents and employees as additional insureds and demonstrating that the licensee has obtained the insurance required in this section.

- B. Such policy or policies shall be in the minimum amount of \$1,000,000 for bodily injury or death to any one person, \$1,000,000 for bodily injury or death of any two or more persons resulting from one occurrence, and \$1,000,000 for property damage resulting from any one accident. Such policy or policies shall be noncancelable except upon 30 days' prior written notice of the Township. The licensee shall provide workers' compensation coverage in accordance with applicable law.

§ 141-8. Rates and charges.

The licensee shall have the right to charge and collect compensation from all subscribers to whom it shall furnish service, but the licensee shall not, as to rate, charges, service, facilities, rules and regulations or any other respect, make or grant any preference or advantage to any person or subject any person to any prejudice or disadvantage, but nothing herein contained shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules, provided that the classification of customers shall be reasonable, and any customer coming within a particular classification shall be entitled to the same rates as any other customer coming within that classification. Rates shall be the same for all classifications of customers served by the licensee from similar facilities. Nothing herein contained shall prevent any licensee from providing a preferential rate or free service to the Township or for any public purpose.

§ 141-9. Effective time for rights granted to licensee.

Rights granted to any licensee hereunder shall take effect and be in full force from and after the date upon which each application is approved by the Township. The length of franchise awarded to the licensee shall not exceed 15 years. Renewal rights shall be controlled by the Cable Act or other applicable law.

§ 141-10. Noncompliance by licensee.

- A. In the event the Township believes that the licensee has not complied with the material terms of this chapter, it shall notify the licensee in writing, with specific details regarding the exact nature of the alleged noncompliance or default. The licensee shall have 60 days from the receipt of the Township's written notice to respond to the Township, contesting the assertion of noncompliance or default; or to cure such default; or, in the event that, by nature of the default, such default cannot be cured within the sixty-day period, initiate reasonable steps to remedy such default and notify the Township of the steps being taken and the projected date that they will be completed.
- B. In the event of alleged noncompliance or default that the Township asserts is grounds for revocation of the licensee's rights to operate under a grant of license, and the licensee fails to respond to the Township's notice or the alleged default is not remedied within 60 days or the date projected by the licensee, the Township shall schedule a public hearing to investigate the noncompliance and determine whether revocation of the license is warranted. Such public hearing shall be held at the next regularly scheduled meeting of the Township that is scheduled at a time that is no less than 10 business days therefrom. The Township shall notify the grantee in writing of the time and place of such meeting and provide the grantee with a reasonable opportunity to be heard. The decision of the Township shall be in writing and shall be delivered to the licensee by certified mail. The licensee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Township de novo and to modify or reverse such decision as justice may require. Such appeal to the appropriate court must be taken within 60 days of the issuance of the determination of the Township.¹⁹

§ 141-11. Indemnification of Township.

A licensee shall, at its sole cost and expense, indemnify, hold harmless, and defend the Township, its officials, boards, commissions, commissioners, agents, and employees against any and all claims, suits, causes of action, proceedings, and judgments for damages or equitable relief arising out of the construction, maintenance, or operation of its system, the conduct of the licensee's business in the Township, or in any way arising out of the licensee's enjoyment or exercise of a franchise granted hereunder, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by this chapter or a franchise agreement, provided that the Township shall give the licensee written notice of its obligation to indemnify and defend the Township within 10 business days of receipt of a claim or action pursuant to this section. This provision includes, but is not limited to, the Township's reasonable attorneys' fees incurred in defending against any such claim, suit, or proceeding. If the licensee fully undertakes and does in fact indemnify and defend the Township, but the Township nonetheless determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Township.

§ 141-12. Franchise fees; audits.

- A. Each licensee shall pay to the Township a franchise fee in an amount no less than 5% of the licensee's gross annual revenues calculated in accordance with generally accepted accounting principles (GAAP) and derived by the licensee from the provision of monthly basic, standard, premium, pay-per-view, video-on-demand, and digital cable or similar services or programming provided as cable service in the Township, installation fees, subscriber equipment rental fees, revenues from home shopping or similar channels, and advertising revenues attributable to cable service in the Township (prorated on the basis of the proportion of the number of subscribers within the Township to the total number of subscribers served by the licensee's system) or, if the Township elects, in its discretion, any other percentage of gross revenues up to the maximum amount permitted under applicable federal law. In the event the Township elects to change the franchise fee permitted herein, it shall do so not more than once in a calendar year and upon sixty-day written notice to the licensee.
- B. The franchise fee is in addition to all other taxes and payments that the licensee may be required to pay under any federal, state, or local law and to any other tax, fee, or assessment imposed by the licensee for use of their services, facilities or equipment.
- C. Payment of the franchise fee shall not be considered in the nature of a tax.
- D. No acceptance of any payment by the Township shall be construed as a release or an accord and satisfaction of any claim the Township may have for further or additional sums payable as a franchise fee under this chapter or for the performance of any other obligation of the licensee.
- E. In the event any franchise fee payment or recomputation amount is not made on or before the date specified herein, the licensee shall pay interest charges computed from such due date, at an annual rate equal to 5%.
- F. The franchise fee shall be paid quarterly to the Township and shall commence as of the effective date of the franchise, unless otherwise agreed in the franchise agreement. The Township shall be furnished at the time of each payment with a statement verified by a representative of the licensee showing the calculation of franchise fees in accordance with GAAP and based on gross revenues received from the operation of the system to provide cable service in the Township. Quarterly payments shall be made to the Township no later than within 45 days of March 30, June 30, September 30, and within

19. Editor's Note: Original § 10C, pertaining to violations and penalties, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

60 days of December 31. Quarterly computation dates are the last days of the months of March, June, September and December.

- G. The Township shall have the right to inspect and copy the licensee's records (subject to reasonable proprietary limitations) and the right to audit and to recompute any amounts determined to be payable under this chapter for a period of three years from the date of payment. Audits shall be at the expense of the Township, unless the audit discloses an underpayment in excess of 5%, in which case the costs of the audit shall be borne by the licensee as a cost incidental to the enforcement of the licensee.
- H. Upon the completion of any such audit by the Township, the Township shall provide to the licensee a final report setting forth the Township's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the licensee shall have 30 days from the receipt of the report to provide the Township with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Based on these reports and responses, the parties shall agree upon a final settlement amount. For purposes of this section, the term "final settlement amount" shall mean the agreed-upon underpayment, if any, to the Township by the licensee as a result of any such audit. If the parties cannot agree on a final settlement amount, the parties shall submit the dispute to a mutually agreed upon mediator within 60 days of reaching an impasse. In the event an agreement is not reached at mediation, either party may bring an action to have the disputed amount determined by a court of law.
- I. Any final settlement amount(s) due to the Township as a result of such audit shall be paid to the Township by the licensee within 30 days from the date the parties agree upon the final settlement amount. Once the parties agree upon a final settlement amount and such amount is paid by the licensee, the Township shall have no further rights to audit or challenge the payment for that period.

§ 141-13. Exclusive rights prohibited.

Nothing herein contained shall be deemed to render any right granted hereunder to be exclusive to any licensee.

§ 141-14. Transfer or assignment of rights.

Neither the licensee or any other person may transfer the cable system or the franchise without the prior written consent of the Township, which consent shall not be unreasonably withheld or delayed. No change in control of the licensee, defined as an acquisition of 50% or greater ownership interest in the licensee, shall take place without the prior written consent of the Township, which consent shall not be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, interest of the licensee in the franchise or in the cable system in order to secure indebtedness; or a transfer to any entity owned and/or controlled by the licensee or the licensee's parent company. Within 30 days of receiving a request for transfer, the Township shall, in accordance with FCC rules and regulations, notify the licensee in writing of the information it requires to determine the legal, financial and technical qualifications of the transferee.

§ 141-15. Violations and penalties.²⁰

Any person who violates or permits a violation of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$600, plus all court costs, including reasonable attorneys' fees, incurred by the Township

20. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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.

Chapter 150

CLAIMS

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

ARTICLE I
Attorney Fees
[Adopted 8-17-2015 by Ord. No. 426-15]

§ 150-1. Fees to be added to the unpaid claims.

The Township hereby approves the following fee schedule for the collection of the unpaid claims, which fees shall be added to the unpaid claims.

- A. Notice expense. A charge, not to exceed \$50 plus postage, shall be added to the unpaid claims for providing notice of delinquency pursuant to § 7106 of the Act.²¹ The Township may hire a private company to perform this service and add the amount of this charge to the unpaid claims.
- B. Legal fees.

| Type | Fee |
|--|---|
| Initial review and sending first demand letter | \$160 |
| File lien and prepare satisfaction | \$250 |
| Prepare writ of scire facias | \$250 |
| Obtain re-issued writ | \$30 |
| Prepare and mail letter under Pa. R.C.P. 237.1 | \$30 |
| Prepare motion for alternate service | \$250 |
| Obtain vehicle identification number (VIN) for mobile home | \$35 |
| Prepare discovery in preparation for trial | \$100 |
| Prepare pre-trial memorandum | \$150 |
| Prepare motion for judgment for want of sufficient affidavit of defense pursuant to 53 P.S. § 7271 | \$150 |
| Prepare default judgment | \$175 |
| Prepare writ of execution | \$800 |
| Attendance at sale; review schedule of distribution and resolve distribution issues | \$400 |
| Continue sheriff sale | \$50 |
| Prepare petition to assess damages | \$50 |
| Prepare petition for free and clear sale | \$400 |
| Services not covered above | At an hourly rate between \$60 and \$275 per hour |

- C. Collection fees.

21. Editor's Note: See 53 P.S. § 7106.

| Type | Fee |
|--|---------------------|
| Bookkeeping fee for payment plan of 3 months or less | \$25 |
| Bookkeeping fee for payment plan of more than 3 months | \$50 |
| Guaranteed payoff fee | \$25 |
| Handling fee for returned check | Bank charge, if any |

§ 150-2. Costs to be added to the unpaid claims.

In addition to the fees set forth in § 150-1 above, the reasonable and necessary out-of-pocket charges, costs, expenses, commissions and fees incurred in collection, including, but not limited to, postage, title searches, VIN searches, prothonotary fees and charges, and sheriff fees, shall be added to the unpaid claims.

§ 150-3. Credit card and debit card charges.

The Township authorizes any attorney or private collector collecting the unpaid claims on behalf of the Township to accept payment of the unpaid claims by credit card or debit card. Where payment is made by credit card or debit card, any fees charged by the credit card or debit card company and/or the credit card or debit card servicing agent shall be charged immediately to the credit card or debit card used to make payment. This applies to credit card or debit card payments made by mail, telephone, over the internet, or in person.

§ 150-4. Interest.

Interest will be assessed upon the unpaid claims at a rate of 10% per annum and added to the unpaid claims.

§ 150-5. Collection procedures.

The following collection procedures are hereby established in accordance with the Act.²²

- A. At least 30 days prior to assessing or imposing attorney fees in connection with the collection of an unpaid claim account, the Township or its designee shall mail or cause to be mailed, by certified mail, return receipt requested, a notice of such intention to the property owner or other entity liable for the account (the "property owner").
- B. If the certified mail notice is undelivered, then, at least 10 days prior to assessing or imposing such attorney fees, the Township or its designee shall mail or cause to be mailed, by first-class mail, a second notice to the property owner.
- C. All notices required by this article shall be mailed to the property owner's last known post office address as recorded in the records or other information of the Township or such other address obtained by the Township from the county tax assessment office.
- D. Each notice as described above shall include the following:
 - (1) The type of municipal claim or other charge, the year that it became due and the amount owed, including penalty and interest;
 - (2) A statement of the Township's intent to impose or assess attorney fees no earlier than 30 days

22. Editor's Note: See 53 P.S. § 7106.

after receipt of the first notice, or no earlier than 10 days after receipt of the second notice;

- (3) The manner in which the assessment or imposition of attorney fees may be avoided by payment of the account; and
- (4) The place of payment for accounts and the name and telephone number of the Township's representative designated as responsible for collection matters.

§ 150-6. Related action.

The proper officials of the Township are hereby authorized and empowered to take such additional action as they may deem necessary or appropriate to implement this article.

§ 150-7. Repealer.

All ordinances, resolutions, policies or parts thereof conflicting or inconsistent herewith are hereby repealed, including but not limited to Easttown Resolution 7-16-12 which is specifically repealed by and through this enactment.

§ 150-8. Severability.

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

§ 150-9. General Code.

General Code is hereby authorized to make nonsubstantive formatting and numbering changes necessary to clarify references to other sections of the Easttown Township codification and to bring the article into conformity with the Easttown Township codification.

§ 150-10. Appointment of Special Collection Solicitor.

The Township appoints Michelle R. Portnoff, Esquire, and Portnoff Law Associates, Ltd., as the initial Special Collection Solicitor for the limited purpose of collecting the unpaid claims and hereby authorizes her, and attorneys under her supervision, to sign any and all documents, including municipal claims and liens, on behalf of the Township, in conjunction with the continuing power and concurrent authority of the regular Township Solicitor. Following enactment of this article, the Board of Supervisors may appoint and select any subsequent Special Collection Solicitor by motion or resolution, from time to time in its discretion.

§ 150-11. Effective date.

This article shall become effective five days after enactment as provided by law.

Chapter 160**CONSTRUCTION CODES, UNIFORM**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 6-7-2004 by Ord. No. 352-04. Amendments noted where applicable.]

GENERAL REFERENCES

Numbering of buildings and lots — See Ch. 285.

Standard construction and material specifications for public improvements — See Ch. A490.

§ 160-1. Election to administer and enforce. [Amended 12-15-2014 by Ord. No. 424-14]

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

§ 160-2. Adoption and incorporation by reference. [Amended 12-15-2014 by Ord. No. 424-14]

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

§ 160-3. Administration and enforcement methods. [Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]

Administration and enforcement of the Municipal Building Code within the Township shall be undertaken in any of the following ways, as determined by the Township Board of Supervisors from time to time by resolution:

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

§ 160-4. Board of Appeals. [Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]

A Board of Appeals shall be established by resolution of the Township Board of Supervisors in conformity

with the requirements of the relevant provisions of the Municipal Building Code, as amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

§ 160-5. Effect on other regulations.

- A. All building code ordinances or portions of ordinances which were adopted by the Township 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. [Amended 12-15-2014 by Ord. No. 424-14]
- B. All building code ordinances or portions of ordinances which are in effect as of the effective date of this chapter and whose requirements are less than the minimum requirements of the code are hereby amended to conform with the comparable provisions of the code.
- C. All relevant ordinances, regulations and policies of the Township not governed by the Municipal Building Code shall remain in full force and effect. [Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]

§ 160-6. Fees. [Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]

Fees assessable by the Township for the administration and enforcement undertaken pursuant to this chapter and the Municipal Building Code shall be established by the Township Board of Supervisors by resolution from time to time.

Chapter 177**DRIVEWAYS**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 10-18-1971 by Ord. No. 112. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 395.

Standard construction and material specifications for public improvements — See Ch. A490.

§ 177-1. Title.

This chapter shall be known as the "Easttown Township Driveway Ordinance."

§ 177-2. Purpose.²³

The purpose of this chapter is to ensure the maintenance, location and alteration of driveways in the Township in a manner consistent with the safe use thereof, the safe and unobstructed flow of traffic on public highways, proper maintenance of such highways and proper control of surface drainage within Township road rights-of-way.

§ 177-3. Regulations.²⁴

The Board of Supervisors does hereby promulgate regulations to serve as standards for the construction of driveways in the Township. Refer to Chapter A490, Article IV, Driveways, of this Code.

§ 177-4. Permit requirements.²⁵

After the effective date of this chapter, no driveway shall be constructed or altered within a Township road right-of-way without the obtaining of a permit by a responsible person connected with the construction, nor without the obtaining of any other authorization required by law. "Alteration of a driveway" shall mean its relocation or a material change in its grade affecting visibility, drainage or problems of highway maintenance. Alteration shall include driveway repair and resurfacing within the Township road right-of-way, but shall exclude driveway sealing. Permit application and inspection fees shall be as established from time to time by resolution of the Board of Supervisors.

§ 177-5. Application for permit.²⁶

Persons desiring a permit hereunder shall submit an application to the Township Engineer or his designee along with plans and specifications for proposed construction or alteration.

A. The permit application shall be accompanied by a certificate of insurance from the applicant's

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

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

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

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

contractor, specific to the subject property, naming Easttown Township as an additional insured. The additional insurance shall be not less than \$100,000 per occurrence and shall include general liability, property damage and workers' compensation coverage. The certificate shall be written by a company licensed to do business in the Commonwealth of Pennsylvania and shall be in a form satisfactory to the Township.

- B. The permit application and permit shall contain the following language: "The applicant/permittee agrees to indemnify and save harmless the Township, its officials, agents, contractors, servants and employees (including, without limitation, the Township Engineer or his designee), of, from and against any and all liability, demands, claims, suits, actions, fees, expenses and costs (including, without limitation, attorneys' fees and legal costs, engineering fees and costs and expert witness fees and costs) and/or judgments, whether founded or unfounded, of whatever nature or kind, which may be brought, asserted or rendered against, or which may be incurred by, the Township, its officials, agents, contractors, servants and employees, or any of them, directly or indirectly caused by, arising from or related to the work and/or the performance of the work for which the permit is granted, whether or not any such liability, demands, claims, suits, actions, fees, expenses and costs and/or judgments are caused by or arise from, directly or indirectly, the negligence of the person, firm, corporation or other entity to whom or which the permit is issued."

§ 177-6. Review and action by Township Engineer.²⁷

The Township Engineer or his designee shall have the power to grant or deny applications hereunder. He shall review applications in light of the regulations promulgated hereunder and shall apply the standards set forth herein in granting or denying applications.

§ 177-7. Permit denials. [Amended 6-2-2014 by Ord. No. 422-14]

In the event of denial of an application, it shall be the duty of the Township Engineer or his designee to point out to the applicant the respects in which his application fails to meet the standards applicable and to consider any revised applications.

§ 177-8. Waivers. [Amended 6-2-2014 by Ord. No. 422-14]

In exceptional cases where conformity to the standards imposed by regulations promulgated under this chapter would be impossible or impracticable or would cause unreasonable expense or hardship, the Township Engineer or his designee shall be empowered to recommend, and the Board of Supervisors to grant, by resolution, waivers from the literal provisions of such regulations upon terms and conditions consistent with the public interest and safety.

§ 177-9. Deviation from approved plans prohibited.

No construction or alteration of driveways shall deviate from the plans and specifications submitted with the approved application.

§ 177-10. Supervision by Township Engineer. [Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]

It shall be the duty of the Township Engineer or his designee to supervise and inspect all construction or alteration of driveways within the Township to ensure conformity with Township requirements. The

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

applicant shall provide the Township Engineer or his designee with a minimum of two workdays' advance notice (excluding holidays) for all inspections, except paving installations, which shall require three workdays' advance notice (excluding holidays). For new driveway construction, up to three inspections are required as follows: 1) inspection of the aggregate base; 2) inspection of the base course (if applicable); and 3) inspection of the top coat, leveling grade, crown or cross-slope, stormwater management, sidewalk (if applicable), apron (if applicable) and building sewer cleanout and/or vent riser location and protection (if applicable), and compliance with the standards and special conditions listed in the driveway permit. For alterations or repairs to an existing driveway, one inspection is required following completion of the work. Additional re-inspections may be required if the inspections herein referenced do not evidence compliance.

§ 177-11. Building permits.

No building permit under the Township Building Code shall be issued for new construction requiring construction of a driveway until the provisions of this chapter have also been complied with.

§ 177-12. Amendment of regulations.

The Board of Supervisors may amend the regulations promulgated hereunder from time to time.

§ 177-13. Effect of amendments; commencement and completion of work. [Amended 6-2-2014 by Ord. No. 422-14]

The effectiveness of a permit pursuant to which construction or alteration has not yet in good faith been commenced shall be subject to any amendments to the regulations hereunder. Construction or alteration pursuant to such a permit must be performed in conformance with any amendments to the regulations. All work associated with the driveway permit shall commence within six months from the date of permit issuance and shall be completed within one year from the date of permit issuance. If the work has not been completed within one year from the date of permit issuance, the driveway permit shall become null and void.

§ 177-14. Construal of provisions; conflicts.

The provisions of this chapter and the rules and regulations promulgated hereunder shall be held to be minimum requirements to meet the above-stated purposes. Where such provisions impose restrictions inconsistent with those of any statute or other ordinance or regulation, the more stringent requirements shall prevail.

§ 177-15. Violations and penalties. [Amended 6-2-2014 by Ord. No. 422-14]

Any person who violates or permits a violation of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$600, plus all court costs, including reasonable attorneys' fees, incurred by the Township in the enforcement of this chapter. 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.

§ 177-16. Injunction.²⁸

If the Township Engineer or his designee determines there may be a continuing violation of this chapter and that the criminal remedy provided hereunder will not ensure compliance herewith, he shall, with the consent of the Board of Supervisors, report the same to the Township Solicitor, who shall then institute an action in equity in the name of the Township to enjoin same.

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

Chapter 203**FIRE INSURANCE CLAIMS**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 11-19-2007 by Ord.

No. 378-07. Amendments noted where applicable.]

§ 203-1. Certificate and compliance required.

No insurance company, association or exchange doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within Easttown Township under the terms of Section 508(a) of the insurance Company Law of 1921, as amended, 40 P.S. § 638(a), unless the insurance company, association or exchange is furnished with a certificate pursuant to § 203-2 of this chapter and unless there is compliance with the procedures set forth in §§ 203-3 and 203-4 of this chapter.

§ 203-2. Procedure for payment of claims.

A. The Township Manager or his/her designee shall, upon written request of the named insured specifying the tax description of the property, name and address of the insurance company, association or exchange and the date agreed upon by the insurance company, association or exchange and the named insured as the date of the receipt of a loss report of the claim, and the payment of a certification fee in the amount as set from time to time by resolution of the Board of Supervisors to cover the administrative expense of processing the request and copying, furnish the insurance company, association or exchange either of the following within 14 working days of the request:

(1) A certificate or, at the discretion of the Township, a verbal notification which shall be confirmed in writing by the insured to the effect that, as of the date specified in the request, there are no delinquent taxes, assessments, penalties or user charges against the property and that, as of the date of the Manager's certificate or verbal notification, the Township has not certified any amount as total costs incurred by the Township for the removal, repair or securing of a building or other structure on the property; or

(2) A certificate and bill showing the amount of delinquent taxes, assessments, penalties or user charges against the property as of the date specified in the request that have not been paid as of the date of the certificate and also showing, as of the date of the Manager's certificate, the amount of the total costs, if any, certified to the Manager or his/her designee that have been incurred by the Township for the removal, repair or securing of a building or other structure on the property. For the purposes of this subsection, the Township Manager shall certify the total amount, if any, of such costs. For the purposes of this chapter, a tax, assessment penalty or user charge becomes delinquent at the time and on the date a lien could otherwise have been filed against the property by the Township under applicable law or ordinance.

B. Upon receipt of a certificate pursuant to Subsection A(1) of this section, the insurance company, association or exchange shall pay the claim of the named insured in accordance with the policy terms, unless the loss agreed to between the named insured and the company, association or exchange equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building or other structure. In the case of such a loss, the insurance company, association or exchange, the insured property owner and the Township shall follow the procedures as set forth in §§ 203-3 and 203-4 of this chapter.

C. Upon receipt of a certificate and bill pursuant to Subsection A(2) of this section, the insurance company, association or exchange shall return the bill to the manager or his/her designee and transfer

to the Manager or his/her designee an amount from the insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs shown on the bill. In the case of a loss subject to §§ 203-3 and 203-4 of this chapter, the insurance company, association or exchange shall transfer to the Manager or his/her designee the amount from the insurance proceeds shown on the bill separately from the amounts transferred under § 203-3 of this chapter. The Township shall receive the amount and apply or credit it to payment of the items shown in the bill.

§ 203-3. Transfer of proceeds to Township; estimate of costs. [Amended 6-2-2014 by Ord. No. 422-14]

When the loss agreed to between the named insured and the insurance company, association or exchange equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building or other structure, the insurance company, association or exchange shall transfer from the insurance proceeds to the Township Manager or his/her designee the amounts required by and in accordance with the procedures set forth in 40 P.S. § 638(c), as amended. Policy proceeds remaining after the transfer to the Township shall be disbursed in accordance with the policy terms. The named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer, and the Township Manager or his/her designee shall return the amount of the fund in excess of the estimate to the named insured if the Township has not commenced to remove, repair or secure the building or other structure. The Township Manager or his/her designee shall carry out the duties of this section.

§ 203-4. Disposition of proceeds. [Amended 12-15-2014 by Ord. No. 424-14]

Upon receipt of the proceeds by the Township as authorized by § 203-3, the Township Manager or his/her designee shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing or securing incurred by the Township. When transferring the funds as required in § 203-3, an insurance company, association or exchange shall provide the Township with the name and address of the named insured, whereupon the Township shall contact the named insured, certify that the proceeds have been received by the Township and notify the named insured that the procedures under this section shall be followed. The funds shall be returned to the named insured when repairs, removal or securing of the building or other structure have been completed and the required proof received by the Township Manager or his/her designee if the Township has not incurred any costs for repairs, removal or securing. If the Township has incurred costs for repairs, removal or securing of the building or other structure, the costs shall be paid from the fund, and if excess funds remain, the Township shall transfer the remaining funds to the named insured. Nothing in this chapter shall be construed to limit the ability of the Township to recover any deficiency. Further, nothing in this section shall be construed to prohibit the Township and the named insured from entering into an agreement that permits the transfer of funds to the named insured if some other reasonable disposition of the damaged property has been negotiated.

§ 203-5. Costs.

The total costs incurred by the Township for the removal, repair or securing of a building or other structure under this chapter shall include, but not be limited to, all administrative, personnel and overhead costs incurred by the Township in accordance with generally accepted accounting procedures.

§ 203-6. Filing of copies. [Amended 12-15-2014 by Ord. No. 424-14]

Upon the enactment of this chapter, the Township Secretary shall file an exact copy of the chapter with the Department of Community and Economic Development, together with the name, position and phone numbers of the Township official responsible for compliance with Section 508 of the Insurance Company

Township of Easttown, PA

§ 203-6

FIRE INSURANCE CLAIMS

Law of 1921, as amended (40 P.S. § 638).

Chapter 212

FIREWORKS

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 5-17-1954 by Ord. No. 15; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

§ 212-1. Definitions.

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

CONSUMER FIREWORKS — Includes any combustible or explosive composition or any substance intended to produce visual and/or audible effects by combustion and which is suitable for use by the public that complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and which complies with the provisions for consumer fireworks as defined in the American Pyrotechnics Association (APA) Standard 87-1, or any successor standard. The term does not include such devices as ground and handheld sparkling devices, novelties and toy caps in APA Standard 87-1, the sale, possession and use of which shall be permitted at all times throughout this Township.

DISPLAY FIREWORKS — Defined as provided in 27 CFR 555.11 (relating to meanings of terms).

MUNICIPALITY — As used herein, refers to any Township, county and/or related authority.

PERSON — As used herein, refers to any natural person, any partnership, any corporation and/or association.

TOWNSHIP — The Township of Easttown, Chester County, Pennsylvania.

§ 212-2. Permit requirements.

- A. Any person seeking to display consumer or display fireworks within the territorial limits of Easttown Township must acquire a permit from the Board and complete an application as provided by the Township.
- B. No person shall display consumer or display fireworks within the limits of the Township without first obtaining a permit.
- C. No permit shall be issued to any person under the age of 18 years.

§ 212-3. Location restrictions.

The display of consumer and/or display fireworks shall be only at the location provided for in the approved permit.

§ 212-4. Rules and regulations.

- A. Any person applying for a permit to display fireworks within Easttown Township shall have a minimum of five years' experience in displaying and/or supervising consumer fireworks or display fireworks.
- B. Any person wishing to display fireworks within Easttown Township shall be properly licensed by the state or federal government, if so required.

- C. Prior to issuing a permit, an inspection shall be performed by the volunteer fire company whose jurisdiction covers the area where the display is intended to be held.
- D. Said Fire Chief shall approve said permit if, in the Fire Chief's opinion, the display is not a hazard to property and/or persons.
- E. If the Chief requires certain accommodations or changes to approve the permit, then said permit shall be approved upon the person displaying said fireworks making any and all changes or recommendations as set forth by the Chief.
- F. Any person displaying fireworks shall have on site during the entire length of the display an ambulance staffed by sufficient personnel and fire equipment staffed by sufficient personnel as determined by the Fire Chief.
- G. Any person wishing to display fireworks within Easttown Township shall provide the Township with a liability insurance policy in the aggregate sum of at least \$5,000,000 and proof of workers' compensation coverage.

§ 212-5. Inspections; conditions.

- A. Prior to the issuance of a permit, the Chief of the volunteer fire company and/or his designee shall inspect the area and render an opinion as to whether the display would present a hazard to property and/or persons. The Chief shall promptly notify the Township whether his inspection results in an approval or denial of the permit.
- B. The Chief or his designee may impose reasonable conditions upon the display of fireworks and determine whether those conditions have been implemented prior to issuing a permit.

§ 212-6. Permit fees.

- A. The fee for the permit shall be determined by resolution of the Board of Supervisors from time to time.
- B. If the person wishing to make the display is a municipality and the municipality displays fireworks on a regular basis at the same location, then that municipality shall pay a one-time permit fee per year for all displays occurring at that one location.
- C. The Township will divide said fee as follows: 50% to the Township and 50% to the fire company that conducted the inspections.

§ 212-7. Permit transferability.

The permit granted hereunder shall not be transferable.

§ 212-8. Compliance with federal and state law.

The person wishing to conduct the display shall comply with all federal and state laws.

§ 212-9. Violations and penalties.

Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus

costs of prosecution, including reasonable attorneys' fees. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

FLOODPLAIN MANAGEMENT

Chapter 220

FLOODPLAIN MANAGEMENT

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 5-15-2017 by Ord. No. 428-17. Amendments noted where applicable.]

ARTICLE I
Statutory Authorization

§ 220-1. Authorization.

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978,²⁹ delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Board of Supervisors of Easttown Township does hereby order as follows.

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

**ARTICLE II
General Provisions**

§ 220-2. Intent.

The intent of this chapter is to:

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

§ 220-3. Applicability.

It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development within an identified floodplain area unless a floodplain permit has been obtained from the floodplain administrator.

§ 220-4. Abrogation and greater restrictions.

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

§ 220-5. Severability.

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

§ 220-6. Warning and disclaimer of liability.

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

ARTICLE III Administration

§ 220-7. Designation of the floodplain administrator.

- A. The Zoning Officer is hereby appointed to administer and enforce this chapter and is referred to herein as the floodplain administrator. The floodplain administrator may: A) fulfill the duties and responsibilities set forth in these regulations; B) delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees; or C) enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations at the direction of the Board of Supervisors. Administration of any part of these regulations by another entity shall not relieve the Township of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. § 59.22.
- B. In the absence of a designated floodplain administrator, the floodplain administrator duties are to be fulfilled by the Township Engineer.

§ 220-8. Floodplain permit required.

A floodplain permit shall be required before any construction or development is undertaken within any identified floodplain area.

§ 220-9. Duties and responsibilities of the floodplain administrator.

- A. The floodplain administrator shall issue a floodplain 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 Township codes and ordinances.
- B. Prior to the issuance of a floodplain permit, the floodplain administrator shall review the floodplain permit application to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended)³⁰; and the U.S. Clean Water Act, Section 404, 33, U.S.C. § 1344. No floodplain 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 proposed cost of improvements or repairs and the pre-improvement market value of the structure, so that a substantial improvement/substantial damage determination can be made, in accordance with FEMA's Substantial Improvement/Substantial Damage Desk Reference.
- 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 floodplain permit application. The floodplain administrator 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 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.

³⁰. Editor's Note: See 35 P.S. § 750.1 et seq., 32 P.S. § 693.1 et seq., and 35 P.S. § 691.1 et seq., respectively.

- F. In the event the floodplain administrator discovers that the work does not comply with the floodplain permit, or that there has been a false statement or misrepresentation by the applicant, the floodplain administrator shall revoke the floodplain permit and report such fact to the Board of Supervisors for whatever action it considers necessary.
- G. The floodplain administrator shall maintain in perpetuity, or for the lifetime of the structure, all records associated with the requirements of this chapter including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
- H. The floodplain administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program as requested.
- I. The responsibility, authority and means to implement the commitments of the floodplain administrator can be delegated from the floodplain administrator. However, the ultimate responsibility lies with the floodplain administrator.
- J. The floodplain administrator shall consider the requirements of the 34 Pa. Code and the 2009 IBC and the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.

§ 220-10. Floodplain permit application procedures and requirements.

- A. Floodplain permit applications shall be submitted to the floodplain administrator on forms supplied by Easttown Township. Such application shall contain the following:
 - (1) Name and address of applicant.
 - (2) Name and address of property owner of land on which proposed construction is to occur.
 - (3) Name and address of contractor.
 - (4) Site location including address.
 - (5) Listing of other permits required.
 - (6) Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred, where appropriate.
 - (7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
 - (8) All the necessary information in sufficient detail and clarity to enable the floodplain administrator to determine that:
 - (a) All such proposals are consistent with the need to minimize flood damage and conform with this chapter;
 - (b) All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
 - (c) Adequate drainage is provided so as to reduce exposure to flood hazards;
 - (d) Structures will be anchored to prevent flotation, collapse, or lateral movement;
 - (e) Building materials are flood-resistant;

- (f) Appropriate practices that minimize flood damage have been used; and
 - (g) Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- B. An applicant shall file the following minimum information plus any other pertinent information as may be required by the floodplain administrator to make the above determination:
- (1) A completed floodplain permit application.
 - (2) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:
 - (a) North arrow, scale, and date;
 - (b) Topographic contour lines, if available;
 - (c) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - (d) The location of all existing streets, drives, and other accessways; and
 - (e) The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
 - (3) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - (a) The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - (b) The elevation of the base flood;
 - (c) Supplemental information as may be necessary under 34 Pa. Code, the 2009 IBC or the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.
 - (4) The following data and documentation:
 - (a) Detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - (b) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
 - (c) Documentation, certified by a registered professional engineer or architect, to show that the effect of any proposed development within a floodway area (See § 220-18A) will not increase the base flood elevation at any point.
 - (d) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway (See § 220-18B) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one foot at any point within the Township.

- (e) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.
 - (f) Detailed information needed to determine compliance with § 220-24F, Storage, and § 220-25, Development which may endanger human life, including:
 - [1] The amount, location and purpose of any materials or substances referred to in §§ 220-24F and 220-25 which are intended to be used, produced, stored or otherwise maintained on site.
 - [2] A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in § 220-25 during a base flood.
 - (g) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
 - (h) 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.
- C. A floodplain permit application shall be accompanied by a fee, payable to Easttown Township, based upon the estimated cost of the proposed construction as set forth in the Township's fee schedule.
[Amended 2-4-2019 by Ord. No. 437-19]

§ 220-11. Review of application by others.

A copy of the floodplain permit application for any proposed construction or development in a flood hazard area to be considered for approval may be submitted by the floodplain administrator to any other appropriate agencies and/or individuals (e.g., Township Planning Commission, Township Engineer, Township Building Code Official, etc.) for review and comment.

§ 220-12. Changes.

After the issuance of a floodplain permit by the floodplain administrator, no changes of any kind shall be made to the permit or any of the plans, specifications or other documents submitted with the floodplain permit application without the written consent or approval of the floodplain administrator. Requests for any such change shall be in writing as a new floodplain permit application with fee in accordance with § 220-10, and shall be submitted by the applicant to floodplain administrator for consideration.

§ 220-13. Placards.

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

§ 220-14. Start of construction.

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

§ 220-15. Enforcement.

- A. Notices. Whenever the floodplain administrator determines that there are reasonable grounds to believe that there has been a violation of any provisions of this chapter, or of any regulations adopted pursuant thereto, the floodplain administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:
 - (1) Be in writing;
 - (2) Include a statement of the reasons for its issuance;
 - (3) Allow a reasonable time not to exceed a period of 30 days for the performance of any act it requires;
 - (4) Be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this state;
 - (5) Contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this chapter.
- B. Penalties. Any person who fails to comply with any or all of the requirements or provisions of this chapter or who fails or refuses to comply with any notice, order or direction of the floodplain administrator or any other authorized employee of the Township shall be guilty of a summary offense and upon conviction shall pay a fine to Easttown Township, of \$500 plus costs of prosecution and reasonable attorneys' fees. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this

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

§ 220-16. Appeals.

- A. Any person aggrieved by any action or decision of the floodplain administrator concerning the administration of the provisions of this chapter may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within 30 days after the decision, determination or action of the floodplain administrator.
- B. Upon receipt of such appeal the Zoning Hearing Board shall consider and process the appeal in accordance with the Municipalities Planning Code,³¹ this chapter and the Zoning chapter.
- C. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to Chester County Court of Common Pleas, as provided by the laws of this commonwealth, including the Pennsylvania Flood Plain Management Act.³²

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

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

ARTICLE IV
Identification of Floodplain Areas

§ 220-17. Identification.

- A. The identified floodplain area shall be:
- (1) Any areas of Easttown Township, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated September 29, 2017, and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.
- B. The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Easttown Township and declared to be a part of this chapter.

§ 220-18. Description and special requirements of identified floodplain areas.

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

- A. The floodway area shall be those areas identified in the FIS and the FIRM as 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.
- (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/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
- (1) The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
- (2) AE Area without floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.
- (a) No permit shall be granted within any AE Zone without floodway; 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 development together with all other existing and anticipated development would not result

in an increase in flood levels of more than one foot within the entire community during the occurrence of the base flood discharge.

- (b) No new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- C. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other federal, state, or other acceptable sources shall be used when available. Where other acceptable information is not available, the 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. In lieu of the above, the Township 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. In the absence of any of the above data or documentation, the community may require elevation of the lowest floor to be at least three feet above the highest adjacent grade.
- D. The AO and AH Area/District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by one-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

§ 220-19. Changes in identification of area.

The identified floodplain area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the special flood hazard area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six months after the date such information becomes available, the Township shall notify FEMA of the changes to the special flood hazard area by submitting technical or scientific data. See § 220-22B for situations where FEMA notification is required.

§ 220-20. Boundary disputes.

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

§ 220-21. Jurisdictional boundary changes.

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

**ARTICLE V
Technical Provisions**

§ 220-22. General.

A. Alteration or relocation of watercourse.

- (1) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Township, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Southeast Regional Office.
- (2) No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood-carrying capacity of the watercourse in any way.
- (3) In addition, FEMA and the Pennsylvania Department of Community and Economic Development shall be notified prior to any alteration or relocation of any watercourse.

B. When the Township proposes to permit the following encroachments: any development that causes a rise in the base flood elevations within the floodway; or any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or alteration or relocation of a stream (including but not limited to installing culverts and bridges), the applicant shall (as per 44 CFR 65.12):

- (1) Apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
- (2) Upon receipt of the FEMA Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and/or revised floodway reflecting the post-project condition.
- (3) Upon completion of the proposed encroachments, applicant shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR 67.

C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this chapter and any other applicable codes, ordinances and regulations.

§ 220-23. Elevation and floodproofing requirements.

Within any identified floodplain area any new construction or substantial improvements shall be prohibited. If a variance is obtained for new construction or substantial improvements in the identified floodplain area in accordance with the criteria in Article VIII, then the following provisions apply:

A. Residential structures.

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

construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation determined in accordance with § 220-18C of this chapter.

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

B. Nonresidential structures.

- (1) In AE, A1-30 and AH Zones, any new construction or substantial improvement of a nonresidential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:
 - (a) Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water; and
 - (b) Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (2) In A Zones, where no base flood elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation determined in accordance with § 220-18C of this chapter.
- (3) In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
- (4) Any nonresidential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above-referenced standards. There should be a statement submitted with the permit application and a statement submitted with the as-built floodproofing certificate prior to the issuance of the certificate of occupancy.
- (5) Any nonresidential structure that will be floodproofed must submit the following to the floodplain administrator along with the nonresidential floodproofing certificate and prior to the issuance of the certificate of occupancy:
 - (a) An inspection and maintenance plan detailing the annual maintenance of floodproofed components ensuring that all components will operate properly under flood conditions. Components that must be inspected include at a minimum:

- [1] Mechanical equipment such as sump pumps and generators;
 - [2] Flood shields and closures;
 - [3] Walls and wall penetrations; and
 - [4] Levees and berms (as applicable).
- (b) Flood emergency operation plan detailing the procedures to be followed during a flooding event, and must include information pertaining to how all components will operate properly under all conditions, including power failures. The design professional must produce the plan. An adequate plan must include the following:
- [1] An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan.
 - [2] A procedure for notification of necessary parties when flooding threatens and flood warnings are issued. Personnel required to be at the building should have a planned and safe means of ingress and should have no other emergency response duties during a flood event. Alternates should be assigned in the event that the primary persons responsible are unable to complete their assigned duties under the plan.
 - [3] A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.
 - [4] An evacuation plan for all personnel or occupants; those without duties for the flood emergency as well as those with duties for implementing the plan. All possible ingress and egress routes must be identified.
 - [5] A periodic training and exercise program to keep personnel and occupants aware of their duties and responsibilities. Training drills should be held at least once a year and should be coordinated with community officials.
- (6) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the latest revision thereof as adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 Pa. Code (Chapters 401 through 405 as amended) shall be utilized, where they are more restrictive.
- C. Space below the lowest floor.
- (1) Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
 - (2) Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - (a) A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space installed on two separate walls.
 - (b) The bottom of all openings shall be no higher than one foot above grade.

- (c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- D. Historic structures. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this chapter must comply with all ordinance requirements that do not preclude the structure's continued designation as an historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.
- E. Accessory structures. Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:
 - (1) The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
 - (2) Floor area shall not exceed 200 square feet.
 - (3) The structure will have a low damage potential.
 - (4) The structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.
 - (5) Power lines, wiring, and outlets will be elevated to the regulatory flood elevation.
 - (6) Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc., are prohibited.
 - (7) Sanitary facilities are prohibited.
 - (8) The structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - (a) A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
 - (b) The bottom of all openings shall be no higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers, etc., or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - (9) For accessory structures that are 200 square feet or larger in area (footprint) and that are below the base flood elevation, a variance is required as set forth in Article VIII. If a variance is granted, a signed declaration of land restriction (nonconversion agreement) shall be recorded on the property deed prior to issuance of the certificate of occupancy.
 - (10) Prohibit the storage of hazardous materials in accessory structures.

§ 220-24. Design and construction standards.

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

- A. Fill. Within any identified floodplain area the use of fill shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply. If fill is used, it shall:
 - (1) Extend laterally at least 15 feet beyond the building line from all points;
 - (2) Consist of soil or small rock materials only - sanitary landfills shall not be permitted;
 - (3) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
 - (4) Be no steeper than one vertical to two horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the floodplain administrator; and
 - (5) Be used to the extent to which it does not adversely affect adjacent properties.
- B. Drainage facilities. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- C. Water and sanitary sewer facilities and systems.
 - (1) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
 - (2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
 - (3) No part of any on-site waste disposal system shall be located within any identified floodplain area except in strict compliance with all state and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
 - (4) The design and construction provisions of the UCC and FEMA #348, "Protecting Building Utilities From Flood Damages" and "The International Private Sewage Disposal Code" shall be utilized.
- D. Other utilities. All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.
- E. Streets. The finished elevation of all new streets shall be no more than one foot below the regulatory flood elevation.
- F. Storage. All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in § 220-25, Development which may endanger human life, shall be stored at or above the regulatory flood elevation or floodproofed to the maximum extent possible.

G. Placement of buildings and structures. All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwater.

H. Anchoring.

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

I. Floors, walls and ceilings.

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

J. Paints and adhesives.

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

K. Electrical components.

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

L. Equipment.

- (1) 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 and shall be anchored to resist flotation, collapse, and lateral movement.
- (2) Ductwork shall be elevated to or above the regulatory flood elevation or floodproofed to remain water-resistant.

M. Fuel supply systems. All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters. Additional provisions

shall be made for the drainage of these systems in the event that floodwater infiltration occurs.

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

- (1) International Building Code (IBC) 2009 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania: Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.
- (2) International Residential Building Code (IRC) 2009 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania: Secs. R104, R105, R109, R322, Appendix E, and Appendix J.

§ 220-25. Development which may endanger human life.

Within any identified floodplain area, any structure of the kind described in Subsection A, below, shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply:

A. In accordance with the Pennsylvania Flood Plain Management Act,³³ and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which: will be used for the production or storage of any of the following dangerous materials or substances; or will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or will involve the production, storage, or use of any amount of radioactive substances, shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- (1) Acetone.
- (2) Ammonia.
- (3) Benzene.
- (4) Calcium carbide.
- (5) Carbon disulfide.
- (6) Celluloid.
- (7) Chlorine.
- (8) Hydrochloric acid.
- (9) Hydrocyanic acid.
- (10) Magnesium.
- (11) Nitric acid and oxides of nitrogen.

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

- (12) Petroleum products (gasoline, fuel oil, etc.).
 - (13) Phosphorus.
 - (14) Potassium.
 - (15) Sodium.
 - (16) Sulphur and sulphur products.
 - (17) Pesticides (including insecticides, fungicides, and rodenticides).
 - (18) Radioactive substances, insofar as such substances are not otherwise regulated.
- B. Within any floodway area, any structure of the kind described in Subsection A, above, shall be prohibited. Where permitted within any identified flood hazard area, any new or substantially improved residential structure of the kind described in § 220-25A, above, shall be elevated to remain completely dry up to at least 1 1/2 feet above base flood elevation and built in accordance with §§ 220-22, 220-23 and 220-24.
- C. Where permitted within any identified floodplain area, any new or substantially improved nonresidential structure of the kind described in § 220-25A above, shall be built in accordance with §§ 220-22, 220-23 and 220-24 including: elevated, or designed and constructed to remain completely dry up to at least 1 1/2 feet above base flood elevation; and designed to prevent pollution from the structure or activity during the course of a base flood. Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972, as amended March 1992)," or with some other equivalent watertight standard.

§ 220-26. Special requirements for subdivisions and development.

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

§ 220-27. Special requirements for manufactured homes.

- A. Within any identified floodplain area manufactured homes shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply.
- B. Where permitted within any identified floodplain area, all manufactured homes, and any improvements thereto, shall be:
- (1) Placed on a permanent foundation;
 - (2) Elevated so that the lowest floor of the manufactured home is at least 1 1/2 feet above base flood elevation; and
 - (3) Anchored to resist flotation, collapse, or lateral movement.

C. Equipment requirement:

- (1) 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 and shall be anchored to resist flotation, collapse, and lateral improvement.
 - (2) Ductwork shall be elevated to or above the regulatory flood elevation or floodproofed to remain water resistant.
- D. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 "International Residential Building Code" or the "U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto and 34 Pa. Code Chapters 401 through 405 shall apply.
- E. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the latest revision thereto as adopted by the Commonwealth of Pennsylvania, and 34 Pa. Code, as amended, where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

§ 220-28. Special requirements for recreational vehicles.

Within any identified floodplain area recreational vehicles shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply:

- A. Recreational vehicles in Zones A, A1-30, AH and AE must:
- (1) Be on the site for fewer than 180 consecutive days; and
 - (2) Be fully licensed and ready for highway use.

ARTICLE VI
Prohibited Activities

§ 220-29. General.

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act,³⁴ the following activities shall be prohibited within any identified floodplain area:

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

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

ARTICLE VII
Existing Structures in Identified Floodplain Areas

§ 220-30. Existing structures.

The provisions of this chapter do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of § 220-31 shall apply.

§ 220-31. Improvements.

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

- A. No expansion or enlargement of an existing structure shall be allowed within any floodway area/district that would cause any increase in BFE.
- B. No expansion or enlargement of an existing structure shall be allowed within AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one foot at any point.
- C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of 50% or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this chapter.
- D. The above activity shall also address the requirements of the 34 Pa. Code, as amended and the 2009 IBC and the 2009 IRC or most recent revision thereof as adopted by the Commonwealth of Pennsylvania.
- E. Within any floodway area/district (See § 220-18A), no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- F. Within any AE Area/District without floodway (See § 220-18B), no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

ARTICLE VIII Variances

§ 220-32. General.

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

§ 220-33. Variance procedures and conditions.

- A. Requests for variances shall be considered by the Township Zoning Hearing Board in accordance with the procedures contained in § 220-16 and the following:
 - (1) No variance shall be granted for any construction, development, use, or activity within any floodway area/district that would cause any increase in the BFE.
 - (2) No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one foot at any point.
 - (3) No variances shall be granted for a proposed accessory structure that exceeds 500 square feet in size. A signed nonconversion agreement is required as a condition of receiving the variance.
 - (4) Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by development which may endanger human life (§ 220-25).
 - (5) No variance shall be granted for prohibited activities (Article VI).
 - (6) If granted, a variance shall involve only the least modification necessary to provide relief.
 - (7) In granting any variance, the Township Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this chapter.
 - (8) Whenever a variance is granted, the Township Zoning Hearing Board shall notify the applicant in writing that:
 - (a) The granting of the variance may result in increased premium rates for flood insurance.
 - (b) Such variances may increase the risks to life and property.
 - (9) In reviewing any request for a variance, in addition to the requirements in the Municipalities Planning Code,³⁵ the Township Zoning Hearing Board shall consider, at a minimum, the following:
 - (a) That there is good and sufficient cause.
 - (b) That failure to grant the variance would result in exceptional hardship to the applicant.
 - (c) That the granting of the variance will:

^{35.} Editor's Note: See 53 P.S. § 10101 et seq.

- [1] Neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense; nor
 - [2] Create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- (10) A complete record of all variance requests and related actions shall be maintained by the Township Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to FEMA.
- B. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent-annual-chance flood.

ARTICLE IX

Definitions

§ 220-34. General.

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

§ 220-35. Definitions.

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

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

BASE FLOOD — A flood which has a 1% chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent-annual-chance flood).

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

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

BASEMENT — For floodplain purposes only, any area of the building having its floor below ground level on all sides.

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

DECLARATION OF LAND RESTRICTION (NONCONVERSION AGREEMENT) — A form signed by the property owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations certain enclosures below the lowest floor of elevated buildings and certain accessory structures. The form requires the owner to record it on the property deed to inform future owners of the restrictions.

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

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

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

FLOOD — A temporary inundation of normally dry land areas.

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

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

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

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

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

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

HISTORIC STRUCTURES — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in states without approved programs.
- E. A dwelling that is designated by either the Easttown Township Open Space, Recreation and Environmental Resources Plan or the Easttown Township Comprehensive Plan as either a National Register site or national historic landmark or considered a significant historic resource by the Township as listed in the Easttown Township Comprehensive Plan; or the applicant can document to the satisfaction of the Zoning Officer that the dwelling is more than 100 years old.

IDENTIFIED FLOODPLAIN AREA — This term is an umbrella term that includes all of the areas within which the Township has selected to enforce floodplain regulations. It will always include the area identified as the special flood hazard area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the Township. See §§ 220-17 and 220-18 for the specifics on what areas the Township has included in the identified floodplain area.

LOWEST FLOOR — The lowest floor or story 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.

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

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

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective start date of this floodplain management chapter and includes any subsequent improvements to such structures. Any construction started after March 16, 1981, and before the effective start date of this floodplain management chapter 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.

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

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

POST-FIRM STRUCTURE — A structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map (FIRM) dated March 16, 1981, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

PRE-FIRM STRUCTURE — A structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map (FIRM) dated March 16, 1981, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

RECREATIONAL VEHICLE — For floodplain purposes only, a vehicle which is:

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

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

SPECIAL FLOOD HAZARD AREA (SFHA) — An area in the floodplain subject to a one-percent or

greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or AH.

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

STRUCTURE — For floodplain purposes only, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

STRUCTURE, ACCESSORY — A structure subordinate to the principal use or structure on the lot and used for purposes customarily incidental to those of the principal use or structure.

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

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

SUBSTANTIAL IMPROVEMENT — For floodplain purposes only, any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage 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.

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

USE, ACCESSORY — A use of a building, structure or land that is not a principal permitted use, but which is entirely incidental and subordinate to the principal permitted use on the same lot.

VARIANCE — Permission, approval or authorization granted by the Zoning Hearing Board after compliance with the applicable provisions of this chapter, the Zoning chapter and the Municipalities Planning Code³⁶ constituting a modification of or deviation from the exact provisions of this chapter as applied to a specific parcel of property and not to be construed as a precedent.

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 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.

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

HUNTING

Chapter 234

HUNTING

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

ARTICLE I
Hunting on Township Property
[Adopted 1-19-2010 by Ord. No. 395-10]

§ 234-1. Prohibited acts.

Easttown Township hereby prohibits and makes it unlawful for any person to hunt for or take any game or wildlife or to discharge a firearm or bow, or other weapon of any description, into or upon any property owned by Easttown Township or property owned by the Township's related municipal entities, including but not limited to property owned by the Easttown Township Municipal Authority, without first having obtained express written permission from both the Township and any applicable related municipal entity.

§ 234-2. Enforcement.

Easttown Township police officers or other law enforcement officers shall have the authority to enforce the prohibitions stated herein pursuant to Pennsylvania law.

§ 234-3. Violations and penalties.³⁷

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

^{37.} Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 256**LITTERING**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 5-17-1965 by Ord. No. 66; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Solid waste; recycling; open burning — See Ch. 377.

§ 256-1. Title.

This chapter shall be known and may be cited as the "Township of Easttown Anti-Litter Ordinance."

§ 256-2. Definitions.

For the purpose of this chapter, the following terms shall have the meanings indicated:

AUTHORIZED PRIVATE RECEPTACLE — A litter storage and collection receptacle to be used by residents and visitors to Easttown Township to convey litter to trash haulers for collection.

LITTER — Garbage, refuse, rubbish, and all other waste material which, if discarded as herein prohibited, tends to create a danger to the health, safety and welfare of the public.

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind.

PRIVATE PREMISES — Any dwelling, house, building or other structure designed or used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include the yard, grounds, and driveway belonging or appurtenant to such dwelling, house, building, or other structure.

PUBLIC BUILDING — Any facility either owned or leased by Easttown Township, the Easttown-Tredyffrin School District, the County of Chester, or any other public agency; except, however, a "public building" shall not be defined to include any facilities operated by the County of Chester for correctional or penal purposes.

PUBLIC GROUNDS — Any grounds owned or leased by Easttown Township, the Easttown-Tredyffrin School District, the County of Chester, or any other public agency; except, however, a "public ground" shall not be defined to include any facilities operated by the County of Chester for correctional or penal purposes.

PUBLIC PLACE — Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public grounds and public buildings.

REFUSE — All putrescible and nonputrescible solid waste (excluding body waste), including garbage, rubbish, cigarette butts, cigar butts, other tobacco residue, ashes, street cleanings, dead animals, abandoned automobiles and other waste.

RUBBISH — Nonputrescible solid waste consisting of both combustible and noncombustible wastes, such as paper wrappings, cigarettes and cigarette butts, cigars and cigar butts, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

TOWNSHIP — The Township of Easttown, Chester County, Pennsylvania.

§ 256-3. Litter in public places.

No person shall throw, deposit or discard litter in or upon any street, sidewalk, public place or public grounds within the Township, except in public receptacles and authorized private receptacles for collection.

§ 256-4. Maintenance of private receptacles.

Private receptacles shall be maintained by the property and/or business owner placing the private receptacle, which said maintenance shall include a secure lid, as well as a means to prevent the receptacle from tipping over and spreading litter.

§ 256-5. Placement of litter in receptacles.

A person placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by any means upon any street, sidewalk or other public place or grounds or upon private property.

§ 256-6. Sweeping litter into gutters prohibited; maintenance of sidewalks.

- A. No person shall sweep into or deposit in any gutter, street or other public place or grounds within the Township the accumulation of any litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep any sidewalk in front of their premises free of litter.
- B. No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the Township the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the Township shall keep any sidewalk in front of their business premises free of litter.

§ 256-7. Parks and public grounds.

No person shall throw or deposit and/or discard litter in any park or public grounds within the Township, except in public receptacles and in such manner that the litter will be prevented from being carried or deposited by any means upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park or public grounds by the person responsible for its presence and properly disposed of elsewhere.

§ 256-8. Lakes, ponds, streams and other bodies of water.

No person shall throw, deposit or discard litter in any pond, lake or stream or any other body of water in the Township.

§ 256-9. Litter on private property.

No person shall throw, discard or deposit litter on any private property within the Township, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such manner that litter will be prevented from being carried, discarded or deposited by any means upon any street, sidewalk or other public place or any private property.

§ 256-10. Duties of private property owners.

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

§ 256-11. Violations and penalties.

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

Chapter 267

MUNICIPAL CLAIMS AND LIENS

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 10-4-2010 by Ord.

No. 399-10. Amendments noted where applicable.]

§ 267-1. Authorization.³⁸

Easttown Township's Solicitor is hereby authorized to file municipal claims against Easttown Township property owners ("property owners") for properties which are located within Easttown Township (the "Township") and for which municipal accounts are delinquent or taxes unpaid due to nonpayment by the property owners, or for which money is otherwise owed to the Township due to costs incurred due to the property owner's violation of Township codes, ordinances or regulations (those properties hereinafter being referred to as "delinquent properties").

§ 267-2. Collections of unpaid claims; attorneys' fees and collection fees. [Amended 6-2-2014 by Ord. No. 422-14; 11-21-2022 by Ord. No. 454-22]

A. Attorney fees and collection fees to be added to the MCTLA unpaid claims. The attorney fees and collection fees set forth below are hereby adopted, approved and determined to be reasonable, including, without limitation, as contemplated by § 7106 of the Municipal Claims and Tax Liens Act, 53 P.S. § 7101 et seq., as amended ("MCTLA or the "Act"). The attorney fees and collection fees set forth below shall be included and added to the applicable MCTLA unpaid claim in an amount equal to the amount set forth as follows:

(1) Attorney fees.

| | |
|---|-------|
| Initial review and sending first legal demand letter | \$175 |
| File lien and prepare satisfaction | \$250 |
| Prepare writ of scire facias | \$250 |
| Prepare and mail letter under Pa.R.C.P. 237.1 | \$50 |
| Prepare default judgment | \$175 |
| Research, prepare and obtain re-issued writ | \$175 |
| Prepare praecipe to amend | \$100 |
| Prepare motion to amend | \$150 |
| Prepare motion for alternate service | \$250 |
| Prepare motion to consolidate claims | \$250 |
| Amend claim to add united states as defendant | \$250 |
| Prepare writ of execution | \$800 |
| Preparation for sheriffs' sale; review schedule of distribution and resolve distribution issues | \$400 |

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

| | |
|--|------------------------|
| Prepare motion to continue sheriffs' sale | \$50 |
| Prepare petition for free and clear sale | \$400 |
| Preparation and service of subpoena | \$100 |
| Presentation of motion or petition | \$50 |
| Services not covered above at an hourly rate between | \$75 to \$275 per hour |

(2) Collection fees.

| | |
|--|---|
| Validation notice | \$25 per notice |
| Notice of delinquent claim and fee shifting | \$40 per notice plus applicable postage |
| Bookkeeping fee for payment plan of 3 months or less | \$25 |
| Bookkeeping fee for payment plan of more than 3 months | \$50 |
| Handling fee for returned check | \$25 |

- B. Additional amounts. In addition to the collection fees set forth above, the amount of out-of-pocket charges, costs, expenses, commissions and fees incurred in connection with the filing, preservation and collection of the MCTLA unpaid claims, including, but not limited to, prothonotary fees and charges, sheriff fees and charges, postage expenses, title search expenses, vehicle identification number (YIN) search expenses, skip tracing and/or other investigatory service expenses, and the costs, fees, charges and/or expenses arising out of any payment by any credit card, debit card or any other payment medium, are hereby approved and shall be included, upon incurrence, together with the applicable MCTLA unpaid claim.
- C. Interest. Interest will be assessed upon the unpaid claims at a rate of 10% per annum and added to the unpaid claims. The Township is permitted to waive any interest on any unpaid claim when the Township or any attorney and/or third-party collector collecting the unpaid claim believes, in its discretion, that such amount is de minimis or that the cost or burden of continuing collection outweighs the benefit of collecting the interest.
- D. Appointment of special collection solicitor. The Township appoints Michelle R. Portnoff, Esquire, as Special Collection Solicitor for the limited purpose of collecting the Unpaid Claims and hereby authorizes her, and all attorneys employed by Portnoff Law Associates, Ltd., to sign any and all documents, including municipal claims and liens, on behalf of the Township.

NATURAL RESOURCES PROTECTION

Chapter 274

NATURAL RESOURCES PROTECTION

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 10-2-2006 by Ord. No. 370-06. Amendments noted where applicable.]

GENERAL REFERENCES

Stormwater management — See Ch. 388.

Trees and shrubs — See Ch. 421.

Streets and sidewalks — See Ch. 395.

Zoning — See Ch. 455.

Subdivision and land development — See Ch. 400.

ARTICLE I General Provisions

§ 274-1. Title.

This chapter shall be known as and may be cited to as the "Easttown Township Natural Resource Protection Ordinance."

§ 274-2. Purpose; intent; construal of provisions.

- A. These regulations are intended to protect the rights of the residents of Easttown Township to enjoy clean air, pure water and the natural, scenic, historic and aesthetic values of the environment through the preservation of woodlands, wetlands, aquifers and floodplains, as set forth in the Pennsylvania Constitution and in other commonwealth and federal statutes. In particular, it is the Township's purpose, through this chapter, to conserve the following natural resources:
 - (1) Natural resources identified as land or water resource areas, e.g., groundwater recharge zones (aquifers), springs, streams, wetlands, woodlands, prime wildlife habitats and areas constituting high recreational and other amenity value which exist on developed or undeveloped land.
 - (2) Natural resources performing beneficial ambient air quality or microclimate functions, e.g., by abating glare and noise, entrapping dust and other particulates and contributing to the reduction of climate stress and energy costs.
- B. To accomplish this, the ensuing standards are intended to:
 - (1) Define and delineate selected natural resources within the Township and establish resource protection standards to mitigate potential hazards associated with land use activity.
 - (2) Protect natural resources within the Township in accordance with the goals and objectives of the Easttown Township Comprehensive Plan, the Easttown Open Space, Recreation and Environmental Resources Plan, and the applicable provisions of Article VI of the Pennsylvania Municipalities Planning Code, Act 247.³⁹
- C. No such provision of these regulations shall be construed to deny the right of any property owner to use his/her land as may be permitted by the Township's land use codes. Rather, it is the purpose of these regulations to ensure that such uses minimize disturbances to natural resources and that reasonable measures are taken to mitigate any adverse impacts of such uses. Property owners may use their land as permitted in Chapter 455, Zoning, and Chapter 400, Subdivision and Land Development, provided that the regulations herein are also adhered to. **[Amended 6-2-2014 by Ord. No. 422-14]**

§ 274-3. Applicability.

The natural resource protection standards set forth in this chapter shall apply to all land development, site preparation and site disturbance activities.

- A. All uses shall be developed in a manner consistent with the preservation of the quality of the existing environment and of any natural amenities present on the site. Such uses shall provide for the preservation and proper management of natural drainage systems, minimizing of grading and removal

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

of scenic vegetation, preservation of woodlands and substantial stands of trees and the preservation of scenic vistas, historic landscapes and any other natural resources and features existing on the site.

- B. For the purposes of this chapter, the sections within this chapter shall be overlays to the underlying districts as shown on the Easttown Zoning Map,⁴⁰ and as such, the provision for each of these sections shall serve as additional requirements to the underlying zoning district provisions. In the event that a conflict exists between a section of this chapter and the underlying district(s), the more restrictive provision shall apply.
- C. Should the boundaries or delineations of any section of this chapter be revised as a result of legislative or administrative actions or judicial decision, the zoning requirements of the underlying zoning district and other applicable sections of this chapter shall continue to apply.

§ 274-4. Interpretation.

In the interpretation and application of this chapter, the provisions hereof shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. Where the provisions of this chapter impose greater restrictions than those of any other ordinance or regulation, the provisions of this chapter shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, ordinance or regulation shall be controlling.

§ 274-5. Definitions.

Unless otherwise expressly stated, the following terms, words and phrases shall be construed throughout this chapter to have the meanings herein stated. Applicable regulations stated in conjunction with these definitions shall be complied with. The singular shall include the plural, and the plural shall include the singular. The present or past tense shall include the future tense. The masculine gender includes the feminine and neuter genders. The word "shall" and "must" are mandatory; the words "may" and "should" are permissive. The words "used for" shall include "designed for."

BUFFER, PERIMETER — Plantings placed along the boundary of a lot and around stormwater management basins, to diminish and mitigate views of a development from off site.**[Amended 12-15-2014 by Ord. No. 424-14]**

BUFFER PLANTING STRIP — A strip of required yard space adjacent to the boundary of a property or district, not less in width than is designated in Chapter 455, Zoning, which is landscaped for the full width and on which is placed a screen of sufficient density not to be seen through and of sufficient height to constitute an effective screen and give maximum protection and immediate visual screening to an abutting property or district. The required screen shall be permanently maintained and shall constitute a planting of dense evergreen trees or a compact evergreen hedge or, where specifically designated in this chapter, an appropriate wall, fence, suitable planting or combination thereof. All planting shall comply with the provisions of this chapter.

BUFFER, SCREEN — Plantings placed between incompatible land uses or zoning districts to obscure views of the adjacent property or use.

CALIPER — The diameter of a tree trunk measured at a point six inches above the ground for trees up to and including four inches in caliper size. For trees of larger-size caliper, the measurement is taken 12 inches above the ground level.

40. Editor's Note: The Zoning Map is included as an attachment to Ch. 455.

CLEAR-CUTTING — The complete removal of all trees on a site, or any portion thereof, greater than 0.5 acre in contiguous area, during a single timber harvesting operation or within a three-year period.

CONSERVATION — The planned management of a natural resource to prevent its exploitation, destruction or neglect.

DBH (DIAMETER AT BREAST HEIGHT) — The diameter of a tree trunk measured at a point 4.5 feet from the ground surface at the point of the highest elevation in contact with the trunk of such tree.

DRAINAGE — The movement of water from an area by stream or sheet flow and removal of excess water from soil by downward flow.

DRIPLINE — The line on the ground marking the outer edges of the branches of a tree.⁴¹

FORESTRY (TIMBER HARVESTING OPERATION) — The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling of trees for profit, which does not involve any land development, specifically the uprooting or removal of more than four trees of greater than six inches dbh per acre from any lot which has a gross area of more than three acres, and, when required, is undertaken in compliance with an approved timber management plan. "Forestry," as defined by the Municipalities Planning Code, as amended,⁴² shall be considered a timber harvesting operation and shall require the submittal and approval of a timber management plan. Timber harvesting does not include the clearing of land for approved construction or the creation or maintenance of approved roads.

HEDGEROW — A linear plant community dominated by trees and/or shrubs. Hedgerows often occur along roads, fence lines, property lines or between fields and may occur naturally or be specially planted (e.g., as a windbreak). For the purposes of this chapter, hedgerows are considered woodlands and regulated as such, regardless of area or tree size.

HYDRIC SOIL — A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions that favor the growth and regeneration of wetlands vegetation. For the purposes of this chapter, "hydric soil" includes any soil inventoried or described as hydric according to the Soil Survey of Chester and Delaware Counties, Pennsylvania (Soil Survey), or other information provided by the United States Natural Resources Conservation Service (NRCS). In Easttown Township, hydric soils shall include but are not limited to Wehadkee silt loam (We), Worsham silt loam (Wo), and Chewacla silt loam (Ch).

IMPERVIOUS SURFACES — Land that is occupied by principal and accessory structures, buildings, streets, extended roofs, eves, overhangs, asphalt, concrete, driveways, parking areas, grass pavers, pervious paving, and other man-made cover that prohibit or slow the percolation and infiltration of water into the soils.

INVASIVE PLANT SPECIES — Predominantly nonnative, nonindigenous, alien tree, shrub, vine, or herbaceous species that grow or reproduce aggressively, usually because they have no natural predators, and which can so dominate an ecosystem that they kill off or drive out many indigenous plant species. Invasive trees, shrubs, vines, or herbaceous species include but are not limited to Norway maple (*acer platanoides*), tree of heaven (*ailanthus altissima*), paper mulberry (*broussonetia papyrifera*), white mulberry (*morus alba*), empress tree (*paulownia tomentosa*), white poplar (*populus alba*), multiflora rose (*rosa multiflora*), Japanese barberry (*berberis thunbergii*), European barberry (*berberis vulgaris*), autumn olive (*elaeagnus umbellata*), border privet (*ligustrum obtusifolium*), common privet (*ligustrum vulgare*), morrow's honeysuckle (*lonicera morrowii*), tatarian honeysuckle (*lonicera tatarica*), Japanese honeysuckle

41. Editor's Note: The former definition of "flood hazard area," as amended, which immediately followed this definition, was repealed 5-15-2017 by Ord. No. 428-17.

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

(*lonicera japonica*), common buckthorn (*rhamnus cathartica*), wineberry (*rubus phoenicolasius*), Japanese spiraea (*spiraea japonica*), linden viburnum (*viburnum dilatatum*), guelder rose (*viburnum opulus*), oriental bittersweet (*celastrus orbiculatus*), leatherleaf clematis (*clematis terniflora*), mile-a-minute weed (*polygonum perfoliatum*), kudzu (*pueraria lobata*), garlic mustard (*alliaria petiolata*), Canada thistle (*cirsium arvense*), crown vetch (*coronilla varia*), tall fescue (*festuca elatior*), purple loosestrife (*lythrum salicaria*), sweet clover (*melilotus officinalis*), Japanese stiltgrass (*microstegium vimineum*), reed canarygrass (*phalaris arundinacea*), and johnsongrass (*sorghum halepense*).

LAKES and PONDS — Natural or artificial bodies of water which retain water year-round. Artificial bodies of water may be created by dams or result from excavation. Lakes are bodies of water two or more acres in area. Ponds are bodies of water less than two acres in area.

LAND DISTURBANCE — A construction or other human activity which disturbs the surface of land, including, but not limited to, clearing, 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.

LANDSCAPE ARCHITECT — A landscape architect registered in the Commonwealth of Pennsylvania or any other state having a reciprocal registration agreement with Pennsylvania.

MITIGATION — Any action taken to lessen the specified undesirable impacts of a proposed land use or land disturbance activity, including those which would adversely affect the health or longevity of a natural feature, pose a visual intrusion or conflict or otherwise be deemed incompatible with surrounding properties.

NATURAL RESOURCES — A component of a landscape existing or maintained as a part of the natural environment and having ecological value. Such resources include those which, if disturbed, may cause hazards or stress to life, property and the natural environment. For the purposes of this chapter, natural resources shall include but not be limited to wetlands, floodplain, steep slopes, and woodlands.

OPEN SPACE — An area of land and/or water, substantially free of structures and paved areas, permanently restricted for common enjoyment and recreational use by residents of a development and possibly the general public, but not including individually owned private yards.

REFORESTATION — The restocking of an area with forest trees, including natural regeneration as well as by tree planting.

RIPARIAN BUFFER — An area surrounding a watercourse, floodplain or wetland, containing trees and other vegetation, that intercepts surface water runoff, wastewater, subsurface flow, and/or deep groundwater flows from upland sources and functions to remove or buffer the effects of associated nutrients, sediment, organic matter, pesticides, or other pollutants prior to entry into surface waters. This transition area between aquatic and terrestrial environments may also provide wildlife habitat, control water temperature, attenuate flood flow, and provide opportunities for passive recreation.

RIPARIAN BUFFER ZONE (RBZ) — The total area encompassing the riparian buffer and the natural resources the buffer protects, which may include watercourses, ponds and lakes, wetlands, and floodplains. [Amended 6-2-2014 by Ord. No. 422-14]

ROUTINE PROPERTY MAINTENANCE — Periodic cutting, killing and/or removal of entire plants or portions of plants, which may include lawn mowing, weed and vine control, the removal of invasive plants and the removal of dead trees or limbs.

SELECTIVE LOGGING AND WOODCUTTING — The removal of single, scattered, mature trees or other trees from unevenly aged tree stands to preserve and enhance healthy woodlands.

SPECIMEN TREE — Any healthy tree with a trunk diameter of 36 inches and greater dbh.

STEEP SLOPES — Those areas of land, whether natural or man-made, where the average grade is 15% or greater. For the purposes of this chapter, slopes shall be divided into the following two categories:

- A. **MODERATELY STEEP SLOPES** — Those areas of land where the grade is 15% to 24.9%.
[Amended 6-2-2014 by Ord. No. 422-14]
- B. **VERY STEEP SLOPES** — Those areas of land where the grade is 25% or greater.

TIMBER HARVESTING PLAN — A description, by means of text and maps, of proposed actions involving the removal of trees from a lotuch plan shall have been prepared by a Pennsylvania-certified forester with demonstrable expertise in forest management and shall document specific measures to be taken to control erosion and sedimentation; protect water quality; minimize impacts from skid timber and logging roads, land areas, and the tree removal process; and ensure site restoration. A timber harvesting plan shall include the minimum contents requirements (Section 5) and be consistent with the minimum forest practices (Section 6) of the Pennsylvania Model Forestry Regulations published by the Penn State School of Forest Resources. (Note: A copy of the model regulations can be obtained at the Township office.)[Amended 12-15-2014 by Ord. No. 424-14]

TREE PROTECTION ZONE — An area surrounding a tree or tree mass in which no construction, construction activity or other disturbance shall take place. The tree protection zone shall be measured from the outermost dripline of any tree or all the trees in a tree mass, tree line or hedgerow.

UNDERSTORY TREE — Any single- or multi-stemmed woody plant which typically achieves a mature height of between 10 feet and 30 feet and is usually found growing beneath larger canopy trees in its natural habitat.

WATERCOURSE — A stream, creek, run, or other body of running water with a defined bed and banks in which water flows in a definite direction or course, whether natural or artificial, with perennial or intermittent flow, as depicted on the most current USGS Quadrangle Map, or more accurate information, as available. Field verification to determine evidence and location of natural channelized flow may be required for specific determinations. The removal of, or alteration to, existing man-made swimming pools, fish ponds, or other decorative pools or water features that are disconnected from the waterway and wholly contained to the lot shall not be regulated by the Easttown Township Natural Resource Protection Ordinance.[Amended 10-16-2023 by Ord. No. 458-23]

WETLANDS — Those areas that are inundated and 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, and similar areas. Any area meeting the official "wetland" definition of the United States Army Corps of Engineers, the United States Environmental Protection Agency, or the Pennsylvania Department of Environmental Protection shall be considered a wetland for the purposes of this chapter. In the event the definition of a "wetland" conflicts between any of these agencies, the more restrictive definition shall apply.

WILDLIFE HABITAT — A community of plants that provide food, water, cover, nesting and foraging or feeding conditions necessary to maintain population of animals.

WOODED LOT — Any building lot having more than one viable tree, six inches or greater in diameter dbh, per 1,500 square feet of gross lot area, exclusive of street right-of-way. For the purpose of calculating "wooded lot," each viable tree six inches or greater in diameter dbh located with street rights-of-way or on lot lines are to be counted as one.[Amended 9-21-2009 by Ord. No. 391-09; 12-15-2014 by Ord. No. 424-14]

WOODLAND — A plant community, of 0.25 acre or larger in area, well-stocked and comprised

predominantly of healthy trees, six inches and greater in diameter dbh, and other woody vegetation, growing more or less closely together, the branches of which form a complete or nearly complete aerial canopy. For the purposes of this chapter, the extent of any woodland shall be measured from the dripline of the outer trees. Woodlands do not include orchards, commercial nurseries, Christmas tree farms, or old fields, where more than 75% of the trees are smaller than six inches dbh.

WOODLAND DISTURBANCE — Any activity which alters the existing structure of a woodland or hedgerow; disturbances include the cutting or removal of canopy trees, subcanopy trees, understory shrubs and vines, woody and herbaceous woodland floor species. "Woodland disturbance" also includes any activity which constitutes a land disturbance (exposes soils, alters topography, destroys habitat) within a woodland or hedgerow. "Woodland disturbance" does not include the selective cutting of trees or removal of invasive plant species.

ARTICLE II
Conservation Plan Requirements

§ 274-6. Plan information; delineation of protected resources.

To ensure compliance with the natural resource protection standards of this chapter, the following information shall be submitted by the applicant when land disturbance of a protected natural resource is contemplated in conjunction with a zoning or building permit, conditional use or special exception approval, zoning variance, or subdivision and land development approval. When applicable, such information shall be included with a preliminary plan application, as required in Chapter 400, Subdivision and Land Development.

- A. In addition to the requirements of § 400-24 of Chapter 400, Subdivision and Land Development, the conservation plan shall be provided with preliminary and final plan submissions and shall include the following information:
 - (1) The limits of each of the natural resources on the site, including one-hundred-year floodplains, wetlands, watercourses, soil types, existing vegetation and woodlands, steep slopes, and other significant natural or man-made features within the site and at least 100 feet beyond its boundaries.
 - (2) The name of the watershed and the water quality designation of the watershed in which the site is located.
 - (3) Riparian buffer zones and tree protection zones, if applicable.
 - (4) Land uses and zoning of adjacent properties.
 - (5) The proposed use of the site, including any existing or proposed structures, designations of historic resources, and existing and proposed easements and deed restrictions.
 - (6) All encroachments and disturbances necessary to establish the proposed use on the site.
 - (7) On-site sewage disposal systems and reserve areas.
- B. Land disturbance activities which propose less than 2,000 square feet of impervious area or less than 5,000 square feet of land disturbance are not required to submit formal plans to the Township. However, plans shall be submitted in accordance with § 274-7.
- C. Calculations indicating the area of the site with natural resources and the amount of post-development natural resource protection. The calculation shall be shown on the plan as indicated in Figure 1; calculations indicating the area of the site with natural resources and the area of natural resources that would be disturbed or encroached upon.⁴³

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

Figure 1: Site Disturbance Calculations

| Protected Resource | A Area of Protected Resource* (square feet) | B Maximum Disturbance Allowance** (percent) | C Maximum Amount of Permitted Disturbance (square feet) | D Proposed Disturbance (square feet) |
|---------------------------|---|---|---|--|
| Floodplain | | 0% | | |
| Wetlands | | 0% | | |
| Watercourses | | 0% | | |
| Riparian buffer | | 0% | | |
| Steep slopes: | | | | |
| 15% to 24.9% | | 50% | | |
| Greater than 25% | | 15% | | |

NOTES:

- * Where resources overlap, the overlapping area should be included under the more restrictive resource category (i.e., where woodlands overlap with wetlands, include the area of overlap in the wetlands category).
- ** Disturbance allowances may be modified where federal or state permits have been obtained by the applicant and provided to the Township.

D. General provisions.

- (1) In the event that two or more natural resource areas identified in this section overlap, the resource with the most restrictive standard shall apply to the area of overlap.
- (2) It shall be a violation of this chapter to regrade, fill, pipe, channel, divert, build upon or otherwise alter a natural resource protected by this section prior to the submission and approval of an application for a zoning permit, building permit, conditional use, special exception, zoning variance, or subdivision or land development plan.
- (3) Where disturbance of a natural resource is permitted, it shall not take place until it has been determined that such disturbance is consistent with the provisions of this section and other applicable provisions of this chapter.
- (4) Restrictions to disturbance of resources shall apply whether or not construction is proposed on a site and, where proposed, before, during, and after the construction takes place.
- (5) Plan information required by this article shall be verified as complete by the Township Engineer or other qualified professional as determined by the Township.
- (6) All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, and water pollution, whether during or after construction.

§ 274-7. Plan information for minor site disturbance.

Land disturbance activities which propose less than 2,000 square feet of impervious surface area or less than 5,000 square feet of total land disturbance are subject to full compliance with the resource protection standards of this chapter, however, may provide less plan information.

A. Applications for minor site disturbance activities shall include a plan of the area and notes providing the following information:

- (1) Where less than the entire site is to be shown on the plan, the application shall be accompanied by a written explanation from the applicant as to why it is not necessary to include the entire site with the plan information.
- (2) The total area of the site or lot, even if the boundaries are not shown on the plan.
- (3) Proposed changes in elevation relative to existing topographic contours.
- (4) Any protected resources (streams, floodplains, steep slopes and trees) lying within 50 feet of the proposed land disturbance, along with information necessary to adequately demonstrate compliance with the natural resource protection standards of this chapter.
- (5) If a riparian buffer zone lies within 50 feet of the proposed land disturbance, it shall be protected and planted in accordance with Article V; however, a riparian buffer zone management plan shall not be required.
- (6) Information about existing vegetation and potential tree disturbance or removal, including the following:
 - (a) If the proposed land disturbance is within 25 feet of a woodland area or hedgerow, the edge of the tree canopy shall be shown, along with an approximation of the total wooded area of the site.
 - (b) If the proposed land disturbance is within 25 feet of a tree that is six inches or greater dbh, a calculation must be provided indicating whether the site is a wooded lot, as defined.
 - (c) If the proposed land disturbance necessitates the removal of trees, or encroaches upon the tree protection zone, the size, species and location of the affected trees shall be provided.
 - (d) If the proposed tree removal exceeds 25% of the total number of trees or wooded area, replacement trees shall be provided in accordance with Article VII.

§ 274-8. Continued protection of identified natural resources.

To ensure the continued protection of identified natural resources, the following requirements shall apply:

A. Protected resources on individual lots.

- (1) For natural resource protection areas on individual lots, restrictions meeting Township specifications shall be placed in the deeds for each site or lot that has natural resource protection areas within its boundaries. It shall be clearly stated in the individual deeds that the maintenance responsibility lies with the individual property owner. The restrictions shall provide for the continuance of the resource protection areas in accordance with the provisions of this chapter.
- (2) Other mechanisms for ensuring the continued protection of identified resources, such as

conservation easements, may also be considered and used if approved by the Township.

- B. Protected resource areas held in common. For natural resource protection areas held in common, the applicable provisions of § 400-62 of Chapter 400, Subdivision and Land Development, shall apply. In addition to the provisions of § 400-62, restrictions meeting Township specifications shall be placed on the natural area to be held in common. The party or organization responsible for the maintenance of the natural area shall be clearly identified in the deed. The restrictions shall provide for the continuance of the natural resource protection areas in accordance with the provisions of this chapter. In addition, restrictions on protected areas shall be included in the development's declaration of covenants, easements, or restrictions or similar documents regulating the use of property and setting forth methods for maintaining open space. A copy of such documents shall be provided to the Township in a form acceptable to the Solicitor.⁴⁴
- C. Changes to approved plans. All applicable plans and deeds shall include the following wording: "Any structures, infrastructure, utilities, sewage disposal systems, or other proposed land disturbance indicated on the approved final plan shall only occur at the locations shown on the plan. Changes to such locations shall be subject to additional review and reapproval and shall be consistent with the natural resource protection standards of Chapter 274 of the Easttown Township Code." [Amended 6-2-2014 by Ord. No. 422-14]

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

ARTICLE III
(Reserved)⁴⁵

§ 274-9. through § 274-13. (Reserved)

45. Editor's Note: Former Article III, Flood Hazard Area, as amended, was repealed 5-15-2017 by Ord. No. 428-17.

ARTICLE IV
Wetlands and Watercourses

§ 274-14. Purpose.

The purpose of this article is to protect water quality and quantity of wetlands and watercourses within the Township, reduce flood potential and stream bank erosion, provide visual buffers, and provide for biotic diversity and natural areas through the preservation of these resources.

§ 274-15. Delineation.

The applicant shall identify, delineate, and provide the limits of any wetlands, lakes, ponds, and permanent and intermittent streams on the site and within 100 feet of the site on the conservation plan, in accordance with § 274-6. In addition, the following information shall be provided to the Township Zoning Officer for confirmation:

- A. A full wetland report conducted by a qualified wetland biologist, or other professional of demonstrated qualifications, shall be submitted to the Township.
- B. Certification from such qualified professional that the methods used correctly reflect currently accepted technical concepts, including identification and analysis of wetland vegetation, hydric soils, and/or hydrologic indicators.
- C. Determination within the wetland report of whether wetlands are present on site and a full delineation, area measurement (in square feet), and a description of any wetlands determined to be present. The study shall be approved by the Township Board of Supervisors on the recommendation of the Township Engineer.
- D. Where applicable, evidence that the contacts required by § 274-16B have been made.
- E. If no wetlands are found on the site, or within 100 feet of the site, a note shall be added to the preliminary and final plans stating that "This site has been examined by (name and address with a statement of submitted qualifications), and no wetlands as defined by the United States Army Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, January 1987, were found to exist."
- F. If there is a question as to the accuracy of the wetland delineation report, the Township may hire a qualified consultant to review the delineation and recommend revisions at the applicant's expense or require a jurisdictional determination from the United States Army Corps of Engineers.

§ 274-16. Resource protection standards.

- A. Wetlands and watercourses shall not be regraded, filled, piped, diverted, built upon, or otherwise altered or disturbed, except where state and federal permits have been obtained.
- B. Any applicant proposing a use, activity, or improvement which would entail the regrading, filling, building upon, or altering of wetlands shall provide the Township with proof that the Pennsylvania Department of Environmental Protection (Bureau of Dams and Waterway Safety and Bureau of Water Quality Management) and the United States Army Corps of Engineers have been contacted to determine the applicability of state and federal wetland regulations.
- C. Relocated/replaced wetlands, when permitted, shall be at least as large as the original wetlands, of the same composition, within Easttown Township, and close to the original site as possible, all subject to

Township approval and additional state and federal approval, as necessary.

- D. Wetlands, floodplains and watercourses are subject to further protection by a fifty-foot-wide riparian buffer zone, in accordance with Article V, Riparian Buffer Zone (RBZ). **[Amended 6-2-2014 by Ord. No. 422-14]**

**ARTICLE V
Riparian Buffer Zone (RBZ)**

§ 274-17. Purpose. [Amended 6-2-2014 by Ord. No. 422-14]

The purpose of this article is to:

- A. Protect stream banks, water quality, sensitive soils, natural habitat and scenic vistas through the provision and protection of a vegetated strip of land surrounding the resource.
- B. Regulate uses and structures, and provide transitional provisions, at or near watercourses, floodplains, wetlands and other bodies of water.
- C. Establish continuous vegetated strips along water bodies that serve to filter and remove pollution-laden runoff from entering water bodies and protecting against stream bank erosion and tree loss.
- D. Promote and protect stabilized stream banks, which will reduce downstream transport of eroded sediment and pollutants.
- E. Preserve species-rich vegetative communities along and adjacent to water bodies.
- F. Provide shade for streams and other water bodies that reduce direct sunlight and lower water temperatures.

§ 274-18. Delineation.

- A. An undisturbed vegetated area shall extend a minimum of 50 feet, measured horizontally, outward from the edge of a protected wetland, floodplain, or watercourse, and completely surround the protected natural resource(s).
- B. In the case of a stream or pond, the minimum buffer width shall be measured from the top of the bank.
- C. In the case of an intermittent stream, it shall be measured from the center of the channel.
- D. The riparian buffer zone shall also apply to the perimeter of approved wetland mitigation areas where all state and federal permits have been received.
- E. The riparian buffer zone shall not be designated along industrial ponds, sewerage treatment lagoons, man-made irrigation ditches, stormwater management basins and other artificial features with similar water quality or storage facility.
- F. The limit of the hydric soils shall be as defined in this chapter, unless reclassified by a certified soil scientist.
- G. The riparian buffer zone shall be delineated on the conservation plan, in accordance with § 274-6.

§ 274-19. Resource protection standards.

- A. With the exception of those uses or activities listed below, the riparian buffer zone shall not be regraded, filled, built upon, or otherwise altered or disturbed. Any permanent disturbance shall be of a design and so located as not to conflict with the purpose of a RBZ to protect water quality.
 - (1) Regulated activities permitted by the commonwealth, e.g., a permitted stream or wetland crossing;

- (2) Selective removal of diseased, hazardous or invasive plant species;
- (3) A soil or stream conservation project approved by the Chester County Conservation District, including stream bank stabilization and restoration;
- (4) Vegetation installation and management in accordance with an approved landscape plan and riparian buffer zone management plan;
- (5) Trails composed of pervious surfaces; however, such trail shall not come within 15 feet of any stream bank.

B. Nonconforming uses or structures are subject to the following:

- (1) Where existing nonconforming structures are located within the RBZ on which less than 2,000 square feet of additional impervious surface area or less than 5,000 square feet of total land disturbance is proposed, a one-time encroachment into the RBZ of up to 25 feet for such improvements is permitted, without seeking a variance or conditional use approval. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (2) In the event that 50% or more of an existing nonconforming structure is voluntarily demolished, the area of impervious surface and land disturbance shall fully conform to the requirement of § 274-18 of this article.
- C. Minimally invasive disturbance associated with stormwater management, or the installation of sealed water supply wells, water pipelines, and storm and sanitary sewer lines, provided they are designed and constructed to eliminate infiltration of floodwater into the system and discharges from the system into waters of the commonwealth, may be permitted as a conditional use, with proof of minimal disturbance and restoration practices of exposed earth, with approval from the Board of Supervisors.
- D. The planting, supplementing, or reestablishment of vegetation that will slow stormwater runoff velocities, filter silt and pollutants from runoff, form a fibrous root system to hold soil in place and prevent erosion, shade streams, and stabilize eroded stream banks shall be provided, in accordance with a riparian buffer zone management plan, as required by this chapter.

§ 274-20. Riparian buffer zone plantings.

A riparian buffer provides the following benefits: reduces the amount of nutrients, sediments, pesticides, and other harmful substances that reach watercourses, wetlands, and other surface water bodies; provides for shading of the aquatic environment to moderate temperatures and protect fish habitat; provides organic matter which provides food and habitat for bottom-dwelling organisms essential to the food chain; increases stream bank stability and reduces stream bank erosion and sediment production; conserves natural features important to land and water features (e.g., headwater areas, groundwater recharge zones, streams and prime wildlife habitat); and conserves natural, scenic and recreation areas and promotes the functioning of greenways.

- A. At a minimum, the first 25 feet adjacent to the natural resource that does not contain existing trees shall be planted in accordance with § 274-32. This is in order to establish a fibrous root system, to protect the stream banks from erosion, and to shade watercourses.
- B. Any areas of woodland disturbance, for any purpose, within the entire width of the RBZ shall be reforested in accordance with § 274-32, even if the amount of disturbance falls within that permitted by § 274-29B.

- C. If replacement plantings are required by Article VIII, Woodlands and Wooded Lots, of this chapter, all or part of the required replacement plantings may be used to accomplish the planting requirements of this section. The plantings, which may include trees, shrubs, and seedling trees, should complement and extend the existing surrounding vegetation and natural systems.
- D. The remainder of the RBZ and the area between newly installed plants shall be stabilized and established with meadow grasses and wildflowers.

§ 274-21. Riparian buffer zone management plan.

- A. A riparian buffer zone management plan shall be submitted as part of preliminary and final plan application. In the case of a conditional use, the RBZ management plan shall be submitted along with the application for conditional use approval. The plan may be provided on a separate sheet in the development plan set or may be a separate bound document and shall include the following information:
 - (1) A narrative describing the development of the subject property;
 - (2) A description of the existing natural resources on the property;
 - (3) A narrative describing the significance and purpose of the RBZ;
 - (4) A description of any proposed impacts within the delineated RBZ;
 - (5) Plant lists, notes, details and any other pertinent information needed to fully describe the proposed procedures and methods necessary to accomplish the establishment of a healthy, vegetated RBZ; and
 - (6) The maintenance activities that will be performed to ensure the control of erosion and the continued health and vigor of the plants within the RBZ. Such activities may change over the course of plant establishment and may include mowing schedules.
- B. The preparation and planting procedures may include, but shall not be limited to, invasive plant removal and control; stream bank stabilization; the provision of animal browse protection, such as plastic tubes for seedling trees; erosion control matting; the provision of any markers or signs identifying the RBZ; and mowing schedules for meadow grass establishment.
- C. The maintenance narrative shall include, but shall not be limited to, the following provisions:
 - (1) A list of prohibited activities that may lead to excessive erosion or pollution, which may include restrictions on traffic, the removal of plant material, and the use of chemicals;
 - (2) An annual inspection and report by a qualified professional;
 - (3) Inspections immediately following severe storm events to monitor erosion and sedimentation;
 - (4) Procedures for corrective action to erosion;
 - (5) A time frame for removal of planting aids, such as staking and tree tubes;
 - (6) A guarantee and procedures for replacement and/or supplement of plantings that die or do not become well established in perpetuity.

ARTICLE VI Steep Slopes

§ 274-22. Purpose.

The purposes of this article are as follows:

- A. To permit only those uses of steep slope areas which are compatible with the conservation of natural resources and which maintain stable soil conditions by minimizing disturbances to vegetative ground covers and restricting the regrading of steep slope areas.
- B. To protect watersheds by minimizing soil erosion and the resultant destruction of the land, siltation of streams and property damage.
- C. To protect low-lying areas from flooding by limiting the increase in stormwater runoff caused by the grading of sloped areas, changes in ground cover vegetation, and the erection of structures.
- D. To allow the continuing replenishment of groundwater resources and the maintenance of springs.
- E. To maintain the ecological integrity and habitat value of steeply sloped areas.

§ 274-23. Delineation.

- A. For the purposes of this chapter, slopes shall be divided and delineated into the following two categories:
 - (1) Moderately steep slopes: those areas of land where the grade is 15% to 24.9%.⁴⁶
 - (2) Very steep slopes: those areas of land where the grade is 25% or greater.
- B. Slope shall be measured as the change in elevation over the horizontal distance between consecutive contour lines. For the purposes of this chapter, slope shall be measured over three or more two-foot contour intervals (six cumulative vertical feet of slope).

§ 274-24. Resource protection standards.

- A. Steep slope areas shall be preserved in their natural state. Disturbance shall be kept to a minimum and in no case shall exceed the following permitted disturbance allowances:
 - (1) Moderately steep slopes. No more than 50% of moderately steep slopes shall be regraded, cleared, built upon, or otherwise altered or disturbed. The maximum impervious surface coverage shall be 15%.
 - (2) Very steep slopes. No more than 15% of very steep slopes shall be regraded, cleared, built upon, or otherwise altered or disturbed. The maximum impervious surface coverage shall be 5%. Permitted activities within the 15% disturbance on very steep slopes shall be limited as follows.
[Amended 6-2-2008 by Ord. No. 384-08⁴⁷]
- B. Forestry (timber harvesting) is prohibited, except when conducted in compliance with a required timber harvesting plan in conformance with Article VII of this chapter.⁴⁸

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

47. Editor's Note: This ordinance also repealed original § 25(b), regarding grading for driveways and utility lines, which immediately followed this subsection.

- C. Clear-cutting of trees is prohibited on slopes greater than 15%.
- D. There shall be no grading or filling on very steep slopes within 100 feet of any stream, wetland, lake, or pond, except to protect the stream bank or shoreline and prevent erosion.
- E. There shall be no storage of toxic materials, including petroleum-based products, within 75 feet of the top of slope in steep slope areas.
- F. Mineral extraction and the removal of topsoil are prohibited on very steep slopes.
- G. On-lot sanitary disposal systems are prohibited on very steep slopes.
- H. Emergency vehicle access roads may be permitted on moderately steep slopes. Such design shall be subject to review by the Township Engineer, Fire Marshal or their designee.

§ 274-25. Erosion control standards.

- A. Where permitted, each building or structure shall be constructed in such a manner as to provide the least disturbance necessary of the existing grade and natural soils condition.
- B. Where a disturbance is proposed, a grading plan shall be provided identifying the existing contours of the site, proposed finished grades, and the proposed location of all buildings and structures.
- C. Any disturbance of land shall be in compliance with the erosion and sedimentation control and soil stabilization standards in § 400-56, Erosion and sedimentation control, of Chapter 400, Subdivision and Land Development, § 388-15, Erosion and sediment control, of Chapter 388, Stormwater Management, and any other applicable regulations.
- D. No topsoil shall be removed from a site unless a sufficient amount is retained to provide at least six inches of topsoil cover over all of the site's exposed earth surfaces. Topsoil removed by grading operations shall be redistributed and stabilized as quickly as possible following the completion of a project or project phase.

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

ARTICLE VII
Forestry

§ 274-26. Timber harvesting plan.

- A. Timber harvesting, when permitted, shall be in compliance with a timber harvesting plan.
- B. Timber harvesting shall be conducted in such a manner as to provide the least disturbance necessary to the existing woodland.
- C. Timber harvesting that would threaten the growth of remaining trees shall be avoided.
- D. Woodlands and other natural vegetation that remain interconnected with abutting woodlands or wooded areas of adjacent properties should be preserved to maintain continuous woodland corridors and allow for the normal movement, dispersion, and migration of wildlife. The applicant shall, within the timber management plan, justify the necessity of separating or dividing woodlands or extensive habitat areas, especially woodlands exceeding 10 acres in area.
- E. No accumulation of slash shall be left within 50 feet of any public roadway.
- F. Felling or skidding on or across any public road is prohibited without the express written consent of the Township or the Pennsylvania Department of Transportation, whichever is responsible for the maintenance of such roads.
- G. Skid trails, log yards, and other sites, where the operation of harvesting machinery results in the exposure of soil, shall be left in a condition suitable for natural reforestation and in a condition that will not promote soil erosion.
- H. A Pennsylvania-certified forester or other certified professional approved by the Township shall clearly mark all trees, six inches or greater dbh, that are to be harvested.
- I. Tree removal shall not create single clear-cut openings greater than 5,000 square feet in the forest canopy. Where such openings exceed 2,500 square feet, they shall be at least 100 feet apart. Such clear-cut openings shall be included in the calculation of total volume removal.
- J. When the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be reforested in accordance with the requirements of Article IX of this chapter.
- K. Cleared openings legally in existence on the effective date of this chapter (October 2, 2006) may be maintained but shall not be enlarged, except as permitted by this chapter. **[Amended 6-2-2014 by Ord. No. 422-14]**
- L. Litter resulting from a timber harvesting operation shall be removed from the site before vacated by the operator.

ARTICLE VIII
Woodlands and Wooded Lots

§ 274-27. Purpose.

The purpose of this article is to maintain woodland areas and protect mature trees, mitigate the impacts of development by encouraging the establishment of trees and other vegetation, protect natural habitats, control soil erosion and contribute to visual amenities and the character of the community.

§ 274-28. Delineation. [Amended 9-21-2009 by Ord. No. 391-09]

- A. All tree masses, hedgerows, and individual freestanding trees over six inches dbh shall be inventoried on the conservation plan as follows: **[Amended 6-2-2014 by Ord. No. 422-14]**
 - (1) The outermost edge of the canopy (dripline) shall be shown for woodlands, tree masses and hedgerows.
 - (2) The canopy, trunk location, trunk diameter and species shall be noted for all other individual freestanding trees and for all trees on a wooded lot.
 - (3) A calculation shall be provided on the plan indicating whether or not the proposed building lot is a wooded lot and the basis for the calculation (i.e., individual tree counts or the average density of a woodland based upon a one-hundred-foot-by-one-hundred-foot sample area). **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. Parcels or building lots up to two acres in area, exclusive of existing right-of-way, shall be subject to the regulations pertaining to wooded lots.
- C. Parcels that are two acres in area and over, exclusive of existing right-of-way, shall be subject to the regulations pertaining to woodlands; however, tree removal percentage may be calculated individually, as on a wooded lot.
- D. Wooded lots and woodlands shall be so designated regardless of future subdivision or land development, and the requirements of this article shall apply to future tree or woodland disturbance.

§ 274-29. Resource protection standards. [Amended 9-21-2009 by Ord. No. 391-09; 1-15-2018 by Ord. No. 433-18]

Woodland disturbance and the disturbance of trees, including alteration or removal of any hedgerows and clear-cutting, shall be performed in accordance with the standards of this section. Regulations regarding tree protection shall not extend to deadwood, diseased trees or forestry operations conducted in compliance with a timber harvesting plan or to trees within a public right-of-way being removed for public purposes.

- A. Establishment of tree protection zone. All trees, tree masses and their associated vegetation layers located 25 feet away from a building, parking area, swimming pool, stormwater management system or other proposed improvement, and all specimen trees located anywhere on the site, shall be considered within a tree protection zone. These trees shall be protected from damage during construction activities with approved fencing, or other barrier, to the limits of the tree protection zone.
 - (1) The limits of tree protection fencing shall be clearly delineated on the soil erosion and sedimentation control plans. Its installation, prior to earth movement, and its removal, following construction activities, shall be listed in the sequence of construction notes. Details noting placement and materials shall be provided on the plans.

- (2) There shall be no encroachment and/or compaction of soil and roots within the tree protection zone by excavation or trenching, change of grade, or storage of materials, soil, debris or vehicles. Feeder roots shall not be cut closer than 25 feet from tree trunks. The use of geotextiles or boards over a layer of mulch or straw shall be required to protect tree roots from compaction when machinery cannot avoid passing under trees, subject to approval by the Township Engineer or landscape architect.
- (3) Tree protection zone fencing is subject to periodic monitoring by the Township. Any downed fencing shall be replaced immediately.
- (4) Where possible, the applicant is encouraged to retain additional trees that are approved for removal outside of the tree protection zone as "living barriers" to construction vehicles. These trees would be removed after major construction activity has ceased, but before fine grading and finishing.
- B. Clearing of trees for any purpose shall not result in the removal of more than 25% of any existing tree mass, hedgerow or individual freestanding trees, without approval from the Board of Supervisors.
- (1) This twenty-five-percent cap is a maximum amount that applies to any current or future tree or woodland removal. Wooded lots shall remain so designated until such time as the area of the lot is changed. Subject to the requirements of this article, the lot may then be reclassified.
- (2) Where the applicant demonstrates to the satisfaction of the Board of Supervisors that additional tree or woodland removal beyond the permitted twenty-five-percent disturbance allowance is necessary to permit development in accordance with Chapter 455, Zoning, tree replacement shall be provided in accordance with Article IX of this chapter, for the portion of tree removal beyond the twenty-five-percent allowance. **[Amended 12-15-2014 by Ord. No. 424-14]**
- C. Disturbance to woodlands and existing vegetation shall be minimized as follows:
- (1) When disturbance or tree-cutting is to occur in a woodland, an effort shall be made, with consultation from a forester or another qualified professional and the Township Engineer, to retain as much of the woodland as possible, of a size and configuration which would promote its growth and natural regeneration. Where possible, undisturbed woodlands to remain shall interconnect with existing woodlands or wooded areas of adjacent properties to preserve continuous woodland corridors and allow for the natural movement and migration of wildlife and the dispersion of native vegetation.
- (2) Disturbance or removal of vegetation occupying riparian buffer zones, areas of natural resources, and steep slopes shall be undertaken only when necessary and on a limited, selective basis to minimize the adverse impacts of such actions. Such vegetation removal may include removal of diseased, hazardous or invasive plant materials, and minimal disturbance necessary to construct improvements permitted in these sensitive areas.
- (3) All cartways, buildings, driveways and utility easements shall be located in such a manner so as to minimize disturbances to existing vegetation. Developers shall harmonize their plans with the preservation of existing trees. Clearing of woodland to provide for construction access shall be minimized by locating access clearings so as to coincide with ultimate cartway and driveway locations. Otherwise, access clearings should be located such that each clearing serves two or more adjacent lots.
- (4) The applicant shall demonstrate to the satisfaction of the Township that the removal of specimen

vegetation, 36 inches or greater dbh, is essential to permit development in accordance with Chapter 455, Zoning. Where permitted, removal of specimen vegetation shall be kept to a minimum. Replacement shall be in accordance with Article IX.

D. The following tree protection standards are applicable to all types of development and land disturbance activities:

- (1) Grade changes to occur at any location on the property shall not result in an alteration to soil or drainage conditions which would adversely affect existing vegetation to be retained following site disturbance, unless adequate provisions are made to protect such vegetation and its root systems.
- (2) There shall be no storage of toxic materials, including petroleum-based products, within 75 feet of a tree protection zone.
- (3) Trees shall not be used for roping, cables, signs or fencing. Nails and spikes shall not be driven into trees.
- (4) Trees that are to be removed shall not be felled, pushed or pulled into a tree protection zone.
- (5) Tree limbs damaged during construction shall be properly pruned and treated immediately.

ARTICLE IX Tree Replacement

§ 274-30. Applicability. [Amended 12-15-2014 by Ord. No. 424-14]

Tree replacement shall be provided where the applicant demonstrates to the satisfaction of the Board of Supervisors that additional woodland or tree removal beyond the permitted twenty-five-percent disturbance allowance is necessary to permit development in accordance with Chapter 455, Zoning; where trees within the tree protection zone or riparian buffer zone are removed; or where specimen trees are removed from any location on the site.

§ 274-31. Replacement planting.

A. For properties two acres in area or greater, replacement plantings shall be provided at a ratio of:

- (1) One shade tree for each 1,000 square feet of woodland removed beyond the permitted twenty-five-percent disturbance allowance.
- (2) One shade tree for each tree six inches up to 36 inches dbh removed within the tree protection zone during the course of project construction.
- (3) Three additional shade trees for each specimen tree 36 inches or greater dbh removed from any location on the site. This includes trees located within areas to receive improvements and trees subject to the permitted twenty-five-percent disturbance allowances. **[Amended 9-21-2009 by Ord. No. 391-09]**

B. For properties that are less than two acres in area, replacement plantings shall be provided at a ratio of:

- (1) One shade tree for each tree six inches up to 36 inches dbh removed beyond the permitted twenty-five-percent disturbance allowance.
- (2) One shade tree for each tree six inches up to 36 inches dbh removed within the tree protection zone during the course of project construction.
- (3) Three additional shade trees for each specimen tree 36 inches or greater dbh removed from any location on the site. **[Amended 9-21-2009 by Ord. No. 391-09; 12-15-2014 by Ord. No. 424-14]**

C. Replacement planting shall be provided as shade trees, reforestation planting, or any combination thereof, comprised of the following plant types:

- (1) One shade tree of two to 2.5 inches in caliper; or
- (2) Two evergreen or deciduous understory trees or 10 shrubs per required shade tree, for up to 50% of the requirement; or
- (3) Reforestation plantings, in accordance with § 274-32.

D. Shade trees shall be two to 2.5 inches in caliper; evergreen trees shall be eight to 10 feet in height; deciduous understory trees shall be two to 2.5 inches in caliper for single-stemmed trees and eight to 10 feet in height for multi-stemmed trees; and shrubs shall be 24 inches in height. All plants shall conform to the standards contained within § 274-37.

- E. Replacement plantings are in addition to other required plants, such as street tree, buffer or parking lot plantings, etc.
- F. A chart tabulating the number of trees or area of woodland being removed and the number and type of replacement plantings shall be placed on the plans.
- G. Replacement plantings may be placed in any suitable location on the site, including riparian buffer zones, and may be used to enhance other requirements, such as buffering. Replacement plantings should be identified by a symbol or note. Reforestation areas shall be clearly outlined; individual seedlings need not be shown.
- H. In the event that the applicant demonstrates to the satisfaction of the Board of Supervisors that constraints incident to the land itself render it impractical to locate on the lot the required number of replacement plantings, then, at the election of the Board, the applicant shall:
 - (1) Install a portion of the requirement; or
 - (2) Install fewer, larger or more valuable replacement trees.

§ 274-32. Reforestation.

Reforestation is encouraged as an option for replacement planting on those sites large enough to support a minimum reforestation area of 1/2 acre. Reforestation areas should be designed and placed so they will mature into healthy woodlands, with priority given to locations adjacent to existing woodlands, within riparian buffer zones, or where forest creation is desirable.

- A. Reforestation plantings shall conform to the following:
 - (1) Trees shall be container grown, with a minimum height of four to six feet.
 - (2) The trees shall be planted at a rate of 300 trees per acre of reforestation area, with an on-center spacing of 12 feet.
 - (3) The planting mixture shall contain a minimum of 60% native canopy trees and a maximum of 40% understory tree species.
- B. Plant material shall be subject to the quality, selection and placement criteria of § 274-37 and the guarantee of § 274-39.
- C. Planting procedures shall be listed on the plans.
- D. Maintenance and management guidelines shall be provided for reforestation areas, to ensure their continued survival. The property owner, or a homeowners' association, is responsible for long-term care and management of reforestation areas.
- E. Reforestation plans, procedures and management guidelines shall be submitted to the Township landscape architect for review.

ARTICLE X
Landscaped Buffers

§ 274-33. Applicability. [Amended 12-15-2014 by Ord. No. 424-14]

Landscaped buffers shall be provided along the perimeter lot boundaries of all proposed subdivisions and land developments. Buffer plantings are in addition to other required plantings, such as street trees, parking lot and replacement plantings, except as noted herein, although these other plantings may lie within yard areas.

§ 274-34. Buffer types.

- A. The intensity level of buffering shall be determined by adjacent land use, or zoning classification in the case where the adjacent land is vacant.
 - (1) Screen buffers. The purpose of screen buffers is to minimize adverse views between incompatible land uses.
 - (2) Perimeter buffers. The purpose of perimeter buffers is to filter views between complementary land uses.
 - (3) Screen ("S") and perimeter ("P") buffers shall be provided between proposed (PROP) and abutting land uses in accordance with the following chart. Buffer planting shall be provided in accordance with § 274-37.

Figure 2: Buffer Intensity Chart
Existing Abutting Land Use/Zoning District

| Proposed Use | SFR | MFR | MH | INS | COM | IND | AG/R | ROW |
|-------------------------|------------|------------|-----------|------------|------------|------------|-------------|------------|
| SFD | P | P | P | P | P | P | P | P |
| MFD | S | P | P | P | P | P | S | P |
| MH | S | S | P | S | P | P | S | S |
| INS | S | S | S | P | P | P | S | P |
| COM | S | S | S | S | P | P | S | P |
| IND | S | S | S | S | S | P | S | S |
| REC | P | P | P | P | P | P | P | P |

- B. Key to land uses:

"SFR" indicates any type of existing single-family residential land use.

"MFR" indicates any type of existing multifamily residential land use.

"SFD" indicates proposed single-family residential developments of greater than or equal to five dwelling units.

"MFD" indicates proposed multifamily residential developments of greater than or equal to five dwelling units.

"MH" indicates mobile home land use.

"INS" indicates any type of institutional land use.

"COM" indicates commercial and office land uses outside of the Village of Berwyn.

"IND" indicates industrial land uses.

"AG/R" indicates agriculture, conservation or recreational land uses.

"ROW" indicates buffering required against all existing street lines or cartways.

"REC" indicates recreational land uses.

§ 274-35. General buffer requirements.

- A. Buffers may occur within any yard area, including the front yard, when applicable. Buffers shall be comprised of a variety of plant material, in accordance with § 274-41. Earthen berms shall also be included, where topographically feasible and where such berms will not increase runoff or cause water to flow onto an adjacent landowner's property.
- B. If a reduction in buffer width is granted pursuant to an application before the Zoning Hearing Board, the proposed buffer shall meet the functional requirements of this article. This may necessitate the provision of additional screening elements, such as fences or evergreen shrubs.

ARTICLE XI

Landscaping

§ 274-36. Applicability.

The requirements of this article shall apply to all proposed subdivisions, land developments or lot improvements regulated by Chapter 455, Zoning. The requirements and standards prescribed herein shall be considered the minimum requirements and standards for all landscape plans. All portions of a property not covered by buildings or paved surfaces shall be landscaped utilizing combinations of existing vegetation, trees, shrubs, lawns, ground cover and mulch in accordance with this article. Landscaping and its maintenance should help preserve the resources of Easttown Township by utilizing such methods as specifying native plants, xeriscaping (using drought-tolerant plants), using drip irrigation systems and sustainable materials.

§ 274-37. General landscape provisions.

All proposed landscape material shall conform to the following standards:

- A. Nursery-grown plant material shall conform to those listed in the "American Standard for Nursery Stock," ANSI Z60.1, current edition, published by the American Nursery and Landscape Association (ANLA).
 - (1) Deciduous trees shall have a minimum caliper of three to 3.5 inches, measured at a point six inches above finished grade.
 - (2) Single-stemmed ornamental and understory trees shall have a minimum caliper of two inches, measured at a point six inches above finished grade, and a minimum height of eight feet. Multi-stemmed trees shall have a minimum height of eight feet. Multiple-stemmed trees should be identified as such in the plant list and shall be counted as one tree.
 - (3) Evergreen trees shall have a minimum height of eight feet.
 - (4) Shrubs utilized for buffering and screening purposes shall be a minimum of 24 inches in height.
 - (5) Shrubs proposed in other areas of the site, including parking lot islands and foundation plantings, shall be a minimum of 18 inches in height or spread, depending on normal growth characteristics of the species.
 - (6) Ground covers, perennials and annuals shall be appropriate to type.
- B. Plant materials selected shall be suitable to the site's microclimate, be appropriate for the intended function, be proportional to site features, reflect natural landscape characteristics existing prior to site disturbance, promote diverse natural plant associations and minimize the amount of maintenance required. To promote diversity, no more than 30% of any plant type (e.g., trees, shrubs) shall be of one species. Requirements for minimum percentages of native plant material are included within each section herein.
- C. Plants that interfere with the function of utilities, compromise safety, obstruct views in clear sight triangles, are easily susceptible to disease or pest infestations, or are aggressively invasive in nature shall be avoided.
- D. Plant materials shall be spaced appropriate to their species and function in the landscape. Trees shall be offset a minimum of 15 feet from overhead utility lines, light poles, traffic signs and fire hydrants,

10 feet from underground utility lines and, where possible, five feet from sidewalks and driveways.

§ 274-38. Plan requirements.

- A. Landscape plans shall be submitted at the time of preliminary and final plan applications and shall contain the following information:
- (1) The signature and seal of the registered landscape architect who prepared the plans.
 - (2) Approximate finished grades and drainage patterns of topography after project construction.
 - (3) Description of existing vegetation conditions on the lot and measures to be taken to protect such vegetation during and following construction, as described in § 274-29 of this chapter.
[Amended 12-15-2014 by Ord. No. 424-14]
 - (4) Proposed locations and description of plant materials and other landscape materials or elements to be installed at the project.
 - (5) A plant list, which shall include the quantity, botanical and common names of the plants, their size at installation, and the method of root containment.
 - (6) Charts indicating compliance with the requirements of this article.
 - (7) Standard specifications for installation, including a guarantee note and planting distances from utilities.
 - (8) A note indicating that shrubs shall be placed in continuous mulched beds.
 - (9) Details for landscape installation, including any specialty features.
 - (10) Irrigation system layout and pipe sizing, if applicable.
 - (11) Berm contours, referenced to existing and proposed grades, if applicable.
- B. The landscape design shall reflect the following considerations:
- (1) The definition of spaces within the proposed development, e.g., by creating enclosures, open areas and landmarks. Particular attention shall be given to creating privacy for individual residences by the creative use of plants and structural materials harmonious with the overall architectural theme of the proposed development.
 - (2) The provision of landscaping to help improve human comfort and to serve as a means of energy conservation. Measures to be considered shall include the use of plant materials to reduce the chilling effects of strong prevailing winter winds and to provide shade during the hot summer months.
 - (3) The use of landscape structural materials in the construction of fences, walls and other improvements, which are relatively durable and will not present unusual expense in maintenance or replacement.

§ 274-39. Guarantee and maintenance.

- A. All landscape materials depicted on the approved landscape plan shall be financially secured, guaranteed and maintained for a period of two years following final written acceptance by the

Township. The guarantee shall provide for timely removal and replacement of plantings that do not survive. This guarantee shall be applicable to existing plant material that is contributing to the minimum planting requirements stated herein. The Township at its discretion may require a bond or other similar escrow to enforce the guarantee and require the applicant to pay for the services of the Township landscape architect to monitor and report on that compliance to the Township.

- B. All landscape improvements shall be installed and continuously maintained by accepted practices as recognized by the American Nursery and Landscape Association. Planting and maintenance of vegetation shall include, as appropriate, but not necessarily be limited to provisions for surface mulch, guy wires and stakes, irrigation, fertilization, insect and disease control, pruning, mulching, weeding and watering.

§ 274-40. Credit for existing preserved plant material.

Where preserved, existing trees and shrubs that lie within a required planting area, e.g., in a buffer yard, or along a right-of-way may be credited toward the minimum planting requirement, subject to the following criteria:

- A. The plants must be of reasonable health and character.
- B. Shade trees must be capable of reaching a mature height of 30 feet and width of 15 feet.
- C. Plant material being considered for credit must be located in the area of the required landscape plantings for that improvement (e.g., existing, preserved vegetation within buffer yards may be credited toward that landscape requirement. However, any existing trees in excess of the buffer requirement may not be credited toward interior parking lot planting because they do not lie within the parking lot area).
- D. Vegetation shall be considered preserved when the plans provide for a minimum of 75% of the ground area within the dripline of the tree to be maintained at the existing grade level and covered in a pervious surface.
- E. Existing plants found to be in poor health or lacking normal growth habits during the two-year guarantee period shall be replaced with nursery-grown plant material, capable of meeting the minimum requirements toward which the existing material was credited. Plants with 50% or more dead vegetation or wood are considered dead and require replacement. Replacement plants are subject to the two-year guarantee. A note to this effect shall be placed on the plans.

§ 274-41. Buffer planting.

Buffer yards shall be provided as required in § 274-34 and planted in accordance with the following standards:

- A. The following is the minimum amount of plant material required per 100 linear feet of unvegetated buffer length for each buffer type and plant category. The standard shall be prorated for portions of buffers less than 100 feet in length.
 - (1) Screen buffers: two shade trees; eight evergreen trees; and 25 shrubs.
 - (a) Screen buffers shall be designed to minimize all adverse impacts that the proposed development may have on the adjacent land use.
 - (b) Screen buffers shall be provided along the right-of-way of the higher street classification

on a reverse frontage lot.⁴⁹

- (2) Perimeter buffers: three shade trees; three evergreen trees; and 15 shrubs.
- (a) The shade tree component may be eliminated along street rights-of-way, subject to the street tree planting requirement.
 - (b) The evergreen tree requirement may be eliminated along rights-of-way in the PBO, VB, VT and VR Zoning Districts and when parking lot screening, in accordance with § 274-43, is provided. [Amended 8-19-2013 by Ord. No. 417-13]
 - (c) Perimeter buffer plantings may be grouped or clustered to provide views of project identification signs or prominent site features; however, no more than 100 feet shall be permitted between any two plants.⁵⁰
- B. Buffer plantings may be placed anywhere within the required buffer yard, except that no plant may be placed within three feet of a property line. Naturalistic placement and vertical layering of plant material is encouraged. Buffers shall be designed to complement and integrate with existing buffer plantings and natural areas on adjacent properties. Buffer plantings may be increased at the discretion of the landowner of the proposed development.
- C. Preserved, existing plant material may be counted toward satisfying the minimum buffer requirements for that portion of the buffer in which they are present. The quantity of required buffer plants shall not be reduced by the quantity of existing plants within the vegetated length of the buffer. To be considered as buffer material, the existing vegetation must be of reasonable health and character, woody, noninvasive, and collectively able to meet the desired buffer intensity level. Supplemental plant material shall be required where the existing vegetation is lacking. For example, if the existing vegetation is comprised of deciduous trees and shrubs, then the evergreen tree element must be provided.
- D. A minimum of 60% of the required buffer plant material shall be native to the region.
- E. To encourage diversity in design, and to accommodate changes in availability of plant material, shade trees may be substituted at the rate of two ornamental or understory trees per shade tree, for up to 50% of the shade tree requirement.
- F. Shrubs shall consist of a mixture of evergreen and deciduous types, according to site conditions. Shrub plantings that provide a mixture of mature heights and four seasons of interest are encouraged. Shrubs shall be clustered and placed in continuous mulched beds.
- G. Earthen berms shall be provided as an integral component of buffers, where topographic conditions permit their construction. Other nonvegetative elements, such as fences, walls and garden features, as determined by the Township landscape architect, may be used in conjunction with required plantings and berms to enhance the buffer's functionality or to improve the site's security or aesthetics. Nonvegetative elements shall comply with the following requirements:
- (1) They shall not impede stormwater runoff, nor divert it off site, nor interfere with natural drainage patterns.

49. Editor's Note: Former Subsection A(1)(c), Example, which immediately followed this section, was repealed 12-15-2014 by Ord. No. 424-14.

50. Editor's Note: Former Subsection A(2)(d), Example, which immediately followed this section, was repealed 12-15-2014 by Ord. No. 424-14.

- (2) They shall be placed outside of clear sight triangles and shall not impair the function of utilities.
 - (3) Earthen berms shall average from three to five feet in height, with side slopes not exceeding 25%. They shall be placed in a manner that is complementary to the surrounding environment, generally undulating within the buffer width.
- H. If walls or fences are placed along the property line, the finished side shall face outward. Gates may be needed to facilitate maintenance or access. If these features are set within the buffer yard, plant material should be placed on both sides to break up their linear appearance.
 - I. Landscape features, such as gazebos, flagpoles or water features, may be placed within the buffer yards, so long as the intensity of screening is not compromised by these features.
 - J. The remainder of the buffer area shall be covered with grass, ground covers, mulch or other pervious surfaces suitable to the level of anticipated stormwater runoff and appropriate erosion control.
 - K. Plant material shall conform to the standards of § 274-37. Plant material that may become a nuisance to neighboring properties or that will threaten the ecological balance of adjacent woodlands and natural areas shall be avoided.
 - L. All elements within buffer areas are to be perpetually, continually and regularly maintained by the property owner. A note to this effect shall be placed on the plans.

§ 274-42. Street trees.

- A. Street trees shall be provided along existing and proposed streets and driveways as follows:
 - (1) Along both sides of all proposed public and private streets that lie within any proposed subdivision or land development;
 - (2) Along any existing street right-of-way line that abuts the site, including streets proposed for extension or widening into the site;
 - (3) Along access driveways serving five or more residential units or two or more nonresidential properties.
- B. Street trees are in addition to other required plantings, such as screen buffer, parking lot and compensatory plantings.
- C. Street trees shall be provided at a ratio of at least one tree per 50 linear feet, or fraction thereof, of right-of-way line or cartway edge. In the case of cul-de-sac streets, the measurement is taken around the outside of the bulb. The widths of driveway cuts shall not be excluded from the total measurement.
- D. The trees may be arranged either formally or informally, as best suits the character of the development and the surrounding streetscape.
 - (1) In a formal arrangement, the trees shall be arranged so they are relatively evenly spaced. They shall be staggered on opposite sides of the street, so that a tree is located approximately every 25 linear feet, as measured along the center line of the street.
 - (2) In an informal arrangement, the trees may be clustered in groups along the length of the right-of-way. The groupings should be staggered on opposite sides of the street, so that the entire street may benefit from their shade. The setback distance from the right-of-way line should be

staggered from two feet to 10 feet. Trees within the clusters should be spaced no closer than 20 feet apart, to allow for canopy development. The maximum distance between clusters of street trees on the same side of the street shall be no greater than 100 feet.

- (3) Other alternate arrangements, meeting the intent of this chapter, may be approved by the Board of Supervisors in appropriate consultation with the Planning Commission.
- E. The trees shall be placed a minimum of two feet outside of the existing or proposed right-of-way line. Where a right-of-way line is not proposed, the trees shall be placed a minimum of five feet away from the edge of the cartway. Street trees shall not be placed within clear sight triangles. See Article XII of this chapter for additional planting requirements for street trees within the Village of Berwyn District.
- F. Street trees shall be limbed up to a height of six feet above grade. This shall be noted on the plant list and in the planting notes or specifications.
- G. Plant material shall conform to the standards of § 274-37.
- H. To control problems associated with monoculture, a variety of trees shall be used in each street tree planting. Generally, no more than 20 trees of a single species should be placed in a planting arrangement. Changes in species should occur at street intersections, changes in horizontal alignment, or at natural interruptions, such as a stream crossing. Fifty percent of the proposed street tree species shall be native to the region. Tree species that are tolerant of pollution, salt and soil compaction are preferable. Long-lived tree species and those that do not drop nuisance or hazardous fruits and seedpods are preferable.
- I. When existing preserved trees are utilized to satisfy part of the street tree requirement, the total length of right-of-way or cartway subject to calculation may be reduced by the length of right-of-way containing existing trees meeting these requirements. The quantity of required street trees shall not be reduced by the quantity of existing trees within the vegetated length of right-of-way.

§ 274-43. Parking areas.

All parking lots and vehicle storage areas accommodating five or more vehicles shall be designed and effectively landscaped with trees and shrubs to provide shade, mitigate the temperatures of paved areas and break up large expanses of pavement, in accordance with the following:

- A. Landscaped areas totaling not less than 10% of the area within the proposed parking lot shall be provided as raised planting islands and be continually maintained. The area within the proposed parking lot shall be defined to include access aisles, landscape islands and parking spaces or storage areas suitable for parking. Driveways, stacking lanes for drive-through businesses and gasoline service areas, where no parking is proposed, shall not be included in this calculation. Perimeter planting strips shall not be considered as part of the required interior parking lot landscaping; however, planting islands abutting the perimeter of the parking lot shall be considered.
- B. A raised planting island, a minimum of 10 feet in width and the length of the parking stall, shall be spaced not more than every 15 parking stalls and at the ends of rows of parking stalls. Interior islands shall be placed opposite each other in adjacent rows of parking to reduce the number of raised islands and to increase the area available for tree roots.
- C. Additional raised planting islands shall be provided as necessary to guide vehicle movement, to separate rows or parking spaces, and to provide adequate space for plant growth, pedestrian circulation, and vehicle overhang. Curbs of such islands shall be designed so as to facilitate surface

drainage.

- D. Shade trees shall be provided within the required islands and adjacent to the parking lot or vehicle storage area at a ratio of one tree per 10 parking spaces. When adjacent to parking stalls and pedestrian use areas, the trees shall be limbed up to a height of six feet above grade. This shall be noted on the plant list and in the planting notes or specifications.
- E. A minimum of 30% of the proposed shade trees shall be native to the region.
- F. To encourage diversity in design, and to accommodate changes in availability of plant material, shade trees may be substituted at the rate of two ornamental or understory trees per shade tree, for up to 50% of the shade tree requirement.
- G. At least 50% of the total planting island area shall be covered by mulched planting beds, containing a variety of shrubs and ground cover plantings. The remaining area within the planting islands may be covered by lawn grass. Unplanted mulch beds are not permitted.
- H. The plantings within the islands, where clear visibility must be maintained, shall grow lower than, or be maintained at, a maximum height of 30 inches. A note to this effect shall be placed on the plans. Plantings in divider islands or along the perimeter, where visibility is not compromised, may grow taller.
- I. Plant material shall conform to the standards of § 274-37. They are encouraged to be of species resistant to road deicing salts.
- J. Parking lot plantings are in addition to other plantings required by this chapter. Where it can be demonstrated that proposed buffer plantings, required by § 274-41 of this article, will screen proposed parking lots to the standards of this section, this requirement may be partially or completely waived by the Board of Supervisors.
- K. Except within the Village Business District (VB), Village Transition District (VT) and Village Residential District (VR), the following regulations shall apply: **[Amended 8-19-2013 by Ord. No. 417-13]**
 - (1) The perimeter of parking areas, including access drives and stacking lanes for drive-through businesses and gasoline service, shall be landscaped to soften the feature's appearance, in accordance with the following:
 - (a) A planting strip a minimum of 10 feet in width shall be provided around the perimeter of these features. When the feature abuts a buffer yard required by Chapter 455, Zoning, and where the proposed buffer yard plantings are sufficient to meet the criteria of this section, additional plantings are not required. This should be noted on the plan.
 - (b) The planting strip may contain a variety of plant material capable of providing a continuous screen at a minimum height of 24 inches.
 - (c) The plant material shall be placed a minimum of two feet from the edge of pavement to allow for vehicle overhang and door opening. Required plantings shall be set far enough away from the edge of pavement in areas anticipated for snow removal storage to avoid crushing the plants.
 - (d) Earthen berms may be a component of the perimeter planting strip but shall not reduce the plant material requirement.

L. Parking lot screening and greening standards in the VB, VT and VR Districts. In the Village of Berwyn Districts (VB, VT and VR), all parking and loading areas fronting public streets or sidewalks and all parking and loading areas abutting residential districts or uses should abide by the following standards: **[Amended 8-19-2013 by Ord. No. 417-13]**

- (1) A landscaped area should be provided, consisting of an area at least six feet wide located behind the sidewalk.
- (2) Screening provided for parking and loading areas along public streets and sidewalks should be composed of fences, railings, solid walls, vegetated hedges, or a combination thereof, according to the following standards:
 - (a) Fences and railings should be a minimum of 30 inches and a maximum of 42 inches in height.
 - (b) Fences and railings shall be constructed of metal with a black powder coat finish. Plastic, wood, galvanized steel, chain link, and razor wire are prohibited.
 - (c) Fencing and railing should be a minimum of 70% open.
 - (d) Solid walls should be a minimum of 18 inches and a maximum of 32 inches in height.
 - (e) Walls shall be constructed of brick or stone.
 - (f) Vegetated hedges should be no less than 80% open in the winter months and no more than 32 inches in height.
- (3) Screening provided for parking and loading areas abutting residential districts or uses should be composed of fences, railings, solid walls, vegetated hedges, or a combination thereof, according to the following standards:
 - (a) Fences and railings should be a minimum of 30 inches. Fences used for screening may be constructed of solid materials and be a maximum of six feet in height.
 - (b) Fences and railings may be constructed of metal, plastic, vinyl, or wood. Galvanized steel, chain link, and razor wire are prohibited.
 - (c) Solid walls should be a minimum of 18 inches and a maximum of 32 inches in height.
 - (d) Walls shall be constructed of brick or stone.
 - (e) Vegetated hedges should be no less than 80% open in the winter months and no more than 32 inches in height.
- (4) One tree should be provided for each 25 linear feet of parking lot frontage.

§ 274-44. Loading and storage areas; site element screening.

Views of all loading areas, equipment and storage areas or yards, and utilitarian site elements shall be screened or lessened to the greatest extent possible, especially when such areas are proposed within 100 feet of residential properties or face public rights-of-way or patron parking areas.

- A. The portions of loading areas that are not enclosed within buildings shall be screened by fences, walls, architectural elements and/or evergreen plantings to a minimum height of 10 feet.

- B. The vehicular use or open end of loading areas shall be screened from public view as close to the edge of pavement as practicable by fences, walls or architectural elements at a minimum height of six feet and/or evergreen plantings provided at a minimum height of 10 feet at planting.
- C. Site element screens, providing a year-round visual screen, shall be placed around the perimeter of all other utilitarian areas, such as equipment and storage areas or yards, community recreational vehicle parking lots, and the nonaccessible sides of trash enclosures, utility boxes and recreational vehicle storage areas on private property, subject to the following requirements:
 - (1) Site element screens shall be comprised of:
 - (a) Opaque architectural elements, walls or fences, a minimum of six feet in height, softened by plantings; or
 - (b) Evergreen and dense deciduous plant material, capable of reaching a minimum height of six feet and 75% opacity within one year following planting; or
 - (c) Other suitable screening materials, meeting these criteria, with approval from the Board of Supervisors.
 - (2) Screens shall be placed as close to the element being screened as practicable.
 - (3) Screens surrounding fenced equipment or storage yards shall also contain one shade tree per 50 feet, or fraction thereof, of perimeter fencing.
- D. Plant material shall conform to the standards of § 274-37.
- E. Where it can be demonstrated that proposed buffer plantings, required by § 274-41 of this article, will adequately screen these areas, this requirement may be partially or completely waived by the Board of Supervisors.

§ 274-45. Stormwater management areas.

Plantings and fencing shall be provided around all stormwater management areas and structures to soften views of these features and visually unite them with the natural or proposed landscape, while providing sufficient access for maintenance, in accordance with the following:

- A. Naturalistic groupings of a mixed variety of plantings, conforming to the standards of § 274-41A(2), Perimeter buffers, shall be provided along the visible edges of basins, berms and outflow structures as appropriate to the type and/or construction of such features.
- B. Trees and woody plant materials shall not be located on a constructed or natural berm acting as the impoundment structure of a detention/retention basin. Trees shall be located on the downstream side of an impoundment berm a sufficient distance from the toe of the constructed slope to assure that the toe of the slope is outside the dripline of the species planted at maturity.
- C. Where possible, outflow structures should be softened by shrubs or perennial plantings.
- D. Low-maintenance, water purifying, meadow plantings shall be used on the basin floor and, at a minimum, along the inside slopes of the basin. The seed mixture shall contain species appropriate to the anticipated soil moisture content. Additional meadow plantings are encouraged along the outside slopes of proposed basins, especially when such features are proposed adjacent to other natural environmental systems.

E. Basins, which have the potential to retain a minimum of 18 inches of water at any given time, shall be completely surrounded by fencing, at least 3 1/2 feet in height, in conjunction with the required plantings. Gates shall be provided at appropriate locations that are large enough to accommodate maintenance vehicle access.

§ 274-46. Unit landscaping.

Foundation plantings shall be provided to soften the architectural facade of each proposed or expanded commercial, industrial, institutional, or apartment building, in accordance with the following:

A. Plants shall be provided in the quantities shown below and placed along the sides of the building intended for occupant, public or customer use:

(1) For each four dwelling units in an apartment building or continuing care facility:

- (a) One deciduous tree.
- (b) One evergreen tree.
- (c) Twelve shrubs.

(2) For each 100 linear feet of wall on commercial or industrial buildings:

- (a) One deciduous tree.
- (b) Two evergreen trees.
- (c) Five shrubs.

(3) For each 100 linear feet of wall of institutional buildings or building expansion:

- (a) Five deciduous trees.
- (b) Two evergreen trees.
- (c) Twenty-five shrubs.

B. Plants are encouraged to be placed near the buildings or between buildings to create a setting for the building, along blank walls, and in locations where additional landscaping is needed.

C. Compliance with this section shall be tabulated in a chart, placed on the plans.

D. Plant material shall conform to the standards of § 274-37.

ARTICLE XII
Village of Berwyn Streetscape Design Standards
[Amended 8-19-2013 by Ord. No. 417-13]

§ 274-47. Streetscape design standards.

The design and planting of streetscapes within the Village Business District (VB), Village Transition District (VT), and Village Residential District (VR) should take into consideration the scale of the space, in accordance with the following guidelines. These guidelines will apply to both sides of the street in areas where a district boundary is coincident with a street center line.

A. Paving and sidewalks.

- (1) Sidewalks should conform to the specifications enumerated herein. In instances where existing conditions dictate alternative specifications (i.e., where space limitations inhibit strict conformance with the dimensional requirements of the design specifications), the essence of the overall streetscape design should be maintained. Alternative specifications should be approved by the Board of Supervisors.
 - (a) Sidewalk Specification 1: Lancaster Avenue within the Village Business District (VB). Sidewalks shall be constructed to include two bands. (See Figure 1.) **[Amended 1-15-2018 by Ord. No. 433-18]**
 - [1] Curbside: six-foot brick paver at curb (minimum of three feet where six feet is not practical). This area is to provide space for trees, lighting poles, fire hydrants, signage, and other obstructions. Brick pavers should be arranged in a herringbone pattern and be constructed of E.P. Henry Brick Stone Autumn Blend (source: www.ephenny.com) or equivalent, subject to approval by the Board of Supervisors. Street trees should be planted generally 25 feet to 30 feet apart in the center depending on the species and reach of canopy. The intent is to provide a continuous canopy along the street.
 - [2] Pedestrianway: six-foot clear concrete walking area (minimum width of four feet where six feet is not practical); should be constructed of scored concrete sections (each section measuring 2.0 feet by 2.0 feet square; see Figure 1).
 - (b) Sidewalk Specification 2: All streets within the Village Business District (VB) not subject to the requirements of Subsection A(1)(a) herein, all streets within the Village Transition District (VT) and all streets within the Village Residential District (VR). Sidewalks shall consist of a five-foot clear pedestrian way (minimum of four feet where five feet is not practical) constructed of scored concrete sections (each section measuring 2.5 feet by 2.5 feet square for five-foot-wide sidewalks, or 2.0 feet by 2.0 feet square for four-foot-wide sidewalks; see Figure 2). **[Amended 1-15-2018 by Ord. No. 433-18]**

Figure 1
Sidewalk Specification 1

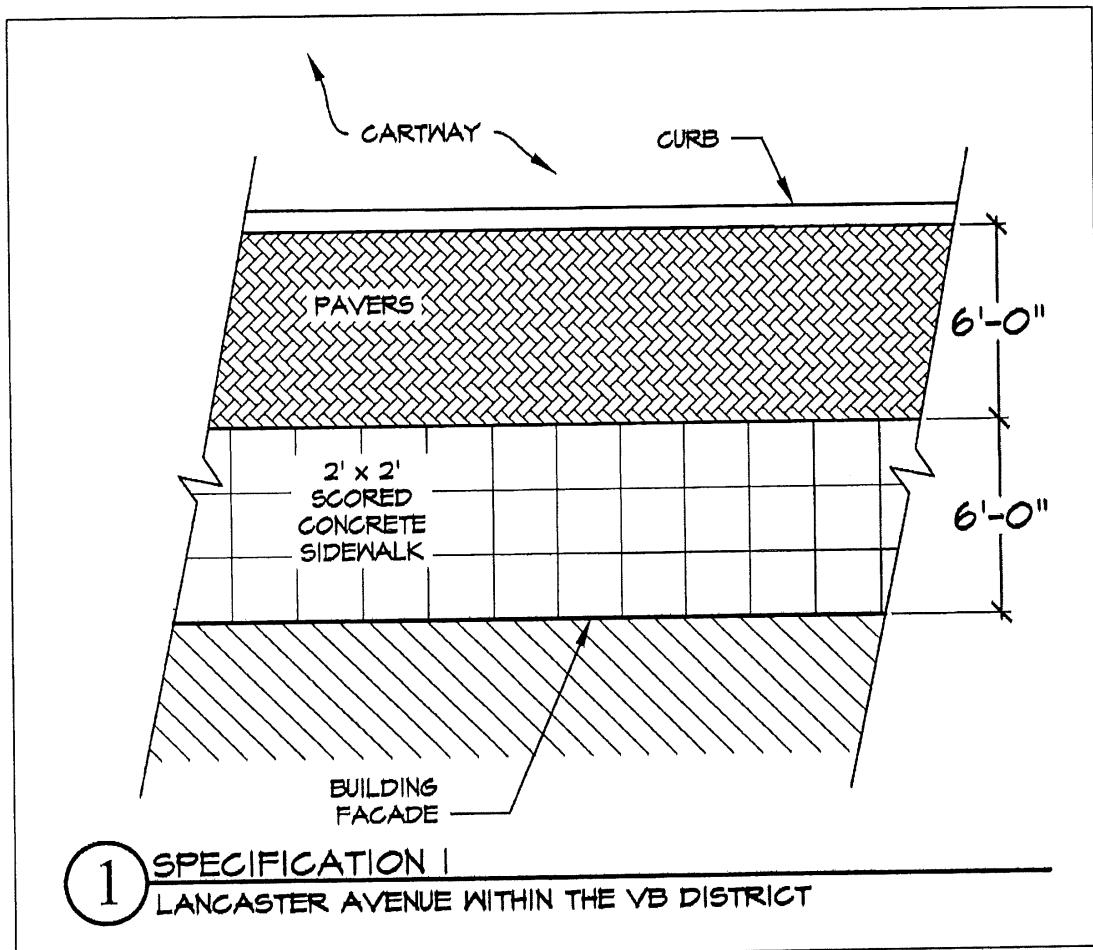
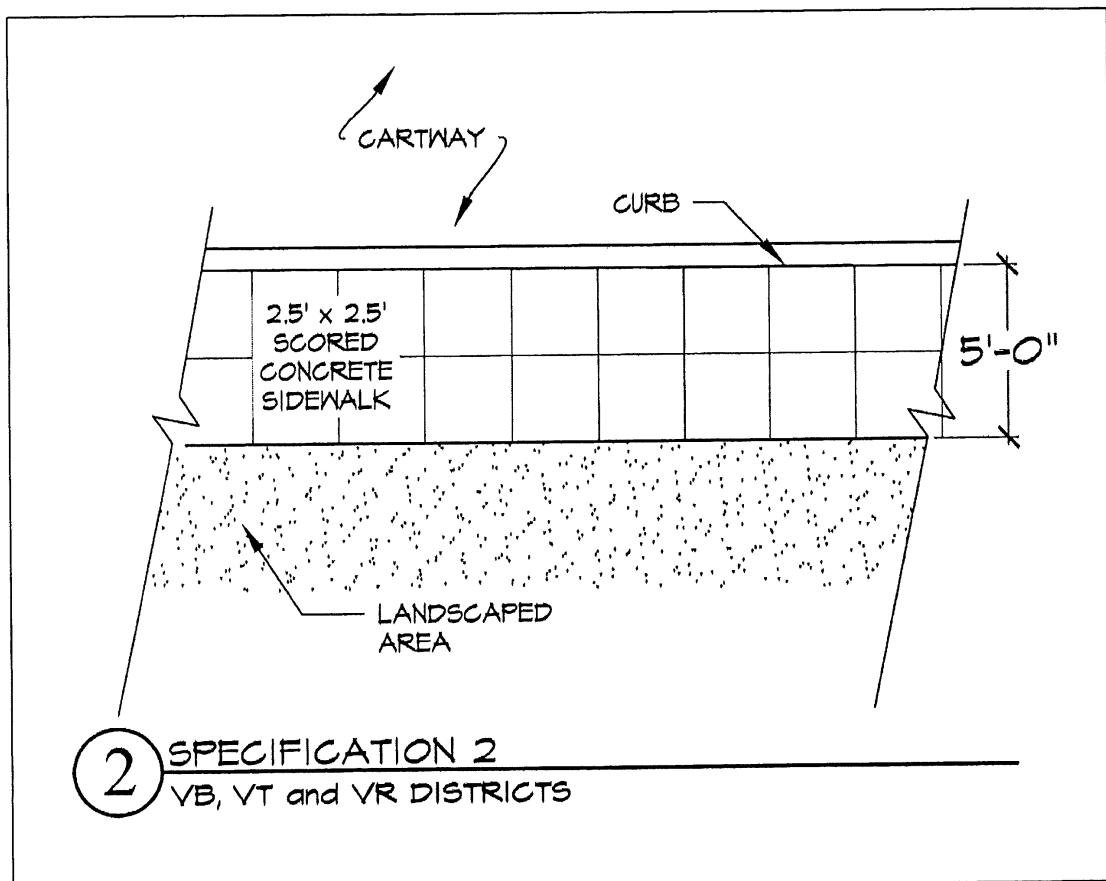


Figure 2
Sidewalk Specification 2



- (2) All paving materials should be ADA compliant.
- (3) Paving should be designed to avoid uneven edges resulting from heaving and subsiding and drainage and erosion problems.
- (4) Pavement materials resistant to deicing salts should be used.
- (5) Sidewalks should be provided to connect bus stop areas with commercial and office properties.

B. Lighting.

- (1) The Hadco Hagerstown (T03) fixture is the approved lighting standard for streets in the Village Business District (VB) and Village Transition District (VT). See the manufacturer's specification sheet, which is on file in the Township offices, for detailed specifications. [Amended 6-2-2014 by Ord. No. 422-14]
- (2) Banners and holiday lighting may be permitted on light poles.
- (3) Lighting shall conform to the requirements of § 455-39 of Chapter 455, Zoning. [Amended 1-15-2018 by Ord. No. 433-18]

C. Site furnishings (VB District only).

- (1) Site furniture, including, but not limited to, benches, kiosks, gazebos, outdoor dining furniture, and litter receptacles, should be provided.
- (2) Site furniture shall be reviewed and approved by the Board of Supervisors. Specifications are provided for benches and litter receptacles as follows:
 - (a) Bench. Framers Modern Series, Model FB-324, six-foot length, black powder coat finish with mahogany wood. Source: Victor Stanley, Inc., 800-368-2573, www.victorstanley.com.

Figure 3
Bench



- (b) Litter receptacle. Production Series, Model PRS-36, black powder coat finish. Source: Victor Stanley, Inc., 800-368-2573, www.victorstanley.com.

Figure 4
Litter Receptacle



- (3) Site furnishings should be of a scale and placement where appropriate to use, e.g., benches should be placed in areas where people might congregate, or near building entrances and bus stops, and in sufficient quantity for the anticipated use level.
- (4) Site furnishings should be firmly anchored to the pavement surface, or embedded in a concrete footing, for stability.

D. Fencing (VB, VT, and VR Districts).

- (1) Fencing may be installed to define pedestrian space, courtyards, and to screen separate uses.
- (2) Solid fencing utilized for the purpose of screening views may be subject to additional requirements of § 455-36 of Chapter 455, Zoning.

E. Street trees (VB, VT, and VR Districts).

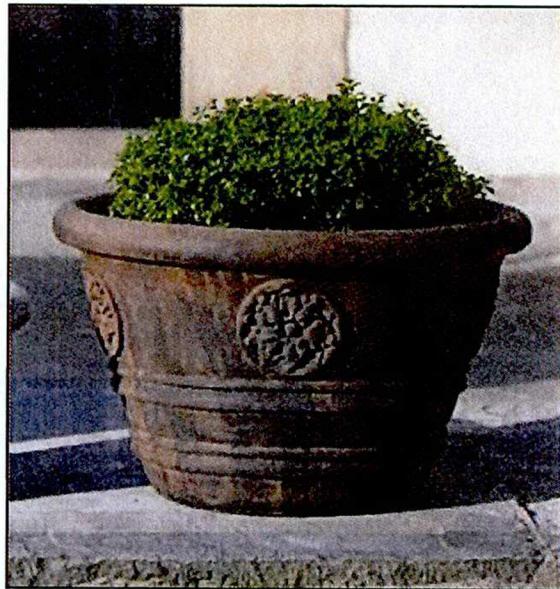
- (1) Street trees, as required by § 274-42, should be provided in planting pits with an expanded root zone area, such as is provided by continuous trenches beneath sidewalk pavement.
- (2) Additional systems should be utilized to ensure the provision of adequate air and water exchange areas, such as is provided by structural soil and/or piping.
- (3) The soil in the planting pits should be protected from excessive compaction. This may be accomplished through the use of tree grates, porous pavement, physical barriers, such as fencing or bollards, and ground cover plantings.
- (4) If utilized, tree grates should be expandable and vandal-resistant.

- (5) The expanded planting pit systems should be designed to avoid uneven pavement edges at changes in materials. They should be designed to minimize heaving and subsidence.

F. Planters (VB District only).

- (1) The provision of planters is encouraged.
- (2) Planters may be pots, urns, or boxes, placed at ground level, in windowsills, or provided as hanging baskets. The bottoms of hanging baskets should be at least eight feet above the pavement surface, to provide for pedestrian clearance and clear visibility.
- (3) The preferred specifications for planters placed at ground level are as follows: planter should be a round, rolled-rim, tapered pot with one or more body rolls, with drainage holes, manufactured from cast stone, polyresin plastic, or other suitable material. Plastic models should be anti-shock, crackproof, and UV fade-resistant with a deep rolled rim as reinforcement. Pots should be modeled in the Campania style in the following options:
 - (a) Size:
 - [1] Twenty-four-inch diameter by seventeen-and-one-half-inch height.
 - [2] Twenty-six-inch diameter by twenty-two-inch height.
 - [3] Thirty-one-inch diameter by twenty-four-inch height.
 - (b) Color: weathered stone.
 - (c) Additional design detail: round medallion.
- (4) All planters should be located to avoid conflicts with pedestrians, vehicular passage and access to parking lots, drainage flow, and the ability to open doors of vehicles parked in on-street parking spaces.

Figure 5
Planter



G. General provisions.

- (1) All street furnishings should be located to avoid conflicts with pedestrians, vehicular passage and access to parking lots, drainage flow, and the ability to open doors of vehicles parked in on-street parking spaces.
- (2) A detail sheet should be provided, listing manufacturer and specifications for each streetscape element. Alternative products with equivalent specifications to those listed herein for lighting, benches, litter receptacles, planters, or other site furnishings may be used should specific products not be available, subject to the review and approval by the Board of Supervisors.
- (3) Maintenance of pavement and street furnishing should be the responsibility of the property owner.
- (4) Any furnishing, structure and/or other improvement which is damaged, destroyed or otherwise nonfunctional should be repaired or replaced within 60 days of receipt of notice from the Township.

ARTICLE XIII
Village of Berwyn Development Design Standards
[Added 8-19-2013 by Ord. No. 417-13]

§ 274-48. Development design standards.

The following development design standards should apply in all Village of Berwyn Districts:

- A. Purpose. The purpose of this section is to establish consistent requirements that promote village design, pedestrian orientation, and the traditional character of the Village of Berwyn. Adherence to these standards will carry out the purposes of the district as set forth in § 455-20 of Chapter 455, Zoning. Principles guiding the administration of these standards are as follows:
 - (1) Buildings should be pedestrian-focused, with windows and doors on the front facades that are well-placed and in scale with the street zone.
 - (2) Emphasis should be provided at prominent locations to buildings:
 - (a) With prominent facades that terminate view lines; or
 - (b) Whose corners are at gateway locations; or
 - (c) That either surround or are surrounded by open space.
 - (3) Active ground-floor uses in buildings containing nonresidential components should have multiple entrances and distinctive entrance treatments. In multitenant buildings, each tenant or use should have its own separate entrance to ensure secure, proper and easy access for pedestrians at street level.
 - (4) Texture and variety of the building aesthetic should be provided through facade articulation and composition of architectural elements.
 - (5) Architectural expression should be provided in windows, doors, walls, and roofs.
 - (6) Pedestrian pathways and sidewalks should be provided that are safe and attractive.
 - (7) Street trees and shade trees should be employed to enhance development.
- B. The following should apply to buildings containing mixed-use or nonresidential uses in the Village Business District and the Village Transition District:
 - (1) Facade articulation. Facade articulation is a series of small setbacks and projections in the overall street wall. Articulation breaks the scale of the building into an aggregate of smaller forms, introduces rhythm, and relates to the human scale, without detracting from the overall sense of a consistent street wall. All projects subject to the land development application process should comply with the following design standards:
 - (a) Main building facade should be designed to emphasize entryways, windows, corners, and vertical elements of the building facade, as well as other special elements.
 - (b) Depth of articulated elements may deviate up to five feet from the build-to line.
 - (2) Facade composition. Facade composition is the arrangement of materials and details to distinguish the components of the building, particularly its base and top. All projects subject to

the land development application process should comply with the following standards:

- (a) Building design should distinguish and emphasize the building's base and top and reinforce the scale of the street for the pedestrian.
 - (b) On corner lots, the facade facing the primary street should be the most prominent.
 - (c) No wall-mounted mechanical or service equipment should be placed on the primary building facade, and such equipment located on nonprimary building facades should be screened from view to the greatest extent feasible.
 - (d) All buildings should use cornices, canopies, balconies, awnings, and other visual devices to articulate the line between the ground level and upper levels.
 - (e) Building mass should be de-emphasized through the use of projecting and recess elements, such as porches, windows, and roof dormers, to reduce the overall bulk and volume, enhance the visual aesthetic, and promote a human-scale development pattern.
- (3) Ground-floor facade. The ground floor is the primary zone of interaction for pedestrians on the street. All projects subject to the land development application process should comply with the following design standards:
- (a) Main building entrances should face the street or public space and be oriented to the primary or dominant street if on a corner lot.
 - (b) For buildings with a facade or tenant space facing both a primary street and a side or rear parking lot, the main entrance should face the primary street. Secondary entrances should face the side or rear parking lot.
 - (c) Building lobbies and retail spaces should be clearly connected to the outdoor public space and visible from the street.
 - (d) For buildings with nonresidential uses on the ground floor, windows must be at street level and allow pedestrians to see activity within the building.
 - (e) For buildings with residential uses on the ground floor, privacy can be achieved by raising windows higher on the building facade, but by no more than half a level above the sidewalk.
- (4) Architectural elements. Architectural elements are the unique details and component parts that, together, form the architectural style of buildings and structures.
- (a) All projects subject to the land development application process should comply with the following standards:
 - [1] Windows and doors on primary building facades.
 - [a] Ground floor of primary front facade should contain between 65% to 70% clear windows and doors.
 - [b] Highly reflective glass, bronze glass, tinted glass, black glass, or smoked glass is prohibited.
 - [c] Windows and door openings on the ground floor of the primary building facade must occur in a ratio of at least 3:1 between openings and solid surfaces.

- [d] Windows above the ground floor of the primary building facade must be clear and occur in a ratio of 1:1 along the horizontal width of the facade to result in a pattern of solid-wall buildings with punched windows.
 - [e] Individual windows in upper stories of the primary front facade should be vertically aligned with the location of windows and doors on the ground level, to the extent feasible.
 - [f] In buildings with nonresidential uses on the ground level, the maximum sill height above the adjacent sidewalk elevation should be two feet or lower.
 - [g] Window heads should be eight feet to 12 feet above sidewalk level.
 - [h] The top of display window(s) in the primary front facade should be at least as high as the door height.
- [2] Windows and doors on secondary building facades. Any building wall with less than 25% of clear windows should be articulated by two or more of the following methods:
- [a] Details in masonry courses.
 - [b] Blank window openings trimmed with frames, sills, and lintels.
 - [c] Where the building is occupied by a commercial use, recessed or projecting window cases.
- [3] Exterior wall materials.
- [a] There should be one dominant material. Dominant materials could include brick, stone, wood, hardiplank, fiber cement siding or approved similar material.
 - [b] The number of secondary materials should be minimized and used above the ground floor. Secondary materials could include stucco, vinyl siding, or any of the dominant materials.
- [4] Roofs.
- [a] Tops of buildings must express the roofline and have either pitched roofs with overhanging eaves or flat roofs with articulated parapets and cornices.
 - [b] Fascias, dormers, and gables or similar architectural features should be employed to provide visual interest.
 - [c] Pitched roofs should have a minimum slope of 4:12.
 - [d] Pitched roof material may include:
 - [i] Slate, either natural or man-made.
 - [ii] Shingle, either wood or asphalt composition.
 - [iii] Metal formed to resemble standing seams or other similar materials.
 - [e] Corrugated plastic or metal roofs are prohibited.

- [f] All rooftop mechanical equipment should be screened visually and acoustically. Such screening should be integrated into the architectural design of the building.
- (b) The Board of Supervisors may approve the use of architectural standards and designs that differ from those set forth in this subsection if the applicant demonstrates to the satisfaction of the Board that such standards and designs are consistent with the legislative intent of this article and of this subsection.
- C. The following specific standards should apply to new residential development or redevelopment activities that are subject to the land development application process in the Village Transition District and the Village Residential District:
- (1) The front facade of the principal building on a lot should face onto a public street.
 - (2) Porches, pent roofs, roof overhangs, hooded front doors, or other similar architectural elements should define the front entrance to new residences.
 - (3) Garages should be set back a minimum of 10 feet from the building line of the primary facade of the principal building. The minimum side and rear yard setback for garages should be 10 feet, unless buildings are attached.
 - (4) Portions of steps, outside stairways, and/or entrance platforms extending beyond the build-to line or into side or rear yard areas should not comprise an area larger than 32 square feet, nor should they be located any closer than three feet from any property line.
- D. Structured parking facilities (parking garages). Structured parking facilities in the Village of Berwyn Districts should abide by the following standards:
- (1) The primary building facade of parking structures should include architectural design elements that emulate pedestrian-scaled residential, commercial or mixed-use buildings. This appearance can be achieved either by integrating structured parking within or behind actual residential, commercial or mixed-use structures, or by the construction of building facades on parking structures that employ the same dominant and secondary building materials included herein for such buildings. Such building materials should include elements that resemble actual windows and be arranged accordingly on the building facade.
 - (2) Vehicles in structured parking facilities should not be visible from the street.
 - (3) Automobile access to parking structures must be gained from an interior driveway or secondary road frontage and not through the primary building facade.
- E. Parking lot screening and greening standards. All parking and loading areas fronting public streets or sidewalks and all parking and loading areas abutting residential districts or uses in the Village of Berwyn Districts (VB, VT, and VR) should abide by the standards contained in § 274-43L of this chapter.
- F. Historic resource protection shall be in accordance with the provisions of: **[Added 11-21-2022 by Ord. No. 453-22]**
- (1) Chapter 13, Article IV;
 - (2) Article XVIII, § 455-132, Definitions;

- (3) Article VIII, § 455-44A through F; and
- (4) Section 274-48F. Design standards for historic resource protection in the Village of Berwyn, consisting of six sheets, dated September 12, 2022, and any updates thereto.⁵¹

51. Editor's Note: Said design standards are included as an attachment to this chapter.

**ARTICLE XIV
Administration and Enforcement**

§ 274-49. Enforcement of specific provisions.

- A. It shall be contingent upon anyone proposing land disturbance activities as herein defined and described to consider the standards contained in this chapter. Unless otherwise directed herein, applications pursuant to the requirements of this chapter which are required as part of submissions pursuant to Chapter 455, Zoning, and Chapter 400, Subdivision and Land Development, shall conform to the provisions of said chapter for plan submission and review, inspections, fees, plan amendments, violations and penalties and appeals.
- B. Article IV, Wetlands and Watercourses, and Article V, Riparian Buffer Zone (RBZ), as directed herein, shall be administered and enforced pursuant to Chapter 455, Zoning. **[Amended 6-2-2008 by Ord. No. 384-08; 5-15-2017 by Ord. No. 428-17]**
- C. Article II, Conservation Plan Requirements, Article VI, Steep Slopes, Article VII, Forestry, Article VIII, Woodlands and Wooded Lots, Article IX, Tree Replacement, Article X, Landscaped Buffers, Article XI, Landscaping, and Article XII, Village of Berwyn Streetscape Design Standards, as directed herein, shall be administered and enforced pursuant to Chapter 400, Subdivision and Land Development.⁵² **[Amended 6-2-2008 by Ord. No. 384-08]**

§ 274-50. Uses and structures rendered nonconforming. [Amended 6-2-2014 by Ord. No. 422-14]

Following the adoption of this chapter (October 2, 2006), any use or structure which does not conform to the use provisions of §§ 274-18 and 274-19 shall become a nonconforming use or structure, regardless of its conformance without consideration of this chapter. The expansion or continuance of said nonconforming use or structure shall be governed by the requirements of Article XVI of Chapter 455, Zoning, of the Code of the Township of Easttown. However, the Zoning Hearing Board shall also ensure that the standards contained in this chapter are applied to the expansion or continuance of said nonconforming use or structure.

52. Editor's Note: Original § 99-49D, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 278

NOISE

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 11-21-2022 by Ord. No. 453-22.⁵³ Amendments noted where applicable.]

§ 278-1. Purpose.

Easttown Township enacts this chapter under its general powers affecting health, safety and community welfare. This purpose of this chapter is to establish requirements to prevent and eliminate noise which may affect the health, safety and welfare of its residents; impair the constitutional rights of residents; or that may degrade the quality of life of community members.

§ 278-2. Speech regulation.

This chapter is not intended, and shall not be interpreted to be, a regulation on the content of protected speech. This chapter is intended to be content-neutral and regulates the time, place and manner of protected speech according to constitutional law.

§ 278-3. Definitions.

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

ALL-TERRAIN VEHICLE (ATV) — Any motorized off-road recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain, including, but not limited to, go-carts and multitrack, multiwheel or low-pressure tire vehicles or similar two-wheel, three-wheel, four-wheel or belt-driven vehicles, or an amphibious machine. The definition of ATV excludes golf carts, construction machines, utility vehicles used for business operations, agriculture, yard work, landscaping, snow removal or otherwise being used in the reasonable maintenance of a person's private property, or motorized vehicles being used for law enforcement, fire, emergency, military or other authorized governmental purpose.

COMMERCIAL CONSTRUCTION — The operation of heavy construction equipment in construction or demolition projects.

CONSTRUCTION — Any site preparation, assembly, erection, repair, alteration, remodeling, or similar action, including demolition and removal of buildings or structures.

CONTIGUOUS LAND USE — Any land use bordering or abutting, whether divided by real property boundary or by real property boundary and public street.

CONTINUOUS SOUND — Any sound which is static, fluctuating or intermittent with a recurrence greater than one time in any fifteen-second interval.

DECIBEL (dB) — A unit of sound level which is a division of a logarithmic scale used to express the ratio of the sound pressure of the source or the pressure of an arbitrarily chosen reference pressure; the ratio is expressed on the decibel scale by multiplying its "base 10 logarithm" by 20.

DEMOLITION — Any dismantling, destruction, or removal of buildings, structures, utilities or roadways.

EMERGENCY — Any occurrence or set of circumstances involving actual or imminent physical trauma

53. Editor's Note: This chapter was originally designated as Ch. 281 but was renumbered as Ch. 278 for consistency with the alphabetical organization of the Code.

or property damage which demands immediate action.

EMERGENCY VEHICLE — A vehicle as defined in 75 Pa. C.S.A. § 102.

HEAVY CONSTRUCTION EQUIPMENT — Trucks with three or more axles and earthmoving grading equipment.

IMPULSIVE SOUND — Sound of short duration with an abrupt onset and rapid decay and an occurrence of not more than one time in any fifteen-second interval. Examples of sources of impulsive sound include, but are not limited to, explosions and the discharge of firearms.

LAND USE — The actual real use of land and buildings thereon situated regardless of the zoning or other classification attributed to such land and buildings.

LEGAL HOLIDAYS — New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Juneteenth, Fourth of July, Labor Day, Columbus Day, Veterans' Day, Thanksgiving and Christmas.

NOISE — Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

PLAINLY AUDIBLE SOUND — Any sound that can be detected by a person using his or her unaided hearing facilities. Words, phrases, or specific noise signatures need not be discernible or identifiable to be plainly audible.

PROPERTY LINE — The real or imaginary line and its vertical extension which separate real property owned or controlled by a person from contiguous real property owned or controlled by another person. The use of property line for purposes of this chapter refers to the relative or apparent property delineated and survey-quality precision is not required, intended or desired.

PURE TONE — Any sound which can be distinctly heard as a single pitch or set of single pitches. For the purposes of this chapter, a pure tone shall exist if the 1/3 octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous 1/3 octave bands by five dB for center frequencies of 500Hz and above, or by eight dB for center frequencies between 160 Hz and 400 Hz and by 15 dB for center frequencies less than or equal to 125Hz.

RECEIVING LAND USE — The land use which is a contiguous land use to the noise source.

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 characteristic 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 C as specified in American National Standards Institute specifications for sound level meters. 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 average, output meter and weighting networks used to measure sound pressure levels. The sound level meter used for testing purposes in accordance with this chapter shall meet the current American National Standard Institute specifications.

SOUND PRESSURE — The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

SOUND PRESSURE LEVEL — Twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals [20 times (10 to the negative sixth power) times N over (m squared)]. The sound pressure level is denoted L_p or SPL and is expressed in decibels.

§ 278-4. Noise disturbance prohibited; general stands; exceptions.

A. Plainly audible. No person shall make, continue, cause to be made, or cause to continue any of the following:

- (1) No person shall operate or permit to operate the outdoor operation of any tools, equipment or machinery used for commercial construction, drilling or demolition, or in the sweeping of parking lots in such a manner as to be plainly audible at a property line of the noise source, except between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and from 8:00 a.m. to 5:00 p.m. on Saturday and Sunday. It shall be unlawful to operate or permit the outdoor operation of any tools, equipment or machinery used for commercial construction, drilling or demolition, or in the sweeping of parking lots in such a manner as to be plainly audible at a property line of the noise source on legal holidays as defined by this chapter.
- (2) No person shall load or unload trucks or other motor vehicles or open, close or otherwise handle boxes, crates, containers, building materials, garbage cans or other objects in such a manner as to be plainly audible at a property line of the noise source, except between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and from 8:00 a.m. to 5:00 p.m. on Saturday and Sunday, except for municipal waste haulers who may operate between the hours of 7:00 a.m. and 7:00 p.m. every day of the week.
- (3) No person shall repair, rebuild, or test or otherwise work on any motorcycle, motor vehicle, motorboat or aircraft outdoors in such a manner as to be plainly audible at a property line of the noise source, except between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and from 8:00 a.m. to 5:00 p.m. on Saturday and Sunday.
- (4) No person shall operate or permit the operation of any mechanically powered saw, sander, drill, grinder, lawnmower, garden tool, leaf blowers, or similar device used outdoors in residential areas in such a manner as to be plainly audible at a property line of the noise source except between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and from 8:00 a.m. to 5:00 p.m. on Saturday and Sunday.
- (5) No person shall operate go-carts, ATVs, snowmobiles, motorcycles or motorbikes in such a manner as to be plainly audible at a property line of the noise source except between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and 8:00 a.m. to 5:00 p.m., Saturday and Sunday. All ATVs and dirt bikes operating in the Township shall be equipped with a muffler or other effective noise suppressing system in working order and in constant operation. A muffler, noise-suppressing system or exhaust system shall not be equipped with a cut out, bypass or similar device.
- (6) No person shall play radios, musical instruments, sound amplifiers, loudspeakers, public address system or device used in whole or in part for the transmission of music or entertainment in such a manner as to be plainly audible at a property line of the noise source, except between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and 8:00 a.m. to 5:00 p.m., Saturday and Sunday.

B. Decibel levels.

- (1) In those cases not specifically controlled by Subsection A above, no person shall operate or cause to be operated on private or public property any source of continuous sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in the following table when measured at or within the property boundary of the

receiving land use. All measurements shall be made with a sound level meter which is in conformance with the current American National Standard Institute specifications.

- (2) Continuous sound levels by receiving land use.

| Receiving Land Use Category | Time | Sound Level Limit (dBA) |
|--|---|--------------------------------|
| Residential, public space, open space, institutional | 7:00 a.m. to 7:00 p.m., Monday to Friday | 55 |
| | 8:00 a.m. to 5:00 p.m., Saturday and Sunday | 55 |
| | All other times and legal holidays | 50 |
| Commercial, business | 7:00 a.m. to 7:00 p.m., Monday to Friday | 65 |
| | 8:00 a.m. to 5:00 p.m., Saturday and Sunday | 65 |
| | All other time and legal holidays | 60 |
| Industrial | At all times | 70 |

- (3) Correction for character of sound. For any source of sound which emits a pure tone, the maximum sound-level limits set forth in the above table shall be reduced by 10 dBA. For any source of sound which emits an impulsive sound, the excursions of sound pressure level shall not exceed 10 dBA over the ambient sound level. Sound levels shall be measured at the property line from which the sound emanates of the receiving land use, by a sound level, which conforms to the specifications published by the American National Standards Institute.
- (4) The maximum permissible sound level as listed in the previous figure shall not apply to any of the following noise sources:
- (a) The emission of sound for the purpose of alerting persons to the existence of an emergency or associated practice drills.
 - (b) Emergency work to provide electricity, water or other public utilities when public health or safety is involved.
 - (c) Usual and customary agricultural activities.
 - (d) Public celebrations, when specifically authorized by the Township.
 - (e) School-sponsored events.
 - (f) The operation of municipal or public works vehicles or equipment.
 - (g) Motor vehicle operations shall not exceed the noise levels established in Chapter 157 of Title 67 of the Pennsylvania Code of Regulations, Subchapter B, Established Sound Levels.

- (h) Emergency generators during a power outage; and emergency generator testing during the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and 8:00 a.m. to 5:00 p.m., Saturday and Sunday, if the testing, occurs more than once per week then the testing shall not exceed the manufacturer's recommended testing schedule.
- (i) Surface carriers engaged in commerce by railroad.
- (j) Unamplified human voice.

§ 278-5. Administration and enforcement.

Any law enforcement officer with jurisdiction shall have the power to enforce and administer the terms of this chapter; investigate complaints and prosecute violations of this chapter. When enforcing the terms of this chapter, the Township may retain consultants and engineers with experience in measuring sound levels with the use of sound level meters.

§ 278-6. Violations and penalties.

- A. Any person who violates or permits the violation of any provision of this chapter shall, upon conviction thereof in a summary proceeding brought before a District Justice under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense, and shall be subject to the payment of a fine as set forth in § 208-24B, plus the costs of prosecution and reasonable attorney's fees. In default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a term of not more than 30 days. Each section of this chapter violated shall constitute a separate offense, and each day or portion thereof in which a violation of this chapter is found to exist shall constitute a separate offense, each of which violations shall be punishable by a separate fine imposed by the District Justice.
- B. Fines.
 - (1) First offense. A first offense by any person for violation of any provision of this chapter shall be a summary offense and shall carry a fine of \$150.
 - (2) Second offense. A second offense by any person for violation of any provision of this chapter shall be a summary offense and carry a fine of \$300.
 - (3) Third offense. A third offense by any person for violation of any provision of this chapter shall be a summary offense and carry a fine of \$750.
 - (4) Subsequent offenses. A subsequent offense after the third offense, by any person for violation of any provision of this chapter shall be a summary offense and shall carry a fine of \$1,000.
- C. Continuing violations. Continuing violations of this chapter are a public nuisance. A person found to liable for more than three violations of this chapter within one year of the first offense shall be determined to be a public nuisance and shall be deemed a noise nuisance under Chapter 278. Where found to be a noise nuisance, the Township, in addition to, or in lieu of any other sanctions or remedy provided, may proceed under the terms of Chapter 278 and pursue all rights and remedies available thereunder.
- D. The Township may pursue any other enforcement rights or remedies available at law or in equity.

NUISANCES

Chapter 280

NUISANCES

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

ARTICLE I
General Regulations
[Adopted 10-2-1989 by Ord. No. 222-89]

§ 280-1. Definitions.

The following words, when used in this article, shall have the meanings ascribed to them in this section:

ABANDONED OR JUNK VEHICLE — A vehicle (other than a pedalcycle):**[Amended 8-17-1998 by Ord. No. 316-98]**

- A. That is inoperable and is left unattended on public or private property without the consent of the owner for more than 48 hours; or
- B. Without a current valid registration plate or current certificate of inspection left on public property.

BEEKEEPING NUISANCE — The keeping of, or presence of, a hive on real property, in such a manner as to cause injury or danger to the health, safety, comfort or welfare of persons or property. In order to avoid a beekeeping nuisance, beekeepers, and property owners housing a hive, shall also comply with all applicable state law. By way of example and not limitation, the following activities are hereby declared to be a public nuisance and are, therefore, unlawful:**[Added 11-21-2022 by Ord. No. 453-22]**

- A. Multiple bees stinging, attacking or otherwise molesting others, including pedestrians, bicyclists, motor vehicle passengers, or domestic animals;
- B. The keeping of bees not in compliance with zoning provisions;⁵⁴
- C. The keeping of bees which interferes with the freedom of movement of persons in a public right-of-way; and
- D. The keeping of overcrowded, bee-diseased or abandoned hives.

BMP (BEST MANAGEMENT PRACTICES) — Activities, facilities, designs, measures or procedures used to manage stormwater impacts, to provide water quality treatment, infiltration, volume reduction and/or peak rate control, to promote groundwater recharge and to otherwise meet the purposes of Chapter 388, Stormwater Management, of the Code of Easttown Township. Stormwater BMPs are commonly grouped into one of two broad categories or measures: structural or nonstructural. 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 or forested buffers, sand filters, detention basins and manufactured devices. Structural stormwater BMPs are permanent appurtenances to the site.**[Added 6-2-2014 by Ord. No. 422-14]**

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. Conveyances shall include pipes, drainage ditches, channels and swales (vegetated or other), gutters, stream channels and like facilities or features.**[Added 6-2-2014 by Ord. No. 422-14]**

54. Editor's Note: See Ch. 455, Zoning.

EXPLOSIVES — Any substance or material, the primary or common purpose of which is to function by explosion, including all material which is classified as forbidden, Class A, Class B, or Class C explosive by the Interstate Commerce Commission, including, but not limited to, dynamite, black blasting powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse igniters, fuse lighters, squibs, cordeau detonant fuse, instantaneous fuse, ignition cord and igniters, but excepting small arms ammunition.

FALLEN LEAVES — Leaves of trees or bushes which are not attached to the twig or limb from which they fell.

FIRE — Combustion of any materials for the purpose of disposing of the materials.

LOADING NUISANCE — Two or more instances in any trailing twelve-month period of blocking or interfering with any public traffic lane, street or right-of-way with loading or unloading activities, or failure to use authorized off-street loading spaces and authorized loading areas on the property in which items being loaded or unloaded are being delivered to or from.**[Added 11-6-2017 by Ord. No. 431-17]**

MOTOR VEHICLE NUISANCE — A motor vehicle maintained upon open private grounds in Easttown Township by the owner, lessee or occupier of such ground, which vehicle is unable to move under its own power and has any of the following physical defects (except where such vehicle is maintained in a lawful vehicle repair or junkyard facility):**[Added 8-17-1998 by Ord. No. 316-98]**

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

- R. Broken antenna and like equipment;
- S. Stored in an unstable manner; and
- T. Such other defects which could threaten the health, safety and welfare of persons or property.

NOISE NUISANCE — A person found liable for more than three violations of Chapter 278 (Noise) within one year of the first offense. [Added 11-21-2022 by Ord. No. 453-22]

NUISANCE — The carrying on, engaging in, committing or, when in possession of control or responsibility, permitting any practice, act, trade, manufacture, business or profession which is injurious or dangerous to the health, safety, comfort or welfare of persons or damaging to the property of others or which prevents the reasonable use or enjoyment of the property of others by reason of, among other things, odor, smoke, dust, gas, noise, dirt, vibration, or the emission of radioactivity or electromagnetic waves.

PERSON — Includes a corporation, partnership, and association, as well as a natural person.

§ 280-2. Prohibited acts.

No person shall cause, create or maintain any nuisance within the Township of Easttown.

§ 280-3. Nuisances enumerated.

Nuisances include, but are not limited to, the following:

- A. The dumping or accumulation of garbage or rubbish on public or private property, except in containers for temporary storage awaiting lawful disposal.
- B. The storage of abandoned or junked automobiles on public or private property.
- C. The erection or maintenance of any dangerous structure.
- D. The burning of garbage or rubbish.⁵⁵
- E. Operating machinery, tools or equipment for the purpose of construction or of performing repairs or maintenance on real or personal property whereby noise is transmitted to the property of another before 7:00 a.m. or after 7:00 p.m. on weekdays and before 8:00 a.m. or after 5:00 p.m. on Saturdays and Sundays at the prevailing time. Excepted from the foregoing restrictions are customary and usual agricultural operations, maintenance and repair operations performed on outdoor recreational facilities, such as parks, playing fields, playground facilities and golf and tennis facilities. In no event shall the foregoing excepted actions commence prior to 6:00 a.m., prevailing time. [Amended 11-7-2005 by Ord. No. 364-05]
- F. Maintaining one or more motor vehicle nuisances. [Added 8-17-1998 by Ord. No. 316-98]
- G. Prohibited discharges. [Added 6-2-2014 by Ord. No. 422-14]
- H. Prohibited connections. [Added 6-2-2014 by Ord. No. 422-14]
- I. Improper use of roof drains and sump pumps. [Added 6-2-2014 by Ord. No. 422-14]
- J. Alteration of BMPs. [Added 6-2-2014 by Ord. No. 422-14]

55. Editor's Note: Original § 3(e), as amended 9-16-1991 by Ord. No. 241-91, and § 3(f), regarding open burning, which immediately followed this subsection, were repealed 10-4-2010 by Ord. No. 398-10.

- K. Creating or permitting a loading nuisance. [Added 11-6-2017 by Ord. No. 431-17]
- L. Creating or permitting a beekeeping nuisance. [Added 11-21-2022 by Ord. No. 453-22]
- M. Creating or permitting a noise nuisance under Chapter 278. [Added 11-21-2022 by Ord. No. 453-22]

§ 280-4. Open burning.⁵⁶ [Added 10-4-2010 by Ord. No. 398-10]

The prohibition of open burning shall be in effect, except when the burning results from:

- A. An open burning set to prevent or abate a fire hazard, when approved by the Department of Environmental Protection's regional office and set by or under the supervision of a public officer.
- B. A fire set for the purpose of instructing personnel in firefighting, when approved by the Department of Environmental Protection's regional office.
- C. A fire set for the prevention and control of disease or pests, when approved by the Department of Environmental Protection's regional office.
- D. A fire set for the purpose of burning, clearing and grubbing waste; if within an air basin, an air curtain destructor must be used and must be approved by the Department of Environmental Protection's regional office.
- E. A fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.
- F. A fire set solely for cooking food.
- G. A fire set solely for recreational or ceremonial purposes.

§ 280-5. Exemptions.

The following are specifically declared not to be nuisances within the meaning of this article:

- A. The establishment or operation of a municipal disposal facility.
- B. The accumulation of a compost heap of vegetable matter or the manure of animals for agricultural or horticultural purposes.⁵⁷

§ 280-6. Explosives.

- A. No person shall compound, mix, prepare, or manufacture, anywhere within the Township, any explosives.
- B. No person shall have, keep, use, or store any explosives anywhere within the Township, unless the same are used, kept or stored in accordance with the current requirements of the Fire Prevention Code recommended by the National Board of Fire Underwriters, and unless a written permit shall have been obtained from the Chief of the local fire company having jurisdiction. The said Chief of the local fire company shall issue such permit upon proof that the provisions of the Fire Prevention Code, hereinafter referred to, are being complied with.

56. Editor's Note: See also Ch. 377, Solid Waste; Recycling; Open Burning.

57. Editor's Note: Original §§ 5 and 6, regarding open burning, which immediately followed this section, were repealed 10-4-2010 by Ord. No. 398-10.

§ 280-7. Prohibited discharges.⁵⁸

- A. Any drain or conveyance, whether on the surface or subsurface, that allows any nonstormwater discharge, including sewage, process wastewater, and wash water, to enter the Township's separate storm sewer system or the waters of the commonwealth is prohibited.
- B. No person shall allow, or cause to allow, discharges into the Township's separate storm sewer system or the waters of the commonwealth that are not composed entirely of stormwater, except:
 - (1) As provided in Subsection C below; and
 - (2) Discharges allowed under a state or federal permit.
- C. The following discharges are authorized unless they are determined by the Township to be significant contributors to pollution to the Township's separate storm sewer system or to the waters of the commonwealth:
 - (1) Discharges from firefighting activities;
 - (2) Potable water sources, including waterline and fire hydrant flushings;
 - (3) Irrigation drainage;
 - (4) Air-conditioning condensate;
 - (5) Springs;
 - (6) Water from crawl space pumps;
 - (7) Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used;
 - (8) Diverted stream flows;
 - (9) Uncontaminated water from foundations or from footing drains;
 - (10) Lawn watering;
 - (11) Dechlorinated swimming pool discharges;
 - (12) Uncontaminated groundwater;
 - (13) Water from individual residential car washing; and
 - (14) Routine external building washdown (which does not use detergents or other compounds).
- D. In the event that the Township determines that any of the discharges identified in Subsection C significantly contribute pollutants to the Township's separate storm sewer system or to the waters of the commonwealth, or is notified of such significant contribution of pollution by the Pennsylvania Department of Environmental Protection, the Township will notify the responsible person to cease the discharge.
- E. Upon notice provided by the Township under Subsection D, the discharger shall, within a reasonable time period, as determined by the Township consistent with the degree of pollution caused by the

58. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

discharge, cease the discharge.

F. Nothing in this section shall affect a discharger's responsibilities under state law.

§ 280-8. Prohibited connections.⁵⁹

The following connections are prohibited, except as provided in § 280-7C:

- A. Any drain or conveyance, whether on the surface or subsurface, that allows any nonstormwater discharge, including sewage, process wastewater, and wash water, to enter a separate storm sewer system and any connections to the separate storm sewer system from indoor drains and sinks.
- B. Any drain or conveyance connected from a commercial or industrial land use to a separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by the Township.

§ 280-9. Roof drains and sump pumps. [Added 6-2-2014 by Ord. No. 422-14]

- A. Roof drains and sump pump discharges shall not be connected to a sanitary sewer.
- B. Roof drain, sump pump, foundation and footing drain discharges:
 - (1) To the maximum extent practicable, shall discharge to infiltration or vegetative BMPs or to vegetated or other areas with adequate capacity;
 - (2) May be connected to streets, storm sewers, or roadside ditches only if determined necessary or acceptable by the Township Engineer; and
 - (3) Shall be considered in stormwater management calculations to demonstrate that the conveyance and receiving facilities have adequate capacity.

§ 280-10. Alteration of BMPs. [Added 6-2-2014 by Ord. No. 422-14]

- A. No person shall modify, remove, fill, landscape, alter or impair the effectiveness of any stormwater BMPs, conveyances, facilities, areas or structures, unless the activity is part of an approved maintenance program, without written approval of the Township.
- B. No person shall place any structure, fill, landscaping, additional vegetation, yard waste, brush cuttings, or other waste or debris into a BMP or conveyance, or within a stormwater easement, that would limit or alter the functioning of the stormwater BMP or conveyance without the written approval of the Township.

§ 280-11. Exceptions.

- A. Nothing in this article shall be construed as applying to the regular military or naval forces of the United States, the duly authorized militia of this commonwealth, or to the Police and Fire Companies, nor to the laboratories of schools, colleges and similar institutions when confined to the purpose of instruction or research, or to explosives in the forms prescribed by the official United States Pharmacopeia.
- B. "Nuisance," as defined herein, shall not include any agricultural operation conducted in accordance

⁵⁹. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

with normal agricultural operations, so long as the agricultural operation does not have a direct adverse effect on the public health and safety.

§ 280-12. Violations and penalties. [Amended 10-7-1996 by Ord. No. 293-96; 6-2-2014 by Ord. No. 422-14]

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

§ 280-13. Additional remedies.

In addition to any other remedies provided by law, the following actions may be taken to remove or abate any continuing violations of this article:

- A. The local fire company having jurisdiction, either with or without the consent of the landowner or person in charge, may extinguish any fire on public or private property kindled or burning in violation of the provisions of this article; and
- B. The Board of Supervisors may proceed in law or equity to remove or abate any continuing violation of this article and, in addition, may proceed to impose and collect costs of such removal, together with a penalty as set forth in § 280-12, Violations and penalties, of this article. [Amended 10-7-1996 by Ord. No. 293-96]

ARTICLE II
Blight
[Adopted 6-2-2014 by Ord. No. 422-14]

§ 280-14. Purpose. [Amended 12-15-2014 by Ord. No. 424-14]

The Board of Supervisors finds it to be in the best interests of the residents of the Township of Easttown, Chester County, Pennsylvania, to provide for certain protections and safeguards in order to address deteriorated properties, public nuisances and properties in serious violation of state law or Township codes. Such protections and safeguards include denial of permits and actions at law and in equity in order to address deteriorated properties which have an impact upon crime, the quality of life of our residents and require expenditures of public funds in order to abate and correct nuisances, violations and delinquent Township services accounts.

§ 280-15. Definitions.

For the purpose of this article, the following terms shall have the meanings indicated:

BOARD — A Zoning Hearing Board or other body granted jurisdiction to render decisions in accordance with the Pennsylvania Municipalities Planning Code (53 P.S. § 10101 et seq.), the Second Class Township Code (53 P.S. § 65101 et seq.) or the Code of the Township of Easttown or a board authorized to act in a similar manner by law.

BUILDING — A residential, commercial or industrial building or structure and the land appurtenant to it.

MUNICIPAL PERMIT(S) — Privileges related to real property granted by a municipality such as the Township, including, but not limited to, building permits, parking permits, occupancy permits, and special exceptions or variances from zoning ordinances. The term includes approvals pursuant to land use ordinances other than decisions on the substantive validity of a zoning ordinance or map or the acceptance of a curative amendment.

MUNICIPAL SERVICE(S) — Services provided at a cost by the Township or other municipal entity, including water service, sanitary sewer service, refuse collection and parking allotments/facilities, which benefit individual properties and also serve to benefit the overall welfare, safety and health of all residents of the Township.

OWNER — A holder of title to residential, commercial or industrial real estate, other than a mortgage lender, who possesses and controls the real estate. The term includes, but is not limited to, heirs, assigns, beneficiaries and lessees, provided this ownership interest is a matter of public record.

PUBLIC NUISANCE — Property which, because of its physical condition or use, is regarded as a public nuisance at common law or has been declared by the appropriate Township official a public nuisance in accordance with the Code of the Township of Easttown, as amended.

SERIOUS VIOLATION — A violation of a state law or Township code (as both terms are defined herein) or other applicable code that poses an imminent threat to the health and safety of the dwelling occupant, occupants in surrounding structures or passersby. Property found to be a public nuisance is also considered to be a serious violation.

STATE LAW — A statute of the commonwealth or a regulation of an agency charged with the administration and enforcement of commonwealth law.

SUBSTANTIAL STEP — An affirmative action as determined by a Township official or officer of the court on the part of the property owner or managing agent to remedy a serious violation of state law or

Township code, including, but not limited to, physical improvements or repairs to the property.

TAX-DELINQUENT PROPERTY — Tax-delinquent real property, as defined under the Real Estate Tax Sale Law (72 P.S. § 5860.101 et seq.), the Municipal Claims and Tax Liens Law (53 P.S. § 7101 et seq.) or the Second Class City Treasurer's Sale and Collection Act (53 P.S. § 27101 et seq.), located in any municipality in this commonwealth.

TOWNSHIP CODE — A building, housing, property maintenance, fire, health or other public safety ordinance enacted or adopted by the Township, including those ordinances, regulations and resolutions which establish and assess fees for Township services and privileges such as sewer, water, refuse collection and parking/parking arrangements. For purposes of this article, the term does not include a subdivision and land development ordinance or a zoning ordinance enacted by the Township.**[Amended 12-15-2014 by Ord. No. 424-14]**

§ 280-16. Legal action to be taken against owners.

In addition to any other remedy available at law, including those remedies available under the Neighborhood Blight Reclamation and Revitalization Act (53 Pa.C.S.A. § 6101 et seq.), remedies available in equity or other remedies as provided for in the Code of the Township of Easttown, the Township may institute the following actions against the owner of any property that is in serious violation of a Township code or for failure to correct a condition which causes the property to be regarded as a public nuisance:

- A. An in personam action may be initiated for a continuing violation for which the owner takes no substantial step to correct within the six months following receipt of an order by the Township to correct the violation, unless the order is subject to a pending appeal before an administrative agency or court. Notwithstanding any law limiting the form of action for the recovery of penalties by the Township for the violation of a Township code, the Township may recover, in a single action under this section, an amount equal to the penalties imposed against the owner and any costs of remediation lawfully incurred by, or on behalf of, the Township to remedy any code violation. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. A proceeding in equity.
- C. A lien may be placed against the assets of an owner of real property that is in serious violation of a Township code or is regarded as a public nuisance after a judgment, decree or order is entered by a court of competent jurisdiction against the owner of the property for an adjudication under either an in personam action or a proceeding in equity as set forth above. In the case of an owner that is an association or trust, this does not authorize a lien to be placed upon the individual assets of the general partner, trustee, limited partner, shareholder, member or beneficiary of the association or trust, except as otherwise allowed by law.

§ 280-17. Out-of-state owners; service of process upon associations and trusts.

- A. A person who lives or has a principal place of residence outside this commonwealth, who owns property in this commonwealth against which Township code or other applicable code violations have been cited and the person is charged under 18 Pa.C.S.A. (relating to crimes and offenses) and who has been properly notified of the violations may be extradited to this commonwealth to face criminal prosecution to the full extent allowed and in the manner authorized by 42 Pa.C.S.A. Chapter 91 (relating to detainers and extradition).
- B. Where, after reasonable efforts, service of process for a notice or citation for any Township code or other applicable code violations for any real property owned by an association or trust cannot be

accomplished by handing a copy of the notice or citation to an executive officer, partner, or trustee of the association or trust or to the manager, trustee or clerk in charge of the property, the delivery of the notice or citation may occur by registered, certified or United States express mail, accompanied by a delivery confirmation:

- (1) To the registered office of the association or trust.
- (2) Where the association or trust does not have registered office, to the mailing address used for real estate tax collection purposes, if accompanied by the posting of a conspicuous notice on the property and by handing a copy of the notice or citation to the person in charge of the property at that time.

§ 280-18. Permit denials.

- A. The Township or a board may deny issuing to an applicant a municipal permit if the applicant owns real property in the Township for which there exists on the real property: [Amended 12-15-2014 by Ord. No. 424-14]
 - (1) Tax and/or municipal services delinquencies on account of the actions of the owner; or
 - (2) A serious violation and the owner has taken no substantial step to correct the serious violation within six months following notification of the violation and for which fines, penalties or a judgment to abate or correct were imposed by a Magisterial District Judge or Municipal Court or a judgment at law or in equity was imposed by a Court of Common Pleas. No denial shall be permitted if a judgment is subject to a stay or supersedeas by order of court, or if the municipal permit is necessary to correct a violation of state law or a Township code.
- B. The municipal permit denial as above described shall not apply to an applicant's delinquency on taxes and/or municipal services charges that are under appeal or otherwise contested through a court or administrative process.
- C. In issuing a denial of a municipal permit, the Township or the Board shall indicate the street address, Township and county in which the property is located and the court and docket number for each parcel cited as a basis for the denial. The denial shall also state that the applicant may request a letter of compliance from the appropriate state agency, Township or school district in the form specified by such entity. [Amended 12-15-2014 by Ord. No. 424-14]
- D. All municipal permits denied in accordance with this section may be withheld by the Township until an applicant obtains a letter of compliance from the appropriate state agency, Township or school district indicating the following: [Amended 12-15-2014 by Ord. No. 424-14]
 - (1) The property in question has no tax or municipal services delinquencies;
 - (2) The property in question is now in compliance with state law, Township codes or other applicable codes; or
 - (3) The owner of the property has presented and the appropriate entity has accepted a plan to begin remediation of a serious violation of state law, Township code or other applicable codes.
- E. If a letter of compliance or a letter of noncompliance, as the case may be, is not issued with 45 days of the request, the property shall be deemed to be in compliance for the purposes of this section. The appropriate state agency, Township or school district shall specify the form in which the request for a compliance letter shall be made. Such letters shall be verified by the appropriate Township officials

before issuing to the applicant a municipal permit. [Amended 12-15-2014 by Ord. No. 424-14]

- F. Boards, including the Township Zoning Hearing Board, may deny approval of municipal permits, which includes special exception approval and variance relief, if warranted as set forth above to the extent that approval of such a municipal permit is within the jurisdiction of the Board.
- G. The Township may appear to present evidence that the applicant is subject to denial by a board in accordance with this section.
- H. A municipal permit may only be denied to an applicant other than an owner if the applicant is acting under the direction or with the permission of the owner and that owner owns real property that is subject to denial as set forth hereinabove.

§ 280-19. Property inherited by will or intestacy.

Where property is inherited by will or intestacy, the devisee or heir shall be given the opportunity to make payments on reasonable terms to correct code violations or to enter into a remediation agreement with the Township to avoid subjecting the devisee's or heir's other properties to asset attachment or denial of municipal permits and approvals on other properties owned by the devisee or heir. Such opportunity shall be given at the Township's discretion and subject to the revocation upon the devisee's or heir's failure to proceed with a payment plan or to progress forward and complete a remediation plan.

Chapter 285

NUMBERING OF BUILDINGS AND LOTS

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

GENERAL REFERENCES

Uniform construction codes — See Ch. 160.

Subdivision and land development — See Ch. 400.

ARTICLE I
Street Address Identification
[Adopted 3-16-1992 by Ord. No. 246-92]

§ 285-1. Title.

This article may be cited as the "Easttown Township Street Address Identification Ordinance."

§ 285-2. Applicability. [Amended 12-15-2014 by Ord. No. 424-14]

Every lot or parcel of land upon which any building or structure is located or constructed shall be required to permanently display the street address identification number or numbers assigned pursuant to § 285-4 hereof.

§ 285-3. Definitions.

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

OWNER — The individual, person, firm, corporation, partnership or other legal entity in title to a lot, parcel of land, building, condominium or other real property capable of ownership.**[Amended 12-15-2014 by Ord. No. 424-14]**

PRINCIPAL BUILDING — Any structure enclosing space or otherwise used in any manner for residential, commercial, industrial or storage use or for any other purposes. The term shall not include a structure accessory to a principal building and used only in conjunction therewith.

§ 285-4. Assignment of numbers. [Amended 6-2-2014 by Ord. No. 422-14]

- A. Street address identification number(s) shall be assigned to each lot or parcel of land upon which is constructed or located one or more principal buildings. Such assignment shall be made by the Township Zoning Officer or his designated representative, and written notice thereof shall be given by said official to the property owner and shall be placed on file in the Township administrative office. The procedure to be followed shall be as set forth in § 285-5 hereof. The assigned number or numbers shall constitute the official street address of the subject property for all purposes. The Board of Supervisors shall have the power to change the street address identification number or numbers assigned to any property at such time or times as it determines it necessary to assure the continuity of the numbering system in any area of the Township occasioned by subdivision and land development of other properties, rules and regulations promulgated and enforced by the United States Postal Service or other necessary cause. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. Whenever separate lots or parcels of land are created as a result of a subdivision or land development plan approval, the Zoning Officer shall be responsible to assign a street address identification number to each lot or principal building in logical relation to the numbers assigned to other lots or principal buildings fronting on the same street, and said numbers shall be properly recorded either on the subdivision plan or accompanying documents.

§ 285-5. Application for street identification number. [Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]

Street address identification numbers shall be assigned at the time of issuance of a building permit for any building or structure on a lot or parcel of land to which such number has not been previously assigned, unless such assignment has occurred at the time of final subdivision plan approval. Existing principal

buildings having no assigned street address identification number shall come into compliance with this article within 30 days of the Zoning Officer's written notice of such assignment, or within such period upon a change in use and occupancy of any such building. Any property owner may make application to the Zoning Officer for a change in his street address identification number upon cause shown. Said official is authorized to assign a new number if, in his discretion reasonably exercised, he determines that just cause for doing so exists and will not adversely impact sequential numbering of other properties on the same street or in the same area as that for which application has been made.

§ 285-6. Specifications and display of street address number. [Amended 6-2-2014 by Ord. No. 422-14]

Buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be a minimum of four inches (102 mm) high with a minimum stroke width of 1/2 inch (12.7 mm). Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure.

§ 285-7. Compliance. [Amended 12-15-2014 by Ord. No. 424-14]

The owner of each lot or parcel of land shall be responsible for compliance with this article from and after its effective date. No lease or other arrangement by which any such property is occupied shall excuse the owner from compliance; provided, however, that any tenant, lessee or occupant in possession and control of such property shall be liable for compliance with the terms of this article and to prosecution for violation hereof.

§ 285-8. Violations and penalties. [Amended 10-7-1996 by Ord. No. 293-96; 6-2-2014 by Ord. No. 422-14]

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

Chapter 299**PARKING LOTS**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 4-15-1957 by Ord. No. 34. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 430.

§ 299-1. Title.

This chapter shall be known and may be referred to as the "Easttown Township Commercial Parking Lot Ordinance of 1957."

§ 299-2. Effective date; permit required.

- A. The effective date of this chapter shall be May 20, 1957.
- B. From and after the effective date of this chapter, no person, firm, partnership or corporation, unless and only to the extent exempted by § 299-3B or C hereof, shall operate or, if heretofore established, continue to operate a commercial parking lot in Easttown Township without having made application for, receiving from the Township Supervisors and possessing a valid and unexpired permit to engage in such business at the location thereof, nor shall such business be carried on except in compliance with the provisions of this chapter.

§ 299-3. Application for permit; exemptions; renewal.

- A. Every person, firm, partnership or corporation desiring to engage in or, if heretofore established, to continue to engage in the business of operating a commercial parking lot shall, in making application for the permit required by § 299-2 hereof, file the following with the Township Supervisors:
 - (1) An application for permit for each parking lot desired or proposed to be operated, on forms to be provided by the Supervisors.
 - (2) A bond with sufficient surety in the principal amount of \$10,000, conditioned for payment by the operator of such commercial parking lot for all loss of or damage to vehicles parked, stored or placed thereon.
 - (3) The certificate of any reputable insurance company authorized to do business in Pennsylvania certifying that the operator is insured against liability for personal injuries or loss of life in the amount of \$25,000 for each person and \$50,000 for any one incident, and damage to property in the amount of \$3,000 for any one incident, arising out of the ownership, maintenance, operation or use of each such commercial parking lot.
 - (4) A plan of the parking lot operated or to be operated, drawn to scale, and indicating the spaces to be used for parking, passageways, and entrances to and exits from public roads.
 - (5) A lighting plan showing the location, mounting height of unit, specific type of unit, lumen value

of fixture and method of control of illumination, which said plan shall indicate conformity with the requirements of § 299-4 of this chapter.

- (6) A permit fee in an amount determined by resolution of the Board of Supervisors.⁶⁰
- B. Temporary commercial parking lots operated by or in conjunction and concurrently with a function or an event held by an organization or nonprofit corporation exempted from the provisions of, or duly registered pursuant to, the Act of 1925, May 13, P.L. 644, as amended,⁶¹ which operation shall not exceed 12 consecutive days nor more than 30 days in any calendar year and the net proceeds of which are paid directly to such organization or nonprofit corporation, shall not be subject to the provisions of Subsection A(2), relating to a bond; Subsection A(4), relating to a plan; Subsection A(5), relating to a lighting plan; and Subsection A(6), relating to a fee, neither shall they be subject to the provisions of § 299-4, relating to lighting regulations.
- C. Temporary commercial parking lots, other than those described in Subsection B above and which do not operate longer than 12 consecutive days nor more than 30 days in any calendar year, provided that attendants are maintained on duty during all times when vehicles are parked or stored thereon, shall not be subject to the provisions of: Subsection A(2), relating to a bond; Subsection A(4), relating to a plan; Subsection A(5), relating to a lighting plan; neither shall they be subject to the provisions of § 299-4, relating to illumination requirements, except that, if illumination is used or provided, such illumination shall conform to the provisions of § 299-4 as to maximum footcandles and as to maximum extension of direct rays or beams.
- D. Permits issued hereunder shall be valid until December 31 of the year in which issued and shall be renewed annually, provided that, if no change in the physical condition or facilities of the parking lot has been made during the expired permit period, the plans required by Subsection A(4) and (5) of this section need not be submitted with the application for renewal.

§ 299-4. Lighting. [Amended 9-16-1957 by Ord. No. 35]

Every commercial parking lot, unless and only to the extent exempted by § 299-3B or C above, shall be illuminated between sunset and 2:00 a.m. with artificial illumination producing an effective value of not more than 0.4 of a footcandle nor less than 0.1 of a footcandle over the entire area, which illumination shall be accomplished with adequate shielding so that no direct rays or beams from the sources or fixtures shall extend beyond or be visible at or above ground level at a distance of more than 20 feet beyond the boundaries of the lot.

§ 299-5. Maintenance requirements.

Every commercial parking lot in Easttown Township shall be maintained in a neat and orderly condition and free from accumulations of dirt, trash and rubbish.

§ 299-6. Violations and penalties. [Amended 10-7-1996 by Ord. No. 293-96⁶²]

Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus

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

61. Editor's Note: See now the Solicitation of Funds for Charitable Purposes Act, 10 P.S. § 162.1 et seq.

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

costs of prosecution, including reasonable attorneys' fees. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

Chapter 306**PARKS AND RECREATION AREAS**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 9-8-1998 by Ord. No. 312-98. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 118.

Littering — See Ch. 256.

§ 306-1. Definitions.

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

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

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

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

§ 306-2. Park hours.

All parks shall be opened daily to the public at such hours as the Board of Supervisors may from time to time designate.

§ 306-3. Prohibited conduct.

No person in attendance at the park shall:

- A. Injure, deface, remove, cut or damage any of the trees, plants, shrubs, turf, buildings, structures, signs or fixtures, or any other property of Easttown Township located within the park.
- B. Litter any area of the park with garbage, paper, bottles, cans or other waste material, nor dispose of the same in any way, except in receptacles designated for such purpose.
- C. Kindle or maintain any fire in the park, except in fireplaces or areas specifically designed for that purpose and located by authority of the Board of Supervisors.
- D. Remove any bench, seat, table or other appliance without permission of the Board of Supervisors.
- E. Injure, deface, destroy or remove any notice, rule or regulation posted at any place within the park by authority of the Board of Supervisors, nor shall any notice or placard be posted within the park, other than by authority of the Board of Supervisors.
- F. Set up any booth, table or stand for the sale of any article or service whatsoever within the limits of

the park without permission of the Board of Supervisors; distribute, sell, service or rent any services or commodity or solicit for any purpose without permission of the Board of Supervisors.

- G. Operate, stop or park any vehicle, bicycle or other means of conveyance, except in areas where permitted or designated by proper authority of the Board of Supervisors, or operate the same in a reckless or negligent manner or in excess of any posted speed limit or in such a manner as to become a nuisance to other area users.
- H. Operate commercial vehicles, unless providing authorized services.
- I. Bring onto the premises, possess or consume illegal drugs of any kind. No person shall enter the park who is under the influence of an illegal drug.
- J. Carry or discharge any firearms, slingshots, firecrackers, fireworks or other missile-propelling instruments or explosives or arrows, or other dangerous weapons which have such properties as to cause annoyance or injury to any person or property, unless permission has been granted by the Board of Supervisors in designated areas; police officers in the performance of their duties will be exempt from these provisions.
- K. Play ball, golf, pitch horseshoes, engage in archery, camp, engage in finding buried objects with special detectors or participate in any other form of recreation, sporting endeavor or pastime, except in those areas which may be designated from time to time for that purpose by the Board of Supervisors.
- L. Bring onto the premises, possess or consume any alcoholic beverages, in violation of Chapter 112, Alcoholic Beverages. No person shall enter the park in an intoxicated state. **[Amended 1-15-2018 by Ord. No. 433-18]**
- M. Disturb the peace by any conduct so as to annoy any other person using the park for recreational purposes.
- N. Operate a snowmobile, minibike, motorcycle or any vehicle, recreational or otherwise, except on designated roads, trails or areas set aside for their use. Bicycles are permitted on the drives and parking areas only. The use of skateboards and in-line skates are prohibited.
- O. Use threatening, abusive, insulting, profane or obscene language or words.
- P. Commit any disorderly or immoral acts.
- Q. Hold any picnic, party, public meeting or rally (with more than 20 persons) or engage in any marching or driving as members of military, political or other organization without a special permit, which requires a statement of information, including the name of the organization, its purpose, number of persons expected to be invited, expected duration and name(s) of person(s) in charge.
- R. Disobey a proper order of a police officer or disobey or disregard or fail to comply with any rule or regulation, warning, prohibition, instruction or direction given by an authorized person and posted or displayed by sign, notice, bulletin, card, poster, or when notified or informed as to its existence by an authorized person.
- S. Hunt for, capture or kill, or attempt to capture or kill, or aid or assist in the capturing or killing of, in any manner, any wild bird or wild animal of any description, either game or otherwise, and to that end, it is unlawful for any person to carry onto or possess in any park a shotgun, rifle, pistol or firearm of any make or kind, unless specific permission is granted for a designated area by authority of the

Board of Supervisors.

§ 306-4. Pets.

Pets or domestic animals must be kept on a leash, and the person accompanying the pet must clean up after the pet.

§ 306-5. Children.

Any child under the age of seven years of age shall be accompanied by a responsible person of 13 years of age or older.

§ 306-6. Park and facility use permits. [Amended 10-16-2023 by Ord. No. 458-23]

Park and facility use permits for the use of the Township parks or facilities within the Township parks shall be issued by the Township Manager, Township Secretary, or designee upon application therefor. Any person to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person by reason of the negligence or fault to the applicant, his servants, agents or employees. Before issuing a permit, the Township Secretary may obtain the advice of the Chief of Police and the Park and Recreation Board.

§ 306-7. Authorization to promulgate additional rules.

The Park and Recreation Board is authorized to establish additional rules and regulations as deemed necessary and with approval of the Board of Supervisors.

§ 306-8. Authority to close areas.

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

§ 306-9. Enforcement.

The police officers of Easttown Township are charged with enforcement of the provisions of this chapter (and of rules and regulations promulgated by the Park and Recreation Board).

§ 306-10. Violations and penalties. [Amended 10-20-2008 by Ord. No. 387-08⁶³]

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

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

Chapter 313**PEDDLING AND SOLICITING**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 1-15-2018 by Ord. No. 433-18.⁶⁴ Amendments noted where applicable.]

§ 313-1. Purpose.

This chapter is intended to regulate soliciting and peddling in the Township to ensure the public health, safety and welfare; to protect against criminal activities, such as fraud and burglary; and to minimize disruption and disturbance to residents.

§ 313-2. Definitions; word usage.

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

AGGRESSIVE SOLICITING OR PEDDLING — Peddling or soliciting, after a person being solicited has made a negative response, in a manner that is: 1) likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in a person's possession or in or about the residence; 2) intend to or is likely to intimidate the person into responding affirmatively to the peddling or soliciting activity; 3) to refuse to display a license to the person being solicited; or 4) to refuse to leave the premises upon being told to do so by the owner, tenant, occupant or person in control of the property.

GOODS — Any goods, wares, foodstuffs, merchandise or services offered for sale, whether or not displayed.

LEGAL HOLIDAY — New Year's Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas.

PEDDLER — Any person who goes upon the premises of any private residence in the Township, not having been invited by the occupant thereof, or any person who goes upon the Township streets, sidewalks or other public place, carrying or transporting goods, wares, merchandise, personal property or services of any nature or offering the same for sale.

PEDDLING — All activities ordinarily performed by a peddler as indicated under the definition of "peddler" herein.

PERSON — Any natural person, partnership, association, corporation, or other legal entity.

SOLICITING — All activities ordinarily performed by a solicitor as indicated under the definition of "solicitor" herein.

SOLICITOR — Any person who goes upon the premises of any private residence in the Township, not having been invited by the occupant thereof, or any person who goes upon any Township street, sidewalk, or other public place, for the purpose of offering, taking or attempting to take orders for the sale of goods, merchandise, wares or other personal property of any nature for future delivery or for services to be performed in the future, or for the solicitation of support or donations where said support or donation is unsolicited by the person or entity being solicited.

64. Editor's Note: This ordinance also repealed former Ch. 313, Peddling and Soliciting, consisting of Article I, Licensing of Peddlers and Solicitors, adopted 10-18-1954 by Ord. No. 19, as amended, and Article II, Transient Retail Businesses, adopted 11-5-2001 by Ord. No. 333-01, as amended.

B. The singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and neuter.

§ 313-3. License required; fee.

No person shall engage in peddling or soliciting within the Township without first having obtained from the Chief of Police or designee a license, including any application fee or related fees, in an amount set by resolution of the Board of Supervisors.

§ 313-4. Exemptions.

- A. The following persons, although subject to all other provisions of this chapter, are exempt from the license and application requirements when engaging in the activities described herein:
- (1) Persons engaged in religious proselytizing, political speech or the distribution of handbills.
 - (2) Persons soliciting information when such information is pursuant to a legislative mandate, such as a census.
 - (3) Persons soliciting political petitions pursuant to the Pennsylvania Election Code.⁶⁵
 - (4) Children under the age of 18 years who take orders for newspapers, greeting cards, candy, bakery products, and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations.
 - (5) Persons who have complied with the provisions of the Solicitation of Funds for Charitable Purposes Act, as amended, 10 P.S. § 162.1 et seq.
 - (6) Persons engaged in the sale of goods, wares or merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.
 - (7) Farmers selling their own produce.
 - (8) Manufacturers or producers of bread or bakery products, meats or meat products, or milk or milk products.
 - (9) Insurance agents or brokers, real estate brokers, securities brokers licensed by the Commonwealth of Pennsylvania, who are engaged in the selling or taking or orders.
 - (10) Drug retail salespersons calling upon physicians, pharmacists, veterinarians or hospitals.

§ 313-5. Application for license.

- A. Every person desiring a license under this chapter shall file an application with the Chief of Police or designee prior to commencing soliciting or peddling activities. The application shall include, at a minimum, the following:
- (1) The applicant's full name, date of birth, local address, permanent address, telephone number, and proof of identification.
 - (2) The name, address, telephone number and Tax ID of the applicant's employer or principal.

^{65.} Editor's Note: See 25 P.S. § 2601 et seq.

- (3) The nature of business or activity in which the applicant wishes to engage in within the Township and a description of the goods to be sold or the service to be performed.
- (4) The days of the week and hours the applicant wishes to engage in such activity.
- (5) If a vehicle is to be utilized, a description of the vehicle, the vehicle license number and expiration date, and operator's driver's license number and expiration date.
- (6) A current photograph of the applicant.
- (7) An authorization from the applicant's employer or principal, which shall contain an agreement on the part of the employer or principal, in consideration for issuance of the license, to become liable for any and all acts of the applicant, while in the Township.
- (8) A statement whether or not the applicant has been convicted of a felony, misdemeanor or local law violation (other than a traffic violation), the nature of the offense or violation, the penalty or punishment imposed, the date and place of the offense and other pertinent details.
- (9) Proof of possession of any license or permit which the applicant is required to have under federal, state, county or other local law in order to conduct the proposed peddling or soliciting.
- (10) An acknowledgement that the applicant is aware of and understands the regulations set forth in this chapter.
- (11) If the applicant intends to utilize assistants, all applicable information shall also be supplied for each assistant, and each assistant will be required to obtain his/her own license.

B. Licenses are not transferable to any other person or entity.

§ 313-6. Issuance of license; display and exhibit.

- A. Upon receipt of such application and the prescribed fee, the Chief of Police or designee shall have five business days to review and verify the information provided.
- B. If Chief of Police or designee finds such application in order, he shall issue the license to the applicant.
- C. The Chief of Police or designee may deny a license if: 1) the application is incomplete; 2) the information provides a reasonable basis for determining that the public health, safety and welfare will be threatened by the issuance of the license to the applicant; 3) if there are misrepresentations in the application; 4) if any fraud or deceit is identified in the application; 5) prior failure to comply with any law concerning soliciting, peddling or consumer sale; or 6) the sale or offering for sale of illegal merchandise or services is proposed.
- D. Every license holder shall carry and display the license upon his person while engaged in peddling or soliciting within the Township. The license holder shall exhibit such license, upon request, to all police officers, Township officials and citizens or residents of the Township.
- E. The license shall be valid of a period of six months from the date of issuance.

§ 313-7. Prohibited acts.

No person involved in peddling or soliciting shall:

- A. Sell any good or service not listed on the license application.
- B. Engage in any business activity, except by prior appointment, at any time on a Sunday or legal holiday or at any time before 9:00 a.m. or after 7:00 p.m. on any day of the week other than a Sunday or legal holiday.
- C. Enter or attempt to enter any dwelling or otherwise remain upon any private property without the invitation or permission of the occupant or owner or fail to immediately leave any premises upon the request of the occupant or owner.
- D. Knock, ring the doorbell, or otherwise attempt to gain the attention of the occupants of a residence where the property is posted at the primary entrance to the premises or at the entry to the principal building on the premises with a sign bearing the words, "No Peddlers," "No Solicitors," or similar words.
- E. Engage in aggressive soliciting or peddling.

§ 313-8. Records.

The Chief of Police or designee shall keep a record of all licenses issued hereunder.

§ 313-9. Denial, suspension and revocation of license; appeals.

- A. The Chief of Police or designee is hereby authorized to suspend or revoke any license if the holder fails to comply with the standards of conduct or responsibilities set forth in this chapter. A license may also be suspended or revoked upon the basis of:
 - (1) Fraud, misrepresentation or false statements in the license application;
 - (2) Fraud, misrepresentation or false statements by the licensee in the course of peddling or soliciting;
 - (3) Peddling or soliciting in violation of this chapter or in a manner that violates federal, state or local law or regulations or the terms of any other license involved in the peddling or soliciting;
 - (4) Conviction of a crime involving moral turpitude; or
 - (5) Peddling or soliciting in a manner as to create a public nuisance, a breach of peace, or endanger the health, safety or general welfare of the public.
- B. Appeals from any denial, suspension or revocation of a license may be made to the Township's Board of Supervisor within 10 days after such denial, suspension, or revocation. All appeals shall be in writing and shall be heard by the Board of Supervisors at a regular meeting scheduled more than five days after receipt of the appeal.
- C. Following the appellant's presentation of his position, the Board of Supervisors may decide to reinstate or issue the license, affirm the denial, suspension or revocation of the license, or modify the suspension of the license. The decision of the Board of Supervisors shall be final and binding on all parties.
- D. No part of a license fee shall be refunded to any person whose license shall have been denied, suspended, or revoked.

§ 313-10. Violations and penalties.

Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution, including reasonable attorneys' fees. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 30 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

Chapter 320**PLASTIC BAGS**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 6-20-2022 by Ord.

No. 451-22. Amendments noted where applicable.]

§ 320-1. Purpose and findings.

- A. Purpose. The purpose of this chapter is to reduce the use of single-use, plastic carry-out bags by commercial establishments within Easttown Township (the "Township"); curb litter on the streets, in the parks, and in the trees; protect the local streams, rivers, waterways and other aquatic environments; reduce greenhouse gas emissions and solid waste generation; promote the use of reusable, compostable, and recyclable materials within the Township; and preserve the natural, scenic, historic, and esthetic values of the Township.
- B. Findings.
 - (1) The use of single-use, plastic carry-out bags has severe environmental impacts, including greenhouse gas emissions, litter, harm to wildlife, water consumption, and solid waste generation.
 - (2) There are numerous commercial establishments within the Township which provide single-use, plastic carry-out bags to their customers.
 - (3) Most single-use, plastic carry-out bags are made from plastic or other material that does not readily decompose.
 - (4) Approximately 100,000,000,000 single-use, plastic carry-out bags are discarded by United States consumers each year. In the Township, such bags are not readily recyclable.
 - (5) Numerous studies have documented the prevalence of single-use, plastic carry-out bags littering the environment, blocking storm drains, entering local waterways, and becoming stuck in or upon natural resources and public property.
 - (6) The taxpayers of the Township pay the costs related to the cleanup of single-use, plastic carry-out bags from the roadways, trees, sewers, waters, and parks within the Township.
 - (7) From an overall environmental and economic perspective, the best alternative to single-use, plastic carry-out bags is a shift to reusable, compostable, or recyclable paper bags.
 - (8) There are several alternatives to single-use, plastic carry-out bags readily available in and around the Township.
 - (9) Single-use paper bag manufacturing, transportation, and resource consumption also affects the environment, but such bags are biodegradable and single-stream recyclable, and provide a practical retail establishment alternative consistent with most local and state single-use, plastic regulations and prohibitions. Although preferable to single-use, plastic bags, the overall effects of producing, providing, and allowing single-use paper bags should also be mitigated to reduce waste, litter, and natural resource depletion by encouraging, facilitating, and promoting reusable bag use.
 - (10) Studies and past experiences have shown that placing a mandatory charge on paper bags will promote and encourage the use of reusable bags, and prohibiting or otherwise regulating the use

of single-use, plastic carry-out bags will significantly reduce the use and waste of such items.

- (11) As required by the Environmental Rights Amendment to the Pennsylvania Constitution, the Township seeks to preserve the natural, scenic, historic, and aesthetic values of the Township.
- (12) The Board of Supervisors (the "Board") desire to conserve resources; reduce the amount of greenhouse gas emissions, waste, litter, water pollution; and protect the public health and welfare, including wildlife - all of which increase the quality of life for the Township's residents and visitors.

§ 320-2. Definitions.

For the purposes of this chapter, the following definitions shall apply unless the context clearly requires and unambiguously dictates otherwise:

COMMERCIAL ESTABLISHMENT — Any store or retail establishment that sells perishable or nonperishable goods, including, but not limited to, clothing, food, and personal items, directly to the customer, and is located within or doing business within the geographical limits of the Township. Commercial establishments include: a business establishment that generates a sales or use tax; a drugstore, pharmacy, supermarket, grocery store, farmers market, convenience food store, food mart, or other commercial entity engaged in the retail sale of a limited line of goods that include milk, bread, soda and snack foods; a public eating establishment (i.e., a restaurant, take-out food establishment, or any other business that prepares and sells prepared food to be eaten on or off its premises); and a business establishment that sells clothing, hardware, or any other nonperishable goods.

COMPLIANT BAG — Certain paper carry-out bags and reusable bags:

- A. A paper bag that meets all the following minimum requirements:
 - (1) It is considered a recyclable material, based on the Township Code, as the same may be amended from time to time; contains a minimum of 40% post-consumer recycled material; and displays the words "recyclable" and/or "reusable" in a highly visible manner on the outside of the bag; or
 - (2) It can be composted. To qualify as "compostable," the specifications for the bag shall have been submitted to and been approved by the Township Environmental Advisory Council; or have met an applicable federal, Commonwealth of Pennsylvania, American Society for Testing and Materials or other generally recognized and acceptable standard for being compostable.
- B. A reusable bag that is a carryout bag designed and manufactured for multiple uses and is:
 - (1) Made of cloth or other machine-washable fabric;
 - (2) A polypropylene bag; or
 - (3) Other material that is specifically designed and manufactured for multiple reuse.

CUSTOMER — Any person purchasing goods or services from a commercial establishment.

EXEMPTED BAG — A bag used inside a commercial establishment by a customer to deliver perishable items to the point-of-sale at that establishment. Exempted bags shall include:

- A. A bag used to package bulk items such as fruit, vegetables, nuts, grains, or candy;

- B. A bag used to contain or wrap meats or fish, or to contain unwrapped prepared foods or bakery goods;
- C. A bag used solely to contain live animals, such as fish or insects sold in a pet store; and/or
- D. A bag sold in packaging containing multiple bags and intended for use as food storage bags, garbage bags, or pet waste bags, and packaged at the time of manufacture of the bag.

OPERATOR — The owner, person in control, or person having responsibility for, the operation of a commercial establishment, which may include, but is not limited to, the owner of the commercial establishment.

PLASTIC — A synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal, including material derived from either petrochemicals or a biologically based polymer, such as corn or other plant sources.

POST-CONSUMER RECYCLED MATERIAL — A material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. This term does not include materials and by-products generated from and commonly reused within an original manufacturing and fabrication process.

RECYCLABLE — Material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of reusing the altered, incinerated, converted, or otherwise thermally destroyed solid waste generated therefrom.

SINGLE-USE, PLASTIC CARRY-OUT BAG — Any bag that is made predominantly of plastic that is made through a blown-film extrusion process, which is provided by an operator of a commercial establishment to a customer at the point-of-sale, but not including an exempted bag.

TOWNSHIP — Easttown Township.

§ 320-3. Single-use, plastic carry-out bags prohibited.

Effective January 1, 2023, no commercial establishment shall provide to any customer a single-use, plastic carry-out bag, as defined in § 320-2 above. This prohibition applies to bags provided for the purpose of carrying goods away from the point-of-sale. This prohibition applies to single-use, plastic carry-out bags used for takeout deliveries from commercial establishments within the Township. The point-of-sale in such transactions shall be the commercial establishment, regardless of where payment for the transaction physically or electronically occurs.

§ 320-4. Compliant bags.

- A. Beginning January 1, 2023, commercial establishments are prohibited from providing a noncompliant bag to a customer at the commercial establishment or through a delivery.
- B. A commercial establishment may provide a customer a compliant bag at the point-of-sale if the bag is provided to the customer for a charge of not less than \$0.15 per bag.
- C. All monies collected by a commercial establishment under this section for provision of a recycled paper bag shall be retained by the commercial establishment.
- D. Any charge for a compliant bag shall be separately stated on any receipt provided to the customer at the time of sale and shall be identified as the "carry-out bag charge" thereon.

- E. Customers may use bags of any type, which they bring to the commercial establishment themselves, for the purpose of carrying goods or other materials away from the point-of-sale without incurring a fee for a compliant bag.

§ 320-5. Signage requirement.

Beginning January 1, 2023, and for a minimum of six months thereafter, commercial establishments shall post at all points-of-sale conspicuous signage informing customers that single-use, plastic carry-out bags and nonrecycled paper bags will no longer be provided by the establishment as of the date the prohibition begins; explaining what types of bags and purchases are impacted; and providing any other information the Township may require by regulation.

§ 320-6. Exemptions.

The Township may, upon written request of a commercial establishment, exempt a commercial establishment from the requirements of this chapter until July 1, 2023 upon a finding by the Board that the requirements of this chapter would cause undue hardship to the commercial establishment. An "undue hardship" shall be found only if the commercial establishment demonstrates that it has a unique circumstance or situation such that there are no reasonable alternatives to the use of single-use, plastic carry-out bags.

§ 320-7. Enforcement.

- A. The Township Manager or his/her designee(s), has the responsibility for enforcement of this chapter and may promulgate reasonable rules and regulations to enforce the provisions thereof, including, but not limited to, investigating violations and issuing fines.
- B. Any commercial establishment that violates or fails to comply with any of the requirements of this chapter, after an initial written warning notice has been issued for that violation, shall be liable for a violation.
- C. Any commercial establishment that receives an initial written warning notice may file a request for an exemption pursuant to the procedure in § 320-6 above.
- D. If a commercial establishment has subsequent violations of this chapter after the issuance of an initial written warning notice of violation, the Township may issue the following penalties that shall be payable by the operator of the commercial establishment:
- (1) A fine not exceeding \$100 for the first violation;
 - (2) A fine not exceeding \$200 for the second violation in the same year dating from the first violation; and
 - (3) A fine not exceeding \$500 for the third and each subsequent violation in the same year dating from the first violation.
- E. For the purposes of enforcement under this section, an offense shall be each occurrence of a person, customer, operator, and/or commercial establishment violating a requirement of this chapter.
- F. In addition to the penalties set forth in this chapter, the Township may seek legal, injunctive, or other equitable relief to enforce this chapter.

Chapter 329**PROPERTY MAINTENANCE**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 12-15-2014 by Ord. No. 424-14. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. 280.

Trees and shrubs — See Ch. 421.

§ 329-1. Title.

This chapter shall be known as the "Easttown Township Property Maintenance Code."

§ 329-2. Purposes.

The purposes of this chapter are to establish minimum standards of property maintenance to: (1) protect, preserve and promote the safety, physical and mental health and social well-being of the citizens of Easttown Township and the general public; and (2) to reduce environmental hazards to health. Further purposes of this chapter are to establish the responsibilities of owners and occupants for compliance with the standards included herein, to make provision for administration and enforcement and to fix penalties for violations thereof.

§ 329-3. Scope.

The provisions of this chapter shall apply uniformly to the maintenance and use of all buildings, structures and premises, including residential, commercial, office, industrial, and institutional uses. The provisions shall apply uniformly to existing premises, buildings and structures, irrespective of when or under what codes said buildings were originally constructed, altered or repaired, and to all buildings and structures hereafter constructed.

§ 329-4. Definitions.

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section. Words used in the present tense include the future, the singular number includes the plural, and the plural the singular. Where terms are not defined in this section but are defined in the Township Building Code, they shall have the meanings ascribed to them as in the Building Code. Where terms are not defined under the provisions of this chapter or under the provisions of the Building Code, they shall have ascribed to them their ordinarily accepted meanings or such as the context herein may imply.

COMPOST — Relatively stable decomposed or decomposing organic matter.

DETERIORATION — The exterior condition of a building or part thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay, resulting from neglect, inadequate maintenance or excessive use.

EXPOSED TO PUBLIC VIEW — Any premises or any part thereof, or any building or any part thereof, which may be lawfully viewed by the public from a public street, sidewalk or right-of-way.

EXTERMINATION — The control and elimination of insects, rodents, vermin and other pests.

GARBAGE — Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food or other organic materials.

INFESTATION — The presence of insects, rodents, vermin or other pests on the premises which constitutes a health hazard.

NUISANCE — The carrying on, engaging in, committing or, when in possession of control or responsibility, permitting any practice, act, trade, manufacture, business or profession which is injurious or dangerous to the health, safety, comfort or welfare of persons or damaging to the property of others or which prevents the reasonable use or enjoyment of the property of others by reason of, among other things, odor, smoke, dust, gas, noise, dirt, vibration, or the emission of radioactivity or electromagnetic waves.

OPERATOR — Any person or entity who has charge, care or control of a building premises or a part thereof, whether with or without the knowledge and/or consent of the owner.

OUTSIDE PREMISES — Open space on the premises outside of any building thereon.

OWNER — Any person or entity who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof, or shall have charge, care or control of any premises as owner or agent of the owner or as executor, administrator, trustee, receiver or guardian of the estate or as a mortgagee in possession, regardless of how such possession was obtained. Any person or entity who is a lessee subletting or reassigning any part or all of any premises shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.

PREMISES — A lot, plot or parcel of land, including the buildings or structures thereon, which is subject to the provisions of this chapter.

PUTRESCIBLE — Liable to undergo putrefaction; becoming rotten and foul-smelling.

REFUSE — All putrescible and nonputrescible solid waste (except body wastes), including but not limited to glass, garbage, rubbish, ashes, street cleanings, dead animals, uninspected or unregistered vehicles and solid market and industrial wastes.

RUBBISH — Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

WEED — Any rank vegetative growth, including, but not limited to, poison ivy, jimsonweed, burdock, ragweed, thistle, nettle, sumac, goldenrod, tall grasses in excess of 12 inches in height, cocklebur, plants of obnoxious odors or any other plant or vegetation whatsoever not edible or planted for ornamental or agricultural purposes. Weeds shall not include trees, shrubs, crops, cultivated flowers or gardens.

§ 329-5. Minimum requirements for building exterior and outside premises.

A. Outside premises. All outside premises, whether occupied or vacant, shall be kept free of unsanitary conditions and of all nuisances and any hazards to the safety of occupants, pedestrians and other persons utilizing or exposed to the premises. Unsanitary conditions, nuisances and hazards include, but are not limited to, the following for any outside premises:

(1) Vegetation, defined as:

(a) Excessive weeds.

- (b) Hedges, trees, shrubs or other vegetation that obstruct the approach sight distance of any highway, street, driveway, traffic signal, traffic signal sign or crosswalk.
 - (c) Dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions.
- (2) Loose and overhanging objects and accumulations of ice and snow which by reason of location above ground level constitute a danger of falling on and causing injury or damage to persons or property in the vicinity thereof.
- (3) Ground surface hazards or unsanitary conditions, including holes, excavations, breaks, projections, obstructions, icy conditions, uncleared snow and excretion of animals on paths, walks, driveways, parking lots and parking areas, and other parts of the premises which are accessible to and used by persons on the premises.
- (4) Recurring accumulations of stormwater. Adequate runoff drains shall be provided and maintained to eliminate any recurrent or excessive accumulation of stormwater.
- (5) Sources of infestation. All structures and outside premises shall be kept free from insect infestation and rodent harborage.
- (6) All sidewalks, walkways, public driveways, parking spaces, and similar areas shall be maintained free from conditions that are hazardous to pedestrians, including but not limited to obstructions. Branches or limbs that overhang such walkways shall be no less than seven feet above the walkway below.
- (7) No uninspected or unregistered motor vehicle shall be stored on an outside premises at any time in a state of major disassembly, disrepair, or in the process of being stripped or dismantled for longer than 30 days. Inoperable vehicles may not be stored on an outside premises for longer than 30 days.
- (8) All premises shall be kept free from an accumulation of garbage, rubbish and refuse. The owner of every occupied premises shall supply leakproof containers with tight-fitting covers for rubbish and garbage, and the owner of the premises shall be responsible for the removal of rubbish and garbage. Every occupant of a structure shall dispose of all rubbish and garbage in a sanitary manner by placing such rubbish in containers. Composting material placed in piles, ventilated bins or pits shall not be considered garbage, rubbish or refuse, provided the material is periodically turned or mixed. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on an outside premises without first removing the doors.
- B. Landscaping. Premises with landscaping and lawns, hedges, and bushes shall be kept from becoming overgrown and unsightly where exposed to public view, so that they do not constitute a blighting factor to adjoining property.
- C. Exterior of buildings and structures. The following maintenance requirements shall apply to the exterior of all buildings and structures, including accessory buildings and structures:
- (1) The exterior of every structure or accessory structure shall be maintained in a condition or state of repair which is free of broken or missing glass, loose shingles, crumbling stone or brick, excessive peeling paints, rotted wood or other condition indicative of deterioration or inadequate maintenance to the end that the property itself may be preserved in good condition, safety and fire hazards eliminated and so rain, rodents, insects, vermin or other pests or animals

- likely to cause deterioration shall be prevented from entering.
- (2) Exterior porches, landings, balconies, stairs, fire escapes, banisters, railings and decorative features shall be kept structurally sound and properly maintained.
 - (3) Foundation walls, columns, posts, piers, chimneys, handrails, guards and other structural members shall be kept structurally sound and free from defects and damage.
 - (4) Windows, exterior doors and basement egress shall be substantially tight, within frames when closed, and kept in sound condition and repair, without open cracks or holes.
 - (5) Roofs and flashing shall be sound, tight, and not have defects that admit rain. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
 - (6) Swimming pools shall be maintained in good repair and in a sanitary condition.
 - (7) In the event that the exterior surface of any structure or building on any public or private property has been defaced or damaged by a marking, carving or graffiti, it shall be the responsibility of the property owner to remove or repair any such marking, carving or graffiti.
- D. Additional maintenance of nonresidential uses. In addition to the maintenance requirements for outside premises and exterior structures of Subsections A through C above, the owner and/or the lessees, assignee or entity responsible by contract for maintenance of any nonresidential use shall be responsible for:
- (1) Full maintenance, repair and cleanliness of all roadways, parking areas, lawns, landscaped areas, and buffer strips and other outside premises, including the regular removal of garbage, rubbish and refuse and mowing of lawn areas.
 - (2) Repainting or remarking of traffic lines and lanes indicating parking spaces, traffic flow, fire lanes, pedestrian walkways and other traffic control designations, so as to be clear and conspicuous at all times.
 - (3) The maintenance and replacement or repair of paving, bumper blocks, guide rails and lighting installations in parking areas and entrances thereto.
 - (4) The maintenance of any fences along the perimeter of the premises.
 - (5) The prompt removal or abatement of any nuisance and any hazard to the health and safety of occupants, pedestrians, motorists and other persons utilizing or exposed to the premises.
 - (6) The maintenance of plantings or other landscaping features which were required as a condition of site plan or other approval, but which did not survive.
 - (7) The maintenance of all signs in good repair. All signs shall comply with Zoning Chapter requirements.⁶⁶
 - (8) The maintenance of awnings. Such awning shall not show evidence of discoloration, ripping, tearing or other deterioration and shall not constitute a nuisance or safety hazard.

§ 329-6. Vacant or unsafe structures.

66. Editor's Note: See Ch. 455, Zoning.

- A. Closing of vacant structures. All vacant structures and premises thereof or vacant land shall be maintained in a safe, secure, and sanitary condition so as not to adversely affect public health or safety. If a structure is vacant and unfit for human habitation and occupancy and is not in danger of structural collapse, the Zoning Officer is authorized to order the structure closed up so as not to be a nuisance. Upon failure of the owner to close up a vacant premises within the time specified in the order, the Zoning Officer shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons or entities, and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other means available at law or in equity.
- B. Emergency measures. When there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of any structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure, the Zoning Officer is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Zoning Officer shall cause to be posted at each entrance to such structure a notice reading as follows: "This structure is unsafe and its occupancy has been prohibited by the Zoning Officer." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or demolishing the same. The Zoning Officer shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe and shall cause such other action to be taken as the Zoning Officer deems necessary to meet such emergency. The Township may institute appropriate action at law or in equity against the owner of the premises where the unsafe structure is or was for the recovery of any costs incurred by the Township in the performance of emergency work.
- C. Demolition. The Zoning Officer shall order the owner of any structure which is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or when there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure. If the owner of a structure fails to comply with a demolition order within the time prescribed, the Zoning Officer shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons or entities, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other means available at law or in equity.

§ 329-7. Violations and penalties. [Added 1-15-2018 by Ord. No. 433-18]

Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution, including reasonable attorneys' fees. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 30 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

Chapter 345

SEWERS AND SEWAGE DISPOSAL

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

GENERAL REFERENCES

Natural resources protection — See Ch. 274.

Standard construction and material specifications for public improvements — See Ch. A490.

Stormwater management — See Ch. 388.

**ARTICLE I
Holding Tanks**

[Adopted 3-17-1986 by Ord. No. 197-86; amended in its entirety 11-7-2011 by Ord. No. 407-11]

§ 345-1. Purpose. [Amended 12-15-2014 by Ord. No. 424-14]

The purpose of this article is to establish procedures for the use and maintenance of holding tanks designed to receive and retain sewage, whether from residential or commercial uses, 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 the Township.

§ 345-2. Definitions.

Unless the context specifically and clearly indicates otherwise, the meanings of terms used in this article shall be used as follows:

AUTHORITY — Easttown Municipal Authority.

CCHD — Chester County Health Department.

DEP — Department of Environmental Protection of the Commonwealth of Pennsylvania.

HOLDING TANK — A watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. Holding tanks include but are not limited to the following:

- A. CHEMICAL TOILET — A toilet using chemicals that discharge to a holding tank.
- B. RETENTION TANK — A holding tank where sewage is conveyed to it by a water-carrying system.
- C. VAULT PIT PRIVY — A holding tank designed to receive sewage where water under pressure is not available.

IMPROVED PROPERTY — Any property within the 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 shall or may be discharged.⁶⁷

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

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

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

SEWER SYSTEM — All facilities owned by the Authority and leased to the Township for the collection and disposal of sewage in and for the Township.

^{67.} Editor's Note: The former definition of "municipality," which immediately followed this definition, was repealed 12-15-2014 by Ord. No. 424-14

§ 345-3. Use of temporary holding tanks.

The use of temporary holding tanks may be permitted by the Township to provide an interim or temporary method of sewage disposal under circumstances where a connection to the sewer system has been approved by the Authority and DEP but is delayed by judicial proceedings or an administrative order or directive of DEP which limits connections to the sewer system. The use of a temporary holding tank may be permitted by the Township, provided that the minimum criteria set forth herein are met:

- A. Based on the Township's official sewage facilities plan (the "537 Plan"), the property should be connected to the sewer system, but the connection to the sewer system is prohibited by judicial proceedings or by an administrative order or directive of DEP which limits connections to the sewer system for an interim time frame.
- B. Regulations issued by DEP permit the use of a temporary holding tank.
- C. The property is otherwise suitable for a holding tank.
- D. All holding tanks shall be constructed and maintained in conformance with the provisions of this article and Title 25 of the Pennsylvania Code, as may be amended and supplemented from time to time.
- E. All holding tanks shall be installed below grade.

§ 345-4. Rules and regulations; failure to comply.

- A. The Board is authorized and empowered to adopt such rules and regulations concerning the use of temporary holding tanks which it may deem necessary from time to time.
- B. The Board shall retain the right, but not the obligation, to undertake any of the duties or responsibilities of the property owner that are imposed in this article in the event that the property owner fails to comply with any of the provisions of this article. Any costs incurred by the Township to enforce the provisions of this article, including reasonable attorney fees, shall be chargeable against the property owner. If the property owner fails to reimburse the Township for such costs, the Township may file a municipal lien against the property in accordance with the Municipal Claims and Tax Liens Law.⁶⁸

§ 345-5. Rules and regulations in conformity with applicable law.

All rules and regulations adopted by the Board shall be in conformity with the provisions herein, all other ordinances of the Township, and all applicable laws and rules and regulations of the administrative agencies of the Commonwealth of Pennsylvania, including the DEP and the Chester County Health Department.

§ 345-6. Rates and charges.

The Township and Authority shall have the right and power to fix, alter, charge and collect rates, assessments and other charges in the area served by the sewer system at reasonable and uniform rates as authorized by applicable law.

^{68.} Editor's Note: See 53 P.S. § 7101 et seq.

§ 345-7. Collection and transportation of sewage; pumping receipts; inspections.

The collection and transportation of all sewage from any improved property utilizing a temporary holding tank shall be done solely pursuant to the licensing provisions established by the CCHD. The Township shall receive and review pumping receipts from holding tanks on a semiannual basis and may conduct inspections for holding tanks as necessary to ensure compliance with this article.

§ 345-8. Duties of property owner.

The owner of a property that utilizes a holding tank shall:

- A. Install and maintain the holding tank in conformance with this article, any other applicable ordinance of the Township, the provisions of any applicable law and the rules and regulations of the Authority, the Board, the CCHD and the DEP.
- B. Require a duly licensed sewage disposal contractor to inspect the holding tank on an annual basis and provide a written report of such inspection to the Township.
- C. Permit only a duly licensed sewage disposal contractor to collect, transport, and dispose of the contents stored in the holding tank.
- D. Submit to the Township on an annual basis an executed contract for the maintenance of the holding tank with a duly licensed sewage disposal contractor. Such contract shall be renewed or replaced and kept in full force and effect during the entire period in which a holding tank is utilized. Failure to maintain such a contract or submit the contract to the Township shall cause an immediate revocation of the holding tank permit.
- E. Submit to the Township on a semiannual basis pumping receipts from holding tanks.
- F. Within 60 days of notice from the Authority that it may allow connection of the property to the sewer system, the property owner must fill the holding tank with an approved material and remove and properly dispose of the tank.
- G. Execute and record an operations and maintenance agreement in the form which is attached hereto as Exhibit A,⁶⁹ which shall be recorded against the property and shall be a covenant running with the land. The operations and maintenance agreement shall require the property owner to post financial security with the Township in an amount necessary to guarantee sufficient funds for all anticipated pumping for at least six months and to cover the Township's administrative, engineering and inspection fees incurred in connection with enforcing this article.

§ 345-9. Violations and penalties.⁷⁰

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

69. Editor's Note: Exhibit A is included as an attachment to this chapter.

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

§ 345-10. Abatement of nuisances.

In addition to any other remedies provided in this article, any violations of the provisions of this article shall constitute a nuisance and shall be abated by the Township or the Authority by either seeking appropriate equitable or legal relief from a court of competent jurisdiction.

ARTICLE II
On-Lot Sewage Disposal Systems
[Adopted 10-20-2008 by Ord. No. 386-08]

§ 345-11. Title; statutory authority; purpose.

- A. This article shall be known and may be cited as "An Ordinance Providing for a Sewage Management Program for On-Lot Systems for Easttown Township."
- B. In accordance with municipal codes, the Clean Streams Law (Act of June 27, 1937, P.L. 1987, No. 394, as amended, 35 P.S. §§ 691.1 to 691.1001), and the Pennsylvania Sewage Facilities Act (Act of January 24, 1966, P.L. 1535, as amended, 35 P.S. § 750.1 et seq., known as "Act 537"), it is the power and the duty of Easttown Township to provide for adequate sewage treatment facilities and for the protection of the public health by preventing the discharge of untreated or inadequately treated sewage. The official sewage facilities plan for Easttown Township indicates that it is necessary to formulate and implement a sewage management program to effectively prevent and abate water pollution and hazards to the public health caused by improper treatment and disposal of sewage.
- C. The purpose of this article is to provide for the regulation, inspection, maintenance and rehabilitation of on-lot sewage disposal systems; to permit intervention in situations which may constitute a public nuisance or hazard to the public health; and to establish penalties and appeal procedures necessary for the proper administration of a sewage management program.

§ 345-12. Definitions.

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

AUTHORIZED AGENT — The sewage enforcement officer, designated by the Chester County Health Department (Health Department) or other person or entity, including the Township Zoning Officer, appointed by the Easttown Township Board of Supervisors to administer or assist in the administration of this article.

BOARD — The Board of Supervisors, Easttown Township, Chester County, Pennsylvania.

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

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

HEALTH DEPARTMENT — The Chester County Health Department.

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

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

OFFICIAL SEWAGE FACILITIES PLAN — A comprehensive plan for the provision of adequate sewage disposal systems, adopted by the Board and approved by the Department, pursuant to the Pennsylvania Sewage Facilities Act.⁷¹

ON-Lot SEWAGE DISPOSAL SYSTEM — Any system for disposal of domestic sewage involving pretreatment and subsequent disposal of the clarified sewage into a subsurface soil absorption area or retaining tank; this term includes both individual sewage systems and community sewage systems.

OWNER or PROPERTY OWNER — A person or entity owning property served by an on-lot sewage disposal system.

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

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

SEWAGE — Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substances being harmful or inimical to the public health or to animal or aquatic life or to the use of water for domestic water supply or for recreation or which constitutes pollution under the Act of June 22, 1937 (P.L. 1987, No. 394), known as the "Clean Streams Law," as amended.⁷²

SEWAGE ENFORCEMENT OFFICER (SEO) — A person certified by the Department who is employed by the Health Department. Such person is authorized to conduct investigations and inspections, review permit applications, issue or deny permits and do all other activities as may be provided for such person in the Sewage Facilities Act,⁷³ the rules and regulations promulgated thereunder and this article or any other ordinance adopted by the Township.

SEWAGE MANAGEMENT DISTRICT — Any area or areas of the Township designated in the official sewage facilities plan adopted by the Board as an area for which a sewage management program is to be implemented. For Easttown Township, said district shall include the entire Township, except those areas specifically served by public sewers.

SEWAGE MANAGEMENT PROGRAM — A comprehensive set of legal and administrative requirements encompassing the requirements of this article, the Sewage Facilities Act, the Clean Steams Law, the regulations promulgated thereunder and such other requirements adopted by the Board or the Health Department to effectively enforce and administer this article.

SUBDIVISION — The division or redivision of a lot or other parcel of land into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines. The enumerating of lots shall include as a lot that portion of the original lot or tracts remaining after other lots have been subdivided therefrom. [Amended 12-15-2014 by Ord. No. 424-14]

TOWNSHIP — The Township of Easttown, Chester County, Pennsylvania.

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

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

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

- B. For the purposes of this article, any term which is not defined herein shall have that meaning attributed to it under the Sewage Facilities Act⁷⁴ and the regulations promulgated thereunder.

§ 345-13. Applicability.

From the effective date of this article, its provisions shall apply in any portion of the Township identified in the official sewage facilities plan as a sewage management district. Within such an area or areas, the provisions of this article shall apply to all persons owning any property serviced by an on-lot sewage disposal system and to all persons installing or rehabilitating on-lot sewage disposal systems.

§ 345-14. Permit requirements.

- A. No person shall install, construct or request bid proposals for construction, or alter an individual sewage system or community sewage system, without first obtaining a permit from the sewage enforcement officer, which permit shall indicate that the site and the plans and specifications of such system are in compliance with the provisions of the Clean Streams Law and the Pennsylvania Sewage Facilities Act and the regulations adopted pursuant to those Acts.⁷⁵
- B. The procedures for application for and granting of a permit shall be established, revised, promulgated and enforced by the Health Department.
- C. No building or occupancy permit shall be issued for a new building which will contain sewage-generating facilities and for which an individual sewage system or community sewage system is to be installed until a valid sewage permit has been obtained from the sewage enforcement officer.
- D. No building or occupancy permit shall be issued and no work shall begin on any alteration or conversion of any existing structure, if said alteration or conversion will result in the increase or potential increase in sewage flows from the structure to an individual sewage system or community sewage system, until either the structure's property owner receives a permit for alteration or replacement of the existing sewage disposal system or until the structure's property owner and the appropriate officials of the Township receive written notification from the sewage enforcement officer that such a permit will not be required. The sewage enforcement officer shall determine whether the proposed alteration or conversion of the structure will result in increased sewage flows.

§ 345-15. Inspections.

- A. Any on-lot sewage disposal system may be inspected by the sewage enforcement officer or an authorized agent at any reasonable time as of the effective date of this article.
- B. Such inspection may include a physical tour of the property.
- C. A schedule of routine inspections may be established to assure the proper functioning of the sewage systems in the sewage management district.
- D. The sewage enforcement officer shall inspect systems known to be, or alleged to be, malfunctioning. Should said inspections reveal that the system is indeed malfunctioning, the sewage enforcement officer shall order action to be taken to correct the malfunction. If total correction cannot be done in accordance with the regulations of the Department, including but not limited to those outlined in Chapter 73 of Title 25 of the Pennsylvania Code, or is not technically or financially feasible in the

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

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

opinion of the sewage enforcement officer or a representative of the Department, then the property owner shall mitigate the malfunction.

- E. There may arise geographic areas where numerous on-lot sewage disposal systems are malfunctioning. A resolution of these areawide problems may necessitate detailed planning and a revision to the portion of the sewage facilities plan pertaining to areas affected by such malfunctions. Immediate corrective action may be compelled whenever a malfunction, as determined by the authorized agent and/or the Department, represents a serious public health or environmental threat.

§ 345-16. Prohibited discharges.

Only normal domestic wastes shall be discharged into any on-lot sewage disposal system, including wastes listed in 25 Pa. Code § 73.11(c). The following shall not be discharged into the system:

- A. Industrial waste.
- B. Automobile oil and other nondomestic oil.
- C. Toxic or hazardous substances or chemicals, including but not limited to pesticides, disinfectants (excluding household cleaners), acids, paints, paint thinners, herbicides, gasoline, oils, antifreeze, industrial soaps and detergents and other similar-type solvents.
- D. Clean surface water or groundwater, including water from roof or cellar drains, springs, basement sump pumps and french drains.
- E. Clogging bulky items, including but not limited to sanitary napkins, diapers, paper towels, cigarette filters, cat litter, plastics, egg shells, bones and coffee grounds.

§ 345-17. Maintenance requirements.

- A. Each person owning a building served by an on-lot sewage disposal system which contains a septic tank shall have the septic tank pumped by a Chester County Health Department licensed liquid waste hauler at least once every three years or whenever an inspection reveals that the septic tank is filled with solids or scum in excess of 1/3 of the liquid depth of the tank. Receipts from the pumper/hauler shall be submitted to the Township or reported to a central electronic database, if applicable, within the prescribed three-year pumping period.
- B. At the time of pumping, the on-lot sewage disposal system shall be inspected to insure that the absorption area is being protected from physical damage, to insure that the electrical, mechanical, and chemical components are in good working order and that the proper supply of power is maintained to the system as required.
- C. The required pumping frequency may be increased at the discretion of an authorized agent if the septic tank is undersized compared to the current standard; if solids buildup in the tank is above average; if the hydraulic load on the system increases significantly above design capacity; if the system malfunctions; or for other good cause shown.
- D. If any person can prove (e.g., pumping certificate, invoice) that such person's septic tank had been pumped within three years of the effective date of this article, then that person's initial required pumping shall conform to the general three-year frequency requirement, except where an inspection reveals a need for more frequent pumping frequencies.
- E. All septic tanks shall be pumped through the manhole access of each tank or tank chamber.

- F. Upon completion of the pumping of any septic tank, the interior of the tank, if accessible, shall be inspected to determine if the baffles in the septic tank are in good working order. Any person whose septic tank baffles are determined to require repair or replacement shall first contact the sewage enforcement officer for approval of the necessary repair.
- G. Any person owning a building served by an on-lot sewage disposal system, which contains an aerobic treatment tank, shall follow the operation and maintenance recommendations of the equipment manufacturer. A copy of the manufacturer's recommendations and a copy of the service agreement shall be submitted to the Township within six months of the effective date of this article. Thereafter, service receipts shall be submitted to the Township, or to a central electronic database, if applicable, at the intervals specified by the manufacturer's recommendations. In no case may the service or pumping intervals for aerobic treatment tanks exceed those required for septic tanks.
- H. Any person owning a building served by a cesspool or dry well in an area of numerous malfunctions or in an area where a repair is not technically feasible shall have that system pumped according to the schedule prescribed for septic tanks to mitigate potential pollution. As an alternative to this scheduled pumping of the cesspool or dry well, and pending any scheduled replacement of the substandard system as identified in the official sewage facilities plan, the property owner may apply for a sewage permit from the sewage enforcement officer for a septic tank to be installed preceding the cesspool or dry well. For this interim repair system consisting of a cesspool or dry well preceded by an approved septic tank, only the septic tank must be pumped at the prescribed interval. The cesspool or dry may be pumped to aid operating efficiency.
- I. Additional maintenance activity may be required as needed, including but not necessarily limited to cleaning and unclogging of piping, servicing and the repair of mechanical equipment, leveling of distribution boxes, tanks and lines, removal of obstructing roots or trees, the diversion of surface water away from the disposal area, etc.
- J. The property owner shall provide an adequate supply of electric power with the proper phase, frequency and voltage as recommended by the equipment manufacturers of the various components of the on-lot sewage disposal system.
- K. The property owner agrees not to plant trees or shrubs in any absorption area or to otherwise excavate or damage the absorption area. The property owner also agrees to protect all absorption area(s) from vehicle traffic and to protect all absorption area(s) and system components from stormwater runoff from roof gutters and downspouts, driveways, swales and sump pump discharges.
- L. The property owner agrees not to build any structures, including swimming pools and sprinkler systems, on or within 10 feet of any absorption area or any components of the system.
- M. The property owner agrees to use water conservation devices when feasible (including low-flow toilets, shower heads, dishwashers and clothes washers) and to promptly repair any leaking plumbing fixtures.

§ 345-18. System malfunctions; repairs.

- A. No person shall operate or maintain an on-lot sewage disposal system in such a manner that it malfunctions. No sewage systems shall discharge untreated or partially treated sewage to the surface of the ground or into the waters of the commonwealth unless a permit for such discharge has been obtained from the Department.
- B. A written notice of violation shall be issued to any person who is the property owner of any property

which is found to be served by a malfunctioning on-lot sewage disposal system or which is discharging sewage without a permit. The sewage enforcement officer shall be notified of all violations.

- C. Within 30 days of notification by the Township or Health Department that a malfunction has been identified, the property owner shall make application to the sewage enforcement officer for a permit to repair or replace the malfunctioning system. Within 90 days of initial notification by the Township, construction of the permitted repair or replacement shall commence, weather permitting. Within one year of the original notification by the Township, the construction shall be completed, unless seasonal or unique conditions mandate a longer period, in which case the Township, in cooperation with the sewage enforcement officer, shall set an extended completion date.
- D. The sewage enforcement officer shall have the authority to require the repair of any malfunction by the following methods: cleaning, repair or replacement of components of the existing system, adding capacity or otherwise altering or replacing the system's treatment tank, replacing the existing disposal area, replacing a gravity distribution system with a pressurized system, replacing the system with a holding tank, or any other alternative approved by the sewage enforcement officer or the Department appropriate for the specific site.
- E. In lieu of or in combination with the remedies described above, the authorized agent may require the installation of water conservation equipment and the institution of water conservation practices in structures served. Water-using devices and appliances in the structure may be required to be retrofitted with water-saving appurtenances, or they may be required to be replaced by water-conserving devices.
- F. In the event that the rehabilitation measures described above are not feasible or effective as determined by the sewage enforcement officer or the Department, the property owner may be required to apply to the Department for a permit to install a single-residence treatment and discharge system. Upon receipt of said permit, the property owner shall complete construction of the system within six months, weather permitting.
- G. Should none of the remedies in this section be totally effective in eliminating the malfunction of an existing on-lot sewage disposal system, the property owner is not absolved of responsibility for that malfunction. The Township may require whatever action is necessary to lessen or mitigate the malfunction to the extent possible.

§ 345-19. Disposal of sewage.⁷⁶

- A. All sewage originating within the sewage management district shall be disposed of in accordance with the requirements of the Solid Waste Management Act (Act 97 of 1980, 35 P.S. § 6018.101 et seq., as amended) and all other applicable laws and at sites or facilities approved by the Department. Approved sites or facilities shall include the following: sewage treatment facilities, wastewater treatment plants, composting sites and approved farmlands.
- B. Pumpers/haulers of sewage operating within the sewage management district shall operate in a manner consistent with the provisions of the Pennsylvania Solid Waste Management Act (Act 97 of 1980, 35 P.S. §§ 6018.101 through 6018.1003, as amended) and all other applicable laws.

§ 345-20. Violations and penalties; enforcement; appeals.

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

- A. Any person failing to comply with any provisions of this article may be subject to a civil penalty of not less than \$300 and not more than \$2,500 for each violation and, in addition, may be assessed the cost of damages caused by such violation and the cost of correcting such violation. Each day of noncompliance shall constitute a separate offense.
- B. The Township's Zoning Officer shall have the power and authority to determine issues related to compliance with the provisions of this article and to bring and prosecute in the name of the Township enforcement and penalty proceedings for violations of its provisions.
- C. If it appears that a violation of this article has occurred, the Township Zoning Officer has the authority to issue an enforcement notice and pursue enforcement remedies as set forth in Chapter 455, Zoning.
- D. The property owner of record of the subject property against which enforcement action has been taken shall have those appeal rights as set forth in Chapter 455, Zoning.

§ 345-21. Fee schedule.

The Board shall, by resolution, adopt a fee schedule for the administration of this article. Said schedule shall be kept on file by the Township Secretary and shall be reviewed and revised as necessary.

ARTICLE III**Public Sanitary Sewage Systems****[Adopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]****§ 345-22. Short title; purpose.**

- A. Short title. This article shall be known and may be cited as the "Public Sanitary Sewage System Ordinance of Easttown Township."
- B. Purpose. The purpose of this article is to promote, protect, preserve and otherwise provide for the public health, safety and welfare by providing for public sanitary sewage systems within Easttown Township and related matters, including, but not limited to, requiring or permitting the connection with and the use of public sanitary sewage systems by certain improved properties, providing for connections to and extensions and use of public sanitary sewage systems, establishing a sanitary sewage district, and providing for connection charges and sewage rental fees.

§ 345-23. Interpretation; definitions.

- A. General.
 - (1) The captions and headings used in this article are for convenience only and shall not control or affect the meaning or construction of any provisions of this article.
 - (2) Unless otherwise expressly stated, or where the context clearly indicates otherwise, the words and phrases defined in this article, whether with initial capitalization, full capitalization, or otherwise, shall be construed throughout this article to have the meanings indicated in this section.
 - (3) The present tense of any word or phrase used in this article includes the future; the singular number includes the plural, and the plural the singular; and the masculine gender includes the feminine and neuter.
 - (4) Unless specifically provided otherwise in this article, any reference in this article to any other ordinance of the Township, to any federal, commonwealth or county law or statue, to any regulation, study, map, survey, report, specifications or other matter issued or prepared by the Township, or any officer or official thereof, and/or by any federal, commonwealth or county public body, or any officer or official thereof, shall include such other ordinance, such law or statute, and such regulation, study, map, survey, report, specifications or other matter, with all amendments and supplements thereto, and any new ordinance, law, statue, regulation, study, map, survey, report, specifications or other matter substituted for the same, as in force at the time of application under this article.
 - (5) Unless specifically provided otherwise herein, any reference in this article to any governmental agency, department, board, commission or other public body, or to any public officer or other public official, shall include an entity or official which or who succeeds to substantially the same functions as those performed by such public body or official at the time of the application under this article.
 - (6) The provisions of this article shall be liberally construed to effectively carry out its purposes. In interpreting and applying the provisions of this article, the provisions shall be held to be the minimum requirements for the promotion of such purposes.

- (7) Where the provisions of this article impose greater restrictions than those of any other applicable ordinance or regulation of the Township, the provisions of this article shall prevail and control. Where the provisions of any other applicable ordinance or regulation of the Township or any applicable commonwealth or federal statute or regulation imposes greater restrictions than this article, the provision of such other applicable Township ordinance or regulation or such other applicable commonwealth or federal statute or regulation shall prevail and control.
- (8) In the event of any inconsistency or conflict between or among the provisions of this article, the provision or provisions imposing the greater or greatest restriction shall prevail and control.

B. Specific definitions. As used in this article, the following words and phrases shall have the meanings indicated below, except where the context specifically and clearly indicates otherwise:

ACCESSIBLE TO PUBLIC SEWER — With respect to a property, shall mean that the property adjoins, abuts on or is adjacent to a public sewer or a street or off-street easement in which a public sewer is located.

APPLICABLE RULES, REGULATIONS AND REQUIREMENTS — All Township, Health Department, commonwealth (including, but not limited to, PaDEP), and/or federal rules, regulations and requirements which are applicable to a particular construction, installation, maintenance, work or other activity regulated, provided for, required or allowed by, or otherwise subject to this article. Without limiting the generality of the foregoing, "applicable rules, regulations and requirements" shall include the Authority specifications. In the event of any inconsistency or conflict between or among any such Township, Health Department, commonwealth and/or federal rules, regulations and requirements, the rule, regulation or requirement which imposes the greater or greatest restrictions shall prevail and control.

ARTICLE — This Article III of Chapter 345 of the Code of Easttown Township, including any appendix to this Article III and any resolution adopted pursuant to or referred to in this Article III.

AUTHORITY — Easttown Municipal Authority.

AUTHORITY SPECIFICATIONS — The specifications set forth in the document entitled "Standard Specifications for Construction of Sanitary Sewers and Appurtenances," adopted from time to time by the Authority.

BOARD OF SUPERVISORS — The Board of Supervisors of the Township; the governing body of the Township.

BUILDING SEWER — That part of the drainage system of a structure, extending from the structure to the lateral, into which part waste from the structure shall or may be discharged.

COMMONWEALTH — The Commonwealth of Pennsylvania.

CONSTRUCTION CODE ACT — The Pennsylvania Construction Code Act, Act of November 10, 1999, P.L. 491, No. 45, as amended, 35 P.S. § 7210.101 et seq.

EDU — An equivalent dwelling unit; a measure of wastewater flow anticipated to be received from a single-family dwelling unit or the equivalent.

EDU ALLOCATION RESOLUTION — The resolution adopted from time to time by the Authority, establishing and otherwise providing criteria allocating EDUs to improved properties according to use.

HEALTH DEPARTMENT — The Health Department of Chester County, Pennsylvania.

IMPROVED PROPERTY — Any property within the Township upon which there is erected a

structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial waste shall or may be discharged.

INDUSTRIAL ESTABLISHMENT — Any improved property located in the Township and used or intended for use, wholly or in part, for the manufacturing, processing, cleaning, laundering or assembling of any product, commodity or article or any other improved property located in this Township from which wastes, in addition to or other than sanitary sewage, shall or may be discharged.

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

INTERNATIONAL PLUMBING CODE — The "International Plumbing Code" as such term is defined and/or used in the Construction Code Act and the regulations promulgated thereunder.

INTERNATIONAL RESIDENTIAL CODE — The "International Residential Code" as such term is defined and/or used in the Construction Code Act and the regulations promulgated thereunder.

LATERAL — That part of the public sewer extending from a sewer main, located in the street right-of-way or off-street easement, to the structure side of the building sewer serving an improved property and connected or to be connected with the building sewer. If there are no present improvements on a property, "lateral" shall mean the part of the public sewer extending from said sewer main to the street right-of-way line or off-street easement line for future connection to the building sewer, if and when the property is improved.

NATURAL OR CREATED OUTLET — Any outlet, whether naturally occurring or created, to a watercourse, ditch, pond, lake or other body of surface water or groundwater.

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

PADEP — The Department of Environmental Protection of the commonwealth.

PERSON — Any individual, partnership, company, association, society, trust, corporation, municipality, municipal authority or other group or entity. Whenever used in any provision of this article prescribing and imposing a penalty or imposing a fine or imprisonment, "person" shall include the members of an association, partnership or firm and the officers of any local agency or municipal, public or private corporation, for profit or not for profit.

PUBLIC SEWER — Any off-site system, including all parts, facilities and other appurtenances thereof (including laterals), owned and/or operated by the Township for the collection, conveyance, treatment and/or disposal of sanitary sewage and/or industrial wastes through means approved by PaDEP.

SANITARY SEWAGE — Sewage, as defined in and by the Pennsylvania Sewage Facilities Act, Act of January 24, 1966, P.L. (1965) 1535, as amended, 35 P.S. § 750.1 et seq., and the rules and regulations of PaDEP thereunder.

TOWNSHIP — The Township of Easttown, Chester County, Pennsylvania, acting by and through the Board of Supervisors or, in appropriate cases, authorized representatives.

TOWNSHIP ENGINEER — The professional engineer, licensed as such in the Commonwealth of Pennsylvania, duly appointed and employed as the Engineer for the Township or engaged by the Township as a consultant thereto.

VFSA — Valley Forge Sewer Authority, a Pennsylvania municipal authority, which owns and operates the wastewater treatment plant that processes most of the Township's sanitary sewage.

WASTEWATER TREATMENT PLANT — The wastewater treatment plant and related facilities owned and operated by VFSA, to which plant most sanitary sewage and/or industrial waste, collected by the public sewer, is conveyed by the public sewer for treatment and disposal.

- C. Authority specifications. Without limiting, but in furtherance of, the generality of other applicable requirements of this article, the Authority specifications, for purposes of Section 305 of the Construction Code Act (35 P.S. § 7210.305), shall constitute standards containing provisions which equal or exceed the requirements of the regulations promulgated under the Construction Code Act, the International Residential Code and/or the International Plumbing Code for lateral connections located on private property and connecting to the public sewer. For purposes of the foregoing, "lateral connection" shall include a "lateral" and a "building sewer" as those two terms are defined in this article.

§ 345-24. Connection with and use of public sewers.

A. Required connection with and use of public sewers.

- (1) The owner of any improved property which is accessible to a public sewer and whose principal structure, or any part thereof, is within 150 feet from the public sewer shall connect the improved property to the public sewer and shall use the public sewer within 60 days, or such other additional time as may be determined appropriate by the Township, after notice from the Township to make such connection and use is served upon the owner, for the purpose of discharging all sanitary sewage and/or industrial wastes from the improved property. The notice of the Township to connect with and use the public sewer shall be in accordance with Subsection C.
- (2) The owner of any unimproved property which is accessible to a public sewer and which subsequently becomes an improved property, with any part of the principal structure on the property being within 150 feet from the public sewer, shall, at the time of the erection of the structure, install sanitary facilities in the structure and connect the same to the public sewer and use the public sewer for the purpose of discharging all sanitary sewage and/or industrial wastes from the improved property.
- (3) The connection with and use of the public sewer in Subsection A(1) and (2) above, as well as the installation of the sanitary facilities in the structure under Subsection A(2) above, shall be at the expense of the owner of the improved property, subject to and in accordance with the applicable rules, regulations and requirements, and otherwise subject to and in accordance with the provisions of this article, including, but not limited to, the limitations and restrictions set forth in this article.

B. Permitted connections with and use of public sewers.

- (1) The owner of any improved property accessible to a public sewer, on which property no part of the principal structure is within 150 feet from the public sewer, who desires to connect with and use the public sewer for the purpose of discharging all sanitary sewage and/or industrial wastes from the improved property shall be permitted to connect with and use the public sewer for such purpose, provided that the public sewer and wastewater treatment plant has sufficient capacity to accept, treat and dispose of the sanitary sewage and/or industrial wastes to be discharged from the improved property.
- (2) The owner of any improved property not accessible to a public sewer, but who desires to connect with and use the public sewer for the purpose of discharging all sanitary sewage and/or

industrial wastes from the improved property, shall be permitted to connect with and use the public sewer for such purpose, provided that the owner, at the owner's expense, is able to arrange for connection to the public sewer through intervening properties, and the public sewer and wastewater treatment plant has sufficient capacity to accept, treat and dispose of the sanitary sewage and/or industrial wastes to be discharged from the improved property.

- (3) The connection with and use of the public sewer under Subsection B(1) and (2) above shall be at the expense of the owner of the improved property, subject to and in accordance with applicable rules, regulations and requirements, and otherwise subject to and in accordance with the provisions of this article, including, but not limited to, the limitations and restrictions set forth in this article.

C. Notice.

- (1) The notice to the owner of improved property by the Township to make connection with and use a public sewer, as provided in Subsection A, shall consist of a written or printed document referring to this article and requiring the connection within 60 days, or such additional time as may be determined appropriate by the Township, from the date such notice is served upon the owner. The notice may be served at any time after a public sewer is in place that is able to receive and convey sanitary sewage and/or industrial waste from the improved property to the wastewater treatment plant for treatment and disposal. The notice shall be served by personal service or by registered mail, or by such other method as at the time may be provided or permitted by law.
- (2) In the event that the owner of the improved property fails to connect with and use the public sewer within the sixty-day period or such additional time as may be determined appropriate by the Township, after notice to connect and use has been served upon the owner, the Township, at its sole discretion, shall have the right, but not the duty, by itself or agents thereof, to enter upon the improved property and construct the connection. In such case, the Township shall, upon completion of the connection work, send an itemized bill of the cost of connection to the owner, which bill shall be payable in full immediately. Should the owner fail to so pay the bill, the Township shall have the right to collect the same in the manner permitted and pursuant to law, including, but not limited to, the filing of a municipal claim and lien therefor.

D. Limitations and restrictions on sanitary sewage and industrial wastes to be discharged into a public sewer. All sanitary sewage and industrial wastes from any improved property, after connection of such improved property with a public sewer as may be required or permitted under Subsection A or B, shall be conducted into the public sewer; subject, however, to the limitations and restrictions as shall be provided in this article and/or as otherwise may be established by the Township and/or the VFSA from time to time. Such limitations and restrictions shall include, without limitation, the wastewater discharges set forth in Article IV, Wastewater Discharges, of this chapter.

E. Industrial pretreatment. Pretreatment of industrial wastes shall be required as provided in Article V, Industrial Pretreatment, of this chapter.

§ 345-25. Discharge restrictions.

- A. No person shall place or deposit, or permit to be placed or deposited, upon public or private property within the Township any sanitary sewage or industrial wastes in violation of § 345-24A.
- B. No person shall discharge, or permit to be discharged, to any natural or created outlet within the Township any sanitary sewage or industrial waste in violation of § 345-24A, except where suitable

treatment has been provided that is satisfactory to the Township and that is consistent and in compliance with the applicable rules, regulations and requirements, including, but not limited to, applicable rules, regulations and requirements and/or permits of or issued by PaDEP and/or the Health Department.

§ 345-26. Privy vaults, cesspools, sinkholes, septic tanks or similar receptacles.

- A. Except as may be otherwise specifically approved and authorized in writing, by and at the discretion of the Township, no privy vault, cesspool, sinkhole, septic tank or similar receptacle shall be constructed, used or maintained at any time upon any improved property which is connected to the public sewer or which is required to be connected with and use a public sewer under § 345-24A.
- B. Except as may be otherwise specifically approved and authorized, in writing, by and at the discretion of the Township, every such privy vault, cesspool, sinkhole, septic tank or similar receptacle in existence shall be abandoned and, upon connection of the improved property to the public sewer, shall be decommissioned and all components thereof removed from the improved property or, at the discretion of the Township, cleansed and filled. Such abandonment, decommissioning, removal, cleansing and filling shall be at the expense of the owner of the improved property, shall be completed within such time after connection of the improved property to the public sewer as the Township shall direct, shall be under the direction and supervision of the Township, and shall be in accordance with applicable rules, regulations and requirements. Any such privy vault, cesspool, sinkhole, septic tank or similar receptacle not so abandoned, decommissioned, removed, cleansed and/or filled, is hereby declared to be a nuisance, which shall be abated as provided by law at the expense of the owner of the improved property.
- C. No such privy vault, cesspool, sinkhole, septic tank or similar receptacle shall, at any time, be connected to or with the public sewer.

§ 345-27. Sanitary sewer permit; connection requirements; building sewers.

- A. Sanitary sewer permit.
 - (1) No person shall uncover, connect with, make any opening into, use, alter or disturb, in any manner, any public sewer/building sewer or any part thereof without first obtaining a sanitary sewer permit, in writing, from the Township.
 - (2) Application for a sanitary sewer permit shall be made by the owner of the improved property or by a duly authorized agent of such owner. The form and content of the sanitary sewer permit application shall be established, from time to time, by the Township.
 - (3) Fees for application for a sanitary sewer permit shall be paid in accordance with the fee schedule adopted by resolution of the Board of Supervisors from time to time. The fee schedule may be revised, as necessary, by resolution of the Board of Supervisors.
- B. Prerequisites for connection to public sewer. No person shall make, or shall cause to be made, any connection of any improved property to a public sewer until such person shall have fulfilled all of the following conditions:
 - (1) Such person shall have notified the Township of their intention to connect the improved property to the public sewer, such notification to be given to such official or representative of the Township as shall be designated from time to time by the Board of Supervisors to receive such notification.

- (2) Such person shall have applied for and obtained a sanitary sewer permit as required by Subsection A.
- (3) Such person shall have paid, in full, the connection charges as provided under and by § 345-30, together with any other applicable fees and charges.
- (4) Such person shall have given the Township at least 48 hours' notice prior to the time when such connection will be made so that the Township may supervise and inspect, or may cause to have supervised and inspected, the work of connection and necessary testing, such notification to be given to such official or representative of the Township as shall be designated from time to time by the Board of Supervisors to receive such notification.

C. Separate connections.

- (1) Each improved property and each structure on an improved property discharging sanitary sewage and/or industrial waste to be connected to a public sewer shall be connected separately and independently with the public sewer by and through a separate building sewer. The connection of more than one improved property, or more than one structure discharging sanitary sewage and/or industrial wastes on a single improved property, to one building sewer shall not be permitted.
- (2) Notwithstanding Subsection C(1) above, the connection of more than one structure discharging sanitary sewage and/or industrial wastes on a single improved property to one building sewer (the "common building sewer") may be permitted by special permission of the Township, in writing, but only for good cause shown and subject to the following conditions and such other connections as may be prescribed by the Township:
 - (a) The minimum nominal diameter of the common building sewer shall be eight inches, the common building sewer shall extend to and connect to the public sewer via a sanitary sewer manhole (as opposed to a tee, wye or saddle connection), and the common building sewer shall be located within an easement, which shall in turn be offered for dedication to the Township along with the common building sewer. Upon acceptance of such dedication, the common building sewer and easement shall become a public sewer, and until such time as the Township accepts dedication thereof, the common building sewer and easement shall be considered an extension of public sewer as provided in § 345-28. For the purpose of the remaining provisions of Subsection C(2), all requirements applicable to a public sewer shall apply to the common building sewer.
 - (b) The width of the easement in which the common building sewer is located shall comply with the requirements set forth in the Authority specifications.
 - (c) The upper reach of the common building sewer shall terminate at a sanitary sewer manhole.
 - (d) Each individual structure on the improved property shall connect to a common building sewer via a building sewer and lateral, each as defined in § 345-23.
 - (e) Common building sewer design, materials and methods of construction and installation, including but not limited to sanitary sewer manholes, shall comply with the requirements for gravity sewers as set forth in Authority specifications.

D. Costs of construction and connection to building sewers. All costs and expenses of construction of a building sewer, and all costs and expenses of connection of a building sewer to a public sewer, shall

be borne by the owner of the improved property to be connected. The owner shall indemnify and shall save harmless the Township and the Authority from all loss or damage that may be occasioned, directly or indirectly, as a result of the construction of the building sewer and/or the connection of the building sewer to the public sewer.

- E. Location of connection of building sewers. A building sewer shall be connected to a public sewer at the place designated by the Township and where, if applicable, the lateral is provided, subject to and in accordance with the Authority specifications and other applicable rules, regulations and requirements.
- F. Existing house sewer line as building sewer. Where an improved property, at the time its connection to a public sewer is to be made, is served by its own sewage disposal system or sewage disposal device, the existing house sewer line shall be disconnected on the structure side of such sewage disposal system or sewage disposal device, and connection shall be made, with proper fittings, to continue such house sewer line as a building sewer, subject to and in accordance with the Authority specifications and other applicable rules, regulations and requirements.
- G. Inspections and approval of building sewers.
 - (1) No building sewer connection, maintenance, repair and/or replacement shall be covered until it has been inspected and approved by the Township, as provided in and by the Authority specifications and other applicable rules, regulations and requirements. If any part of a building sewer is covered before being so inspected and approved, it shall be uncovered, at the cost and expense of the owner of the improved property, for such inspection and approval.
 - (2) All such inspections and approval by the Township shall be at the cost and expense of the owner of the improved property.
 - (3) All such inspections by the Township shall be undertaken by the Township Engineer and shall be completed not less than 48 to 72 hours after the Township is given notice by the owner of the improved property that the uncovered building sewer is ready for inspection.
 - (4) Unless otherwise directed by the Board of Supervisors, all such approvals by the Township shall be given by the Township Engineer.
- H. Maintenance, repair and/or replacement of building sewers. It shall be the responsibility of the owner of improved property, at the expense of the property owner, to maintain every building sewer on the improved property at all times in a sanitary and safe operating condition and to repair and replace the same as shall be necessary. Such maintenance, repair and replacement shall be in accordance with and comply with all Authority specifications and other applicable rules, regulations and requirements.
- I. Building sewer excavations. Every excavation for a building sewer shall be guarded adequately with barricades and lights to protect all persons from damage and injury, and any street, sidewalk and other property disturbed in the course of the connection, maintenance, repair and/or replacement of a building sewer shall be restored. Such guarding, excavation and restoration shall be at the cost and expense of the owner of the improved property, and in a manner satisfactory to the Township and otherwise subject to and in accordance with the Authority specifications and other applicable rules, regulations and requirements.
- J. Unsatisfactory condition of building sewers. If any person shall fail or refuse, upon being served with a written notice from the Township, to remedy any unsatisfactory condition, including but not limited to inflow and infiltration, with respect to a building sewer within 30 days, or such additional time as

may be determined appropriate by the Township, of service of the notice, the Township, at its discretion, may refuse to permit such person to discharge, or to continue to discharge, sanitary sewage and/or industrial wastes into the public sewer until such unsatisfactory condition shall have been remedied in a manner satisfactory to the Township and otherwise subject to and in accordance with the Authority specifications and other applicable rules, regulations and requirements. Such right of refusal shall be in addition to such other or further remedies as may be available to the Township to correct the unsatisfactory condition.

§ 345-28. Extensions of public sewer.

All extensions of a public sewer shall be constructed, installed and/or otherwise completed in accordance with the Authority specifications and other applicable rules, regulations and requirements. For purposes of this section, "public sewer" shall mean not only a public sewer, as such phrase is defined in and by § 345-23, but also any public sewer as so defined but which is not, at the particular time, owned and/or operated by the Township but intended to be ultimately owned and/or operated by the Township.

§ 345-29. Sanitary sewer districts.

Sanitary sewer districts shall be established by resolution adopted from time to time by the Authority.

§ 345-30. Connection charges.

- A. The Township hereby imposes connection charges against and to be paid by the owner of any improved property required or permitted to be connected with and use a public sewer under and in accordance with this article.
- B. The connection charges imposed against and payable by the owner of improved property shall be established from time to time by resolution of the Authority. The connection charges shall include, without limitation, a connection fee, customer facilities fee and/or a tapping fee as enumerated and defined in and by the Municipality Authorities Act, 53 Pa.C.S.A. § 5601 et seq. Connection charges in the nature of tapping fees, as established by said resolution, shall be imposed on the basis of EDUs allocated to the improved property pursuant to the EDU Allocation Resolution.
- C. The connection charges shall be due and payable in full either at the time the application is made to the Township for a permit to connect to the public sewer, as provided in § 345-27, or, in the case an owner of improved property fails to make connection to the public sewer as required by the Township pursuant to § 345-24A, on the date when the Township connects the property to the public sewer at the cost and expense of the owner.
- D. All connection charges shall be payable to the Authority. Payments of connection charges shall be tendered to such official or representative of the Authority as shall be designated and authorized from time to time by the Authority to accept payment.
- E. Payment of connection charges shall be enforced and recovered by the Authority in such manner as provided or permitted by law then in effect.

§ 345-31. Sewer rents and charges.

Sewer rents and charges shall be as established in Article VI, Sewer Rents and Charges, of this chapter.

§ 345-32. Violations and penalties; additional remedies.

A. Fines and penalties.

- (1) Any person who fails or refuses to comply with any provision of this article shall be in violation of this article, which violation shall be enforced by action brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.
- (2) Upon conviction, such person shall pay a fine of not less than \$100 and not more than \$1,000 (or such other maximum fine as then may be provided or permitted by applicable law) per violation, together with costs of prosecution, including, but not limited to, reasonable attorneys' fees, in each case. Upon default in payment of the fine and costs, such person shall be subject to imprisonment to the maximum extent allowed by law for the punishment of summary offenses.
- (3) Each day, or portion thereof, that a violation is found to exist and each provision of this article that is found to have been violated shall constitute a separate offense, each punishable by the aforesaid fine and imprisonment.
- (4) All fines and costs collected for the violation of this article shall be paid to the Township.

B. Other remedies. The provisions of Subsection A (including, but not limited to, the manner of enforcement of a violation of this article and the fine and the penalty for such violation) shall not be in limitation of, but shall be in addition to:

- (1) Such other or further remedies or enforcement actions as may be available to the Township under other provisions of this article or under other law (including, but not limited to, other applicable local, state or federal law) or in equity (including, but not limited to, injunctive relief) for any actions or inactions which violate any provision of this article. Nothing in this section or other provisions of this article shall be deemed to preclude the Township from pursuing such other or further remedies concurrently.
- (2) Such other or further remedies or enforcement actions as may be available to any governmental entity, other than the Township, having jurisdiction under any applicable local, state, or federal law or in equity (including, but not limited to, injunctive relief) for any actions or inactions which violate any provision of this article.

ARTICLE IV
Wastewater Discharges
[Adopted 8-19-2002 by Ord. No. 340-02]

§ 345-33. Purpose; objectives.

This article sets forth uniform requirements for connected and nonconnected users discharging into the public sanitary sewage system within Easttown Township tributary to the treatment plant of the Valley Forge Sewer Authority and enables Easttown Township and the Authority to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this article are to:

- A. Prevent the introduction of pollutants into the public sanitary sewage system and treatment plant which will interfere with the operation of the sewer system or contaminate the resulting biosolids or otherwise be incompatible with the sewer system; and
- B. Prevent the introduction of pollutants into the treatment plant which will pass through the treatment system, inadequately treated, into receiving waters or the atmosphere; and
- C. Improve the opportunity to recycle and reclaim wastes and biosolids from the sewer system; and
- D. Provide for equitable distribution of the cost of the treatment plant operation and maintenance.

§ 345-34. Definitions.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated. Words in the present tense include the future. The singular number includes the plural number. The plural number includes the singular number.

AUTHORITY — The Valley Forge Sewer Authority or its authorized representatives.

BASELINE MONITORING REPORT — Refers to the report required in 40 CFR 403.12, to be submitted by all industrial users or waste generators subject to National Categorical Pretreatment Standards.

BEST MANAGEMENT PRACTICES (BMPs) — The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.**[Added 2-17-2009 by Ord. No. 389-09]**

BIOSOLIDS — The primarily solid organic material recovered from a sewage treatment process and recycled especially as a fertilizer.

BOD (BIOCHEMICAL OXYGEN DEMAND) — The quantity of dissolved oxygen consumed in the biochemical oxidation of the organic matter in waste under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter (mg/L). It shall be determined by one of the acceptable methods described in 40 CFR Part 136, and amendments thereto, or by any other methods approved by the Environmental Protection Agency (EPA).

CATEGORICAL INDUSTRIAL USER — Any industrial user subject to a National Categorical Pretreatment Standard.

CATEGORICAL WASTE GENERATOR — Any waste generator subject to a National Categorical Pretreatment Standard.

CLEAN WATER ACT (CWA) — Refers to Public Law 92-500, October 18, 1972, 33 U.S.C. § 1251 et seq., as amended by PL 95-217, December 28, 1977; PL 97-177, December 29, 1981; PL 97-440, January 8, 1983; and PL 100-04, February 4, 1987, and any subsequent amendments or reauthorizations thereto.

COLOR — The color of the light transmitted by the waste solution after removing the suspended material, including the pseudocolloidal particles.

COMMERCIAL DISCHARGE PERMIT — Refers to a permit issued to those industrial users that the Authority does not classify as significant industrial users, but are considered to have an impact, either potential or realized, either singly or in combination with other contributing commercial or industrial establishments, on the public sanitary sewage system and/or the treatment plant (either its operational efficiency, effluent quality or quality of the biosolids produced by such facility).

COMMERCIAL USER or COMMERCIAL ESTABLISHMENT — Refers to a property which is intended to be used for the purpose of carrying on a trade, business or profession, or for social, religious, educational, charitable or public uses, or a person discharging waste generated by the trade, business, profession, social, religious, educational, charitable or public use of the property.

COMPOSITE SAMPLE — A sample consisting of a combination of individual samples that are either time- or flow-proportioned, or both, obtained at regular intervals over a period of time and shall reasonably reflect the actual wastewater or waste discharge conditions for that period of time.

CONNECTED USER — A user located in the Authority service area that discharges into the public sanitary sewage system through a direct connection point that has been approved by the Authority.

COOLING WATER — The water discharged from any system of condensation, including but not limited to air conditioning, cooling or refrigeration.

DAILY COMPOSITE SAMPLE — A sample consisting of a combination of individual samples, regardless of flow, collected at regular intervals over a period of time; the sampling duration shall be not less than 20 hours, but shall not exceed 28 hours, or as specified in an industrial waste discharge permit or commercial discharge permit.

DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) — The Department of Environmental Protection of the Commonwealth of Pennsylvania, or any department or agency of the commonwealth succeeding to the existing jurisdiction or responsibility of the Department of Environmental Protection.

DISCHARGE or INDIRECT DISCHARGE — The introduction of pollutants into the Authority's public sanitary sewage system from any nondomestic source regulated under Section 307(b), (c) or (d) of the Clean Water Act.⁷⁷ [Added 2-17-2009 by Ord. No. 389-09]

DISSOLVED SOLIDS — That concentration of matter in a waste consisting of colloidal particulate matter, and both organic and inorganic molecules and ions present in solution that pass through a standard filter according to the approved procedures outlined in 40 CFR Part 136, or amendments thereto, or outlined in any other procedure approved by the EPA.

DOMESTIC USER — Refers to any connected user discharging only sanitary sewage. This discharge shall not exceed an average daily total suspended solids concentration of 250 milligrams per liter (mg/L) and an average daily BOD concentration of 250 milligrams per liter (mg/L).

ENVIRONMENTAL PROTECTION AGENCY (EPA) — The Environmental Protection Agency of the United States, or any agency or department of the United States succeeding to the existing jurisdiction or responsibility of the Environmental Protection Agency.

77. Editor's Note: See 33 U.S.C. § 1317(b), (c) and (d).

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

GRAB SAMPLE (or INSTANTANEOUS GRAB SAMPLE) — A sample taken from a wastewater or waste with no regard to flow in the wastewater or waste and collected over a period of time not exceeding 15 minutes but shall reasonably reflect actual discharge conditions for that period.

GROUND GARBAGE — Garbage that has been shredded to such a degree that all its particles will be carried freely under normal sewer flow conditions, with no particle greater than 1/2 inch in any dimension.

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

HOLDING TANK — A watertight receptacle designed to receive and retain wastes and is constructed to facilitate the ultimate disposal of the wastes at another site.

HOLDING TANK WASTE — The wastes originating from normal household activities containing human and customary household wastes, or such wastes from commercial or industrial establishments, but excluding industrial wastes. The waste must be certified by a waste hauler licensed by the Authority as sanitary sewage and must be stored in such a way as not to concentrate said waste to a level of total suspended solids exceeding 1,000 milligrams per liter (mg/L).

HOUSEHOLD WASTE — The water-carried waste originating from normal household functions such as waste from kitchens, toilets, lavatories and laundries, or such waste from industrial or commercial establishments, but excluding industrial waste.

INDUSTRIAL USER — Any connected user which is not a domestic user.

INDUSTRIAL WASTE — Any liquid, solid or gaseous substance, whether or not solids are contained therein, discharged from any user during the course of any industrial, manufacturing, trade, or business process or in the course of development, recovery or processing of natural resources, or any wastes having any of the characteristics described under § 345-35, General discharge prohibitions, of this article, as distinct from sanitary sewage.

INDUSTRIAL WASTE DISCHARGE PERMIT — A permit issued to a significant industrial user in accordance with §§ 345-42 through 345-51 of this article.

INFILTRATION — The groundwater unintentionally entering the public sanitary sewage system, including building foundation drains and sewers, from the ground through such means as, but not limited to, defective pipes, pipe joints, connection or manhole walls. Infiltration does not include, and is distinguishable from, inflow.

INFILTRATION/INFLOW — The total quantity of water from both infiltration and inflow without distinguishing the source.

INFLOW — The water discharged into a public sanitary sewage system, including building drains and sewers, from such sources as, but not limited to, roof leaders, cellar, yard and area drains; foundation drains; unpolluted cooling water discharges; drains from springs and swampy areas; manhole covers; cross-connection from storm sewer and/or combined sewers; catch basins; stormwater; surface runoff; street wash water; or drainage. Inflow does not include, and is distinguishable from, infiltration.

INTERCEPTOR — A device designed and installed so as to separate and retain for removal by automatic or manual means deleterious, hazardous or objectionable waste, including but not limited to grease, oil or sand, while permitting sanitary sewage or industrial waste to discharge by gravity into a public sanitary sewage or on-site drainage system.

INTERFERENCE — A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations and results in a violation of

any requirement of the treatment plant's NPDES permit or prevents biosolids use or disposal in compliance with applicable federal or state statutes or regulations. The term includes those discharges that cause a prevention of biosolids use or disposal by the treatment plant in accordance with Section 405 of the Act (33 U.S.C. § 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA),⁷⁸ the Clean Air Act,⁷⁹ the Toxic Substances Control Act,⁸⁰ 40 CFR Part 503, or more stringent state criteria, including those contained in any state biosolids management plan prepared pursuant to Title IV of the SWDA or any more stringent DEP criteria, guidelines or regulations pursuant to the Solid Waste Management Act (SWMA),⁸¹ the Clean Streams Law (CSL),⁸² or the Air Pollution Control Act (APCA)⁸³ applicable to the method of disposal or use employed by the treatment plant, and those discharges that cause a pass-through or disrupt operations at the treatment plant or in the public sanitary sewage system.

MANHOLE — A shaft or chamber leading from the surface of the ground to a sewer, large enough to enable a man to gain access to the latter.

Mg/L or mg/L — Milligrams per liter.

NATIONAL CATEGORICAL PRETREATMENT STANDARD — Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with 40 CFR Chapter 1, Subchapter N, Parts 405 to 471, and Section 307(b) and (c) of the Act (33 U.S.C. § 1317) which applies to a specific category of industrial user or waste generator.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT (NPDES PERMIT) — A permit issued under the National Pollutant Discharge Elimination System (NPDES) for discharge of wastewater to the navigable waters of the United States pursuant to Section 402 of the Clean Water Act, as amended.⁸⁴

NEW SOURCE —

- A. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Clean Water Act⁸⁵ which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (1) The building, structure, facility or installation is constructed at a site at which no other source is located; or
 - (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (3) The production or wastewater generating processes of the building structure, facility or installation are substantially independent of an existing source at the same site.
- B. 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

78. Editor's Note: See 42 U.S.C. § 6901 et seq.

79. Editor's Note: See 42 U.S.C. § 7401 et seq.

80. Editor's Note: See 15 U.S.C. § 2601 et seq.

81. Editor's Note: See 35 P.S. § 6018.101 et seq.

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

83. Editor's Note: See 35 P.S. § 4001 et seq.

84. Editor's Note: See 33 U.S.C. § 1342.

85. Editor's Note: See 33 U.S.C. § 1317(c).

facility is engaged in the same general type of activity as the existing source should be considered. Determination of new source status shall be consistent with the provisions of 40 CFR 403.3(k)(1), (2) and (3).

NONCONNECTED USER — Any user who contributes waste (including trucked industrial waste, domestic holding tank waste or septage) to the treatment plant by transporting or allowing the transport of such waste by vehicle and allows or causes the discharge of said trucked waste into the treatment plant at such a discharge point and under such conditions as may be approved by the Authority.

NORMAL DOMESTIC-STRENGTH SEWAGE — Wastewater or sewage having an average daily total suspended solids concentration of not more than 250 milligrams per liter (mg/L) and an average daily BOD of not more than 250 milligrams per liter (mg/L) and excluding toxic and/or flammable wastes.

OBJECTIONABLE WASTE — Any wastes that can, in the Authority's judgment, harm either the sewer system or treatment plant process or equipment; have an adverse effect on the receiving stream; endanger life, health or property; or which constitute a public nuisance.

OWNER — Any person vested with ownership, legal or equitable, sole or partial, of any property, or his authorized representative.

PASS-THROUGH — A discharge which exits the treatment plant into waters of the United States in quantities or concentrations which, alone or in conjunction with other discharges, is a cause of a violation of the treatment plant's NPDES permit or of any applicable local, state or federal water quality criteria (including an increase in the magnitude or duration of a violation).

PERSON — Includes an individual, a partnership, an association, a corporation, a joint-stock company, a trust, an unincorporated association, a governmental body, a political subdivision, a municipality, a municipal authority or any other group or legally recognized entity. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.

pH — The logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution indicating the degree of acidity or alkalinity of a substance. pH shall be determined by one of the accepted methods described in 40 CFR Part 136, and amendments thereto, or by any other method approved by the EPA.

POLLUTANTS — Any material that, when added to water, shall render that water (either because of the nature or quantity of the material) unacceptable for its original intended use, including, but not limited to, dredged spoil; solid waste; incinerator residue; sewage; garbage; biosolids; chemical wastes; biological materials; radioactive materials; heat; sand; cellar dirt; and/or industrial, municipal, and agricultural wastes.

POLLUTION — The man-made or man-induced alteration of the chemical, physical, biological, and/or radiological integrity of water.

PRETREATMENT — The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in a waste to a less harmful state prior to or in lieu of discharging (either by a connected user or nonconnected user through a licensed waste hauler) or otherwise introducing such pollutants into the public sanitary sewage system. The reduction or alteration can be obtained by physical, chemical or biological processes or by process changes by other means.

PRETREATMENT REQUIREMENT — Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user or waste generator.

PRETREATMENT STANDARD — Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. § 1317), which applies to industrial users and including prohibitive discharge limits established pursuant to 40 CFR 403.5.

PROCESS STREAM OF THE TREATMENT PLANT — The forward flow of waste through various treatment units of the treatment plant, including primary clarifiers, aeration tanks, secondary (final) clarifiers and chlorine contact tanks, and including holding tank waste or trucked industrial waste discharged directly into one of those treatment units.

PROCESS WASTE — Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product, excluding noncontact cooling water and boiler blowdown.

PUBLIC SANITARY SEWAGE SYSTEM (sometimes called the "sewer system") — All sanitary sewers, all pumping stations, all force mains, and all other sewage facilities owned or leased and operated by Easttown Township tributary to the treatment plant for the collection, transportation and treatment of sanitary sewage and industrial wastes and septage, together with their appurtenances, and any additions, extensions or improvements thereto. It shall also include sewers within Easttown Township's service area which serve one or more persons and discharge into the public sanitary sewage system even though those sewers may not have been constructed by Easttown Township and are not owned or maintained by Easttown Township. It does not include separate storm sewers or culverts which have been constructed for the sole purpose of carrying stormwater or surface runoff, the discharge from which is not and does not become tributary to the treatment plant.

REPORT ON COMPLIANCE WITH NATIONAL CATEGORICAL PRETREATMENT STANDARDS or NINETY-DAY COMPLIANCE REPORT — Refers to the report required by 40 CFR 403.12(d), to be submitted by all industrial users or waste generators subject to National Categorical Pretreatment Standards.

RESPONSIBLE INDIVIDUALS —

- A. A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decisionmaking functions for the corporation.
- 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.
- C. A general partner or proprietor if the industrial user submitting the reports required by Paragraphs (b), (d) and (e) of 40 CFR 403.12 is a partnership or sole proprietorship, respectively.
- D. A duly authorized representative of the individual designated in Subsection A or B of this definition if:
 - (1) The authorization is made in writing by the individual described in Subsection A or B of this definition;
 - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - (3) The written authorization is submitted to the control authority.

- E. If an authorization under Subsection D of this definition is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of Subsection D must be submitted to the control authority prior to or together with any reports to be signed by an authorized representative.

SANITARY SEWAGE — Wastes originating from domestic users containing human and customary household wastes, or such wastes from commercial or industrial establishments, but excluding industrial wastes.

SANITARY SEWER — Any pipe or conduit constituting a part of the sewer system, or usable for sewage collection purposes, which carries wastewater and to which stormwater, surface water and groundwater are not admitted and which discharges to the treatment plant owned by the Valley Forge Sewer Authority.

SEPTAGE — Refers to household waste from normal household functions, or such waste from commercial or industrial establishments, concentrated or treated in such a manner so as to concentrate the total suspended solids in such waste to a level at which it is treatable through the septic discharge station at the treatment plant.

SEPTAGE DISCHARGE STATION — One of the locations at the treatment plant designated by the Authority to receive septage, holding tank waste or trucked industrial waste which is not discharged directly into the process stream of the treatment plant.

SEWAGE (also referred to as "wastewater") — Any sanitary sewage or industrial wastes, carried either separately or in combination, that are discharged into the public sanitary sewage system by a connected user, or any trucked industrial waste or holding tank waste generated by a waste generator and transported to the treatment plant by a licensed waste hauler and discharged into the process stream of the treatment plant as a Tier I waste.

SHALL; MAY — "Shall" is mandatory; "may" is permissive.

SIGNIFICANT INDUSTRIAL USER — Except as provided in Subsection C of this definition, shall mean:

- A. All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter 1, Subchapter N; and
- B. Any other industrial user that discharges an average of 25,000 gallons per day or more of process waste to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Authority 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 (in accordance with 40 CFR 403.8(f)(6)).
- C. Upon a finding that an industrial user meeting the criteria in Subsection B of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Authority may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

SIGNIFICANT NONCOMPLIANCE (SNC) — A violation by an industrial user meeting one or more of the following criteria [40 CFR 403.8(f)(2)(vii)]:**[Amended 2-17-2009 by Ord. No. 389-09]**

- A. Chronic violations of waste discharge limits, defined here as those in which 66% or more of all of the measurements taken during a six-month period exceed, by any magnitude, the daily

maximum, average or instantaneous limit for the same pollutant parameter.

- B. Technical review criteria (TRC) violations, defined here as those in which 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum, average or instantaneous limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants, except pH).
- C. Any other violation of a pretreatment effluent limit (daily maximum, instantaneous limit or longer-term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public).
- D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority [40 CFR 403.8(f)(1)(vi)(B)] to halt or prevent such a discharge.
- E. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance.
- F. Failure to provide, within 45 days after the due date, required reports such as 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 or group of violations, including a violation of best management practices, which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

SIGNIFICANT WASTE GENERATOR —

- A. Any categorical waste generator;
- B. Any other waste generator which:
 - (1) Discharges a flow of 10,000 gallons or more process waste per day to the treatment plant;
 - (2) Contributes a process waste which makes up 5% or more of the average dry weather hydraulic flow or 5% or more of the organic (BOD) capacity of the treatment plant; or
 - (3) Is designated by the Authority, EPA or DEP to have a reasonable potential, either singly or in combination with other users, for adversely affecting the operation of the public sanitary sewer system and/or the treatment plant (either its operational efficiency, effluent quality or quality of the biosolids produced by said facility) or for violating any pretreatment standard or requirement.

SLUDGE — Any solid material containing large amounts of entrained water collected during water or wastewater treatment which may be recycled.

SLUG — Any discharge of a nonroutine, episodic nature, or at a flow rate or concentration which would cause a violation of the prohibited discharge standards in §§ 345-35 through 345-40 of this article.

STANDARD INDUSTRIAL CLASSIFICATION (SIC) — A classification pursuant to the latest Standard

Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

STORMWATER — That portion of the precipitation that runs off over the surface during a storm and for a short period following a storm and enters the sewer system and causes the flow at the treatment plant to exceed the normal or ordinary flow.

TIER I WASTE — A waste generated by any user that is required, by the Authority, to be discharged directly into the process stream of the treatment plant. The Authority's determination is based on waste characteristics, including but not limited to total suspended solids and BOD concentration. This category of waste may include but is not limited to most holding tank wastes, industrial wastes and sanitary landfill leachates.

TIER II WASTE — A waste generated by any user that is transported to the treatment plant by a licensed waste hauler and is required, by the Authority, to be discharged into the septage discharge station at the treatment plant. The Authority's determination is based on waste characteristics, including but not limited to total suspended solids and BOD concentration. This category of waste may include but is not limited to most septages, biosolids and sludges.

TOTAL SOLIDS — The sum of the total suspended solids in milligrams per liter (mg/L) and dissolved solids in milligrams per liter (mg/L), as determined by one of the acceptable methods described in 40 CFR Part 136, and amendments thereto, or by any other method approved by the EPA.

TOTAL SUSPENDED SOLIDS — Solids that either float to the surface or are in suspension in water, sewage, industrial waste or other liquids and which are removable by laboratory filtration. The quantity of total suspended solids shall be determined by one of the acceptable methods described in 40 CFR Part 136, and amendments thereto, or by any other method approved by the EPA.

TOWNSHIP — The Township of Easttown, Chester County, Pennsylvania.⁸⁶

TOXIC POLLUTANT — Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the EPA under the provisions of CWA 307(a)⁸⁷ or other acts.

TREATMENT PLANT — The structures, equipment and processes owned by the Valley Forge Sewer Authority and required to collect, transport and treat domestic and industrial waste and to treat trucked industrial waste, holding tank waste and septage and to dispose of the effluent and accumulated residual solids.

TRUCKED INDUSTRIAL WASTE — Any liquid, solid or gaseous substance, whether or not solids are contained therein, produced by any user during the course of any industrial, manufacturing, trade, or business process or in the course of development, recovery or processing of natural resources, as distinct from sanitary sewage, that is permitted in accordance with § 345-43 of this article and that is transported by vehicle and discharged to the treatment plant by a waste hauler licensed in accordance with § 345-43 of this article. Leachates from sanitary landfills shall be considered trucked industrial waste.

USER — Any person who contributes, causes or permits the contribution of wastewater or waste into the Authority's treatment plant.

WASTE — Refers to any sewage (or wastewater), trucked industrial waste, holding tank waste or septage.

WASTE GENERATOR — Refers to any nonconnected user of the treatment plant.

WASTE HAULER — Refers to a person licensed by the Authority under § 345-43 of this article to

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

87. Editor's Note: See 33 U.S.C. § 1317(a).

transport and discharge trucked industrial waste (generated by a permitted waste generator) or holding tank waste or septage at the treatment plant.

WASTE HAULER LICENSE — The license issued by the Authority pursuant to § 345-43 of this article which allows the discharge of domestic holding tank waste, septage or trucked industrial waste transported to the treatment plant in an over-the-road vehicle.

WASTE PERMIT — Refers to the permit issued by the Authority to a significant waste generator for a particular trucked industrial waste pursuant to § 345-43 of this article.

§ 345-35. General discharge prohibitions.

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or waste which will cause pass-through or interference with the operation or performance of the treatment plant. These general prohibitions apply to all such users of the treatment plant whether or not the user is subject to National Categorical Pretreatment Standards or any other national, state or local pretreatment standards or requirements. The following limitations and prohibitions shall apply to all users of the treatment plant:

- A. Unpolluted water or waste prohibition. No person shall discharge to the public sanitary sewage system unpolluted water or waste capable of being disposed of by any means other than discharge into the public sanitary sewage system, including but not limited to noncontact cooling water, except under such conditions as may be authorized in a permit issued by the Authority pursuant to this article.
- B. Stormwater prohibition. No person shall discharge to the public sanitary sewage system any amount of unpolluted stormwater, including but not limited to surface water, foundation drainwater, groundwater, roof runoff or surface drainage. All connections which would result in the discharge of inflow are hereby specifically prohibited.
- C. Dilution of wastes prohibited. No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate pretreatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards or in any other pollutant-specific limitation developed by the Authority or DEP.
- D. Grease and oil prohibitions. No person shall discharge to the public sanitary sewage system any grease, oils or grease interceptor wastes capable of being disposed of by any means other than discharge into the public sanitary sewage system, except under such conditions as may be authorized in a permit issued by the Authority pursuant to this article. In addition, discharge of petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts causing interference or pass-through at the treatment plant is prohibited.
- E. Other general prohibitions. Except as otherwise provided, no person shall discharge or cause to be discharged any waste or other matter or substance:
 - (1) That could cause pass-through or interference, alone or in conjunction with a waste or wastes from other sources.
 - (2) Containing any liquids, solids or gases which, by reason of their nature or quantity, are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the treatment plant or to the operation of the treatment plant.
 - (3) Containing any noxious or malodorous or toxic gases/vapors/fumes or substance which, alone or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or

preventing entry into sewers for their maintenance and repair. The discharge of wastes that result in gases, vapors or fumes in quantities that could cause worker health or safety problems at the treatment plant is specifically prohibited.

- (4) Containing garbage that is not ground garbage.
- (5) Containing any solid or viscous substances in quantities or of size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the treatment plant. Such substances include but are not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, bones, rags, feathers, tar, plastic, wood, paunch manure, butchers offal, whole blood, bentonite, lye, building materials, rubber, hair, leather, porcelain, china, ceramic wastes, asphalt, paint and waxes.
- (6) Containing a toxic pollutant or poisonous substance in sufficient quantity, either singly or by interaction with any sewage treatment process, to constitute a hazard to humans or animals or to create any hazard in the receiving stream of the treatment plant or that exceeds any applicable limitation set forth in a National Categorical Pretreatment Standard.
- (7) Containing total solids, total suspended solids or BOD of such character or quantity that unusual attention or expense is required to handle such materials at the treatment plant, except as may be approved by the Authority or as may be otherwise provided herein.
- (8) Containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations.
- (9) Prohibited by any permit issued by the Commonwealth of Pennsylvania or by the EPA or any other federal agency.
- (10) That constitute a slug as defined in this article.

§ 345-36. Specific discharge prohibitions.

The discharge of the following wastes into the treatment plant is hereby specifically prohibited:

- A. Wastes containing more than 100 milligrams per liter (mg/L) of grease and oil, if the grease and oil is of unknown or petroleum origin in a Tier I or Tier II waste; or containing more than 200 milligrams per liter (mg/L) of grease and oil in a Tier I waste or more than 10,000 milligrams per liter (mg/L) of grease and oil in a Tier II waste, if the grease and oil is determined to be of an animal or vegetable origin. The differentiation between grease and oil of animal/vegetable origin and those of petroleum origin shall be made by the Authority.
- B. Wastes having a temperature higher than 150° F. or less than 32° F., but in no case heat in such quantities that the temperature of the influent to the treatment plant exceeds 104° F. or inhibits the biological activity of the treatment plant.
- C. Wastes having a closed-cup flashpoint of less than 140° F., as determined by a method listed under 40 CFR 261.21, and amendments thereto, are specifically prohibited. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than 5%, nor any single reading over 10%, of the lower explosive limit (LEL) of the meter.
- D. Wastes having a pH lower than 6.0 or greater than 9.5 in a Tier I waste or a pH lower the 5.0 or greater the 9.5 in a Tier II waste or having any corrosive or scale-forming property capable of causing

damage or hazards to structures, equipment, bacterial action, or health or safety hazards to operating personnel or the sewer system or the treatment plant.

- E. Wastes that exceed any of the following concentrations in a discharge to the process stream of the treatment plant from a connected user as sewage or Tier I waste or from a nonconnected discharge (through a licensed waste hauler) as a Tier I waste in a daily composite sample or grab sample:

Tier I Limits

| Parameter | Limitation | Units |
|-----------------------|---------------------|--------------|
| Arsenic (total) | 0.04 | mg/L |
| Cadmium (total) | 0.09 | mg/L |
| Chromium (total) | 6.00 | mg/L |
| Chromium (hexavalent) | 1.00 | mg/L |
| Copper (total) | 1.00 | mg/L |
| Cyanide (total) | 0.26 | mg/L |
| Lead (total) | 0.10 | mg/L |
| Mercury (total) | 0.02 | mg/L |
| Nickel (total) | 0.90 | mg/L |
| Silver (total) | 0.08 | mg/L |
| Zinc (total) | 1.00 | mg/L |
| PCBs (total) | ND (not detectable) | mg/L |

- F. Wastes that exceed any of the following concentrations in a discharge to the septage discharge station of the treatment plant from a nonconnected discharge (through a licensed waste hauler) as a Tier II waste in a grab sample or daily composite sample:

Tier II Limits

| Parameter | Limitation | Units |
|-----------------------|-------------------|--------------|
| Arsenic (total) | 6.0000 | mg/L |
| Cadmium (total) | 0.5000 | mg/L |
| Chromium (total) | 21.0000 | mg/L |
| Chromium (hexavalent) | 2.0000 | mg/L |
| Copper (total) | 100.0000 | mg/L |
| Cyanide (total) | 0.2600 | mg/L |
| Mercury (total) | 0.7000 | mg/L |
| Lead (total) | 39.0000 | mg/L |
| Nickel (total) | 5.0000 | mg/L |
| Silver (total) | 5.0000 | mg/L |
| Zinc (total) | 95.0000 | mg/L |

Tier II Limits

| Parameter | Limitation | Units |
|------------------|---------------------|--------------|
| PCBs (total) | ND (not detectable) | mg/L |

- G. Individual control limits. If the Authority determines that a waste from any significant industrial user or significant waste generator poses a unique potential for pass-through or interference due to the quality or quantity of the discharge, the Authority shall place special requirements or limits, in excess of those contained in this article, in any industrial waste discharge permit or waste permit to prevent such pass-through or interference. Such individual control limits may include but are not limited to solvent/toxic organic management plans (STOMPs), toxic reduction evaluation plans (TREs), hazardous waste disposal plans, slug discharge control plans or specific numerical limitations on substances.
- H. Any pollutant, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with or pass-through at the treatment plant.
- I. Wastes containing color from any source that, when diluted with distilled water 1:10, will have a luminescence of 10% or greater and a purity of 90% or less at its dominant wavelength by the Tristimulus Method or containing any objectionable color not removed by the treatment process utilized by the Authority.
- J. Wastes containing more than 10 milligrams per liter (mg/L) of hydrogen sulfide, sulfur dioxide or nitrous oxide as determined by a method referenced in 40 CFR Part 136, and amendments thereto, or any method approved by EPA.
- K. Trucked industrial waste, holding tank waste or septage, except at discharge points designated by the Authority in accordance with § 345-43 of this article.

§ 345-37. Federal and state requirements.

- A. Primacy of state and federal requirements. Nothing in this section shall be construed to provide lesser discharge standards than are presently or may hereafter be imposed and required by the EPA or DEP.
- B. National Categorical Pretreatment Standards. The National Categorical Pretreatment Standards, as defined in § 345-34, Definitions, and promulgated by the EPA as of May 9, 1994, and the National Prohibitive Discharge Standards, as defined in § 345-34 and promulgated by the EPA as of May 9, 1994, are specifically incorporated herein by reference. A National Categorical Pretreatment Standard or a National Prohibitive Discharge Standard and Pretreatment Standard, as defined in § 345-34 and promulgated by the EPA subsequent to May 9, 1994, is specifically incorporated by reference upon publication in the Federal Register as final rule-making. Any EPA standard as defined above which is more stringent than that imposed under this article shall immediately supersede the less stringent requirement upon incorporation by reference as provided herein.
- C. Pennsylvania state standards. Upon the promulgation of any Pennsylvania state (DEP) standards or requirements, the DEP standards or requirements shall immediately supersede the limitations imposed under this article if the DEP standards are more stringent than federal limitations or requirements or the limitations and requirements imposed under this article.

§ 345-38. Accidental and slug discharges.

- A. Accidental discharge and slug discharge prevention. All users shall provide and maintain at their own expense facilities adequate, in the judgment of the Authority, to prevent accidental discharge of prohibited and/or regulated substances and/or slug discharges and to protect the public sanitary sewage system from damages caused by such substances. No industrial user or significant waste generator which commences discharge to the treatment plant after the effective date of this article shall be permitted to introduce pollutants into the treatment plant until the Authority has reviewed and approved that user's accidental discharge prevention or slug prevention procedures (if those procedures are required by the Authority). Users designated as SIUs after October 14, 2005, must be evaluated for the need for a slug control discharge plan within one year of designation. If the Authority decides a slug control plan is needed, the plan shall contain, at a minimum, the following elements: **[Amended 2-17-2009 by Ord. No. 389-09]**
- (1) Description of discharge practices, including nonroutine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five days; and
 - (4) If necessary, procedures to prevent adverse impact from accidental spills, including 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 necessary for emergency response.
- B. Accidental and/or slug discharge notification. In the case of an accidental and/or slug discharge to the treatment plant, the user shall immediately telephone and notify the Authority of the accident. The notification shall include information regarding the location of the discharge, the type of pollutants involved, the concentration and volume of the discharge and corrective actions taken and/or contemplated.
- C. Accidental and/or slug discharge report. Within five working days following an accidental and/or slug discharge, the user shall submit to the Authority a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the treatment plant, fish kills, or any other damage to person or property, nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.
- D. Employee notice concerning accidental and/or slug discharge. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

§ 345-39. Grease and sand interceptors.

- A. Interceptors required. Grease, oil and sand interceptors or retainers shall be installed by the user at his own expense when, in the opinion of the Authority, such are necessary for the proper handling of liquid wastes containing grease, oil or sand in excessive amounts and of such other harmful ingredients. Such interceptors shall be of a type and capacity approved by the Authority and shall be located as to be readily and easily accessible for cleaning by the user and for inspection by the

Authority.

- B. Interceptor maintenance. Where installed, all grease, oil and sand interceptors shall be maintained by the user, at his own expense, and shall be kept in continuous and efficient operation at all times.

§ 345-40. Hazardous wastes.

General notification requirements. All users shall notify, in writing, the EPA, DEP, the Authority, and the Township of any discharge of a substance whereby if otherwise disposed of would be hazardous waste (listed or characteristic under Section 3001 of RCRA⁸⁸) into the public sanitary sewage system per the requirements of 40 CFR 403.12(p)(1) through (4).

§ 345-41. Surcharges.

A. Surcharges required. Although the sewage treatment works will be capable of treating certain industrial wastes, the actual treatment of such wastes may increase the cost of operating and maintaining the public sanitary sewage system. Therefore, there will be imposed upon each user discharging such waste into the public sanitary sewage system a surcharge or surcharges which are intended to cover such additional costs. Such surcharges shall be in addition to regular sewage service charges and shall be payable as herein provided.

B. Determination of surcharges.

- (1) The strength of any industrial or commercial waste discharge which is to be subject to a surcharge as determined by Subsection C of this section shall be determined quarterly, or more frequently, as the Authority shall determine. The surcharge shall be determined from samples taken either at the manhole or metering chamber referred to in this article or at any other sampling point mutually agreed upon by the Authority and the producer of such waste. The frequency and duration of the sampling period shall be such as, in the opinion of the Authority, will permit a reasonably reliable determination of the average composition of such waste, exclusive of stormwater runoff.
- (2) Samples shall be collected or their collection supervised by a representative of the Authority and will be samples that reasonably reflect the characteristics of the waste. Except as hereinafter provided, the strength of waste so found by analysis shall be used for establishing the surcharge or surcharges. However, the Authority may, if it so elects, accept the results of routine sampling and analyses by the producer of such wastes in lieu of making its own sampling and analyses.

C. Calculation of surcharges. In the event that, after sampling and analysis as prescribed in Subsection B hereof, any industrial or commercial waste is found by the Authority to have pollutants of BOD concentration in excess of 250 milligrams per liter (mg/L) and/or total suspended solids concentration in excess of 250 milligrams per liter (mg/L), the producer of said waste shall pay a strength of waste surcharge in addition to the regular sewage service charge, which surcharge shall be computed by using the following formula:

$$S = 0.00834 QI [(BODI - 250) TA + (TSSI - 250) TB]$$

Where:

S is the surcharge to be added to the basic user charge.

88. Editor's Note: See 42 U.S.C. § 6901 et seq.

QI is the industrial or commercial waste flow expressed in million gallons.

0.00834 is a constant to convert waste concentration.

BODI and TSSI are the respective concentrations of BOD and total suspended solids of the industrial or commercial waste expressed in milligrams per liter (mg/L).

250 is a constant which expresses the waste load concentrations of BOD and total suspended solids for normal domestic strength sewage in milligrams per liter (mg/L).

TA and TB are actual treatment costs incurred by the Authority per 1,000 pounds of BOD and total suspended solids, respectively. These costs are determined annually by the Authority based upon actual costs of operation and maintenance.

When a value of BOD and/or total suspended solids is less than 250 milligrams per liter (mg/L), then 250 milligrams per liter (mg/L) shall be used in the calculation of the surcharge.

- D. Sampling fees and schedules. All industrial or commercial users and all significant waste generators shall be assessed a fee or service charge for each sampling to be performed by the Authority. The fees to the user for each sampling shall include charges, as determined by the Authority, for sample collection, analysis and administrative services and shall be in addition to any costs of sample collection and analysis which the user performs or has performed independently or privately.

§ 345-42. Discharge restrictions.

Only sanitary sewage may be discharged into the public sanitary sewage system, except as may be authorized by the Authority in accordance with the provisions of this article concerning industrial waste discharge permits, waste hauler licenses, waste generator permits and commercial discharge permits.

§ 345-43. Permits and licenses.

- A. Permits and licenses required. No sanitary sewage, industrial waste, trucked industrial waste, holding tank waste or septage shall be discharged to the treatment plant from any significant industrial user, significant waste generator or waste hauler other than that for which the following permits or licenses have been issued:
- (1) Significant industrial users require industrial waste discharge permits;
 - (2) Significant waste generators require waste permits; or
 - (3) Waste haulers require waste hauler licenses.
- B. Commercial discharge permits. When determined by the Authority, a commercial establishment may be required to obtain a commercial discharge permit.
- C. Permit and license applications.
- (1) All industrial users, waste generators and waste haulers proposing to contribute to the public sanitary sewage system shall make application for a permit or license according to Subsections A and B of this section. All existing significant industrial users, significant waste generators and waste haulers contributing to the treatment plant at the time of the adoption of this article shall apply for a permit or license within 30 days after the adoption of this article and shall obtain a permit or license within 90 days after the effective date of this article. Any user required to apply for a permit or license shall complete and file an application form approved by the Authority, accompanied by a nonreturnable processing fee to be set by the Authority. Proposed new

industrial users shall apply at least 90 days prior to connecting to or contributing to the treatment plant. In support of the application for an industrial waste discharge permit, commercial discharge permit, waste permit or waste hauler license, the user may be required to submit, in units and terms appropriate for evaluation, any of the following information, including but not limited to:

- (a) Name, address, location, phone number;
 - (b) Standard Industrial Classification (SIC) number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1987;
 - (c) Names of responsible individuals;
 - (d) Waste constituents and characteristics, before and after pretreatment, as determined by a reliable analytical laboratory;
 - (e) Time and duration of contribution;
 - (f) Average daily waste flow rates and/or estimated or required daily discharge volumes and frequency, including daily, monthly and seasonal variations, if any;
 - (g) Site plans, plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;
 - (h) Description of activities and plant processes on the premises, including all materials which are or could be discharged;
 - (i) Description of waste to be discharged;
 - (j) Where known, the nature and concentration of any pollutants in the discharge which are limited by the Authority, state or federal pretreatment standards, and a statement reviewed by an authorized representative of the user (as defined in § 345-34 of this article) and certified to by a qualified professional, indicating whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional pretreatment is required for the user to meet applicable pretreatment standards;
 - (k) If additional pretreatment and/or operation and maintenance (O&M) will be required to meet pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard;
 - (l) Make, model, year, capacity and vehicle registration number of all vehicles to be used for transportation and discharge at the treatment plant;
 - (m) Number and type of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system; and
 - (n) Any other information as may be deemed by the Authority to be necessary to evaluate the permit application.
- (2) The Township or the Authority shall also have, at its discretion, the right to inspect the premises, equipment and material, and laboratory testing facilities of the applicant. The completed application shall be signed by the user's responsible individuals. The Authority will evaluate the data furnished by the user for completeness and may require additional information. After

evaluation and acceptance of the data furnished as a complete application, the Authority may for cause shown either refuse to issue or may issue a permit or license subject to terms and conditions provided herein.

- (3) If the application for a permit or license is denied by the Authority, or if the discharge indicated from the application is not in accordance with the requirements of this article, the user may have the Authority review the denial, provided the user shall give written notice of his request within 30 days after receiving the denial. The Authority shall review the permit application, the written denial, and such other evidence and matters as the applicant shall present at a public hearing following receipt of request for its review, and the decision of the Authority rendered publicly shall be final.
- D. Terms and conditions of permits and licenses. Permits and licenses may include any of the following terms and conditions, including, but not limited to:
 - (1) Maximum discharge flow rate;
 - (2) Term of permit;
 - (3) Definitions;
 - (4) General limitations;
 - (5) Specific limitations;
 - (6) Special conditions;
 - (7) Self-monitoring requirements (including sampling, reporting, notification and recordkeeping);
 - (8) Reopener clause;
 - (9) Compliance schedules (if required);
 - (10) Statements of applicable civil and criminal penalties;
 - (11) Statement of nontransferability; or
 - (12) Best management practices. **[Added 2-17-2009 by Ord. No. 389-09]**
- E. Industrial waste discharge permit and commercial discharge permit. Industrial waste discharge permits and commercial discharge permits shall be issued for a specified time period, not to exceed five years. The user shall apply for permit reissuance a minimum of 90 days prior to the expiration of the user's existing permit, accompanied by a nonreturnable processing fee to be set from time to time by resolution of the Authority. The terms and conditions of the permit may be subject to modification by the Authority during the term of the permit to accommodate changing conditions and as local, state and federal laws, rules and regulations are modified or amended, or other just cause exists. The user shall be informed of any proposed changes in his permit at least 60 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance, including a comment period which shall be the first 30 days of the sixty-day period prior to the effective date of change.
- F. Waste permit and waste hauler license duration. Waste permits and waste hauler licenses shall be issued for a specified time period, not to exceed one year. Each significant waste generator or waste hauler shall apply for a waste permit or waste hauler license reissuance a minimum of 30 days prior

to the expiration of the existing permit or license, accompanied by a nonreturnable processing fee to be set from time to time by resolution of the Authority. The terms and conditions of the waste permit or waste hauler license shall be subject to modification by the Authority during the term of the permit or license to accommodate changing conditions and as local, state and federal laws, rules and regulations are modified or amended, or other just cause exists.

- G. Permit and license transfer. Permits and licenses are issued to a specific operation. No permit or license shall be assigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the prior approval of the Authority upon written application therefor accompanied by a nonreturnable processing fee to be set from time to time by resolution of the Authority. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit or license.
- H. Revocation of permits and licenses. All permits and licenses are subject to revocation according to the provisions outlined in § 345-44 of this article.
 - (1) In the event that any discharge of material to a sewer shall materially and substantially differ in type or volume from that shown in the application or permit, the person and user shall immediately cease and desist from such discharge.
 - (2) The Township or Authority may suspend any permit, license, and/or waste treatment service when such suspension is necessary, in the judgment of the Township or Authority, in order to stop a discharge which presents a hazard to the public health, safety, or welfare, to the environment or operations at the Authority's treatment plant or upon a finding that the discharger has violated any provisions of this article. Any discharger notified of such a suspension shall immediately stop the discharge of all wastes into the system. The Township or Authority may reinstate the permit or license upon proof of satisfactory compliance with all discharge requirements of this article and all other requirements of the Township or Authority.
 - (3) In the event of a failure of a person to comply voluntarily with the suspension order, the Township or Authority may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the system or endangerment to any individuals. The Township or Authority may reinstate the permit, license and/or the waste treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Township or Authority within 15 days of the date of the occurrence.

§ 345-44. Revocation of permit or license.

An industrial waste discharge permit or a hauler license or a waste permit or a commercial discharge permit may be revoked by the Township or Authority for including but not limited to the following causes:

- A. Failure of a permittee or licensee to accurately report his wastewater characteristics;
- B. Failure of a permittee to report significant changes in operations which affect wastewater characteristics;
- C. Refusal of access to the permittee's premises or licensee's vehicle for the purpose of inspection or monitoring;
- D. Any violation of any condition of any permit or license or this article;

- E. Falsification of self-monitoring reports;
- F. Application falsification;
- G. Tampering with monitoring equipment; or
- H. Failure to meet compliance schedule.

§ 345-45. Compliance schedules.

- A. Compliance schedules required. If additional pretreatment and/or operation and maintenance procedures are required for a permittee to meet all applicable regulations contained herein, the shortest schedule by which the permittee can provide such additional pretreatment and/or operation and maintenance procedures may be issued by the Authority or submitted by the permittee to the Authority for review and approval. The completion date for this schedule shall not be later than the compliance date established for applicable pretreatment standards. The Authority shall have the right to deny or to require the modification of proposed compliance schedules.
- B. Compliance schedule increments of progress. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the permittee to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
- C. Time limits for increments of progress. No increment of progress shall exceed nine months.
- D. Compliance schedule compliance reports. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Authority, including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which the user expects to comply with this increment of progress, the reason for delay, and the steps being taken by the permittee to return to the schedule established. In no event shall more than nine months elapse between such progress reports to the Authority. Failure to meet required milestone dates shall constitute a violation of this article.

§ 345-46. Record maintenance.

- A. Record retention requirements. All users shall maintain and retain all records, including but not limited to documentation associated with best management practices, relating to wastewater discharged for a period of not less than three years and shall afford the Authority access thereto at all reasonable times. This period of retention shall be extended during the course of any unresolved litigation. Such records shall include for all samples: [Amended 2-17-2009 by Ord. No. 389-09]
 - (1) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
 - (2) The date(s) and time(s) the analyses were performed;
 - (3) Who performed the analyses;
 - (4) The analytical techniques/methods used; and
 - (5) The results of such analyses.

- B. Availability of records. All records maintained by users relating to compliance with pretreatment standards shall be made available to officials of the EPA, DEP, Easttown Township, and Authority for inspection and copying upon request.

§ 345-47. Industrial agreements.

As a condition precedent to the issuance of an industrial waste discharge permit, the Authority shall require industrial users to enter into agreements with the Authority containing such provisions as the Authority deems appropriate in furtherance of its effort to comply with regulations promulgated by the EPA in 40 CFR Part 403. Industrial users shall comply with federal, state and local statutes, ordinance rules and regulations, and with the provisions of such agreements and, in the event of conflict between provisions, shall comply with whichever provision on a particular matter is most stringent or more strict.

§ 345-48. Pretreatment and handling of industrial wastes.

- A. General. Users shall provide necessary pretreatment as required to comply with this article and shall achieve compliance with all National Categorical Pretreatment Standards within time limitations as specified in 40 CFR Part 403 and amendments thereto. Any facilities required to pretreat wastewater to a level acceptable to the Authority shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Authority for review and shall be acceptable to the Authority before construction of the facility. The review of such plans and operating procedures and approval of such plans as required by Subsection C of this section shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Authority under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Authority prior to the user's initiation of the changes.
- B. Purposes and pretreatment. The Authority may require the owner of an improved property to construct, operate and maintain at his expense a pretreatment facility when, in the opinion of the Authority, such facility is necessary to reduce quantities and/or concentrations of pollutants or flows to:
- (1) Decrease the concentration levels of pollutants in the wastewater discharge to comply with the maximum limits specified in §§ 345-35 through 345-40;
 - (2) Prevent excessive quantities of flow; or
 - (3) Prevent discharges (flow or concentration) of pollutants from the user which may cause interference or pass-through at the Authority's treatment plant.
- C. Review and approval of pretreatment facilities. If required by the Authority, no pretreatment plant and facilities shall be constructed or operated unless all plans, specifications, technical operating data, and other information pertinent to its proposed operation and maintenance are reviewed by the Authority and found by the Authority to conform to all Authority regulations, and, unless written approval of the plans, specifications, technical operating data and biosolids disposal methods has been obtained by the Authority from the EPA, the Commonwealth of Pennsylvania, and any other local, state or federal agency having regulatory authority with respect thereto, providing such approval is required by those agencies.
- D. Pretreatment facility maintenance requirement. All such pretreatment facilities as required by this article shall be maintained continuously in satisfactory and effective operating conditions by the user or person operating and maintaining the facility served thereby, and at the user's expense. The

Township and the Authority shall have access to such facilities at all reasonable times for purposes of inspection and testing.

- E. Rejection of waste if not adequately pretreated. The Township and Authority reserve the right to reject admission to the system of any waste harmful to the public sanitary sewage system or to the receiving stream, to compel discontinuance of use of the public sanitary sewage system or to compel pretreatment of industrial wastes in order to prevent discharges deemed harmful to or having a deleterious effect upon any portion of the public sanitary sewage system or receiving stream.

§ 345-49. Sampling procedures and reporting criteria.

A. Self-monitoring reports. [Amended 2-17-2009 by Ord. No. 389-09]

- (1) All significant industrial users shall submit at least twice annually to the Authority a self-monitoring report on a form approved by the Authority indicating the nature and concentration of pollutants in the waste discharged to the Authority treatment plant which are of particular concern to the Authority and which are limited by this article. The waste characteristics to be measured and reported shall be determined by the Authority and specified in the industrial waste discharge permit or waste permit. All wastewater samples must be representative of the user's discharge. In cases where the resolution requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the Authority to determine compliance of the user. If an industrial user monitors any pollutant more frequently than required by the Authority, using the procedures prescribed in 40 CFR 403.12(g)(4), the results of this monitoring shall be included in the report. In addition, this report shall include flow information for the reporting period and shall be signed by the user's responsible individuals. This report shall be received by the Authority no later than the 30th day of the month following the quarter for which the report is required.
- (2) All categorical industrial users and categorical waste generators shall submit at least twice annually to the Authority a self-monitoring report on a form approved by the Authority indicating the nature and concentration of pollutants in the waste discharged to the Authority treatment plant which are of particular concern to the Authority and which are limited by this article. The waste characteristics to be measured and reported shall be determined by the Authority and specified in the industrial waste discharge permit or waste permit. All wastewater samples must be representative of the user's discharge, and, for all parameters required to be analyzed utilizing a grab sample, a minimum of one grab sample must be collected and analyzed for each parameter. In cases where the resolution requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the Authority to determine compliance of the user. If a categorical industrial user or categorical waste generator monitors any pollutant more frequently than required by the Authority, using the procedures prescribed in 40 CFR 403.12(g)(4), the results of this monitoring shall be included in the report. In addition, this report shall include flow information for the reporting period and shall be signed by the user's responsible individuals. This report shall be received by the Authority no later than the 30th day of the month following the period for which the report is required.
- (3) All significant waste generators shall submit at least annually to the Authority a self-monitoring report on a form approved by the Authority indicating the nature and concentration of pollutants in the waste discharged to the Authority treatment plant which are of particular concern to the Authority and which are limited by this article. The waste characteristics to be measured and

reported shall be determined by the Authority and specified in the industrial waste discharge permit or waste permit. All wastewater samples must be representative of the user's discharge and, for all parameters required to be analyzed utilizing a grab sample, a minimum of one grab sample must be collected and analyzed for each parameter. In cases where the resolution requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the Authority to determine compliance of the user. If a significant waste generator monitors any pollutant more frequently than required by the Authority, using the procedures prescribed in 40 CFR 403.12(g)(4), the results of this monitoring shall be included in the report. In addition, this report shall include flow information for the reporting period and shall be signed by the user's responsible individuals. This report shall be received by the Authority no later than the 30th day of the month following the period for which the report is required.

- B. Responsible individuals. All significant industrial users, significant waste generators, licensed waste haulers and industrial users issued commercial discharge permits shall designate responsible individuals as described by this article.
- C. Signatory requirements. All reports submitted pursuant to requirements outlined in this article, including but not limited to the baseline monitoring report, the self-monitoring report and the report on compliance with National Categorical Pretreatment Standards or ninety-day compliance report, shall be signed by the user's responsible individuals.
- D. Certification requirements. All reports referenced in this section, as well as industrial waste discharge permit applications, waste permit applications and waste hauler license applications submitted pursuant to § 345-42 of this article, shall include the following statement:

"I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that quality 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."

- E. Monitoring manholes. Whenever required by the Township or the Authority, the owner of any property served by a building sewer carrying wastewater and material shall install a large manhole or sampling chamber, flow-metering chamber, flow-monitoring equipment, pH-monitoring equipment and other appurtenances in the building sewer to facilitate the observation, sampling and measurement of the combined flow of wastes from the user's premises into the public sanitary sewage system. These monitoring facilities shall be constructed in accordance with plans and specifications approved by the Township or the Authority and installed and maintained at all times at the user's expense. There shall be ample room in each sampling chamber to accurately sample and composite samples for analysis. The chamber shall be safely and easily and independently (of other premises and buildings of users) accessible to authorized representatives of the Township and Authority at all times. When construction of a sampling chamber and monitoring facilities are not economically or otherwise feasible in the opinion of the Authority, alternative arrangements for sampling and monitoring may be made at the discretion of the Authority.
- F. Flow monitoring and recording. Each flow-measuring chamber shall contain a parshall flume, weir or similar device with a recording and totalizing register for measuring liquid quantity, or the metered water supply to the industrial plant may be used as a measure of liquid quantity where it is

substantiated by the Authority that the metered water supply and waste quantities are approximately equal or where a measurable adjustment agreed to by the Authority is made in the metered water supply to determine the liquid waste quantity.

- G. Sampling by Authority. Samples shall be taken as deemed appropriate by the Authority. All significant industrial users shall be sampled by the Authority at least once per year. Such sampling shall be done as prescribed by the Authority to insure that the compliance of the user is determined with a reasonable degree of certainty for the entire reporting period. Samples shall be taken at the manhole or metering chamber referred to in Subsection E of this section, or in the absence of such manhole or metering chamber, at such place as the Authority shall determine will provide a representative sample of the discharge and shall represent the entire flows from the significant industrial user.
- H. Inspection and verification of sampling and testing. The sampling frequency, sampling device, sampling methods, and analyses of samples shall be subject, at any time, to inspection and verification by the Township or the Authority.
- I. Sampling and testing methods. All sampling measurements, tests and analyses of the characteristics of waters and wastes shall be determined in accordance with procedures contained in 40 CFR Part 136, and amendments thereto, or any other method approved by the EPA.
- J. Confidentiality of information.
 - (1) The Township or Authority shall consider all information in their possession regarding an industrial user's or waste generator's effluent characteristics as being nonconfidential and may make all such information available to the public without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the Township or Authority that the release of such information in their possession would divulge information of processes or methods of production entitled to protection as trade secrets of the user.
 - (2) Upon written request, at the time of submission of the data by the industrial user or waste generator furnishing a report, permit application or answering a questionnaire, those portions of any document which might disclose trade secrets or secret processes shall not be disclosed to any person other than to duly authorized representatives of the EPA or DEP. Any effluent data of a user's waste will not be recognized as confidential information or as a trade secret.
- K. Sampling and testing costs. When the Authority conducts its own sampling and/or analyses of wastes discharged by any user, the Authority may make or have made any such tests, and the user shall reimburse the Authority for the full cost thereof. Such costs shall be established by resolution annually.
- L. Ninety-day compliance reports.
 - (1) Within 90 days following the date for final compliance with applicable National Categorical Pretreatment Standards or, in the case of a new source, following commencement of the introduction of wastewater into the treatment plant, any industrial user or waste generator subject to National Categorical Pretreatment Standards and requirements shall submit to the Authority a report containing the information listed in 40 CFR 403.12(b)(4) through (6), indicating the nature and concentration for all pollutants in the discharge from the regulated process which are limited by the National Categorical Pretreatment Standards and the average and maximum daily flow for these process units in the user's facility which are limited by such pretreatment standards. Industrial users or waste generators subject to equivalent mass or

concentration limits established in accordance with 40 CFR 403.6(c) must include in the report a reasonable measure of the 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 user's actual production during the appropriate sampling period.

- (2) The report shall indicate the compliance status of the user with the applicable pretreatment standards as listed in 40 CFR 403.12(b) and (d), whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the user into compliance with all applicable pretreatment standards. This statement shall be signed by the user's responsible individuals.
- M. Baseline monitoring reports. All industrial users and waste generators subject to National Categorical Pretreatment Standards shall submit to the Authority, within 180 days after the effective date of a categorical standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, a report (baseline monitoring report) which indicates the compliance status of the user with the applicable National Categorical Pretreatment Standards as listed in 40 CFR 403.12(b).
- N. New or increased contributions. All industrial users, waste haulers or waste generators shall immediately notify the Township and the Authority prior to any changes in the volume or character of their waste discharge or in the operation of their pretreatment processes that may result in interference or pass-through at the treatment plant or affect the potential for a slug discharge to the treatment plant. The Township and the Authority reserve the right to deny the admission of or to require the pretreatment of all discharges to the public sanitary sewage system. **[Amended 2-17-2009 by Ord. No. 389-09]**
- O. Mass limitations. The Authority may impose mass limitations on users which, in the opinion of the Authority, are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by Subsection A(1) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where required by the Authority, of pollutants contained herein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in accordance with procedures established by the EPA pursuant to Section 304(g) of the CWA and contained in 40 CFR Part 136, and amendments thereto, or with any other test procedures approved by the EPA.
- P. Notice of violation; resampling requirement. If sampling performed by an industrial user or significant waste generator indicates a violation, the industrial user or significant waste generator shall notify the Authority within 24 hours of becoming aware of the violation. The industrial user or significant waste generator shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Authority within 30 days after becoming aware of the violation pursuant to 40 CFR 403.12(g). Where the Authority has performed the sampling and analysis in lieu of the industrial user or significant waste generator, the Authority must perform the repeat sampling and analysis within 30 days, unless it notifies the industrial user or significant waste generator of the violation and requires the industrial user or significant waste generator to perform the repeat analysis. **[Amended 2-17-2009 by Ord. No. 389-09]**

§ 345-50. Annual fee.

All permitted industrial users shall be subject to an annual fee to defray the cost of administration of this article. The annual fee shall be set from time to time by resolution of the Authority.

§ 345-51. Administrative fee.

All connected and nonconnected users utilizing the services of the Authority under this article shall be subject to an administrative fee to defray the cost of processing invoices, bills and other charges and fees for such services. The administrative fee shall be set from time to time by resolution of the Authority.

§ 345-52. Enforcement response plan.

Enforcement actions taken by the Authority shall be consistent with an enforcement response plan maintained at the wastewater treatment plant offices.

§ 345-53. Inspections.

- A. General. Any duly authorized agent of the Township and/or of the Authority bearing credentials which so identify them shall be permitted at any reasonable time to enter upon all properties served by the treatment plant or all properties generating trucked waste for discharge to the treatment plant or licensed vehicle transporting waste for the purpose of discharge at the treatment plant, for the purpose of inspecting, observing, measuring, sampling and testing, as may be required in pursuance of the implementation and enforcement of the terms and provisions of this article. Any records of monitoring activities or results maintained by any user shall be made available for inspection and copying by the Township and/or the Authority and/or the DEP and/or the EPA. Users may be required by the Authority to install monitoring equipment, as per 40 CFR 403.8(f)(1)(v). **[Amended 2-17-2009 by Ord. No. 389-09]**
- B. All significant industrial users and all significant waste generators shall be inspected by the Authority at least once per year.

§ 345-54. Injunctive relief.

- A. General. The Township and/or Authority reserve the right to seek injunctive relief for noncompliance by any industrial user or waste generator with any pretreatment standard or pretreatment requirement or for noncompliance by any person with any provision of this article.
- B. The Authority, through counsel, may petition the court for the issuance of a preliminary or permanent injunction (or both, as may be appropriate), which restrains or compels the activities on the part of the industrial user, waste generator, or person, including a prayer for payment of costs and attorneys' fees as may be authorized by law. In addition, the Township and/or Authority shall have such remedies to collect all fees incurred by the Township and/or Authority as a result of this petition as it has to collect other sewer service charges.

§ 345-55. Show cause hearing.

- A. General. The Township and/or Authority may order any industrial user which causes or contributes to a violation of this article or industrial waste discharge permit or order issued hereunder to show cause why a proposed enforcement action should not be taken. Notice shall be served on the industrial user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action and a request that the user show cause why this proposed enforcement action should

not be taken.

- B. The notice of the meeting shall be served personally or by registered or certified mail to any principal, executive, general partner, corporate officer or owner of the industrial user at least 10 days prior to the hearing. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.

§ 345-56. Emergency response.

- A. General.
- (1) The Township and/or Authority may suspend the waste treatment service and/or industrial waste discharge permit, waste permit, waste hauler license, or commercial discharge permit whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the public sanitary sewage system or the environment.
- (2) Any user notified of a suspension of the waste treatment service and/or industrial waste discharge permit, waste permit, waste hauler license or commercial discharge permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Township and/or Authority shall take such steps as deemed necessary, including the immediate severance of the sewer connection, to prevent or minimize damage to the treatment plant, its receiving stream, or endangerment to any individuals. The Township and/or Authority may allow the user to recommence its discharge when the endangerment has passed, unless the permit revocation proceedings set forth in § 345-43H of this article are initiated against the user.
- B. Report requirements. Any industrial user which is responsible, in whole or in part, for 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 Township and/or Authority prior to the date of a show cause hearing as described in § 345-55 of this article.

§ 345-57. Administrative fine.

- A. General. Notwithstanding any other section of this article, any user, industrial user or waste generator or waste hauler who is found to have violated any provision of this article, or commercial discharge permit or industrial waste discharge permit, or waste permit or hauler license or order issued hereunder, shall be fined in an amount up to \$1,000 per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. All fine money shall be made payable to the Authority. The Authority shall have such other collection remedies as it has to collect other service charges. Unpaid charges, fines and penalties shall constitute a lien against the individual user's property.
- B. Appeals. Users who desire to dispute such fines must file a request before the Authority to reconsider the fine within 10 working days of being notified of the fine.

§ 345-58. Civil penalties.

- A. General. Any person who violates any substantive or procedural provision of §§ 345-35 through 345-40 hereof or any term or condition of any industrial waste discharge permit, commercial discharge permit or waste permit shall be subject to a civil penalty not to exceed \$25,000 per day for each violation. Each violation for each separate day shall constitute a separate and distinct violation.

Notwithstanding the foregoing, a single operational upset which gives rise to simultaneous violations shall be treated as a single violation.

- B. Appeals. Users who desire to dispute such fines must file a request before the Authority to reconsider the fine within 10 working days of being notified of the fine.

§ 345-59. Criminal penalties.

- A. General. Any person who willfully or negligently violates any provision of this article or who violates any condition of an industrial waste discharge permit, a waste permit, a hauler license, a commercial discharge permit or an order issued pursuant to this article and incorporating ordinance is guilty of a summary offense, and, following institution of a summary proceeding by the Township and, upon conviction, such person shall be subject to a fine of not less than \$100 nor more than \$1,000 for each separate offense, and, in default of the payment of such a fine, a person shall be imprisoned for a period of 30 days. [Amended 12-15-2014 by Ord. No. 424-14]
- B. Partnerships, corporations and associations. If such person violating the provisions of this article shall be a partnership, then the members thereof, or, if such person be a corporation or association, then the officers, members, agents, servants, or employees thereof, shall, in default of payment of any fine levied under this section, be imprisoned in the county prison.
- C. Continuing violations. Each day of continued violation of any provision of this article and incorporating ordinance shall constitute a separate offense.
- D. Transfer of fine money. All fine money assessed through suit or summary proceedings before any Magisterial District Judge, pursuant to this section, shall be transferred to the Township instituting the summary proceeding for the use and benefit of the Valley Forge Sewer Authority. [Amended 12-15-2014 by Ord. No. 424-14]

§ 345-60. Notice of violation.

Whenever the Township and/or Authority determines that any industrial user or waste generator or waste hauler has violated any provisions of any permit or license issued under any section of this article, or a compliance schedule issued under § 345-45 of this article, the Township and/or Authority or their duly authorized representative shall serve upon said user a written notice of violation. Within 10 working days of the receipt of this notice, a written response to this notice, including an explanation of the cause of the violation and a plan for the correction and prevention thereof, shall be submitted to the Township and/or Authority by the user. 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.

§ 345-61. Public notification of significant noncompliance.

The Authority shall at least annually publish in the largest daily newspaper published in the area encompassed by the Authority a list of the users which were significantly violating applicable pretreatment standards or requirements or other provisions of this article, or who were determined to be in significant noncompliance, during the 12 previous months. Significant noncompliance shall be determined according to the standards as defined in 40 CFR 403.8(f)(2)(vii).

ARTICLE V
Industrial Pretreatment
[Adopted 12-5-1994 by Ord. No. 276-94]

§ 345-62. Purpose.

This article:

- A. Requires all users of the Easttown sanitary sewer system (the "sewer system") to comply with and the use of the sewer system to be in compliance with the rules and regulations promulgated and adopted by the Valley Forge Sewer Authority, as the same may be from time to time amended (the "applicable regulations"), all applicable regulations promulgated by the United States Environmental Protection Agency (the "USEPA"), including without limitation the pretreatment standards promulgated by the USEPA from time to time as codified in Chapter 40 of the United States Code of Federal Regulations (the "CFR"), Part 403, and all applicable regulations promulgated from time to time by the Pennsylvania Department of Environmental Protection (the "PaDEP"), as published in the Pennsylvania Code; and
- B. Establishes the means of enforcing those regulations through the penalty and enforcement provisions of this article.

§ 345-63. Adoption of standards.

The standards, rules and regulations governing the acceptance of industrial waste, trucked industrial waste, holding tank waste and septage and the industrial waste and trucked industrial waste control program, monitoring program and enforcement response plan, adopted and promulgated by the VFSA, as the same are from time to time amended (the "VFSA regulations"), also referred to herein as the "applicable regulations," are hereby adopted and enacted as the minimal standards, rules and regulations of Easttown Township, applicable to all users of and the use of the sewer system and all facilities appurtenant to and forming a part thereof of whatever nature or description. The said standards, rules and regulations are appended to this article and made a part hereof. From and after the adoption of this article, any and all users of and use of the sewer system shall comply with all of the VFSA regulations (the "applicable regulations"), all administrative and other requirements pertaining thereto, and all applicable regulations promulgated by the USEPA and the PaDEP.

§ 345-64. Prohibited acts.

Without limiting any other section of this article, it shall be a violation of this article for any person, as that term is defined in the VFSA regulations, to:

- A. Discharge sewage or waste, as those terms are defined in the VFSA regulations, into the sewer system, when such discharge is not in compliance with this article, the VFSA regulations, any applicable industrial waste discharge permit requirements, or the National Categorical Pretreatment Standards, as those terms are defined in the VFSA regulations, or any order issued by Easttown Township in connection with the administration, implementation or enforcement of this article.
- B. Otherwise violate or fail or refuse to comply in any way with the VFSA regulations, including but not limited to securing all permits and licenses from and approvals of all regulatory authorities having jurisdiction and filing all reports with said authorities, as and when required, or fail to comply with any order, permit, or license issued pursuant to the VFSA regulations or this article.

§ 345-65. Enforcement.

The Easttown Township Solicitor is hereby authorized and empowered to bring actions at law or in equity to restrain or abate violations of this article and the VFSA regulations and any order, permit or license issued pursuant thereto, to secure legal redress for such violations, or to enforce the provisions of this article and the VFSA regulations and the provisions of any order, permit or license issued pursuant thereto. If the Township is granted relief in any such action, the violator against whom any such action has been brought shall, in addition to any fine or penalty imposed, be required to reimburse and pay to the Township all of the Township's costs incurred in such legal proceeding, including but not limited to its attorney fees.

§ 345-66. Violations and penalties.

- A. Any person who violates or permits a violation of this article shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution, including reasonable attorneys' fees. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.⁸⁹
- B. Any person, as defined in the VFSA regulations, who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article, the VFSA regulations or any industrial waste discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required thereunder, shall be in violation of this article and shall be subject to prosecution under the penalty provisions of Subsection A of this section and shall, in addition, be subject to prosecution in accordance with the provisions of the Pennsylvania Crimes Code pertaining to perjury and falsification in official matters, 18 Pa.C.S.A. § 4901 et seq.

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

ARTICLE VI
Sewer Rents and Charges
[Adopted 9-2-1975 by Ord. No. 134]

§ 345-67. Definitions.

Unless the context specifically indicates otherwise, the meanings of terms used in this article shall be as follows:

AUTHORITY — Easttown Municipal Authority.

BIOCHEMICAL OXYGEN DEMAND (BOD) — The quantity of dissolved oxygen required for biochemical oxidation of decomposable organic matter under aerobic conditions in a period of five days at a temperature of 20° C., expressed in parts per million by weight. Such BOD shall be determined as described under the heading "Biochemical Oxygen Demand" in the Standard Methods for the Examination of Water, Sewage and Industrial Wastes (latest edition), as published jointly by the American Public Health Association, the American Water Works Association, and the Federation of Sewage and Industrial Wastes Association.

COMMERCIAL AND INSTITUTIONAL ESTABLISHMENT — Any structure or store, office or other unit thereof intended to be used wholly or in part for the purposes of carrying on a trade, business or profession or for social, amusement, educational, charitable or public use.

EDU — The estimated annual usage of the sewer system by a single-family dwelling. Based upon a review of applicable records of the water company relating to water usage by customers within the Township (made by the Authority and its consulting engineer), one EDU is hereby established as a use equalling approximately 74,000 gallons per annum. (Based upon the same study, it has been determined that the average annual usage by an individual dwelling unit within a multiple-dwelling building is approximately 0.8 EDU.)

INDUSTRIAL ESTABLISHMENT — Any structure or separate unit thereof intended to be used wholly or in part for the manufacturing, fabricating, processing, cleaning, laundering or assembly of any product, commodity or article.

INDUSTRIAL WASTE — Any solid, liquid or gaseous substance or waterborne wastes 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.

PRIVATE DWELLING OR LIVING UNIT — Any structure intended to be occupied as a whole by one family or an apartment intended to be occupied by one family or any other one-family living unit.

SANITARY SEWAGE — The normal water-carried household and toilet wastes from residences, business buildings, institutions, and commercial and industrial establishments.

SEWAGE TREATMENT WORKS — All facilities for the collection, transportation, treatment and disposal of sanitary sewage and acceptable industrial waste in and for the Township operated or caused to be operated by the Township, Valley Forge Sewer Authority and any other municipality or municipal authority to which the sewer system is or may hereafter be connected.

SEWER MANAGER — Any person who may, from time to time, be placed in general charge of the sewer system.

SEWER SYSTEM — All facilities operated by the Township for the collection and disposal of sanitary sewage and acceptable industrial waste in and for the Township, whether or not interconnected.

SUSPENDED SOLIDS — The dry weight of the solids physically suspended in a flow of sewage,

industrial waste, or water as determined by the method of determining suspended matter described under the heading "Suspended Matter" in the Standard Methods for the Examination of Water, Sewage, and Industrial Wastes (latest edition), as published jointly by the American Water Works Association and the American Public Health Association and the Federation of Sewage and Industrial Wastes Association, and expressed in parts per million by weight.

TOWNSHIP — The Township of Easttown, Chester County, Pennsylvania.

WATER COMPANY — That private water company providing water service to customers connected to the sewer system.

§ 345-68. Imposition of sewer rents or charges.

There is hereby imposed upon each property located within the Township, served by the sewer system and having available to it the use thereof, sewer rents or charges, payable as hereinafter provided, for the use, whether direct or indirect, of the sewer system, based on the schedules of classifications and rates hereinafter set forth.

§ 345-69. Base rates and charges.

- A. For each residential property located within the Township served by the sewer system and having available to it the use thereof, there is hereby imposed a base charge per year, payable in quarterly installments, as hereinafter provided. For each nonresidential property located within the Township served by the sewer system and having available to it the use thereof, there is hereby imposed a base charge per year, payable in quarterly installments, as hereinafter provided. (In consideration of payment of said base charge, usage of the sewer system, determined as hereinafter provided, of up to 10,000 gallons per quarter, representing approximately 0.57 EDU, shall be provided.) The Board of Supervisors shall establish the amount of the sewer rental from time to time by adoption of a resolution. For the purposes of this subsection, the term "residential property" shall mean and include detached, semidetached, and attached single-family residences possessed of a single and separate water connection. The term "nonresidential property" shall mean and include all other uses, including without limitation commercial uses, boardinghouses, apartment buildings, and townhouse buildings, having a water connection which serves one or more commercial or industrial use or more than one residential dwelling unit. [Amended 8-3-1981 by Ord. No. 172-81; 6-2-1986 by Ord. No. 200-86; 12-19-1991 by Ord. No. 244-91; 12-19-1994 by Ord. No. 278-94; 10-4-2004 by Ord. No. 355-04; 12-19-2005 by Ord. No. 365-05; 1-2-2007 by Ord. No. 374-07; 1-7-2008 by Ord. No. 381-08; 12-15-2008 by Ord. No. 388-08; 1-18-2011 by Ord. No. 402-11]
- B. Multiple use. In case of a combination of one or more commercial, industrial or institutional establishments, private dwellings (including each mobile home space, row house, semidetached house and townhouse and individual dwelling unit within a multiple-dwelling building), fire house, church, school or Township building in one property, all having the use of the sewer system through one sewer connection, each such establishment shall be charged the above-mentioned base charge as though each were separately connected to the sewer system, and if there is only one water meter for any such combination, the Township may estimate the amount of water used by each individual establishment if necessary for the purpose of establishing additional sewer rental charges imposed by § 345-70 hereof. [Amended 12-15-2014 by Ord. No. 424-14]

§ 345-70. Meter rates and charges.

- A. Meter rates. For each residential property located within the Township served by the sewer system

and having available to it the use thereof (except as provided in § 345-71A hereof), there is hereby imposed an additional sewer rental, payable quarterly, for all discharge to the sewer system in excess of 10,000 gallons for any three-month period, based on the quantity of water used, at the rate established by resolution of the Board of Supervisors from time to time. For each nonresidential property located within the Township served by the sewer system and having available to it the use thereof (except as provided in § 345-71A hereof), there is hereby imposed an additional sewer rental, payable quarterly, for all discharge to the sewer system in excess of 10,000 gallons for any three-month period, based on the quantity of water used, at the rate established by resolution of the Board of Supervisors from time to time. For the purposes of this subsection, the term "residential property" shall mean and include detached, semidetached, and attached single-family residences possessed of a single and separate water connection. The term "nonresidential property" shall mean and include all other uses, including without limitation commercial uses, boardinghouses, apartment buildings, and townhouse buildings, having a water connection which serves one or more commercial or industrial use or more than one residential dwelling unit. [Amended 8-3-1981 by Ord. No. 172-81; 6-2-1986 by Ord. No. 200-86; 12-19-1991 by Ord. No. 244-91; 12-19-1994 by Ord. No. 278-94; 10-4-2004 by Ord. No. 355-04; 12-19-2005 by Ord. No. 365-05; 1-2-2007 by Ord. No. 374-07; 1-7-2008 by Ord. No. 381-08; 12-15-2008 by Ord. No. 388-08; 1-18-2011 by Ord. No. 402-11]

- B. Schools. Schools shall be charged additional sewer rental, based upon the quantity of water used by them, at the rates and in the manner provided in Subsection A hereof; provided, however, that notwithstanding said Subsection A, the additional sewer rental charge for each school for each quarterly billing period ending September 30 shall not be less than an amount equal to the average of the additional sewer rental charges for the three billing periods next preceding the period ending September 30 in each year.
- C. Other seasonal or intermittent use. Additional sewer rentals (for any quarterly billing period) imposed upon seasonal or other intermittent users of the sewer system, other than schools, at the sole discretion of the Township, may be based upon actual flow or upon average peak period flow; provided, however, that the Township shall not impose additional sewer rentals on the basis of average peak period flow until it shall have received at least one full year's flow records with respect to the subject user.
- D. With respect to any property suspected of discharging sanitation sewage or industrial waste to the sewer system in amounts disproportionate to water usage, whether because of suspected infiltration or for any other reason, the Township reserves the right to require installation, at its own expense, of water or sewage measuring devices as provided in § 345-74 hereof. The readings from these meters or measuring devices shall be used in computing additional sewer rentals.

§ 345-71. Additional rates or charges for unmetered residential users.

- A. For each residential property as defined in § 345-69A hereof, which residential property is not serviced by the water company and receives water services solely from an unmetered supply, in lieu of the additional sewer rental charge imposed pursuant to § 345-70A hereof, there is hereby imposed an additional sewer rental per year, payable in quarterly installments, as hereinafter provided. The Board of Supervisors shall establish the amount of the additional sewer rental charge from time to time by adoption of a resolution. [Amended 8-3-1981 by Ord. No. 172-81; 6-2-1986 by Ord. No. 200-86; 12-19-1991 by Ord. No. 244-91; 12-19-1994 by Ord. No. 278-94; 10-4-2004 by Ord. No. 355-04; 12-19-2005 by Ord. No. 365-05; 1-2-2007 by Ord. No. 374-07; 1-7-2008 by Ord. No. 381-08; 12-15-2008 by Ord. No. 388-08; 1-18-2011 by Ord. No. 402-11]
- B. The owner of each such unmetered, private dwelling unit, in lieu of payment of the additional sewer

rental imposed by Subsection A hereof, may elect to pay an additional sewer rental on a metered basis in accordance with the provisions of § 345-70A hereof. In such event, such owner shall notify the Township of his election to pay additional sewer rentals on a metered basis and shall install such additional water meter or meters as the Township in its sole discretion may direct.

§ 345-72. Industrial grant repayments.

In order to comply with applicable federal laws and regulations, there is also imposed upon each industrial user of the sewer system, as the term "industrial user" may be defined from time to time in such laws and regulations, a charge (hereinafter referred to as the "industrial repayment charge"). So long as the regulations in force on the date of enactment hereof continue without relevant amendment, the term "industrial user" shall include agriculture, mining, manufacturing, transportation, public utilities and services activities, but shall exclude any user producing solely the normal domestic-type wastes. The charge payable by each industrial user shall be determined annually as follows: First, there shall be determined, pursuant to applicable federal regulations and guidelines, the total amount required to be recovered by the Township or the Authority for service rendered during the preceding year from all industrial grant repayment charges, which generally shall be an amount equal to 1/30 of that part of all grants received pursuant to the Federal Water Pollution Control Act Amendments of 1972 toward the cost of construction of the sewer system, and grants received by other authorities for the construction of joint transportation and treatment facilities used by the Township, which is in the same proportion to such grants as the greater of total usage by, or total capacity reserved for, all industrial users of the sewer system and such joint facilities respectively bears to the total rated capacity of the sewer system and such joint facilities, respectively, on the basis of aggregate flow and strength characteristics. Second, of such total annual amount required to be charged to all industrial users, the amount which shall be payable by each industrial user shall be determined, which shall be that part of the total charges which is properly allocable to each such user, based upon proportionate flows, strength of waste and delivery rates from each industrial user. Charges shall be payable annually based upon the preceding year's use and shall be billed no later than January 31. All determinations referred to above shall be made by the consulting engineers, whose written decisions shall be final, except that charges for joint facilities may be determined by the agency operating such facilities.

§ 345-73. Reserve capacity charge.

- A. In addition to sewer rents and charges imposed hereby, there is hereby imposed upon each committed basic billing unit (hereinafter defined) a reserve capacity charge of \$240 per year, payable in equal quarterly installments in accordance with the provisions of § 345-76 hereof. [Amended 8-3-1981 by Ord. No. 172-81]
- B. By appropriate action, the Township Board of Supervisors shall establish rules and regulations regarding commitments of reserve capacity in the sewer system to anticipated future users. Under such rules and regulations, the owner of any property in the Township not connected to the sewer system and the owner of any property already connected to the sewer system but desiring to reserve the right to make additional connections to the sewer system may make application for reservation of capacity in the sewer system for such future anticipated use. From and after granting of such reservation of capacity by the Township, the reserve capacity charge hereinabove imposed shall be payable. [Amended 12-15-2014 by Ord. No. 424-14]
- C. For the purpose of this article, one reserve capacity charge shall be payable with respect to each reservation of the following uses:
 - (1) A private dwelling (including each mobile home space, row house, semidetached house and

- townhouse and individual dwelling unit within a multiple-dwelling building);
- (2) A fire house;
 - (3) A church;
 - (4) A Township building; and **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (5) With respect to any other use for which capacity is reserved, one reserve capacity charge shall be payable for each 12,500 gallons of flow (or any portion thereof) estimated by the Township or its consulting engineer to be discharged from such property per quarter-annual period.
- D. Each use described in Subsection C(1) through (5) above shall be deemed a "basic billing unit" for the purposes of this article.
- E. Nothing herein contained shall be deemed to require that the Township grant any reserve capacity commitments.

§ 345-74. Methods of measuring volume.

- A. Methods of measuring volume.
 - (1) Except as herein otherwise provided, whenever a person purchasing all water used from the water company discharges sanitary sewage and/or industrial waste into the sewer system, the volume of water used, as determined from meter readings of the water company, shall be used in computing the sewer rentals.
 - (2) Except where water meter readings are not to be used in computing sewer rentals, where a person has a source of water supply in addition to or other than from the water company and discharges sanitary sewage and/or industrial waste into the sewer system, such person shall install (upon election or provided in § 345-71B hereof) or permit the Township or Authority to install 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 rentals.
 - (3) In cases where a person uses water from the water company and/or from an independent supply such that all or any part of the water so used is not discharged into the sewer system, the quantity of water used to determine the sewer rentals, at the discretion of the sewer manager, may be computed by one of the following methods as determined by the sewer manager: Method No. 1: The readings from the meter or measuring device shall be used in computing the sewer rentals. Method No. 2: By placing a meter or measuring device on the effluent or water not discharging into the sewer system. The reading 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 rentals. Method No. 3: When it is not practical to install measuring devices to determine continuously the quantity of water not discharged into the sewer system, the sewer manager will determine, in such manner and by such method as he may prescribe, the percentage of metered water discharged into the sewer system, and the quantity of water used to compute the sewer rentals shall be the percentage so determined of the quantity measured by the water meter or meters. Any dispute as to the estimated amount shall be submitted to the Board of Supervisors of the Township after notice of the estimate, whose decision on the matter shall be final.
- B. Measuring devices. All meters and measuring devices (except those provided by the water company) required by the Township or Authority to be installed pursuant to § 345-70D and Subsection A(2) of this section hereof shall be furnished and installed at the expense of the Township or the Authority.

All meters and measuring devices (except those provided by the water company) installed at the election of the property owner (pursuant to § 345-71B hereof or otherwise) shall be furnished and installed by the Township at the expense of the property owner. All such meters or measuring devices (except those provided by the water company) shall be under the control of the Township and may be tested, inspected or repaired by Township employees or agents whenever the sewer manager shall deem 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 by the Township at the property owner's expense, whether such repairs are made necessary by ordinary wear and tear or other causes. Bill for such installation and repairs 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.

- C. Meter readings. The Township shall be responsible for the reading of all meters or measuring devices (except to the extent the water company's readings are used), and they shall be made available to Township employees or agents for meter reading at any reasonable time.
- D. Any dispute or alleged inequity relating to sewer usage and any charges therefor shall be submitted to the Board of Supervisors of the Township, whose decision on the matter shall be final.

§ 345-75. Changes in use or classification.

If use or classification of any property should change within any quarterly period, the difference in the sewer rental, prorated on a monthly basis to the nearest calendar month, will be charged or credited, as the case may be, on the bill for the succeeding quarterly period. Additional classifications and additional sewer rentals may be established by the Township from time to time.

§ 345-76. Time and method of payments.

Sewer rentals and charges and reserve capacity charges shall be billed quarterly. Bills for sewer rentals and charges for properties using water company water meter readings for determination of a portion of such quarterly billing shall be dated as of the water company billing date for such quarter. Bills for sewer rentals and charges for properties not using water company meter readings for determination of any portion of such quarterly billing and for reserve capacity charges shall be dated as of January 1, April 1, July 1 and October 1. Bills for properties connecting during a billing period will be prorated on the basis of the applicable rate. Bills for the first billing period after the rates established hereunder become effective shall be prorated.

§ 345-77. Penalties and interest for delinquent payments; liens. [Amended 8-3-1981 by Ord. No. 176-81]

- A. Quarterly sewer rents or charges and reserve capacity charges shall be subject to a ten-percent penalty if not paid within 30 days after they are due and a twenty-percent penalty if not paid within 60 days after they are due. The charges plus the penalty shall bear interest from the due date at the rate of 1% per month or fraction thereof until paid. The Township shall have the additional or independent right to cut off sewer service, by cutting off water service, from such premises and not to restore the same until all charges, penalties and interest against the same and the cost of cutting off and restoring service shall have been paid.
- B. All persons connected to 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.

C. All sewer rents or charges and reserved capacity charges, together with all penalties and interest thereon, not paid on or before 120 days from the date of each bill shall be deemed delinquent. All such charges shall constitute a lien, until paid, against the property to which service is provided or for which capacity is reserved, and the amount thereof may be recovered by due process of law.
[Amended 5-3-1982 by Ord. No. 181-82]

§ 345-78. Segregation of sewer revenues.

- A. The funds received by the Township from the collection of the sewer rentals and charges and all penalties thereon, as herein provided for, and any fines collected by the Township in connection with the sewer system shall be segregated, earmarked and deposited in a separate fund, to be designated "sewer revenue account."
- B. The funds received by the Township from payment of connection charges, inspection charges and tapping fees and all penalties thereon, imposed by the Authority and collected by the Township as its agent, shall be deposited in the above-mentioned sewer revenue account.
- C. Said funds shall be used only for the purpose specified in any lease or agreement it may enter into for and of, or in connection with, said sewer system with the Authority, in accordance with the provisions of the Act of May 2, 1945, P.L. 382, as amended and supplemented.⁹⁰

§ 345-79. Admission of industrial wastes.

- A. Preliminary treatment.
 - (1) In order to control the admission of industrial waste or any other waste not defined as "sanitary sewage" into the sewer system, the written approval of the Township must be obtained prior to the discharge of such waste.
 - (2) As the sewage treatment works cannot treat all waste, preliminary treatment may be required before discharge into the sewer system. Any waste containing substances which are not amenable to treatment or reduction by the biological treatment processes employed within the sewage treatment works, or are amenable only to such a degree that such works' effluent cannot meet the requirements of other agencies having jurisdiction over the discharge to the stream, will require preliminary treatment.
- B. Permit requirements.
 - (1) Each industry making application for permission to discharge any industrial waste into the sewer system shall furnish to the Township all the information necessary to determine the quantity of such waste, the nature and quality of materials therein and the characteristics thereof. Approval of such application shall be in the discretion of the Township, provided all applicants of similar type shall be treated similarly.
 - (2) The rate of flow at which any industrial waste can be discharged shall be at the discretion of the Township.
 - (3) Any industry applying for a permit to discharge any industrial waste into the sewer system from new or existing facilities are required to furnish in quadruplicate a complete set of engineering reports, plans and specifications covering the connections to and from the plant waste treatment

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

facilities. This applies also to alterations or additions to such connections or treatment facilities. Reports and supporting data herein referred to must be prepared by a professional engineer registered in Pennsylvania. Such report shall be subject to review by the Township consulting engineer, who shall be other than the engineer making the report, and by the consulting engineer for Valley Forge Sewer Authority.

- (4) Adequate means shall be provided at each industrial connection with the sewer system for the periodic determination of all characteristics and concentrations of the waste. Samples shall be collected in such a manner as to be representative of the actual quality of the waste, and standard methods of analysis shall be used. Waste shall also be subject to analysis by the Township.
- (5) To facilitate observation, sampling and measuring of the waste being discharged, a suitable manhole shall be installed between the building discharging the industrial waste into the sewer system and the point of connection to the sewer system. Such manhole shall be constructed in accordance with plans and specifications approved by the Township. The manhole shall be installed and maintained in a safe condition at the expense of the owner of the premises being served and be so located as to be accessible at all times to authorized employees and agents of the Township without the consent of such owner.
- (6) Any authorized employee or agent of the Township shall be permitted to enter upon any private property discharging industrial waste into the sewer system at any time for the purpose of observation, measuring, sampling, repair and maintenance of any portion of the sewer system which is an obligation of the Township.
- (7) No person shall maliciously, willfully or negligently break, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the sewer system. Any person violating this provision shall be subject to a fine of not less than \$10 nor more than \$300.
- (8) No statement in this article shall be construed as preventing any special agreement between the Township and any person whereby an industrial waste of unusual strength or character may not be accepted by the Township subject to payment therefor by the industry.
- (9) Each discharge of industrial waste will be considered on its own merits and will require a special agreement with the Township. The agreement shall be for a period of one year. The Township reserves the right to cancel or renew any agreement with an industry after one year. If the Township elects not to cancel the agreement on or before its anniversary, the agreement will automatically renew itself for another period of one year.

§ 345-80. Prohibited wastes.

- A. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff or subsurface drainage into the sewer system.
- B. No person shall discharge or cause to be discharged any of the following into the sewer system:
 - (1) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, fur, plastics, wood, paunch manure, butchers offal, hair or any other solids or viscous substance capable of causing obstruction to the flow in sewers or the interference with the proper operation of the sewer system.
 - (2) Any inert insoluble solids such as asphalt, clay, slag and mill scale, or sludges and slurries.
 - (3) Any waters or waste containing any quantities of formaldehyde, carbide waste, or phenols.

- (4) Any waters or waste containing radioactive isotopes.
- (5) Any noxious or malodorous substances not mentioned in the foregoing list that will pass through the sewage treatment works and exceed the state and interstate requirements for the receiving stream.
- (6) Any effluent of such color that it will require special treatment prior to discharge into the Schuylkill River.

C. No cesspool or septic tank contractor shall dump cesspool or septic waste into the sewer system.

§ 345-81. Discharge of waste.

- A. Except as otherwise provided in this article, no person shall discharge or cause to be discharged any of the following described substances, materials or waste into the sewer system:
 - (1) Any cooling water, unpolluted industrial or commercial process water.
 - (2) Any vapor or steam.
 - (3) Any liquid having a temperature higher than 140° F.
 - (4) Any fluid waste containing in excess of 100 parts per million of fat, oil, wax, grease, either vegetable or mineral, or containing substances which may solidify between 32° F. and 100° F.
 - (5) Any liquids, solids or gases such as benzene, gasoline, naphtha, fuel oil or other volatile, explosive or flammable substance which, by reason of its nature or quality, may cause fire or explosion or be in any way injurious to persons, to the sewer system or the operation thereof.
 - (6) Any unshredded garbage. The installation and operation of any garbage grinder equipped with a motor of greater than 1/2 horsepower shall be subject to review and approval by the Township, the County Authority and the Joint Authority.
 - (7) Any waste containing a five-day twenty-degree-centigrade BOD in excess of 250 ppm.
 - (8) Any waste containing a total solids content in excess of 800 ppm; or any waste containing average suspended solids in excess of 300 ppm, unless the user pays the additional charge provided in § 345-84 hereof. [Amended 11-21-1977 by Ord. No. 143]
 - (9) Any waste having a chlorine demand in excess of 10 ppm.
 - (10) Any fluid having a pH lower than six and higher than nine.
 - (11) Any water waste containing any substances which are not amenable to treatment or reduction by the biochemical wastewater treatment processes employed or are amenable to the treatment only to such a degree that the effluent of the sewage treatment works cannot meet the requirements of agencies having jurisdiction over the discharge to the receiving stream.
 - (12) Any toxic substance not mentioned in the foregoing list that will pass through the treatment works and exceed the maximum permitted levels for such substance under the requirements of state or other governmental agencies.
 - (13) Any substance prohibited by any permit issued by the Commonwealth of Pennsylvania.
 - (14) Any waste containing toxic or poisonous substance in excess of the following limits, measured

at the point of discharge into the sanitary sewers:

| Item | PPM |
|--------------------------------|------------|
| Alkyl benzene sulfonate | 0.5 |
| Arsenic | 1.0 |
| Barium | 1.0 |
| Beryllium | 1.0 |
| Boron | 1.0 |
| Bromide | 0.0 |
| Cadmium | 5.0 |
| Carbon chloroform extract | 0.2 |
| Chloride | 250.0 |
| Chromium (hexavalent) | 3.0 |
| Chromium (trivalent) | 3.0 |
| Cobalt | 0.3 |
| Copper | 5.0 |
| Cyanides | 0.0 |
| Fluoride | 10.0 |
| Hydrogen sulfide | 0.0 |
| Iodide | 0.0 |
| Iron | 15.0 |
| Lead | 1.0 |
| Manganese | 0.5 |
| Mercury | 1.0 |
| Nickel | 5.0 |
| Nitrate | 10.0 |
| Nitrites | 3.0 |
| Nitrogen (as NH ₃) | 15.0 |
| Ozone | 0.0 |
| Organic surfactants | 5.0 |
| Phenols | 0.0 |
| Phosphates | 40.0 |
| Selenium | 0.01 |
| Silver | 5.0 |
| Sodium | 10.0 |
| Sulfate | 250.0 |

| Item | PPM |
|----------------|------------|
| Sulfur dioxide | 0.0 |
| Sulphydrides | 3.0 |
| Tin | 5.0 |
| Zinc | 5.0 |

- B. Provided, however, that deviations from the above schedule may be authorized by the Township, in its sole discretion, upon an affirmative showing by the person requesting the same that such deviation will not be harmful to the sewer system.

§ 345-82. Floor drains.

Floor drains used for washing and cleaning will be permitted only on application to the Township and only after provisions have been made for the removal of sand, grit, oil, grease, garbage or any other materials.

§ 345-83. Enforcement.

In the event that the owner or operator of any industrial or commercial establishment fails to conform or comply with the terms and conditions of its agreement with the Township pertaining to the discharge of its wastes, which failure causes damage to the sewer system or to any employee thereof, the owner or operator shall be liable for such damage, or, in the event of the discharge of any substance that kills fish, the owner or operator shall be liable for the damages thereof. The limit of the damage shall be determined by the Township, and the owner or operator shall be billed therefor. Legal action may be taken to enforce collection, and the Township may resort to the termination of its connection to the sewer system.

§ 345-84. Surcharge formula.

Any industrial waste of unusual strength or character accepted by the Township shall be subject to a surcharge to be paid by the industrial or commercial establishment concerned. The basic rate for the surcharge shall be the rate per thousand gallons as set forth in § 345-70 above, as follows:

- A. The surcharge is based on a waste having a five-day twenty-degree-centigrade BOD greater than 250 ppm.
- B. Average suspended solids content of greater than 300 ppm. [Amended 11-21-1977 by Ord. No. 143]
- C. In the case of waste containing heavy metals, either in suspension or solution or when in the opinion of the Township the suspended solids do not represent the true characteristics of the solids loading, the Township reserves the right to use total solids instead of suspended solids.

Industrial Waste Surcharge Factor

$$F = (Si-Sa) \cdot Sa + Bi-Ba \cdot Ba$$

F = Factor applied to basic treatment rate.

Si = Industrial waste average suspended solids concentration in ppm. [Amended 11-21-1977 by Ord. No. 143]

Sa = Domestic sewage average suspended solids concentration in excess of 300 ppm. [Amended 11-21-1977 by Ord. No. 143]

Bi = BOD industrial waste in parts per million.

Ba = Average BOD domestic sewage in parts per million (250).

- D. In the case of waste containing substances or materials that only can be treated with extra care and costs and where the surcharge as stated above does not apply, they must accept after a study of the waste has been made and a formula for the discharge has been established.
- E. In order to ascertain the strength of every industrial waste, the Township shall cause appropriate analysis to be made at least four times each year of every industrial waste entering the sewer system, the average of which shall be used to establish the surcharge for the ensuing year.

§ 345-85. Rules and regulations.

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.

§ 345-86. Violations and penalties; enforcement. [Added 3-4-1985 by Ord. No. 186-85]

- A. Any person who violates or permits a violation of this article shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$600, plus all court costs, including reasonable attorneys' fees, incurred by the Township in the enforcement of this article. 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. [Amended 10-7-1996 by Ord. No. 293-96]
- B. Any duly authorized employee or agent of the Township or of the Authority shall be permitted and shall have the authority, at any reasonable time, to enter upon any property subject to this article or the rules and regulations adopted hereunder for the purpose of inspecting, observing, measuring, sampling and testing as may be required to identify actions affecting the Township sewer system and/or to implement and enforce the terms and provisions of this article or the rules and regulations adopted hereunder.
- C. In addition to summary proceedings provided for herein, the Township may proceed at law or equity to seek appropriate injunctive or other relief from actions adversely or improperly affecting the Township's sewer system or the public health and welfare.

§ 345-87. When effective; applicability; amendments.

Except as hereinafter provided, this chapter and any rules and regulations hereunder shall become effective on the earliest date permitted by law and shall be applicable to all properties as soon as they respectively 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 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 or as may be required by any lease referred to in § 345-78 hereof.

Chapter 362

SNOW EMERGENCIES; SNOW REMOVAL

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 10-3-1994 by Ord. No. 275-94. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 395.

§ 362-1. Definitions.

The following words and phrases shall have the meanings as set forth hereinafter when used in this chapter:

PARKING — Includes any vehicle, or portion thereof, parked, stalled, incapable of moving under its own power or left unattended, resting upon or protruding over any portion of a public roadway.

PERSON — A natural person, firm, copartnership, association, corporation or similar entity.

PUBLIC ROADWAY — Each publicly maintained street, highway, lane or way open to the use of the public for purposes of vehicular travel.

SNOW — Snow, ice, sleet or other form of frozen precipitation.

SNOW EMERGENCY — A condition which, because of the accumulation of snow, ice, freezing rain or similar condition, in the opinion of the Township Manager or designee, creates a hazard or danger to vehicular and/or pedestrian travel and is declared as such by the Manager or designee or is so defined in this chapter or the regulations adopted pursuant thereto.

VEHICLE — Every device in, upon or by which any person or property may be transported or drawn upon a highway, which device must be licensed for such use by the Commonwealth of Pennsylvania or other governmental jurisdiction.

§ 362-2. Existence of snow emergency.

For purposes of the implementation of parking regulations, a snow emergency shall be deemed to exist, whether or not declared by the Township Manager or designee, at such time as the depth of snow shall accumulate to the depth of two inches on public roadways within the Township.

§ 362-3. Termination of snow emergency.

Once a snow emergency has been declared or otherwise arises pursuant to the terms of this chapter, such emergency shall be deemed to continue until such time as the Township Manager or designee shall declare that such emergency has been terminated.

§ 362-4. Parking on roadways during snow emergencies.⁹¹

Any vehicle parked, stalled, left unattended or otherwise unable to be moved under its own power upon any public roadway within the Township during a snow emergency shall be deemed to be in violation of

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

the provisions of this chapter and any regulations adopted hereunder.

§ 362-5. Deposit of snow on public roadway.

No person shall deposit in any manner any snow upon any public roadways within the Township during a snow emergency.

§ 362-6. Removal of snow from sidewalks.

During the continuance of a snow emergency, the person owning, occupying or otherwise responsible for the property abutting such sidewalk shall maintain such sidewalk in accordance with this chapter and any rules and regulations adopted pursuant thereto.

§ 362-7. Authority to adopt rules and regulations.

The Supervisors of Easttown Township shall have the power to adopt, amend and revise rules and regulations to implement the purposes of this chapter.

§ 362-8. Violations and penalties. [Amended 10-7-1996 by Ord. No. 293-96⁹²]

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

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

Chapter 377

SOLID WASTE; RECYCLING; OPEN BURNING

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 6-21-2010 by Ord. No. 397-10. Amendments noted where applicable.]

GENERAL REFERENCES

Littering — See Ch. 256.

Natural resources protection — See Ch. 274.

**ARTICLE I
General Provisions**

§ 377-1. Title.

This chapter shall be known as the "Easttown Township Municipal Solid Waste and Recycling Ordinance."

§ 377-2. Purpose.

It is the intent and purpose of this chapter to promote the public health, safety and welfare and to eliminate public health hazards, environmental pollution, and economic loss by providing that all residential, commercial, institutional and municipal solid waste and recyclables accumulated or stored upon any property within the Township shall be collected, transported and disposed of in compliance with the Municipal Waste Planning, Recycling, and Waste Reduction Act of July 28, 1988 (P.L. 556, No. 101) ("Pennsylvania Act 101"),⁹³ the Chester County Solid Waste Management Plan, 2009 Revision, and any future revisions thereto, and this chapter.

§ 377-3. Definitions.

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

ALUMINUM CONTAINERS — Empty all-aluminum beverage and food containers.

AUTHORITY — Chester County Solid Waste Authority.

AUTHORIZED MUNICIPAL WASTE COLLECTOR — A private person or corporation which has complied with the fee, safety, security and insurance requirements, as approved from time to time by motion or resolution of the Board of Supervisors, necessary to be authorized by Easttown Township to contract with individual Township residents for the collection and disposal of municipal waste.

BIMETAL CONTAINERS — Empty beverage or food containers consisting of steel and aluminum.

BULK WASTE — Waste materials too large for collection in ordinary containers. Examples of bulk waste include hot-water heaters, sofas, televisions, rugs, mattresses, furniture, etc., having an individual weight of not more than 250 pounds. Bulk waste specifically excludes tire rims, tires, items containing refrigerants (i.e., freezers, refrigerators, air conditioners, etc.) and materials classified as hazardous waste under government regulations for municipal solid waste.

COMMERCIAL — Any establishment engaged in a nonmanufacturing or nonprocessing business, including, but not limited to, stores, markets, office buildings, restaurants, shopping centers, and theaters. Multifamily dwellings, townhomes, mobile home parks, hotels, motels, mixed-use properties (combined business/residential on a single parcel) and farms which use commercial dumpsters shall be considered commercial establishments; does not include properties where the primary permitted use is residential and the accessory use is commercial (i.e., home occupations).

COMMONWEALTH OF STATE — The commonwealth and its departments, boards, commissions and agencies, commonwealth-owned universities, and the State Public School Building Authority, the State Highway and Bridge Authority, and any other authority now in existence or hereafter created or organized by the commonwealth.

COMMUNITY ACTIVITIES — Church, school, civic, service group, municipal and all other such functions. All regulations pertaining to commercial, institutional and municipal establishments in Easttown

^{93.} Editor's Note: See 53 P.S. § 4000.101 et seq.

Township shall also apply to community activities.

CONSTRUCTION AND DEMOLITION WASTE — Lumber, roofing material, sheathing, rubble, broken concrete, macadam, plaster and brick, conduit, pipe, insulation, and other material which results from a construction, demolition, or remodeling process.

CORRUGATED PAPER — Structural paper material with an inner core shaped in rigid parallel furrows and ridges.

CURBSIDE COLLECTION — The scheduled collection and transportation of municipal solid waste and recyclable materials placed at the curb or other area designated by the collector.

DEPARTMENT — The Department of Environmental Protection of the commonwealth and its authorized representatives.

DISPOSAL — The deposition, injection, dumping, spilling, leaking or placing of solid waste into or on the land or water in a manner that the solid waste or a constituent of the solid waste enters the environment, is emitted into the air or is discharged to the waters of this commonwealth.

DROPOFF SITES — Those specified locations, staffed or unstaffed, where recyclables may be taken at specified times.

DWELLING UNIT — One or more rooms on premises which have cooking facilities and are arranged for occupancy by one person, two or more persons living together, or one family. Each dwelling unit within a noncommercial building shall be considered an individual customer.

ENFORCEMENT OFFICER — The official designated herein or otherwise charged with the responsibilities of administering this chapter, or the official authorized representative. See also "Recycling Coordinator."

EXCLUSIVE AGREEMENT or EXCLUSIVE CONTRACT — An agreement entered into by Easttown Township, or its designated agent, with a private person or corporation for the collection and disposal of all municipal waste within Easttown Township to the extent provided by this chapter and any future amendments, the agreement and any future resolutions adopted by the Board of Supervisors of Easttown Township.

FARM — A parcel of land used for agricultural purposes such as growing crops, grazing of livestock, growing of fruit trees, or similar uses.

GLASS CONTAINERS — Bottles and jars made of clear or colored glass. Expressly excluded are noncontainer glass, automobile glass, plate glass, blue glass, lead crystal and porcelain and ceramic products.

INSTITUTIONAL — Any establishment engaged in service to persons, including, but not limited to, hospitals, nursing homes, orphanages, schools, and universities.

LEAF WASTE — Leaves from trees, bushes, and other plants, garden residue, chipped shrubbery and tree trimmings, but not including grass clippings.

MUNICIPAL RECYCLING PROGRAM — A source-separation and collection program for recycling municipal waste or source-separated recyclable materials, or a program for designated dropoff points or collection centers for recycling municipal waste or source-separated recyclable materials, that is operated by or on behalf of a municipality. The term includes any source-separation and collection program for composting yard waste that is operated by or on behalf of a municipality. The term shall not include any program for recycling construction or demolition waste or sludge from sewage treatment plants or water supply treatment plants.

MUNICIPAL SOLID WASTE or SOLID WASTE — Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of "residual or hazardous waste" in the Solid Waste Management Act⁹⁴ from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials.

NEWSPAPERS — All paper of the type commonly referred to as "newsprint" and distributed at fixed intervals having printed thereon news and opinions, containing advertisements and other matters of public interest. Expressly excluded are newspapers which are wet, yellowed, or soiled.

PERSON — Any individual, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority, federal government or agency, state institution or agency (including, but not limited to, the Department of General Services and the State Public School Building Authority), or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. In any provisions of this chapter prescribing a fine, imprisonment or penalty, or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

POLLUTION — Contamination of any air, water, land or other natural resources of this commonwealth that will create or is likely to create a public nuisance or to render the air, water, land or other natural resources harmful, detrimental or injurious to public health, safety or welfare or to domestic, municipal, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wild animals, birds, fish or other life.

PROCESSING — Any technology used for the purpose of reducing the volume or bulk of municipal waste or any technology used to convert part or all of such waste materials for off-site reuse. Processing facilities include, but are not limited to, transfer facilities, composting facilities and resource-recovery facilities.

RECYCLABLE MATERIALS — Source-separated recyclable materials, including materials listed in Section 1501 of Pennsylvania Act 101.⁹⁵ Recyclable materials shall include but not necessarily be limited to the following:

- A. Corrugated paper.
- B. Mixed paper.
- C. Clear and colored glass containers.
- D. Aluminum containers, steel containers and bimetal containers.
- E. Plastic containers marked No. 1 through No. 7.
- F. Leaf waste.

RECYCLING — The collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste, plastics and other materials which would otherwise be disposed or processed as municipal waste or the mechanized separation and treatment of municipal waste (other than through combustion) and creation and recovery of reusable materials other than a fuel for the operation of energy.

RECYCLING COORDINATOR — The official designated herein or otherwise charged with the

94. Editor's Note: See 35 P.S. § 6018.101 et seq.

95. Editor's Note: See 53 P.S. § 4000.1501.

responsibilities of administering this chapter, or the official authorized representative. See also "enforcement officer."

RECYCLING FACILITY — A facility employing a technology that is a process that separates or classifies municipal waste and creates or recovers reusable materials that can be sold to or reused by a manufacturer as a substitute for or a supplement to virgin raw materials. The term "recycling facility" shall not mean transfer stations or landfills for solid waste, nor composting facilities or resource-recovery facilities.

REFUSE — All municipal solid waste which is regulated by Pennsylvania Act 101⁹⁶ and the Chester County Solid Waste Authority, except the following categories of solid waste:

- A. Bulk waste, including tires and appliances.
- B. Construction and demolition waste.
- C. Sludge.
- D. Infectious/pathological waste.
- E. Ash residue.
- F. Friable asbestos waste.
- G. Source-separated recyclable materials.
- H. Household hazardous waste.
- I. Oversized refuse items.
- J. Grass clippings.
- K. Unacceptable waste.

RESIDENTIAL — See "dwelling unit."

RESIDUAL WASTE — Any garbage, refuse, other discarded material or other waste, including solid, liquid, semisolid or contained gaseous materials, resulting from industrial, mining and agricultural operations and any sludge from an industrial, mining or agricultural water supply treatment facility, wastewater treatment facility or air pollution control facility, provided that it is not hazardous. The term shall not include coal refuse as defined in the Act of September 24, 1968 (P.L. 1040, No. 318, as amended), known as the "Coal Refuse Disposal Control Act."⁹⁷ The term shall not include treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to the Act of June 22, 1937 (P.L. 1987, No. 394, as amended), known as the "Clean Streams Law."^{98, 99}

STEEL CANS — Empty all-steel food and beverage containers.

TOWNSHIP — The Township of Easttown, Chester County, Pennsylvania.¹⁰⁰

UNACCEPTABLE WASTE — The following categories of solid waste:

96. Editor's Note: See 53 P.S. § 4000.101 et seq.

97. Editor's Note: See 52 P.S. § 30.51 et seq.

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

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

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

- A. Hazardous waste.
- B. Residual waste.
- C. Unsterilized or unprocessed infectious or pathological waste.
- D. Chemotherapeutic waste.
- E. Gas cylinders.
- F. Explosives and ordnance materials.
- G. Liquid waste (i.e., containing less than 20% solids by weight or flowable).
- H. Drums, barrels, and buckets, unless lids have been removed and interiors cleaned and free of any residue.
- I. Radioactive materials.
- J. Any solid waste generated outside of the Township.

ARTICLE II
Municipal Solid Waste

§ 377-4. General regulations.

- A. It shall be the duty of every person owning a residential, commercial, institutional or Township property where municipal solid waste is generated and accumulated within the Township, at his/her own expense and cost, to provide and keep at all times a sufficient number of containers to hold all municipal solid waste and recyclables accumulated between intervals of collection of such materials and to ensure the sanitary and legal disposal or recycling of such materials in accordance with all Township, county, state, and federal laws and regulations, including but not limited to Pennsylvania Act 101,¹⁰¹ the Chester County Solid Waste Management Plan, 2009 Revision, and any future revisions thereto, and this chapter. [Amended 12-15-2014 by Ord. No. 424-14]
- B. The collection of residential municipal solid waste and recyclables from all single-family residences and multifamily residential properties with less than four units shall be performed exclusively by the hauler selected by the Township to provide such service or by multiple authorized haulers if the Township chooses in its discretion to permit multiple haulers to provide such service. Said collection shall be in accordance with any agreements and/or regulations as may be established and modified from time to time by resolution of the Board of Supervisors, at rates and intervals which may be established by the Board in its sole discretion from time to time.
- C. In the event that the Board of Supervisors enters an exclusive agreement with a hauler, or permits multiple authorized haulers as described in Subsection B, it shall be a violation of this chapter for any person not duly authorized by the Township to collect or cause to be collected any recyclable materials or municipal solid waste placed at the curb or any other place designated for collection. Any and each such unauthorized collection from one or more residences shall be construed to be a separate and distinct offense punishable as hereinafter provided.
- D. The Township may, in its sole discretion:
 - (1) Award an exclusive agreement to a hauler pursuant to a public bid process; or
 - (2) Permit multiple authorized municipal waste collectors.

§ 377-5. Storage on residential properties.

- A. Refuse containers. All refuse accumulated by owners and/or occupants of residential properties and/or multifamily residential properties with less than four units shall be placed in refuse containers. Refuse containers shall be watertight, covered plastic or metallic cans or durable and lightweight plastic bags that can be easily and quickly handled by one person.
- B. Recycling containers. All recyclable materials accumulated by owners and/or occupants of residential properties and/or multifamily residential properties with less than four units shall be placed in containers that are clearly marked for that purpose. Containers for recyclable materials shall be plastic or metallic cans that can be handled easily and quickly by one person.
- C. Location of containers. Conditions permitting, refuse and recycling containers shall be stored on the side or rear of the main structure of a residential property until the regular collection day. Where space limitations restrict the placement of containers for refuse and recyclables on the side or rear of

¹⁰¹Editor's Note: See 53 P.S. § 4000.101 et seq.

the main structure, the containers shall be stored away from the curb and as close to the main structure as possible. Containers shall be placed at curbside for collection no earlier than 6:00 p.m. the day before collection and removed from curbside no later than 9:00 p.m. on the day of collection.

§ 377-6. Storage on commercial, institutional and Township properties. [Amended 12-15-2014 by Ord. No. 424-14]

- A. Collection. Collection of municipal solid waste and recyclables on commercial, institutional and Township properties is not handled by the hauler selected by the Township to provide collection services from single-family residences and multifamily residential properties with less than four units. The owners/occupants of commercial, institutional and Township properties shall contract for their own collection of solid waste and recycling, subject to, as applicable, federal, state, county and Township laws and regulations, Pennsylvania Act 101,¹⁰² the Chester County Solid Waste Management Plan, 2009 Revision, and any future revisions thereto, and this chapter.
- B. Containers. Storage of municipal solid waste and recyclables on commercial, institutional and Township properties may be done in the same type of containers as required for residential properties or in dumpsters as may be determined appropriate by the owner/occupant of such properties.
- C. Location of containers. Dumpsters, refuse containers or containers for recyclables at commercial, institutional or Township properties shall be located on such properties at a place agreed upon by the owner and/or occupant of the commercial, institutional or Township property and the hauler hired by such owner/occupant. This location, and buffering, if required, shall be in compliance with zoning or other applicable Township requirements for the location of such containers. Such locations shall not interfere with public or private sidewalks, walkways, driveways, roads, streets, highways, alleys, or entrances and exits of public or private buildings.

§ 377-7. Transportation of municipal solid waste and recyclables.

- A. Any person transporting municipal solid waste and recyclables within the Township shall comply with all applicable federal, state, county and Township laws and regulations. In addition, any person transporting municipal solid waste and recyclables within the Township shall prevent or remedy any spillage from vehicles or containers used in the transport of such municipal solid waste.
- B. Haulers of municipal solid waste and recyclables shall utilize vehicles which are suitable for such collection, which are dedicated for use in performance of such collection and which bear prominent legible marking, signs or decals identifying them as being municipal solid waste or recyclable collection vehicles and stating the name and phone number of the hauler. All vehicles shall be specifically designed to prevent leakage of any liquids or fluids. All open-type vehicles shall be suitably covered to prevent the discharge of refuse from the vehicle. All vehicles and equipment shall be regularly cleaned and maintained in good working and operating condition, both with respect to safety and sanitation.

§ 377-8. Disposal requirements.

All municipal solid waste produced, collected and transported from within the jurisdictional limits of Easttown Township shall be disposed of in a manner and at the facilities designated in the Chester County Solid Waste Management Plan, 2009 Revision, and any future revisions thereto. Disposal shall comply with all applicable federal, state, county and Township laws and regulations.

¹⁰²Editor's Note: See 53 P.S. § 4000.101 et seq.

§ 377-9. Unlawful disposition.

- A. It shall be unlawful for any person to bring any municipal solid waste into Easttown Township or to transport municipal solid waste from one address to another within or outside of the Township for the purpose of taking advantage of the collection service or to avoid the cost of collection.
- B. It shall be unlawful for any person to accumulate, or to permit to accumulate, or to dispose of, or to permit the disposal of refuse on private or public property in the Township, except in accordance with the terms of this chapter.

§ 377-10. Bulk waste.

- A. Bulk waste shall be disposed of in accordance with the Chester County Solid Waste Management Plan, 2009 Revision, and any future revisions thereto, at a state-permitted disposal facility, a facility especially designated by the Township to take such bulk items or a legitimate salvage dealer that is in the business of disposing or recycling such items. Bulk waste may be transported in a vehicle appropriate to the type of waste as to prevent spillage, accidental loss, etc.
- B. Nothing contained herein shall be deemed to prohibit any person not regularly engaged in the business of collecting municipal solid waste from hauling his/her bulk waste to a state-permitted disposal facility or to a disposal facility as designated by the Township in accordance with the regulations of the disposal facility.

§ 377-11. Construction and demolition waste.

All waste materials resulting from the building, structural alteration, repair, construction, or demolition of buildings or structures shall be disposed of as permitted by applicable Township, state, and federal laws and regulations as may be in effect, or as subsequently imposed. It shall be the responsibility of the property owner to ensure the disposal of such waste in accordance with applicable laws and regulations. Nothing contained herein shall be deemed to prohibit any person not regularly engaged in the business of collecting municipal solid waste from hauling his/her construction and demolition waste to a state-permitted disposal facility or to a disposal facility as designated by the Township in accordance with the regulations of the disposal facility.

§ 377-12. Exceptions.

- A. Nothing contained herein shall prohibit a farmer from carrying out normal farming operations, including composting or spreading of manure or other farm-produced agricultural waste, not otherwise prohibited or regulated for land applications. All such practices must be conducted in compliance with applicable Township, state, and federal laws and regulations as may be in effect or subsequently imposed.
- B. The provisions of this chapter do not apply to anything but the storage, collection, transportation, and disposal of municipal solid waste and do not apply to hazardous or residual waste as defined by the Pennsylvania Solid Waste Management Act¹⁰³ and its amendments. All hazardous or residual waste must be disposed of in compliance with applicable Township, state, and federal laws and regulations as may be in effect or subsequently imposed.

¹⁰³Editor's Note: See 35 P.S. § 6018.101 et seq.

ARTICLE III Open Burning

§ 377-13. Prohibited acts. [Amended 12-15-2014 by Ord. No. 424-14]

In accordance with Pennsylvania Act 101 and as amended by Act 140 of 2006,¹⁰⁴ it shall be unlawful for any person to openly burn any material, including the following, at any time in any zone within the Township: household trash, books, magazines, newspapers, cardboard and/or any items that are required to be recycled in Easttown Township under Pennsylvania Act 101, including yard waste, leaves and scrap lumber or any vegetation, plywood, drywall, plastic products, insulation materials, upholstered furniture, solid waste and/or construction waste as defined by the Pennsylvania Solid Waste Management Act¹⁰⁵ and 25 Pa. Code § 271.1, garbage, dead animals, human and animal excrement, human and animal hair, rubber products, including tires, hydrocarbon products or flammable liquids, asphalt or tar shingles or roofing materials, bedding, foam rubber, nylon, rayon, cotton, wool, polyester or other synthetic material, insulation from copper or other wiring.

§ 377-14. Exceptions.

The prohibition of open burning shall be in effect except when the burning results from:

- A. An open burning set to prevent or abate a fire hazard when approved by the Department of Environmental Protection regional office and set by or under the supervision of a public officer.
- B. A fire set for the purpose of instructing personnel in firefighting, when approved by the Department of Environmental Protection regional office.
- C. A fire set for the prevention and control of disease or pests, when approved by the Department of Environmental Protection regional office.
- D. A fire set for the purpose of burning, clearing and grubbing waste; if within an air basin, an air curtain destructor must be used and must be approved by the Department of Environmental Protection regional office.
- E. A fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.
- F. A fire set solely for cooking food.
- G. A fire set solely for recreational or ceremonial purposes.

§ 377-15. Regulations and requirements.

- A. Any such open burning as permitted in § 377-14 shall be located at least 50 feet or more from any building, structure or combustible materials and at least 25 feet from any public street or right-of-way.
- B. A permit from the Township is required for any instances of open burning as permitted in § 377-14. A fee may be charged for said permit as set by resolution of the Board of Supervisors, as may be modified from time to time. However, no open burning is permitted on any day on which the National Weather Service (www.nws.noaa.gov) has issued a red flag warning for areas encompassing the Township. Any Township or fire official may suspend open burning at any time and from time to

¹⁰⁴Editor's Note: See 53 P.S. § 4000.101 et seq.

¹⁰⁵Editor's Note: See 35 P.S. § 6018.101 et seq.

time when it is determined by any of them that, in their opinion, any of the following conditions exist:

- (1) Smoke, embers and/or ash emission cause damage to property or vegetation of adjacent properties.
 - (2) Smoke, embers and/or ash emission are, or may be, offensive, objectionable or deleterious to human or animal health.
 - (3) Dry conditions or drought warrant a ban on all open burning, in which case the Board of Supervisors of the Township shall so advise in writing.
- C. All fires in open burning must be guarded or attended to by one or more responsible adult persons, being individuals 18 or over, at all times until such fire and open burning has been extinguished.
- D. Yard waste that is permitted to be burned on agricultural land must originate from the same parcel of land on which it is burned.
- E. Nonorganic or recyclable materials, or any other combustibles which may create large amounts of smoke, may not be openly burned.
- F. Any such open burning shall be permitted between the hours of 8:00 a.m. and 5:00 p.m. No burning or smoldering shall occur outside the above time period, unless prior permission is requested of and expressly granted by the Township.

§ 377-16. Outdoor fireplaces, cooking grills and patio stoves; chimineas; factory-built metal novelty stoves.

- A. Outdoor fireplaces, outdoor cooking grills, outdoor patio stoves, chimineas and factory-built metal novelty stoves shall be permitted upon private property within all zones of the Township solely for their intended purpose.
- B. No person shall use outdoor fireplaces, outdoor cooking grills, outdoor patio stoves, chimineas and factory-built metal novelty stoves for the burning of material as outlined in § 377-13.
- C. Outdoor fireplaces, outdoor cooking grills, outdoor patio stoves, chimineas and factory-built metal novelty stoves may not be used indoors or in any enclosed areas that are not properly ventilated.

§ 377-17. Indoor fireplaces; wood-burning and coal stoves; solid-fuel heaters.

- A. Fireplaces or wood-burning or coal stoves shall be permitted inside residential private property within all zones of the Township solely for the purpose of heating the dwelling unit.
- B. Only seasoned firewood, coal or solid fuels recommended by the manufacturer may be burned in such fireplaces, wood-burning or coal stoves or solid-fuel heaters.
- C. No person may use such fireplaces, wood-burning or coal stoves or solid-fuel heaters for the burning of any material as outlined in § 377-13.
- D. Such fireplaces, wood-burning or coal stoves or solid-fuel heaters shall not be used for such purpose when, in the judgment of a Township or fire official, a fire hazard is created by such use and operation and/or any danger is posed to the occupants therein or the neighboring buildings and/or occupants.
- E. If the smoke, ashes and/or smell emitting to the outside atmosphere from the chimney, stovepipe or flue are objectionable or offensive to the general public, the operation of such fireplace, wood-

burning or coal stove or solid-fuel heater shall be suspended by any Township or fire official.

§ 377-18. Handling of ashes and rubbish.

Ashes, smoldering coals, wood and embers or other material liable to spontaneously ignite shall not be deposited or allowed to remain within 10 feet of any combustible materials but shall be deposited in noncombustible containers. Rubbish of any kind shall not be allowed to accumulate.

ARTICLE IV
Mandatory Recycling Program

§ 377-19. Establishment of program.

- A. Easttown Township hereby establishes a program for the mandatory separation of recyclables from municipal solid waste by all residential, commercial, institutional and municipal establishments.
- B. Recyclable materials shall include but not necessarily be limited to the following:
 - (1) Corrugated paper.
 - (2) Mixed paper.
 - (3) Clear and colored glass containers.
 - (4) Aluminum containers, steel containers and bimetal containers.
 - (5) Plastic containers marked No. 1 through No. 7.
 - (6) Leaf waste.

§ 377-20. Residential properties.

- A. The collection of recyclable materials from all single-family residences and multifamily residential properties with less than four units shall be performed by the hauler selected by the Township to provide such service, or by multiple authorized haulers if the Township chooses in its discretion to permit multiple haulers to provide such service.
- B. Said collection shall be in accordance with any agreements and/or regulations as may be established and modified from time to time by resolution of the Board of Supervisors, at rates and intervals established by the Board.
- C. Residents shall separate recyclable materials from other municipal solid waste and shall store such materials until collection.
- D. Residents who otherwise provide for the composting of leaf waste shall be exempt from the requirement to separate leaf waste as a recyclable material.

§ 377-21. Commercial, institutional and Township properties. [Amended 12-15-2014 by Ord. No. 424-14]

- A. All commercial, institutional and Township establishments in Easttown Township shall, at their sole cost and expense, separate recyclable materials from municipal solid waste.
- B. In addition to the recyclable materials as defined for residential properties, all commercial, institutional and Township establishments shall separate the following materials from municipal solid waste:
 - (1) High-grade office paper.
 - (2) Corrugated paper.
 - (3) Aluminum.

- C. All commercial, institutional and Township establishments in Easttown Township shall, by February 1 of each year, provide written documentation to the Township of the total number of tons recycled during the previous calendar year.
- D. The regulations pertaining to commercial, institutional and Township establishments in Easttown Township shall also apply to community activities, as defined in this chapter.

§ 377-22. Multifamily properties with four or more units.

- A. An owner, landlord or agent of an owner or landlord of multifamily properties with four or more units shall establish a collection system for recyclable materials at each property.
- B. The collection system shall include suitable containers for collecting and sorting materials, easily accessible locations for the use and availability of the collection system and written instructions to the occupants concerning the use and availability of the collection system.
- C. An owner, landlord or agent of an owner or landlord who complies with this chapter shall not be liable for the noncompliance of occupants of their properties.
- D. The owner, landlord or agent of an owner or landlord of multifamily properties with four or more units shall, by February 1 of each year, provide written documentation to the Township of the total number of tons recycled in the previous calendar year.

ARTICLE V
Enforcement and Penalties

§ 377-23. Enforcement officers.

The following Township officers or officials are designated enforcement officers in connection with the provisions for enforcement of this chapter or the regulations adopted pursuant thereto:

- A. Any Township police officer.
- B. The Township Manager or designee.
- C. The Recycling Coordinator as may be appointed by resolution of the Board of Supervisors.

§ 377-24. Complaint procedure.

Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Township's enforcement officer, who shall record such complaint, investigate, take action thereon as provided by this article and report to the Supervisors regarding the complaint and the action thereon.

§ 377-25. Enforcement notice.

- A. The enforcement officer may order the alleged offender to come into compliance with this chapter by issuance of an enforcement notice. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to the individual who is alleged to have violated this chapter, to any person who has filed a written request to receive such a notice regarding that parcel and to any other person requested in writing by the owner of record of the parcel. The enforcement notice shall state at least 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 provisions 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 failure to comply with the notice within the time specified shall result in the prosecution of the matter before a Magisterial District Judge in the same manner as a summary offense under the Pennsylvania Rules of Criminal Procedure for each day the violation continues.
- B. Upon receipt of such notice, compliance with this chapter shall occur within five days. Should the violation continue past the fifth day after receipt of such notice, the enforcement officer shall issue a summons for each day the violation continues.

§ 377-26. Violations and penalties; additional remedies.

- A. Any person who violates this chapter or the regulations adopted pursuant hereto and fails to comply with the terms of an enforcement notice shall, upon conviction in a summary proceeding, be subject

to a fine of not less than \$100 and not more than \$1,000. Imprisonment for default in the payment of any such fines or costs shall be as provided under the applicable law.

- B. Each day the violation continues after the five-day period set forth in the enforcement notice shall constitute a separate violation, subject to the issuance of additional summons and the penalties set forth herein.
- C. In addition to any other remedies provided by law, the following actions may be taken to remove or abate any continuing violation of this chapter:
 - (1) The local fire company having jurisdiction, either with or without the permission of the landowner or person in charge, may extinguish any fire on public or private property kindled or burning in violation of the provisions of this chapter.
 - (2) The Board of Supervisors may proceed in law or equity to remove or abate any continuing violation of this chapter and, in addition, may proceed to impose and collect costs of such removal or abatement, in addition to any penalty imposed under this chapter.

Chapter 382**SPECIAL EVENTS**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 5-4-1959 by Ord. No. 48; amended in its entirety 6-3-2013 by Ord. No. 415-13. Subsequent amendments noted where applicable.]

§ 382-1. Definitions.

For the purpose of this chapter, the following terms shall have the following meanings indicated:

COMMUNITY EVENT — Any public event officially sponsored or officially organized by the Township from time to time.

SPECIAL EVENT — A preplanned single event or series of events that, because of its nature, interest, location, promotion or any combination of similar influences, is expected to draw a large number of persons, proposed to be held on public property, or on private property but impacting public property or roadways, and/or requiring the use of public support services. "Special event" shall include, but not be limited to, races, festivals, shows, neighborhood celebrations, public events which are privately sponsored but open to the public, or similar activities generally considered be recreational in nature. The term shall not include the normal operations, activities or affairs of any duly established municipal, recreational or religious organization or institutions located in the Township, an event whose estimated total attendance of all participants is anticipated to be less than 50 people, or to any community event.

SPONSOR — The person, group, corporation or other entity responsible for organizing the event.

SUPPORT SERVICES — Those services which can or must be provided by the Township to ensure that an event is conducted in such a manner as to protect the rights, safety, health, property and general welfare of its citizens. This includes but is not limited to fire protection, police protection, crowd management and control, traffic management and solid waste management.

§ 382-2. Permit required.

No sponsor, person, association, firm, corporation, or other entity shall conduct any special event or community event in Easttown Township without first having obtained a permit from the Township.

§ 382-3. Application for permit. [Amended 1-15-2018 by Ord. No. 433-18]

- A. The Township shall develop an application for a special event or community event permit. The Township application for a permit for a special event or community event shall be submitted by the sponsor to the Township Manager or his designee no less than 30 days prior to the special event or community event. If the special event is planned to be marketed and promoted, the sponsor should submit the application well in advance to ensure that the special event receives the required approvals.
- B. The Township Manager or his designee may waive the requirement of 30 days' advance notice for spontaneous special events or community events for celebrations important to the Township, the Commonwealth of Pennsylvania and the nation, including but not limited to the celebration of local sports teams and the end of wars or other conflicts of national significance. The Township Manager or his designee may waive the requirement of 30 days' advance notice if there are circumstances unique to the sponsor which justify the waiver to assure the public safety and welfare of the Township or the Township's best interest.

- C. The application shall be further accompanied by such other information as may be required by the Township Manager or his designee.

§ 382-4. Application review.

- A. Township review of the application is to provide a mechanism which will allow the Township to plan, evaluate and coordinate any special event or community event, which will allow the establishment of terms and conditions within which the event may be conducted and will allow the sponsor or any involved event planner to plan and manage the event within the context of the established terms and conditions.
- B. Township review of special events and community events shall involve input from the following personnel:
- (1) Township Manager.
 - (2) Police Chief.
 - (3) Fire Chief.
 - (4) Public Works Director.
 - (5) Codes Director.
- C. Additional Township personnel may be involved at the discretion of the Township Manager or his designee. The Township Manager or his designee may waive review by any of the listed Township officials.
- D. The personnel participating in the Township review of the special event or community event are charged with the responsibility of reviewing, evaluating and recommending to the Township Manager or his designee the approval/disapproval of any special event or community event on its own merits.
- E. In reviewing a proposed special event or community event, personnel shall also review, evaluate and estimate the cost of the support services required for the community event or, in the case of a special event, the cost of the support services that will be charged to the sponsor. The personnel may also recommend to the Township Manager or his designee that costs or any portion of the costs be waived if such a waiver is in the best interest of the Township. Township review will involve consideration of various criteria and factors, including but not limited to the following:
- (1) Is the proposed event considered desirable for the Township?
 - (2) Does the Township have the ability to provide, if needed, the required support services regardless of who bears the cost?
 - (3) Does the proposed event adversely affect the normal and necessary functions of the support services to the Township?
 - (4) Does the proposed event conflict with any other proposed events or activities?
- F. The personnel conducting the Township review shall recommend either approval or disapproval of a proposed special event or community event, submit the conditions required if approved and submit an estimate of costs of support services and any other related issues to the Township Manager or his designee in a timely manner so as not to delay the planning process.

- G. The Township Manager or his designee may require additional conditions not herein mentioned as may be necessary to maintain peace and order or to protect the health, safety and general welfare of the citizens of the Township or any neighboring property.
- H. Final approval of a permit for the community event or special event proposed along with all costs and conditions attached shall be made by the Township Manager or his designee. [Amended 10-16-2023 by Ord. No. 458-23]

§ 382-5. Notification of decision on application.

The Township Manager or his designee shall notify the sponsor of a special event within five days of the final decision. If the notification is an approval, it shall include any costs and/or conditions attached to the approval. If the notification is a denial, it shall include the reasons for denial.

§ 382-6. Regulations and requirements.

- A. Approval to conduct a special event or community event by this process does not relieve the sponsor or any participants, including but not limited to peddlers, vendors, or exhibitors, from the responsibilities of applying for any other permits or licenses, complying with federal or state law, or meeting any other requirements of the Township's ordinances that may be applicable.
- B. All events shall obtain liability insurance in the amount denoted on the application, which may change from time to time, with the Township named as an additional insured, or a larger amount in the discretion of the Township. The insurance shall satisfy all insurance requirements for the Township for holding the special event. The insurance policy may be subject to the review and approval of the Township Solicitor.
- C. All required permits, licenses, security deposits, fees, insurance policies or any other conditions of the permit so indicated on the permit shall be obtained no later than 10 days prior to the special event.
- D. The sponsor holding the special event shall be responsible to the Township for damages sustained to Township property caused by participants in the special event. Such additional costs and expenses shall be paid to the Township by the sponsor within five days of receipt of a bill.
- E. The sponsor holding the special event shall be responsible to the Township for damages sustained to Township property caused by participants in the special event. The sponsor shall also be responsible for the cost of any support services required, at the sole discretion of the Township, to address specific unanticipated circumstances occurring at the special event related to larger crowd numbers than projected by the sponsor, or where the nature of the special event is not consistent with the event as applied for by the sponsor. Such unanticipated circumstances may include, but are not limited to, crowd control and emergency response. Such additional costs and expenses shall be paid to the Township by the sponsor within five days of receipt of a bill.
- F. Sponsors shall be limited to maximum of four special events per calendar year. A special event may last up to 11 consecutive calendar days and still be considered as a single special event. Any additional consecutive days after the eleventh day shall each be considered a separate special event. [Added 1-15-2018 by Ord. No. 433-18¹⁰⁶]
- G. All regulations and/or requirements set forth in this chapter related to events may be waived or adjusted for community events at the discretion of the Township Manager or his designee.

106. Editor's Note: This ordinance also redesignated former Subsections F and G as Subsections G and H, respectively.

- H. The Township Manager or his designee may, upon showing of good cause that certain conditions or requirements as herein set forth are not applicable or would cause an unreasonable burden upon the sponsor, modify the foregoing requirements after review of the circumstances presented by the sponsor.

§ 382-7. Support services costs. [Amended 1-15-2018 by Ord. No. 433-18]

- A. (Reserved)
- B. No later than 10 days prior to the special event, the sponsor shall secure the costs associated with necessary support services, as set forth in the permit, according to the following schedule:
 - (1) Events with estimated costs of less than \$2,500: 25%.
 - (2) Events with estimated costs between \$2,501 to \$7,500: 50%.
 - (3) Events with estimated costs over \$7,500: 100%.
- C. Security may be in the form of a cash escrow or bond in a format acceptable to the Township.
- D. The cost of individual support services shall be set by resolution of the Board of Supervisors from time to time. Any additional costs set forth in the permit shall be paid no later than 10 days prior to the special event.
- E. At the close of the special event, the actual cost of the support services, including support services arising for unanticipated circumstances, shall be calculated and either additional payment made to the Township within five days or excess security released by the Township to the sponsor at the next regularly scheduled meeting of the Board of Supervisors.

§ 382-8. Revocation of permit.

- A. In the event that all required permits, licenses, security deposits, fees, insurance policies or any other conditions of the permit so indicated on the permit are not obtained 10 days prior to the special event, the permit shall be revoked by the Township.
- B. In the event all required costs associated with the support services have not been paid 10 days prior to the special event, the Township shall revoke the permit.
- C. Any violation of one or more of the regulations set forth herein or conditions of the permit shall be sufficient grounds for the Township to immediately revoke the permit and order the sponsor holding the special event to cease and desist their activities. Upon such notice of immediate revocation, the sponsor shall cease and desist its activities and shall be prevented from applying for another permit for at least two years from the date of revocation.
- D. If the violation is not discovered by the Township until the special event has ended, then the Township shall suspend for two years the right of the sponsor conducting the special event to apply for another permit to conduct a special event.
- E. The Township may extend the suspension beyond the two-year period, if, in its discretion, it is determined that the sponsor will not conduct a future special event in accordance with the regulations set forth herein or the conditions set forth in the permit or will, if allowed to conduct such a special event, pose a threat to the public health, safety and welfare.

§ 382-9. Appeals.

A sponsor who has been denied a permit to conduct a special event, whose permit has been revoked or whose right to apply for a permit has been suspended or revoked for violation of this chapter or contests a permit condition shall have the right to appeal said denial, suspension, revocation or condition to the Board of Supervisors, in writing, within 15 days of the date of the notice of said denial, suspension, revocation or condition. The Board of Supervisors shall conduct a hearing on said appeal within 30 days from the date of filing of the appeal. The Board of Supervisors shall render a decision within 45 days after the hearing, either upholding the denial, suspension, revocation or condition or granting the appeal and ordering the Township to grant the permit or rescind the revocation or suspension notice or remove the condition.

§ 382-10. Violations and penalties.

- A. Any person, firm or corporation who shall violate any provision of this chapter or fails to secure the permit required thereby, as the case may be, shall, upon conviction thereof, be sentenced to pay a criminal fine of not more than \$1,000, plus costs, and, in default of said fine and costs, to a term of imprisonment not to exceed 30 days, or both. Each day that a violation of this chapter continues shall constitute a separate offense.
- B. In addition to the above-provided penalties, the Township may maintain any action or proceedings in the name of the Township in any court of competent jurisdiction, at law or in equity, to compel compliance with or enforce any violation of this chapter.

§ 382-11. Support services provided by Police Department.

If the Police Department provides support services, the Police Chief shall keep an accurate record of all hours worked by all officers, and extra compensation shall be paid to each officer for all time worked beyond regularly scheduled tour of duty, less the same deduction made from his usual compensation, at appropriate rates.

STORMWATER MANAGEMENT

Chapter 388

STORMWATER MANAGEMENT

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 11-18-2013 by Ord. No. 419-13. Amendments noted where applicable.]

ARTICLE I General Provisions

§ 388-1. Title.

This chapter shall be known as the "Easttown Township Stormwater Management Ordinance."

§ 388-2. Findings. [Amended 12-15-2014 by Ord. No. 424-14]

The Township Board of Supervisors finds that:

- A. Inadequate management of accelerated stormwater runoff resulting from land disturbance and development throughout a watershed increases flooding, flows and velocities, contributes to erosion and sedimentation, overtaxes the capacity of 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 infiltration and groundwater recharge, increases nonpoint source pollution to waterways, and threatens public health and safety.
- B. Inadequate planning and management of stormwater runoff resulting from land disturbance and development throughout a watershed can harm surface water resources by changing the natural hydrologic patterns, accelerating stream flows (which increase scour and erosion of streambeds and stream banks, thereby elevating sedimentation), destroying aquatic habitat, and elevating aquatic pollutant concentrations and loadings such as sediments, nutrients, heavy metals, and pathogens. Groundwater resources are also impacted through loss of recharge.
- C. A comprehensive program of stormwater management, including minimization of impacts of new development, redevelopment, and other earth disturbance activities causing accelerated runoff and erosion and loss of natural infiltration, is fundamental to the public health, safety, and general welfare of the people of the Township and all of the people of the commonwealth, their resources, and the environment. **[Amended 10-17-2022 by Ord. No. 452-22]**
- D. Stormwater is an important water resource that provides infiltration and groundwater recharge for water supplies and baseflow of streams, which also protects and maintains surface water quality.
- E. Impacts from stormwater runoff can be minimized by reducing the volume of stormwater generated and by using project designs that maintain the natural hydrologic regime and sustain high water quality, infiltration, stream baseflow, and aquatic ecosystems. Cost-effective and environmentally sensitive stormwater management can be achieved through the use of nonstructural site design techniques that minimize impervious surfaces, reduce disturbance of land and natural resources, avoid sensitive areas (i.e., riparian buffers, floodplains, steep slopes, wetlands, etc.), and consider topography and soils to maintain the natural hydrologic regime.
- F. Public education on the control of pollution from stormwater is an essential component in successfully addressing stormwater.
- G. Federal and state regulations require the Township to implement a program of stormwater controls. The Township is required to obtain a permit and comply with its provisions for stormwater discharges from its separate storm sewer system under the National Pollutant Discharge Elimination System (NPDES).
- H. Nonstormwater discharges to Township or other storm sewer systems can contribute to pollution of the waters of the commonwealth.

- I. The use of green infrastructure, low-impact development (LID), and conservation design (CD) are intended to address the root cause of water quality impairment by using systems and practices which use or mimic natural processes to: 1) infiltrate and recharge, 2) evapotranspire, and/or 3) harvest and use precipitation near where it falls to earth. Green infrastructure practices, LID, and CD contribute to the restoration or maintenance of predevelopment hydrology. [Added 10-17-2022 by Ord. No. 452-22]

§ 388-3. Purpose. [Amended 12-15-2014 by Ord. No. 424-14]

The purpose of this chapter is to protect public health, safety and general welfare, property and water quality by implementing drainage and stormwater management practices, criteria, and provisions included herein for land development, construction and earth disturbance activities, to achieve the following throughout the Township:

- A. Reduce the frequency and magnitude of flooding and stormwater impacts affecting people, property, infrastructure and public services.
- B. Sustain or improve the natural hydrologic characteristics and water quality of groundwater and surface waters.
- C. Protect natural resources, including riparian and aquatic living resources and habitats.
- D. Maintain the natural hydrologic regime of land development sites and their receiving watersheds.
- E. Minimize land disturbance and protect and incorporate natural hydrologic features, drainage patterns, infiltration, and flow conditions within land development site designs.
- F. Reduce and minimize the volume of stormwater generated and manage and release stormwater as close to the source of runoff as possible.
- G. Provide infiltration and maintain natural groundwater recharge to protect groundwater supplies and stream base flows, prevent degradation of surface water and groundwater quality, and to otherwise protect water resources.
- H. Reduce stormwater pollutant loads to protect and improve the chemical, physical, and biological quality of ground and surface waters.
- I. Reduce scour, erosion and sedimentation of stream channels.
- J. Reduce flooding impacts and preserve and restore the natural flood-carrying capacity of streams and their floodplains.
- K. Protect adjacent and downgradient lands from adverse impacts of direct stormwater discharges.
- L. Minimize impervious surfaces and connected impervious surfaces to promote infiltration and reduce the volume and impacts of stormwater runoff.
- M. Provide proper long-term operation and maintenance of all permanent stormwater management facilities, BMPs and conveyances that are implemented within the Township.
- N. Reduce the impacts of runoff from existing developed land undergoing redevelopment while encouraging new development and redevelopment in urban areas and areas designated for growth.
- O. Implement an illicit discharge detection and elimination program that addresses nonstormwater

discharges.

- P. Provide stormwater management performance standards and design criteria on a watershed basis.
[Amended 10-17-2022 by Ord. No. 452-22]
- Q. Provide standards to meet certain NPDES stormwater permit requirements.
- R. Meet legal water quality requirements under state law, including regulations at 25 Pa. Code Chapter 93, to protect, maintain, reclaim and restore the existing and designated uses of the waters of the commonwealth.
- S. Implement the requirements of total maximum daily load (TMDLs) where applicable to waters within or impacted by the Township.
- T. Provide review procedures and performance standards for stormwater planning and management.
- U. Fulfill the purpose and requirements of Pennsylvania Act 167 (PA Act 167, Section 3¹⁰⁷):
 - (1) Encourage planning and management of stormwater runoff in each watershed which is consistent with sound water and land use practices.
 - (2) Authorize a comprehensive program of stormwater management designated to preserve and restore the flood-carrying capacity of commonwealth streams; to preserve to the maximum extent practicable natural stormwater runoff regimes and natural course, current and cross section of waters of the commonwealth; and to protect and conserve groundwaters and groundwater recharge areas.
 - (3) Encourage local administration and management of stormwater consistent with the commonwealth's duty as trustee of natural resources and the people's constitutional right to the preservation of natural, economic, scenic, aesthetic, recreational and historic values of the environment.

§ 388-4. Statutory authority. [Amended 12-15-2014 by Ord. No. 424-14]

The Township is empowered or required to regulate land use activities that affect runoff and surface and groundwater quality and quantity by the authority of:

- A. The Act of October 4, 1978, P.L. 864 (Act 167), 32 P.S. § 680.1 et seq., as amended, the Storm Water Management Act (hereinafter referred to as "the Act");
- B. The Second Class Township Code, 53 P.S. § 65101 et seq.;
- C. The Act of July 31, 1968, P.L. 805, No. 247, 53 P.S. § 10101 et seq., as amended, the Pennsylvania Municipalities Planning Code, Act 247 (hereinafter referred to as the "MPC").

§ 388-5. Applicability.

- A. The following activities are regulated by this chapter:
 - (1) All regulated activities as defined in this chapter, including, but not limited to, new development, redevelopment, and earth disturbance activities, that are located within the Township shall be subject to regulation by this chapter. **[Amended 12-15-2014 by Ord. No.**

107.Editor's Note: See 32 P.S. § 680.3.

424-14]

- (2) Specific peak runoff release rate standards and riparian buffer requirements are provided in this chapter for projects located in the Darby Creek and Crum Creek Watersheds pursuant to previously approved Act 167 plans for those watersheds.
 - (3) When a building and/or grading permit is required for any regulated activity on an existing parcel or approved lot created by a subdivision and/or improved as a land development project, issuance of the permit shall be conditioned upon adherence to the terms of this chapter.
 - (4) This chapter contains the stormwater management performance standards and design criteria that are necessary from a watershed-based perspective. The Township's stormwater management conveyance and system design criteria (e.g., inlet spacing, inlet type, collection system design and details, outlet structure design, etc.) shall continue to be regulated by the applicable Township ordinance(s) and applicable state regulations. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. Duty of persons engaged in a regulated activity. Notwithstanding any provision(s) of this chapter, including exemptions, any landowner or any person engaged in a regulated activity, including but not limited to 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. Such measures also shall include actions as are required to manage the rate, volume, direction, and quality of resulting stormwater runoff in a manner which otherwise adequately protects health, property, and water quality of waters of the commonwealth.
- C. Phased and incremental project requirements.
- (1) Any regulated activity (including but not limited to new development, redevelopment, or earth disturbance) that is to take place incrementally or in phases, or occurs in sequential projects on the same parcel or property, shall be subject to regulation by this chapter if the regulated impervious surface or earth disturbance exceeds the corresponding threshold for exemption (as presented in Table 388-6.1, "Thresholds for Regulated Activities that are Exempt from the Provisions of this Chapter as Listed Below"). **[Amended 10-17-2022 by Ord. No. 452-22]**
 - (2) The date of enactment of this chapter shall be the starting point from which to consider tracts as parent tracts relative to future subdivisions and from which impervious surface and earth disturbance computations shall be cumulatively considered. For example: If, after enactment of this chapter, an applicant proposes construction of a 400-square-foot garage, that project would be exempted from the requirements of this chapter as noted in Table 388-6.1. If, at a later date, an applicant proposes to construct a 100-square-foot room addition on the same property, the applicant would then be required to implement the stormwater management and plan submission requirements of this chapter for the cumulative total of 500 square feet of additional impervious surface added to the property since adoption of this chapter. **[Amended 7-20-2015 by Ord. No. 425-15]**

§ 388-6. Exemptions and modified requirements.

A. Requirements for exempt activities.

- (1) An exemption from any requirement of this chapter shall not relieve the applicant from implementing all other applicable requirements of this chapter or from implementing such measures as are necessary to protect public health, safety, and welfare, property and water

quality.

- (2) An exemption shall not relieve the applicant from complying with the requirements for state-designated special protection waters designated by PADEP as high-quality (HQ) or exceptional-value (EV) waters, or any other current or future state or municipal water quality protection requirements.
 - (3) An exemption under this chapter shall not relieve the applicant from complying with all other applicable Township ordinances or regulations. [Amended 12-15-2014 by Ord. No. 424-14]
- B. General exemptions. Regulated activities that involve less than 500 square feet of regulated impervious surfaces and less than 5,000 square feet of earth disturbance or are listed in Subsection C are exempt from those (and only those) requirements of this chapter that are included in the sections and articles listed in Table 388-6.1. Exemptions are for the items noted in Table 388-6.1 only and shall not relieve the landowner from other applicable requirements of this chapter. Exemption shall not relieve the applicant from implementing such measures as are necessary to protect health, safety, and welfare, property, and water quality. [Amended 7-20-2015 by Ord. No. 425-15; 10-17-2022 by Ord. No. 452-22]

**Table 388-6.1
Thresholds for Regulated Activities that are Exempt from the Provisions of this Chapter as Listed Below
(see notes below) [Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]**

| Article/Section | Activities Listed in Subsection C | < 500 sq. ft. of Regulated Impervious Surfaces and < 5,000 sq. ft. of Proposed Earth Disturbance | ≥ 500 sq. ft. of Proposed Impervious Surfaces or ≥ 5,000 sq. ft. of Regulated Earth Disturbance |
|--|-----------------------------------|--|---|
| Article I | Not exempt | Not exempt | Not exempt |
| Article II | Not exempt | Not exempt | Not exempt |
| §§ 388-14, 388-15 and 388-23 | Not exempt | Not exempt | Not exempt |
| §§ 388-13, 388-16, 388-17, 388-18, 388-19, 388-20, 388-21 and 388-22 | Exempt | Exempt | Not exempt |
| Article IV | Exempt | Exempt | Not exempt |
| Article V | Exempt | Exempt | Not exempt |
| Article VI | Exempt | Exempt | Not exempt |
| Article VII | Exempt | Exempt | Not exempt |
| Article VIII | Not exempt | Not exempt | Not exempt |
| Article IX | Not exempt | Not exempt | Not exempt |

Table 388-6.1
Thresholds for Regulated Activities that are Exempt from the Provisions of this Chapter as Listed Below
(see notes below) [Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]

| Article/Section | Activities Listed in Subsection C | < 500 sq. ft. of Regulated Impervious Surfaces and < 5,000 sq. ft. of Proposed Earth Disturbance | ≥ 500 sq. ft. of Proposed Impervious Surfaces or ≥ 5,000 sq. ft. of Regulated Earth Disturbance |
|--|-----------------------------------|--|---|
| Other erosion, sediment and pollution control requirements | | Must comply with Title 25, Chapter 102, of the Pennsylvania Code and other applicable state and Township codes, including the Clean Streams Law ¹⁰⁸ | |

NOTES:

- Specific activities listed in Subsection C are exempt from the indicated requirements, regardless of size.
 - A proposed regulated activity must be less than BOTH the regulated impervious surfaces and proposed earth disturbance thresholds to be eligible for exemption from the requirements listed in this table.
 - "Regulated impervious surface" — As defined in this chapter.
 - "Exempt" — Regulated activities are exempt from the requirements of listed section(s) only; all other provisions of this chapter apply. These exemptions have no bearing on other municipal regulations or ordinances.
- C. Exemptions for specific activities. The following specific regulated activities are exempt from the requirements of §§ 388-13, 388-16, 388-17, 388-18, 388-19, 388-20, 388-21 and 388-22 and Article IV, Article V, Article VI and Article VII of this chapter (as shown in Table 388-6.1), unless otherwise noted below. All other conveyance and system design standards established by the Township in other codes or ordinances shall be required, and all other provisions of this chapter shall apply. **[Amended 12-15-2014 by Ord. No. 424-14]**
- (1) Emergency exemption. Emergency maintenance work performed for the protection of public health, safety and welfare. This exemption is limited to repair of the existing stormwater management facility; upgrades, additions or other improvements are not exempt. A written description of the scope and extent of any emergency work performed shall be submitted to the Township within two calendar days of the commencement of the activity. A detailed plan shall be submitted no later than 30 days following commencement of the activity. If the Township finds that the work is not an emergency, then the work shall cease immediately, and the requirements of this chapter shall be addressed as applicable. **[Amended 10-17-2022 by Ord. No. 452-22]**
 - (2) Maintenance. Any maintenance to an existing stormwater management facility, BMP or conveyance made in accordance with plans and specifications approved by the Township

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

Engineer or Township. [Amended 10-17-2022 by Ord. No. 452-22]

(3) Existing landscaping. Use of land for maintenance, replacement or enhancement of existing landscaping.

(4) Gardening. Use of land for gardening for home consumption.

(4.1) High tunnel, if: [Amended 10-17-2022 by Ord. No. 452-22]

(a) The high tunnel or its flooring does not result in an impervious surface exceeding 25% of all structures located on the landowner's total contiguous land area; and

(b) 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.

[2] The high tunnel is located at least 25 feet from any perennial stream or watercourse, public road or neighboring property line and located on land with a slope not greater than 7%.

[3] Does not directly drain into a stream or other watercourse by managing stormwater runoff in a manner consistent with the requirements of Pennsylvania Act 167.

(5) Forest management. Forest management operations, which are consistent with a sound forest management plan as filed with the Township and which comply with the Pennsylvania Department of Environmental Protection's management practices contained in its publication "Soil Erosion and Sedimentation Control Guidelines for Forestry" (as amended or replaced by subsequent guidance). Such operations are required to have an erosion and sedimentation control plan which meets the requirements of 25 Pa. Code Chapter 102 and meets the erosion and sediment control standards of § 388-15 of this chapter.

(6) Maintenance of existing gravel and paved surfaces. Replacement of existing gravel and paved surfaces shall meet the erosion and sediment control requirements of 25 Pa. Code Chapter 102 and § 388-15 of this chapter and is exempt from all other requirements of this chapter listed in Subsection C above. Resurfacing of existing gravel and paved surfaces is exempt from the requirements of this chapter listed above. Paving of existing gravel surfaces is exempt from the requirements of this chapter listed above. Construction of new or additional impervious surfaces shall comply with all requirements of this chapter as indicated in Table 388-6.1. [Amended 10-17-2022 by Ord. No. 452-22]

(7) Township roadway shoulder improvements. Shoulder improvements conducted within the existing roadway cross section of Township-owned roadways, unless an NPDES permit is required, in which case the proposed work must comply with all requirements of this chapter.

(8) In-place replacement of residential dwelling unit. The replacement in the exact footprint of an existing one- or two-family dwelling unit.

(9) In-place replacement, repair, or maintenance of residential impervious surfaces. The replacement of existing residential patios, decks, driveways, pools, garages, and/or sidewalks that are accessory to an existing one- or two- family dwelling unit in the exact footprint of the existing impervious surface.

D. Modified requirements for small projects. Regulated activities that involve 500 to less than 1,000

square feet of regulated impervious surfaces and less than 5,000 square feet of proposed earth disturbance may apply the modified requirements presented in Appendix A, "Simplified Approach to Stormwater Management for Small Projects" (simplified approach),¹⁰⁹ to comply with the requirements of §§ 388-16, 388-17, 388-18, 388-19, 388-20, 388-21 and 388-22 and Article IV, Article V, Article VI and Article VII of this chapter (as shown in Table 388-6.2). The applicant shall first contact the Township Engineer to confirm that the proposed project is eligible for use of the simplified approach and is not otherwise exempt from these chapter provisions; to determine what components of the proposed project are to be considered as impervious surfaces; and to determine if other known site or local conditions exist that may preclude the use of any techniques included in the simplified approach. Appendix A includes instructions and procedures for preparation, submittal, review and approval of documents required when using the simplified approach and shall be adhered to by the applicant. Infiltration testing for projects using the simplified approach is recommended but is not required by this chapter. All other provisions of this chapter shall apply. [Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]

Table 388-6.2
Thresholds for Regulated Activities that are Eligible for Modified Requirements for the
Provisions of this Chapter that are Listed Below

| Article/Section | Activities Listed in § 388-6D and E |
|--|--|
| Article I | All provisions apply |
| Article II | All provisions apply |
| §§ 388-14, 388-15 and 388-23 | All provisions apply |
| §§ 388-13, 388-16, 388-17, 388-18, 388-19, 388-20, 388-21 and 388-22 | Exempt if modified requirements of § 388-6D and E are applied |
| Article IV | Exempt if modified requirements of § 388-6D and E are applied |
| Article V | Exempt if modified requirements of § 388-6D and E are applied |
| Article VI | Exempt if modified requirements of § 388-6D and E are applied |
| Article VII | Exempt if modified requirements of § 388-6D and E are applied |
| Article VIII | All provisions apply |
| Article IX | All provisions apply |
| Other erosion, sediment and pollution control requirements | Must comply with Title 25, Chapter 102, of the Pennsylvania Code and other applicable state and Township codes, including the Clean Streams Law ¹¹⁰ |

109. Editor's Note: Appendix A is included as an attachment to this chapter.

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

NOTES:

- "Modified requirements" — Regulated activities listed within the subsections of this chapter noted in Table 388-6.2 are eligible for exemption only from the indicated sections and subsections of this chapter and only if the modified requirements of § 388-6D and E are met to the satisfaction of the Township; all other provisions of this chapter apply.

E. Modified requirements for agricultural structures. It is the declared policy of the commonwealth to conserve and protect and to encourage the development and improvement of its agricultural lands for the production of food and other agricultural products. Municipalities must encourage the continuity, development and viability of agricultural operations within its jurisdiction. Except as necessary to protect the public health, safety and welfare, regulated activities involving proposed new or expanded impervious surfaces associated with agricultural activities are exempt from the requirements of §§ 388-13, 388-16, 388-17, 388-18, 388-19, 388-20, 388-21 and 388-22 and Article IV, Article V, Article VI and Article VII of this chapter (and listed in Table 388-6.2) only when it has been demonstrated to the satisfaction of the Township that the proposed project will comply with all of the requirements listed below. All other provisions of this chapter shall apply. To be eligible for exemption from the chapter provisions stated above, the proposed regulated activity shall: **[Amended 12-15-2014 by Ord. No. 424-14]**

- (1) Be directly associated with an agricultural activity (as defined in Article II);
- (2) Include less than 15,000 square feet of proposed new or expanded impervious surface and adjoining vehicle parking and movement area; **[Amended 10-17-2022 by Ord. No. 452-22]**
- (3) Be installed on a farm or mushroom operation that has a current mushroom farm environmental management plan (MFEMP) reviewed and deemed adequate by the Conservation District, or an agricultural erosion and sediment control plan or conservation plan (as defined in Article II) that complies with the requirements of 25 Pa. Code Chapter 102;
- (4) Divert runoff from the proposed new or expanded impervious surfaces (including vehicle parking and movement area) entirely away from animal management, waste management and crop farming areas and any other source of pollutants;
- (5) Include BMP(s) that will permanently retain at least one inch of rainfall runoff from the total area of proposed new or expanded impervious surfaces and vehicle parking and movement areas;
- (6) Be designed so that any point of discharge of runoff from the proposed new or expanded impervious surface (excluding vehicle movement area):
 - (a) Is not directly connected to, and is not directly connected to any constructed conveyance that is connected to, a municipal separate storm sewer system or public roadway;
 - (b) Is located at least 150 feet from any municipal separate storm sewer system or public roadway, or any constructed conveyance connected to any municipal separate storm sewer system or public roadway;
- (7) Either:
 - (a) Have all proposed new or expanded impervious surfaces and proposed vehicle parking and movement areas and BMP(s) included within the current MFEMP or current agricultural erosion and sediment control plan or a conservation plan for the farm or mushroom

operation; or

- (b) Be constructed per design plans prepared and sealed by a licensed professional in conformance with the PADEP "Best Practices for Environmental Protection in the Mushroom Farm Community" (2003 or as amended), or per design plans prepared and sealed by a licensed professional (or Conservation District staff person designated by NRCS) that comply with USDA NRCS standards and specifications, and for which completion of construction will be certified by the licensed (or NRCS-designated design) professional responsible for the design; and
- (8) Not be eligible for exemption if an NPDES permit is required.

§ 388-7. Construal of provisions.

- A. Approvals issued and actions taken pursuant to this chapter do not relieve the applicant of the responsibility to secure and comply with other required permits or approvals for activities regulated by any other applicable code, rule, act, law, regulation, or ordinance.
- B. To the extent that this chapter imposes more rigorous or stringent requirements for stormwater management than any other code, rule, act, law, regulation or ordinance, the specific requirements contained in this chapter shall take precedence.
- C. Nothing in this chapter shall be construed to affect any of the Township's requirements regarding stormwater matters that do not conflict with the provisions of this chapter, such as local stormwater management design criteria (e.g., inlet spacing, inlet type, collection system design and details, outlet structure design, etc.). The requirements of this chapter shall supersede any conflicting requirements in other municipal ordinances or regulations. [Amended 12-15-2014 by Ord. No. 424-14]

§ 388-8. Financial security. [Amended 12-15-2014 by Ord. No. 424-14]

For all activities requiring submittal of a stormwater management (SWM) site plan that involve subdivision or land development, the applicant shall post financial security to the Township for the timely installation and proper construction of all stormwater management facilities as required by the approved SWM site plan and this chapter, and such financial security shall:

- A. Be equal to or greater than the full construction cost of the required facilities, except to the extent that financial security for the cost of any of such improvements is required to be and is posted with the Pennsylvania Department of Transportation in connection with a highway occupancy permit application; and
- B. Be determined, collected, applied and enforced in accordance with Sections 509 to 511 of the MPC¹¹¹ and the provisions of Chapter 400, Subdivision and Land Development, of this Code (SALDO).

§ 388-9. Waivers. [Amended 12-15-2014 by Ord. No. 424-14]

- A. General. The requirements of this chapter are essential and shall be strictly adhered to. For any regulated activity where, after a close evaluation of alternative site designs, it proves to be impracticable to meet any one or more of the mandatory minimum standards of this chapter on the site, the Township may approve measures other than those in this chapter, subject to Subsections B and C.

¹¹¹Editor's Note: See 53 P.S. §§ 10509 to 10511.

- B. The Township Board of Supervisors shall have the authority to waive or modify the requirements of one or more provisions of this chapter 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. Cost or financial burden shall not be considered a hardship. Modification may also be considered if an alternative standard or approach can be demonstrated to provide equal or better achievement of the results intended by this chapter. A request for modification shall be in writing and accompany the SWM site plan submission. The request shall state in full the grounds and facts on which the request is based, the provision or provisions of this chapter involved and the minimum modification necessary.
- C. PADEP approval required. No waiver or modification of any regulated stormwater activity involving earth disturbance greater than or equal to one acre may be granted by the Township unless that action is approved in advance by PADEP or the Chester County Conservation District. **[Amended 10-17-2022 by Ord. No. 452-22]**

§ 388-10. Permit requirements.

- A. Any person required to submit a SWM site plan or simplified SWM site plan to the Township for review and approval shall obtain a drainage permit, in writing, from the Township. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. To obtain a drainage permit, the applicant shall submit an application for drainage permit to the Township. The form and content of the application for drainage permit shall be established, from time to time, by the Township. **[Amended 12-15-2014 by Ord. No. 424-14]**
- C. Fees for the application for drainage permit shall be paid in accordance with a fee schedule adopted by resolution of the Township Board of Supervisors from time to time. The fee schedule may be revised, as necessary, by resolution of the Township Board of Supervisors. **[Amended 12-15-2014 by Ord. No. 424-14]**
- D. For projects including regulated activities that require land development approval in accordance with Chapter 400, Subdivision and Land Development, of this Code, the application for drainage permit shall be submitted for each individual lot at the time of building permit application for that lot. Submission of the fully completed and executed application for drainage permit shall be accompanied by the following:
- (1) Application fee.
 - (2) One set and digital (PDF) copy of the SWM site plan (only if any deviation is proposed from the approved SWM site plan included with the approved SALDO application). **[Amended 10-17-2022 by Ord. No. 452-22]**
 - (3) Executed stormwater best management practices (BMPs) and conveyances operations and maintenance agreement.
 - (4) Executed professional services agreement, which is available from the Township. **[Amended 12-15-2014 by Ord. No. 424-14]**
- E. For projects including regulated activities that do not require land development approval in accordance with the SALDO, submission of the fully completed and executed application for drainage permit shall be accompanied by the following:

- (1) Application fee.
 - (2) Three sets, minimum of the SWM site plan or simplified SWM site plan.
 - (3) Executed stormwater best management practices (BMPs) and conveyances operations and maintenance agreement.
 - (4) Executed professional services agreement, which is available from the Township. **[Amended 12-15-2014 by Ord. No. 424-14]**
- F. Each resubmission shall include a minimum of three sets of the SWM site plan or simplified SWM site plan, as applicable, along with a letter explaining the revisions made since the previous submission.
- G. 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 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. **[Amended 10-17-2022 by Ord. No. 452-22]**
- H. Permits shall be granted or denied, in whole or in part, within 30 days from the date the application is filed with the Township. The Township and the applicant may agree in writing to extend the deadline to issue a decision by a specific number of days. **[Added 1-15-2018 by Ord. No. 433-18]**

ARTICLE II **Terminology**

§ 388-11. Word usage.

For the purposes of this chapter, certain terms and words used herein shall be interpreted as follows:

- A. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender; and words of feminine gender include masculine gender.
- B. The word "includes" or "including" shall not limit the term to the specific example, but is intended to extend its meaning to all other instances of like kind and character.
- C. The word "person" includes an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. Whenever used in any section prescribing or imposing a penalty, the term "person" shall include the members of a partnership, the officers, members, servants and agents of an association, officers, agents and servants of a corporation, and the officers of a municipality.
- D. The words "shall" and "must" are mandatory; the words "may" and "should" are permissive.
- E. The words "used" or "occupied" include the words "intended, designed, maintained, or arranged to be used, occupied, or maintained."
- F. The definitions in this chapter are for the purposes of enforcing the provisions of this chapter and have no bearing on other Township regulations or ordinances. **[Amended 12-15-2014 by Ord. No. 424-14]**

§ 388-12. Definitions.

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

AGRICULTURAL ACTIVITY — Activities associated with agriculture such as agricultural cultivation, agricultural operation, and animal heavy use areas. This includes the work of producing crops, including tillage, plowing, disking, harrowing, planting or harvesting crops; or pasturing and raising of livestock; and installation of conservation measures. Construction of new buildings or impervious area is not considered an agricultural activity.

APPLICANT — A landowner, developer, or other person who has filed an application to the Township for approval to engage in any regulated activity as defined in this chapter.**[Amended 12-15-2014 by Ord. No. 424-14]**

AS-BUILT PLANS (DRAWINGS) — Engineering or site plans or drawings that document the actual locations, dimensions and elevations of the improvements and building components and changes made to the original design plans. The final version of these documents, or a copy of same, are signed and sealed by a qualified licensed professional and submitted to the Township within 90 days from substantial completion of the project, as per the requirements of § 388-31 of this chapter, as final as-built plans.**[Amended 12-15-2014 by Ord. No. 424-14]**

BANKFULL — The channel at the top-of-bank or point from where water begins to overflow onto a floodplain.

BASEFLOW — Portion of stream discharge derived from groundwater; the sustained discharge that does not result from direct runoff or from water diversions, reservoir releases, piped discharges, or other human activities.

BMP (BEST MANAGEMENT PRACTICE) — Activities, facilities, designs, measures, or procedures used to manage stormwater impacts from regulated activities, to provide water quality treatment, infiltration, volume reduction, and/or peak rate control, 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 include certain low-impact development and conservation design practices used to minimize the contact of pollutants with stormwater runoff. These practices aim to limit the total volume of stormwater runoff and manage stormwater at its source by techniques such as protecting natural systems and incorporating existing landscape features. Nonstructural BMPs include, but are not limited to, the protection of sensitive and special value features such as wetlands and riparian areas, the preservation of open space while clustering and concentrating development, the reduction of impervious cover, and the disconnection of rooftops from storm sewers. Structural BMPs are those that consist of a physical system that is designed and engineered 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, bioretention, wet ponds, permeable paving, grassed swales, riparian or forested buffers, sand filters, detention basins, and manufactured devices. Structural and nonstructural stormwater BMPs are permanent appurtenances to the site. See also "stormwater management facility and stormwater control measure (SCM)." [Amended 10-17-2022 by Ord. No. 452-22]

BUFFER — See "riparian buffer."

CARBONATE GEOLOGY (or CARBONATE ROCK FORMATIONS) — See "karst."

CFS — Cubic feet per second.

CHANNEL — A natural or artificial open drainage feature that conveys, continuously or periodically, flowing water and through which stormwater flows. Channels include, but shall not be limited to, natural and man-made drainageways, swales, streams, ditches, canals, and pipes flowing partly full.

CN — Curve number.

COMMONWEALTH — Commonwealth of Pennsylvania.

CONSERVATION DESIGN — A series of holistic land development design goals that maximize protection of key land and environmental resources, preserve significant concentrations of open space and greenways, evaluate, and maintain site hydrology, and ensure flexibility in development design to meet community needs for complimentary and aesthetically pleasing development. Conservation design encompasses the following objectives: conservation/enhancement of natural resources, wildlife habitat, biodiversity corridors, and greenways (interconnected open space); minimization of environmental impact resulting from a change in land use (minimum disturbance, minimum maintenance); maintenance of a balanced water budget by making use of site characteristics and infiltration; incorporation of unique natural, scenic and historic site features into the configuration of the development; preservation of the integral characteristics of the site as viewed from adjoining roads; and reduction in maintenance required for stormwater management practices. Such objectives can be met on a site through an integrated development process that respects natural site conditions and attempts, to the maximum extent possible, to replicate or improve the natural hydrology of a site. [Added 10-17-2022 by Ord. No. 452-22]

CONSERVATION DISTRICT — The Chester 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.

CONSERVATION PRACTICES — Practices installed on agricultural lands to improve farmland, soil and/or water quality which have been identified in a current conservation plan.

CONVEYANCE — A natural or man-made, existing or proposed stormwater management 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, channels and swales (vegetated and other), gutters, stream channels, and like facilities or features.**[Amended 10-17-2022 by Ord. No. 452-22]**

DESIGN STORM — The magnitude and temporal distribution of precipitation from a storm event measured in probability of occurrence (e.g., a five-year storm) and duration (e.g., 24 hours), used in the design and evaluation of stormwater management systems. Also see "return period."

DETENTION BASIN — An impoundment designed to collect and retard stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate. Detention basins are designed to drain completely shortly after any given rainfall event.

DETENTION (or TO DETAIN) — Capture and temporary storage of runoff in a stormwater management facility for release at a controlled rate.**[Amended 10-17-2022 by Ord. No. 452-22]**

DETENTION VOLUME — The volume of runoff that is captured and released into the waters of the commonwealth at a controlled rate.

DEVELOPER — A person, company, or organization who seeks to undertake any regulated activities at a site in the Township.**[Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]**

DIAMETER AT BREAST HEIGHT (DBH) — The outside bark diameter of a tree at breast height which is defined as 4.5 feet (1.37 meters) above the forest floor on the uphill side of the tree.

DISTURBED AREA — Land area disturbed by or where an earth disturbance activity is occurring or has occurred.

DRAINAGE AREA — That land area contributing runoff to a single point (including but not limited to the point/line of interest used for hydrologic and hydraulic calculations) and that is enclosed by a natural or man-made ridgeline.

EARTH DISTURBANCE (or EARTH DISTURBANCE ACTIVITY) — A construction or other human activity which disturbs the surface of the land, including, but not limited to, clearing and grubbing; grading; excavations; embankments; road maintenance; land development; building construction; and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials.

EASEMENT — A right of use granted by a landowner to allow a grantee the use of the designated portion of land for a specified purpose, such as for stormwater management or other drainage purposes.

EROSION — The process by which the surface of the land, including water/stream channels, is worn away by water, wind, or chemical action.

EROSION AND SEDIMENT (E&S) CONTROL PLAN — A plan required by the Conservation District or the Township to minimize accelerated erosion and sedimentation and that must be prepared and approved per the applicable requirements.**[Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]**

EVAPOTRANSPIRATION (ET) — The combined processes of evaporation from the water or soil surface and transpiration of water by plants.**[Amended 10-17-2022 by Ord. No. 452-22]**

FEMA — Federal Emergency Management Agency.

FLOOD — A temporary inundation of normally dry land areas.**[Amended 5-15-2017 by Ord. No. 428-17]**

FLOODPLAIN AREA — A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.**[Amended 5-15-2017 by Ord. No. 428-17]**

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. Unless otherwise specified, the boundary of the floodway is as set forth in Chapter 220, Floodplains. In an area where Chapter 220 has not defined the boundary of the 100-year floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the center line of the stream and to 50 feet beyond the top of the bank of the stream on both sides.**[Amended 5-15-2017 by Ord. No. 428-17]**

FOREST MANAGEMENT/TIMBER OPERATIONS — Planning and activities necessary for the management of forestlands. These include timber inventory, preparation of forest management plans, silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, site preparation, and reforestation.

FREEBOARD — A vertical distance between the design high-water elevation and the elevation of the top of a dam, levee, tank, basin, swale, or diversion berm. The space is required as a safety margin in a pond or basin.

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.¹¹²

GOVERNING BODY — The Board of Supervisors of Easttown Township.**[Added 10-17-2022 by Ord. No. 452-22]**

GRADE/GRADING —

- A. (Noun) A slope, usually of a road, channel, or natural ground, specified in percent and shown on plans as specified herein.
- B. (Verb) To finish the surface of a roadbed, the top of an embankment, or the bottom of an excavation.

GREEN INFRASTRUCTURE — Systems and practices that use or mimic natural processes to infiltrate, evapotranspire, or reuse stormwater on the site where it is generated.**[Added 10-17-2022 by Ord. No. 452-22]**

GROUNDWATER — Water that occurs in the subsurface and fills or saturates the porous openings, fractures and fissures of underground soils and rock units.

GROUNDWATER RECHARGE — The replenishment of existing natural groundwater supplies from infiltration of rain or overland flow.

HEC-1 — The United States Army Corps of Engineers, Hydrologic Engineering Center (HEC) Hydrologic Runoff Model.

HEC-HMS — The United States Army Corps of Engineers, Hydrologic Engineering Center (HEC) -

¹¹².Editor's Note: The former definition of "governing body," which immediately followed this definition, was repealed 12-15-2014 by Ord. No. 424-14.

Hydrologic Modeling System (HMS).

HIGH TUNNEL — A structure which meets the following:[**Added 10-17-2022 by Ord. No. 452-22**]

- A. 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," or for the storage of agricultural equipment or supplies; and
- B. Is constructed with all the following:
 - (1) Has a metal, wood, or plastic frame;
 - (2) When covered, has a plastic, woven textile, or other flexible covering; and
 - (3) Has a floor made of soil, crushed stone, matting pavers, or a floating concrete slab.

HOTSPOTS — Areas where prior or existing land use or activities can potentially generate highly contaminated runoff with concentrations of pollutants in excess of those typically found in stormwater.

HYDROLOGIC REGIME — The hydrologic system, cycle or balance that sustains the quality and quantity of stormwater, stream baseflow, storage, and groundwater supplies under natural conditions.

HYDROLOGIC SOIL GROUP (HSG) — A classification of soils by the Natural Resources Conservation Service (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.

IDENTIFIED FLOODPLAIN AREA — All areas within which Easttown Township has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and the Flood Insurance Study, but may include additional areas identified by the Township. See Chapter 220, Floodplains, for additional information about what areas the Township has included in the identified floodplain area.[**Added 5-15-2017 by Ord. No. 428-17**]

IMPERVIOUS SURFACE — A surface that has been compacted or covered with a layer of material so that it prevents or is resistant to infiltration of water, including but not limited to structures such as roofs, buildings, storage sheds; other solid, paved or concrete areas such as streets, driveways, sidewalks, parking lots, patios, swimming pools, tennis or other paved courts; or athletic play fields comprised of synthetic turf materials. For the purposes of determining compliance with this chapter, compacted soils or stone surfaces used for vehicle parking and movement shall be considered impervious. Uncompacted gravel areas with no vehicular traffic, such as gardens, walkways, or patio areas, shall be considered pervious per review by the municipal engineer. Surfaces that were designed to allow infiltration (i.e., pavers and areas of porous pavement) are not to be considered impervious surface if designed to function as a BMP per review by the Township Engineer. Additionally, for the purposes of determining compliance with this chapter, the total horizontal projection area of all ground-mounted and free-standing solar collectors, including solar photovoltaic cells, panels, and arrays, shall be considered pervious so long as the designs note that natural vegetative cover will be preserved and/or restored underneath the solar photovoltaic cells, panels, and arrays, and the area disturbed is planned as a vegetated pervious surface. A generator of 12 square feet or less when proposed on residential property shall not be considered an impervious surface.[**Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22**]

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 FACILITY — A stormwater BMP designed to collect and discharge runoff into the

subsurface in a manner that allows infiltration into underlying soils and groundwater (e.g., french drains, seepage pits, or seepage trenches, etc.).

INTERMITTENT STREAM — A defined channel in which surface water is absent during a portion of the year, in response to seasonal variations in precipitation or groundwater discharge.

INVERT — The lowest surface, the floor or bottom of a culvert, pipe, drain, sewer, channel, basin, BMP, or orifice.

KARST — A type of topography that is formed over limestone or other carbonate rock formations by dissolving or solution of the rock by water and that is characterized by closed depressions, sinkholes, caves, a subsurface network of solution conduits and fissures through which groundwater moves and no perennial surface drainage features.

LAND DEVELOPMENT — Any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
 - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups, or other features;
- B. A subdivision of land;
- C. Development in accordance with Section 503(1.1) of the Pennsylvania Municipalities Planning Code (as amended).¹¹³

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 they are authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in the land.

LICENSED PROFESSIONAL — A Pennsylvania-registered professional engineer, registered landscape architect, registered professional land surveyor, or registered professional geologist, or any person licensed by the Pennsylvania Department of State and qualified by law to perform the work required by this chapter within the Commonwealth of Pennsylvania.

LIMITING ZONE — A soil horizon or condition in the soil profile or underlying strata that includes one of the following:

- A. A seasonal high-water table, whether perched or regional, determined by direct observation of the water table or indicated by other subsurface or soil conditions.
- B. 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.
- C. A rock formation, other stratum, or soil condition that is so slowly permeable that it effectively limits downward passage of water.

¹¹³Editor's Note: See 53 P.S. § 10503(1.1).

LOW-IMPACT DEVELOPMENT (LID) — Site design approaches and small-scale stormwater management practices that promote the use of natural systems for infiltration, evapotranspiration, and reuse of rainwater. LID can be applied to new development, urban retrofits, and revitalization projects. LID utilizes design techniques that infiltrate, filter, provide evapotranspiration and store runoff close to its source. Rather than rely on costly large-scale conveyance and treatment systems, LID addresses stormwater through a variety of small, cost-effective landscape features located on-site.**[Added 10-17-2022 by Ord. No. 452-22]**

MAINTENANCE — The action taken to restore or preserve the as-built functional design of any stormwater management facility or system.**[Amended 10-17-2022 by Ord. No. 452-22]**

MFEMP — Mushroom farm environmental management plan.

MPC — The Act of July 31, 1968, P.L. 805, No. 247, 53 P.S. § 10101 et seq., as amended, the Pennsylvania Municipalities Planning Code, Act 247.

MS4 — Municipal separate storm sewer system.

MUNICIPAL ENGINEER — A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality, planning agency, or joint planning commission.¹¹⁴

NEW DEVELOPMENT — Any regulated activity involving placement or construction of new impervious surface or grading over existing pervious land areas not classified as redevelopment as defined in this chapter.

NOAA — National Oceanic and Atmospheric Administration.

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.

NONSTRUCTURAL BEST MANAGEMENT PRACTICE (BMPs) — See "BMP (best management practice)."

NPDES — National Pollutant Discharge Elimination System, the federal government's system for issuance of permits under the Clean Water Act,¹¹⁵ which is delegated to PADEP in Pennsylvania.

NRCS — Natural Resource Conservation Service [previously "Soil Conservation Service (SCS)"], an agency of the United States Department of Agriculture.

PADEP — Pennsylvania Department of Environmental Protection.

PARENT LOT — The parcel of land from which a land development or subdivision originates, determined from the date of Township adoption of this chapter.**[Amended 12-15-2014 by Ord. No. 424-14]**

PEAK DISCHARGE — The maximum rate of stormwater runoff from a specific storm event.

PENNDOT — Pennsylvania Department of Transportation.

PENNSYLVANIA STORMWATER BEST MANAGEMENT PRACTICES MANUAL (PA BMP MANUAL) — Document Number 363-0300-002 (December 2006, and as subsequently amended).**[Amended 10-17-2022 by Ord. No. 452-22]**

114.Editor's Note: The former definition of "municipality," which immediately followed this definition, was repealed 12-14-2014 by Ord. No. 424-14.

115.Editor's Note: See 33 U.S.C. § 1251 et seq.

PERSON — An individual, firm, trust, partnership, joint venture, unincorporated association, business association or corporation, whether public or private, or other legal entity cognizable at law.

PERVIOUS SURFACE (or PERVIOUS AREA) — Any area not defined as impervious surface.

PLANNING COMMISSION — The Planning Commission of Easttown Township.

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 § 92a.2.¹¹⁶

POST-CONSTRUCTION — Period after construction during which disturbed areas are stabilized, stormwater controls are in place and functioning, and all proposed improvements approved by the Township are completed. [Amended 12-15-2014 by Ord. No. 424-14]

PREDEVELOPMENT — Ground cover conditions assumed to exist within the proposed disturbed area prior to commencement of the regulated activity for the purpose of calculating the predevelopment water quality volume, infiltration volume, and peak flow rates as required in this chapter. [Amended 10-17-2022 by Ord. No. 452-22]

PRETREATMENT — Techniques employed in stormwater BMPs to provide storage or filtering, or other methods to trap or remove coarse materials and other pollutants before they enter the stormwater system, but may not necessarily be designed to meet the entire water quality volume requirements of this chapter.

PROPOSED IMPERVIOUS SURFACE — All new, additional and replacement impervious surfaces.

RAINFALL INTENSITY — The depth of accumulated rainfall per unit of time.

RECHARGE — The replenishment of groundwater through the infiltration of rainfall, other surface waters, or land application of water or treated wastewater.

REDEVELOPMENT — Any regulated activity that involves demolition, removal, reconstruction, or replacement of existing impervious surface(s).

REGULATED ACTIVITY — Any earth disturbance activity(ies) or any activity that involves the alteration or development of land in a manner that may affect stormwater runoff.

REGULATED EARTH DISTURBANCE ACTIVITY — Any activity involving earth disturbance subject to regulation under 25 Pa. Code Chapter 92a or Chapter 102 or the Clean Streams Law, 35 P.S. § 691.1 et seq.¹¹⁷

REGULATED IMPERVIOUS SURFACE — Proposed impervious surface as part of a current proposed activity and all existing impervious surfaces installed after November 18, 2013, as part of previous activity. [Added 10-17-2022 by Ord. No. 452-22]

RETENTION BASIN — An impoundment that is designed to temporarily detain a certain amount of stormwater from a catchment area and which may be designed to permanently retain stormwater runoff from the catchment area; retention basins always contain water.

RETENTION or TO RETAIN — The prevention of direct discharge of stormwater runoff into surface waters or water bodies during or after a storm event by permanent containment in a pond or depression; examples include systems which discharge by percolation to groundwater, exfiltration, and/or evaporation processes and which generally have residence times of less than three days.

RETENTION VOLUME/REMOVED RUNOFF — The volume of runoff that is captured and not released

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

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

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 occur one time. For example, the twenty-five-year return period rainfall would be expected to occur on average once every 25 years; or, stated in another way, the probability of a twenty-five-year storm occurring in any one year is 0.04 (i.e., a four-percent chance).

RIPARIAN — Pertaining to anything connected with or immediately adjacent to the banks of a stream or other body of water.

RIPARIAN BUFFER — A buffer area surrounding a watercourse, floodplain or wetland, containing existing or proposed trees and/or other vegetation that intercepts surface water runoff, wastewater, subsurface flow, and/or deep groundwater flows from upland sources and functions to remove or buffer the effects of associated nutrients, sediment, organic matter, pesticides, or other pollutants prior to entry into surface waters, measured 50 feet horizontally outward from the edge of a wetland or floodplain. In the case of a watercourse, the fifty-foot buffer width shall be measured horizontally outward from the top of bank.

RIPARIAN BUFFER ZONE — The total area encompassing the riparian buffer and the natural resources the buffer protects, which may include wetlands, floodplains and watercourses.

RUNOFF — Any part of precipitation that flows over the land surface.

SALDO — See Chapter 400, Subdivision and Land Development, of this Code.

SCS — Soil Conservation Service, now known as the "Natural Resources Conservation Service."

SEDIMENT — Soil or other materials transported by, suspended in or deposited by surface water as a product of erosion.

SEPARATE STORM SEWER SYSTEM — A conveyance or system of conveyances (including roads with drainage systems, Township streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) primarily used for collecting and conveying stormwater runoff.**[Amended 12-15-2014 by Ord. No. 424-14]**

SHEET FLOW — A flow process associated with broad, shallow water movement on sloping ground surfaces that is not channelized or concentrated.

SITE — Total area of land in the Township where any proposed regulated activity, as defined in this chapter, is planned, conducted, or maintained or that is otherwise impacted by the regulated activity.**[Amended 12-15-2014 by Ord. No. 424-14]**

SOIL COVER COMPLEX METHOD — A method of runoff computation developed by NRCS that is based on relating soil type and land use/cover to a runoff parameter called "curve number" (CN).

STATE WATER QUALITY REQUIREMENTS — The regulatory requirements to protect, maintain, reclaim, and restore water quality under Pennsylvania Code Title 25 and the Clean Streams Law.¹¹⁸

STORM FREQUENCY — See "return period."

STORMWATER — Drainage runoff from the surface of the land resulting from precipitation or snow or ice melt.

STORMWATER CONTROL MEASURE — Physical features used to effectively control, minimize, and treat stormwater run off. See "best management practice (BMP)."**[Added 10-17-2022 by Ord. No. 452-22]**

STORMWATER MANAGEMENT FACILITY — Any feature, natural or man-made, that, due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater runoff quality, rate,

¹¹⁸Editor's Note: See 35 P.S. § 691.1 et seq.

or quantity, including best management practices and stormwater control measures. Typical stormwater management facilities include, but are not limited to, detention and retention basins, open channels, storm sewers, pipes, and infiltration facilities.**[Added 10-17-2022 by Ord. No. 452-22]**

STORMWATER MANAGEMENT (SWM) SITE PLAN — The plan prepared by the applicant or its representative, in accordance with the requirements of Article IV of this chapter, indicating how stormwater runoff will be managed at a particular site in accordance with this chapter and including all necessary design drawings, calculations, supporting text, and documentation to demonstrate that chapter requirements have been met, herein referred to as "SWM site plan." All references in this chapter to "final" or "approved" SWM site plans shall incorporate the approved SWM site plan and all subsequent approved revisions thereto.

STREAM — A natural watercourse.

STRUCTURAL BEST MANAGEMENT PRACTICES — See "BMP (best management practice)."**[Amended 10-17-2022 by Ord. No. 452-22]**

SUBDIVISION — The division or redivision of a lot or parcel of land as defined in the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247 (as amended).¹¹⁹**[Amended 12-15-2014 by Ord. No. 424-14]**

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE — Chapter 400, Subdivision and Land Development, of the Code of Easttown Township, Chester County, Pennsylvania, as amended.

SWALE — An artificial or natural waterway or low-lying stretch of land that gathers and conveys stormwater or runoff and is generally vegetated for soil stabilization, stormwater pollutant removal, and infiltration.

SWM SITE PLAN — See "stormwater management (SWM) site plan."

TIMBER OPERATIONS — See "forest management."

TOP-OF-BANK — Highest point of elevation of the bank of a stream or channel cross section at which a rising water level just begins to flow out of the channel and into the floodplain.

USDA — United States Department of Agriculture.

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

WATERSHED — Region or area drained by a river, watercourse, or other body of water, whether natural or artificial.

WATERS OF THE COMMONWEALTH — Any and all rivers, streams, creeks, rivulets, impoundments, 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 the commonwealth.

WATER TABLE — The uppermost level of saturation of pore space or fractures by groundwater. "Seasonal high-water table" refers to a water table that rises and falls with the seasons due either to natural or man-made causes.

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. Wetlands generally include swamps,

¹¹⁹Editor's Note: See 53 P.S. § 10101 et seq.

marshes, bogs, fens, and similar areas.

WOODS — Any land area of at least 0.25 acre with a natural or naturalized ground cover (excluding manicured turf grass) and that has an average density of two or more viable trees per 1,500 square feet with a DBH of six inches or greater and where such trees existed at any time within three years of the time of land development application submission of the proposed project. The land area to be considered woods shall be measured from the outer driplines of the outer trees.

ARTICLE III
Stormwater Management Standards

§ 388-13. General requirements.

- A. Applicants proposing regulated activities in the Township which are not exempt under § 388-6 shall submit a stormwater management site plan (SWM site plan) to the Township for review and approval in accordance with Articles III and IV. SWM site plans approved by the Township shall be on site throughout the duration of the regulated activity. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. The stormwater management and runoff control criteria and standards in this chapter shall apply to the total proposed regulated activity, even if it is to take place in stages. The measurement of impervious surfaces shall include all of the impervious surfaces in the total proposed regulated activity even if the development is to take place in stages.
- C. No regulated activity within the Township shall commence until: **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (1) The Township issues approval of a SWM site plan, which demonstrates compliance with the requirements of this chapter; and
 - (2) The applicant has received a letter of adequacy or approval for the erosion and sediment control plan review by the Township and the Conservation District (if required) and has received all other local, state and federal permit approvals required for the project involving the regulated activity.
- D. Neither submission of a SWM site plan under the provisions herein nor compliance with the provisions of this chapter shall relieve any person from responsibility for damage to any person or property otherwise imposed by law. **[Amended 10-17-2022 by Ord. No. 452-22]**
- E. The applicant shall design the site to minimize disturbances to land, site hydrology, and natural resources and to maintain the natural hydrologic regime, drainage patterns and flow conditions. The applicant shall apply the procedures set forth in § 388-16 for the overall site design and for selection, location and design of features and BMPs to be used to comply with the requirements of this chapter.
- F. To the maximum extent practicable, post-construction stormwater shall be discharged within the drainage area of the same stream or water body receiving the runoff prior to construction of the proposed regulated activity.
- G. For regulated activities with one or more acre of proposed earth disturbance, existing drainage peak rate discharges up to and including the 100-year storm and the volume of runoff up to and including the two-year storm onto or through adjacent property(ies) or downgradient property(ies), including diffuse drainage discharge, shall not be altered in any manner by regulated activities under this chapter without written permission from, and, where applicable as determined by the Township, an easement and agreement with, the affected landowner(s) for conveyance of discharges onto or through their property(ies). Altered stormwater discharges shall be subject to any applicable discharge criteria specified in this chapter. **[Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]**
 - (1) For regulated activities with one acre or less proposed earth disturbance, the applicant shall provide written notification to the affected landowner(s) describing the proposed regulated activity and proposed discharge(s), unless otherwise required by the Township.

- H. Areas located outside of the site (i.e., areas outside of the regulated activity) that drain through a proposed site are not subject to water quality and volume control, infiltration, stream channel protection, or peak flow rate control requirements (as presented in §§ 388-17, 388-18, 388-19 and 388-20). Drainage facilities located on the site shall be designed to safely convey flows from outside of the site through the site.
- I. If site conditions preclude capture of runoff from limited portions of the disturbed area for achieving water quality volume control standards, stream channel protection standards, and the two-, five- and ten-year storm event peak runoff rate reduction standards for new development required by this chapter, the applicant shall propose alternate methods to mitigate the bypass of the BMPs, subject to the approval of the Township Engineer. In no case shall resulting peak rate be greater than the predevelopment peak rate for the equivalent design storm. **[Amended 12-15-2014 by Ord. No. 424-14]**
- J. For all regulated activities, erosion and sediment control BMPs shall be designed, implemented, operated, and maintained during the regulated activities (i.e., during construction) as required to meet the purposes and requirements of this chapter, to meet the erosion and sediment control requirements of the Township, if applicable, and to meet all requirements under Title 25 of the Pennsylvania Code and the Clean Streams Law.¹²⁰ **[Amended 12-15-2014 by Ord. No. 424-14]**
- K. For all regulated activities, permanent BMPs and conveyances shall be designed, implemented, operated, and maintained to meet the purposes and requirements of this chapter and to meet all requirements under Title 25 of the Pennsylvania Code, the Clean Streams Law,¹²¹ and the Storm Water Management Act.¹²²
- L. The design of all BMPs and conveyances shall incorporate sound engineering principles and practices in a manner that does not aggravate existing stormwater problems as identified by the Township. The Township reserves the right to disapprove any design that would result in construction in an area affected by existing stormwater problem(s) or continuation of an existing stormwater problem(s). **[Amended 12-15-2014 by Ord. No. 424-14]**
- M. Existing wetlands, either on the site or on an adjacent property, shall not be used to meet the minimum design requirements for stormwater management or stormwater runoff quality treatment. Stormwater discharges to existing wetlands shall not degrade the quality or hydrologic integrity of the wetland.
- N. Hotspots runoff controls. Specific structural or pollution prevention practices may be required, as determined to be necessary by the Township Engineer, to pretreat runoff from hotspots prior to infiltration. Following is a list of examples of hotspots: **[Amended 12-15-2014 by Ord. No. 424-14]**
- (1) Vehicle salvage yards and recycling facilities;
 - (2) Vehicle fueling stations;
 - (3) Vehicle service and maintenance facilities;
 - (4) Vehicle and equipment cleaning facilities;
 - (5) Fleet storage areas (bus, truck, etc.);

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

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

122. Editor's Note: See 32 P.S. § 680.1 et seq.

- (6) Industrial sites based on Standard Industrial Classification Codes;
 - (7) Marinas (service and maintenance areas);
 - (8) Outdoor liquid container storage;
 - (9) Outdoor loading/unloading facilities;
 - (10) Public works storage areas;
 - (11) Facilities that generate or store hazardous materials;
 - (12) Commercial container nursery;
 - (13) Contaminated sites/brownfields;
 - (14) Other land uses and activities as designated by the Township.
- O. Contaminated and brownfield sites. Where BMPs may contribute to the migration of contaminants in groundwater, the water quality and runoff volume, stream channel protection, and peak rate control standards shall be met; however, at the Township Engineer's discretion, the minimum infiltration requirement may be reduced or eliminated commensurate with the contaminated area, and the required water quality and runoff control measures may be increased to mitigate the reduced infiltration requirement for the contaminated area. **[Amended 12-15-2014 by Ord. No. 424-14]**
- P. Additional water quality requirements. The Township may require additional stormwater control measures for stormwater discharges to special management areas, including, but not limited to: **[Amended 12-15-2014 by Ord. No. 424-14]**
- (1) Water bodies listed as impaired by PADEP.
 - (2) Any water body or watershed with an approved total maximum daily load (TMDL).
 - (3) Areas of known existing flooding problems.
 - (4) Critical areas with sensitive resources (e.g., state-designated special protection waters, cold water fisheries, carbonate geology or other groundwater recharge areas that may be highly vulnerable to contamination, drainage areas to water supply reservoirs, etc.).
- Q. Applicants shall utilize the Pennsylvania Stormwater Best Management Practices Manual (PA BMP Manual), as amended, or other sources acceptable to the Township Engineer, for testing and design standards for BMPs, and where there is a conflict with the provisions of this chapter, the most restrictive applies. If methods other than green infrastructure, LID, and CD methods are proposed to achieve the volume and rate controls required under this chapter, the SWM site plan must include a detailed justification demonstrating that the use of LID, green infrastructure, and CD are not practicable. **[Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]**
- R. For areas underlain by karst or carbonate geology that may be susceptible to the formation of sinkholes and other karst features, the location, type, and design of infiltration BMPs shall be based on a site evaluation conducted by a qualified licensed professional and based on the PA BMP Manual (as amended) or other design guidance acceptable to the Township Engineer. **[Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]**
- S. All regulated activities located within an identified floodplain area shall comply with Chapter 220, Floodplains, of this Code. The natural conveyance characteristics of the site and the receiving

floodplain shall be incorporated into the stormwater management practices proposed for the site.
[Amended 5-15-2017 by Ord. No. 428-17]

- T. Riparian buffer zones. [Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]
- (1) All regulated activities located within riparian buffer zones shall comply with Article V of Chapter 274, Natural Resources Protection, of this Code.
 - (2) For regulated activities within the Darby Creek, Trout Creek, and/or Crum Creek Watersheds (refer to Appendix F), the riparian buffer shall be planted with native vegetation and maintained in a vegetated state (refer to Appendix B, Native Plant List, contained in the PA BMP Manual). If an existing buffer is legally prescribed (i.e., deed, covenant, easement, etc.) and it exceeds the requirements of this chapter, the existing buffer shall be maintained.

§ 388-14. Permit requirements by other governmental entities. [Amended 12-15-2014 by Ord. No. 424-14]

The following permit or other regulatory requirements may apply to certain regulated activities and shall be met prior to (or as a condition of) final approval by the Township of the SWM site plan and prior to commencement of any regulated activities, as applicable:

- A. All regulated activities subject to permit or regulatory requirements by PADEP under regulations at 25 Pa. Code Chapter 102, or erosion and sediment control requirements of the Township.
- B. Work within natural drainageways subject to permit by PADEP under 25 Pa. Code Chapter 105.
- C. Any BMP or conveyance that would be located in or adjacent to surface waters of the commonwealth, including wetlands, subject to permit by PADEP under 25 Pa. Code Chapter 105.
- D. Any BMP or conveyance that would be located on or discharge to a state highway right-of-way or require access to or from a state highway and be subject to approval by PennDOT.
- E. Culverts, bridges, storm sewers, or any other facilities which must pass or convey flows from the tributary area and any facility which may constitute a dam subject to permit by PADEP under 25 Pa. Code Chapter 105.

§ 388-15. Erosion and sediment control.

- A. No regulated activity within the Township shall commence until: [Amended 12-15-2014 by Ord. No. 424-14]
- (1) The Township receives documentation that the applicant has received:
 - (a) A letter of adequacy from the Conservation District or other approval from PADEP in compliance with Title 25, Chapter 102, of the Pennsylvania Code of an erosion and sediment control plan for construction activities, for projects where the area of disturbance exceeds one acre, where pond dredging is involved, or when the disturbance is associated with activities described under Title 25, Chapter 105 of the Pennsylvania Code permits; [Amended 10-17-2022 by Ord. No. 452-22]
 - (b) A PADEP NPDES permit for stormwater discharges associated with construction activities as required under 25 Pa. Code Chapter 92a, if applicable; [Amended 6-2-2014 by Ord. No. 422-14; 10-17-2022 by Ord. No. 452-22]

- (c) Evidence of any other permit(s) or approvals required for the regulated activities; and
 - (2) An erosion and sediment control plan has been approved by the Township, in the case of projects with less than one acre of earth disturbance. The erosion and sediment control plan shall be included with the stormwater management site plan. Measures to minimize soil erosion and sedimentation shall meet the standards and specifications contained in the Pennsylvania Department of Environmental Protection "Soil Erosion and Sediment Pollution Control Manual," as amended, and the Pennsylvania Clean Streams Law, Chapter 102, Erosion and Sedimentation Control Rules and Regulations, as amended, and the specifications contained therein. The Township Engineer shall ensure compliance with the appropriate standards and specifications.
- B. A copy of the erosion and sediment control plan and any required permit(s), as required by PADEP regulations, shall be available on the site at all times.
 - C. Additional erosion and sediment control measures shall be applied where infiltration BMPs are proposed, at a minimum including those required in § 388-18M.

§ 388-16. Site design process.

The applicant shall design the site to minimize the disturbances to land, site hydrology, and natural resources, and to maintain the natural hydrologic regime, drainage patterns and flow conditions. The applicant shall demonstrate in its SWM site plan (as required in § 388-25C) that the design sequence, objectives and techniques described below were applied to the maximum extent practicable in the site design of the regulated activity while complying with all other requirements of this chapter. The site design shall:

- A. First, identify and delineate all existing natural resources and natural and man-made hydrologic features listed in § 388-25B(8) that are located within the site or receive discharge from or may be impacted by the proposed regulated activity.
- B. Second, provide a prioritized listing of these resources and features to identify:
 - (1) Those to be incorporated into the site design in a manner that provides protection from any disturbance or impact from the proposed regulated activity;
 - (2) Those to be protected from further disturbance or impact but for which the proposed regulated activity will provide improvement to existing conditions;
 - (3) Those that can be incorporated into and utilized as components of the overall site design in a manner that protects or improves their existing conditions while utilizing their hydrologic function within the limits of their available capacity (e.g., for infiltration, evapotranspiration, or reducing pollutant loads, runoff volume or peak discharge rates, etc.) to reduce the need for or size of constructed BMPs; and
 - (4) Those that may be considered for alteration, disturbance or removal.
- C. Third, develop the site design to achieve the following:
 - (1) Recognize and incorporate the priorities identified in Subsection B as the basis for the proposed site layout, grading, construction, and permanent ground cover design;
 - (2) Minimize earth disturbance (both surface and subsurface);

- (3) Maximize protection of or improvement to natural resources and special management areas;
 - (4) Minimize the disturbance of natural site hydrology, in particular natural drainage features and patterns, discharge points and flow characteristics, natural infiltration patterns and characteristics, and natural channel and floodplain conveyance capacity;
 - (5) Incorporate natural hydrologic features and functions identified in Subsection B into the site design to protect and utilize those features and their hydrologic functions to reduce the need for or size of constructed BMPs;
 - (6) Maximize infiltration and the use of natural site infiltration features, patterns and conditions, and evapotranspiration features;
 - (7) Apply selective grading design methods to provide final grading patterns or preserve existing topography in order to evenly distribute runoff and minimize concentrated flows;
 - (8) Minimize the cumulative area to be covered by impervious surfaces and:
 - (a) Minimize the size of individual impervious surfaces;
 - (b) Separate large impervious surfaces into smaller components;
 - (c) Disconnect runoff from one impervious surface to another; and
 - (d) Utilize porous materials in place of impervious wherever practicable;
 - (9) Minimize the volume and peak discharge rates of stormwater generated;
 - (10) Avoid or minimize stormwater runoff pollutant loads and receiving stream channel erosion;
 - (11) Locate infiltration and other BMPs:
 - (a) At or as near to the source of generation as possible; and
 - (b) At depths that are as shallow as possible;
 - (12) Prioritize the selection and design of BMPs as follows:
 - (a) Nonstructural and vegetation BMPs; then
 - (b) Structural (surface and subsurface) BMPs;
 - (13) For flow volumes requiring conveyance from the source of generation to a BMP for management, give preference to open channel conveyance techniques that provide infiltration and water quality benefits and landscaped-based management in common open space areas, where practicable; and
 - (14) Consider additional guidance for incorporating natural hydrology into the site and BMP designs, methods and techniques that support the objectives of Subsections B and C. Appendix B presents additional discussion of "conservation design" and "low-impact development."¹²³
[Amended 10-17-2022 by Ord. No. 452-22]
- D. The procedures set forth above shall be utilized to the maximum extent practicable for the overall site design and selection, location and design of features and BMPs to be used to comply with the

¹²³Editor's Note: Appendix B is included as an attachment to this chapter.

requirements of §§ 388-17, 388-18, 388-19 and 388-20.

§ 388-17. Water quality and runoff volume requirements. [Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]

To control post-construction stormwater impacts from regulated activities and meet state water quality requirements, BMPs shall be provided in the site design that replicate predevelopment stormwater infiltration and runoff conditions, such that post-construction stormwater discharges do not degrade the physical, chemical, or biological characteristics of the receiving waters. The green infrastructure and low-impact development (LID) practices provided in the PA BMP Manual, as amended, as well as the guidance on green infrastructure, LID and conservation design (CD) provided in Appendix B, shall be utilized for all regulated activities wherever possible. The applicant shall comply with the following water quality and runoff volume requirements for all regulated activities, including all new development and redevelopment activities:

- A. The post-construction total runoff volume shall not exceed the predevelopment total runoff volume for all storms equal to or less than the two-year, twenty-four-hour duration precipitation (design storm). The water quality and runoff volume to be managed shall consist of any runoff volume generated by the proposed regulated activity over and above the predevelopment total runoff volume and shall be captured and permanently retained or infiltrated on the site. Permanent retention options may include, but are not limited to, reuse, evaporation, transpiration, and infiltration.
- B. For modeling purposes, the predevelopment ground cover conditions shall be determined using the corresponding ground cover assumptions presented in § 388-21D of this chapter.
- C. The design of the stormwater management facility outlet shall provide for protection from clogging and unwanted sedimentation.
- D. BMPs that moderate the temperature of stormwater shall be used to protect the temperature of receiving waters. The applicant shall fulfill the requirements of the PADEP "Thermal Impact Analysis" for the "PAG-02 Stormwater Discharges Associated with Construction Activities, NOI for Coverage under General or Individual Permit" if they cannot meet the volume control requirements.
- E. Water quality improvement shall be achieved in conjunction with achieving the infiltration requirements of § 388-18. The infiltration volume required under § 388-18 may be included as a component of the water quality volume. If the calculated water quality and runoff volume is greater than the volume infiltrated, then the difference between the two volumes shall be managed for water quality and runoff volume control through other techniques or practices but shall not be discharged from the site.
- F. Runoff from the disturbed area shall be treated for water quality prior to entering existing waterways or water bodies. If a stormwater management practice does not provide water quality treatment, then water quality BMPs shall be utilized to provide pretreatment prior to the runoff entering the stormwater management practice.
- G. The Township may require additional water quality and runoff control measures for stormwater discharging to special management areas such as those listed in § 388-13P.
- H. When the regulated activity contains or is divided by multiple drainage areas, the water quality and runoff volume shall be separately addressed for each drainage area.
- I. Weighted averaging of runoff coefficients shall not be used for manual computations or input data

for water quality and runoff volume calculations.

- J. Areas located outside of the site (i.e., areas outside of the regulated activity) may be excluded from the calculation of the water quality and runoff volume requirements.
- K. Water quality and volume control practices shall be selected and designed to meet the criteria of § 388-16C that apply to water quality and volume control.
- L. Evapotranspiration may be quantified and credited towards meeting volume requirements according to the PADEP Post-Construction Stormwater Management (PCSM) Spreadsheet and Instructions (December 2020) or the most recent guidance from PADEP.

§ 388-18. Infiltration requirements.

Providing for infiltration consistent with the natural hydrologic regime is required to compensate for the reduction in the recharge that occurs when the ground surface is disturbed or impervious surface is created or expanded. The applicant shall achieve the following infiltration requirements:

- A. Wherever possible, infiltration should be designed to accommodate the entire water quality and runoff volume required in § 388-17. Infiltration BMPs should be consistent with the design and infiltration period guidelines included in the PA BMP Manual or other PA DEP design guidance. If the runoff volume required by Section 305 cannot be infiltrated, then alternative methods consistent with the PA BMP Manual (as amended) or other PA DEP guidance, such as the managed release concept, may be used to manage this volume with approval from the municipal engineer. **[Added 10-17-2022 by Ord. No. 452-22]**
- B. For regulated activities involving new development, the volume of a minimum of one inch of runoff from all proposed impervious surfaces shall be infiltrated.
- C. (Reserved)¹²⁴
- D. If the requirements of Subsection B cannot be physically accomplished, then the applicant shall be responsible for demonstrating with data or calculations to the satisfaction of the Township Engineer why this infiltration volume cannot be physically accomplished on the site (e.g., shallow depth to bedrock or limiting zone, open voids, steep slopes, etc.) and what alternative volume can be infiltrated; however, in all cases, at least the first 0.5 inch of runoff volume shall be infiltrated. **[Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]**
- E. Only if a minimum infiltration of the first 0.5 inch of runoff volume cannot be physically accomplished on the site, a waiver from § 388-18 shall be considered by the Township, in accordance with § 388-9. **[Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]**
- F. If site conditions preclude capture of runoff from portions of the impervious surfaces, the infiltration volume for the remaining area shall be increased an equivalent amount to offset the loss.
- G. When a project contains or is divided by multiple watersheds, the infiltration volume shall be separately addressed for each watershed.
- H. Existing impervious surfaces located in areas outside of the site (i.e., outside of the regulated activity) may be excluded from the calculation of the required infiltration volume.

¹²⁴Editor's Note: Former Subsection C was repealed 10-17-2022 by Ord. No. 452-22.

I. A detailed soils evaluation of the site shall be conducted by a qualified professional and at a minimum shall address soil permeability, depth to bedrock, and subgrade stability. The general process for designing the infiltration BMP shall be conducted by a qualified licensed professional and shall be consistent with the PA BMP Manual (as amended) (or other guidance acceptable to the Township Engineer) and in general shall: **[Amended 12-15-2014 by Ord. No. 424-14]**

- (1) Analyze hydrologic soil groups as well as natural and man-made features within the site to determine general areas of suitability for infiltration practices. In areas where development on fill material is under consideration, conduct geotechnical investigations of subgrade stability; infiltration may not be ruled out without conducting these tests.
- (2) Provide field tests such as double-ring infiltrometer or other hydraulic conductivity tests (at the elevation of the proposed infiltration surface) to determine the appropriate hydraulic conductivity rate. Standard septic/sewage percolation tests are not acceptable for design purposes.
- (3) Design the infiltration facility for the required retention (infiltration) volume based on field-determined infiltration capacity (and apply safety factor as per applicable design guidelines) at the elevation of the proposed infiltration surface.
- (4) On-lot infiltration features are encouraged; however, it shall be demonstrated to the Township Engineer that the soils are conducive to infiltration on the identified lots.

J. Infiltration BMPs shall be selected based on suitability of soils and site conditions and shall be constructed on soils that have the following characteristics:

- (1) A minimum depth of 24 inches between the bottom of the BMP and the top of the limiting zone. Additional depth may be required in areas underlain by karst or carbonate geology. (See Subsection N.)
- (2) An infiltration rate sufficient to accept the additional stormwater volume and drain completely as determined by field tests conducted by the applicant.
- (3) The infiltration facility shall completely drain the retention (infiltration) volume within three days (72 hours) from the end of the design storm.

K. All infiltration practices shall:

- (1) Be selected and designed to meet the criteria of § 388-16C that are applicable to infiltration;
- (2) Be set back at least 25 feet from all buildings and features with subgrade elements (e.g., basements, foundation walls, etc.), unless otherwise approved by the Township Engineer; **[Amended 12-15-2014 by Ord. No. 424-14]**
- (3) For any infiltration practice that collects runoff from shared or multiple features and that is located within 50 feet of a building or feature with subgrade elements (e.g., basements, foundation walls, etc.), the bottom elevation shall be set below the bottom elevation of the subgrade element;
- (4) Have the following minimum setbacks:
 - (a) Ten feet from all residential structures.
 - (b) Ten feet from all property lines.

- (c) Comply with setback requirements established under 25 Pa Code Chapter 73. **[Amended 10-17-2022 by Ord. No. 452-22]**
 - (d) One hundred feet from any well.
- L. Infiltration facilities shall, to the maximum extent practicable, be located to avoid introducing contaminants to groundwater.
- (1) When a hotspot is located in the area draining to a proposed infiltration facility, an evaluation of the potential of groundwater contamination from the proposed infiltration facility shall be performed, including a hydrogeologic investigation (if necessary) by a qualified licensed professional to determine what, if any, pretreatment or additional design considerations are needed to protect groundwater quality.
 - (2) When located within a wellhead protection area of a public water supply well, infiltration practices shall be in conformance with the applicable approved source water protection assessment or source water protection plan.
 - (3) The applicant shall provide appropriate safeguards against groundwater contamination for land uses that may cause groundwater contamination should there be a mishap or spill.
- M. During site construction, all infiltration practice components shall be protected from compaction due to heavy equipment operation or storage of fill or construction material. Infiltration areas shall also be protected from sedimentation. Areas that are accidentally compacted or graded shall be remediated to restore soil composition and porosity. Adequate documentation to this effect shall be submitted to the Township Engineer for review. All areas designated for infiltration shall not receive runoff until the contributory drainage area has achieved final stabilization. **[Amended 12-15-2014 by Ord. No. 424-14]**
- N. Consideration of infiltration BMPs for areas underlain by karst or carbonate geology is encouraged, but only where the design, supporting calculations, results of soils or other site investigations or other documentation are provided to the Township demonstrating that the potential or likelihood of subsidence or sinkholes is minimal. Evaluation of site conditions and infiltration design shall rely on guidance in the PA BMP Manual (as amended) or other guidance acceptable to the Township Engineer. **[Amended 12-15-2014 by Ord. No. 424-14]**
- O. Groundwater quality of the carbonate aquifer shall be protected from infiltration of pollutants. At a minimum, stormwater runoff from hotspots (i.e., sources of significant pollutant runoff) shall first be discharged through a water quality BMP(s) to remove pollutants prior to infiltration. Where soil characteristics are insufficient to provide removal of pollutants from sources other than hotspots, stormwater runoff shall first be discharged through a water quality BMP(s) to remove pollutants prior to infiltration.
- P. Where sediment transport in the stormwater runoff is anticipated to reach the infiltration system, appropriate permanent measures to prevent or collect sediment shall be installed prior to discharge to the infiltration system.
- Q. Where roof drains are designed to discharge to infiltration practices, they shall have appropriate measures to prevent clogging by unwanted debris (for example, silt, leaves and vegetation). Such measures shall include but are not limited to leaf traps, gutter guards and cleanouts.
- R. All infiltration practices shall have appropriate positive overflow controls.

- S. No sand, salt or other particulate matter may be applied to a porous surface material for winter ice conditions.
- T. The following procedures and materials shall be required during the construction of all subsurface facilities:
 - (1) Excavation for the infiltration facility shall be performed with equipment that will not compact the bottom of the seepage bed/trench or like facility.
 - (2) The bottom of the bed and/or trench shall be scarified prior to the placement of aggregate.
 - (3) Only clean aggregate with documented porosity, free of fines, shall be allowed.
 - (4) The tops, bottoms and sides of all seepage beds, trenches, or like facilities shall be covered with drainage fabric. Fabric shall be nonwoven fabric acceptable to the Township Engineer.
[Amended 12-15-2014 by Ord. No. 424-14]
 - (5) Stormwater shall be distributed throughout the entire seepage bed/trench or like facility and provisions for the collection of debris shall be provided in all facilities.

§ 388-19. Stream channel protection requirements.

For regulated activities involving new development with one or more acres of earth disturbance, the applicant shall comply with the following stream channel protection requirements to minimize stream channel erosion and associated water quality impacts to the receiving waters:

- A. The peak flow rate of the post-construction two-year, twenty-four-hour design storm shall be reduced to the predevelopment peak flow rate of the one-year, twenty-four-hour duration precipitation, using the SCS Type II distribution.
- B. To the maximum extent practicable, and unless otherwise approved by the Township Engineer, the post-construction one-year, twenty-four-hour storm flow shall be detained for a minimum of 24 hours and a maximum not to exceed 72 hours from a point in time when the maximum volume of water from the one-year, twenty-four-hour storm is stored in a proposed BMP (i.e., when the maximum water surface elevation is achieved in the facility). Release of water can begin at the start of the storm (i.e., the invert of the orifice is at the invert of the proposed BMP).
[Amended 12-15-2014 by Ord. No. 424-14]
- C. For modeling purposes, the predevelopment ground cover conditions shall be determined using the corresponding ground cover assumptions presented in § 388-21D of this chapter.
- D. The minimum orifice size in the outlet structure to the BMP shall be three inches in diameter unless otherwise approved by the Township Engineer, and a trash rack shall be installed to prevent clogging. For sites with small drainage areas contributing to the BMP that do not provide enough runoff volume to allow a twenty-four-hour attenuation with the three-inch orifice, the calculations shall be submitted showing this condition.
[Amended 12-15-2014 by Ord. No. 424-14]
- E. When the calculated orifice size is below three inches, gravel filters (or other methods) are recommended to discharge low-flow rates subject to the Township Engineer's satisfaction. When filters are utilized, maintenance provisions shall be provided to ensure filters meet the design function.
[Amended 12-15-2014 by Ord. No. 424-14]
- F. All proposed stormwater management facilities shall make use of measures to extend the flow path

and increase the travel time of flows in the facility. [Amended 10-17-2022 by Ord. No. 452-22]

- G. When a regulated activity contains or is divided by multiple drainage areas, the peak flow rate control shall be separately addressed for each drainage area.

§ 388-20. Stormwater peak rate control requirements.

The applicant shall comply with the following peak flow rate control requirements for all regulated activities, including those that involve new development and redevelopment that are not located in the Darby Creek or Crum Creek Watersheds:

- A. Post-construction peak flow rates from any regulated activity shall not exceed the predevelopment peak flow rates as shown for each of the design storms specified in Table 388-20.1.

**Table 388-20.1
Peak Rate Control Standards**

| Post-Construction Design Storm Frequency (24-hour duration) | Predevelopment Design Storm | |
|--|---|---|
| | New Development Regulated Activities | Redevelopment Regulated Activities |
| 2-year | 1-year | 2-year |
| 5-year | 2-year | 5-year |
| 10-year | 2-year | 10-year |
| 25-year | 25-year | 25-year |
| 50-year | 50-year | 50-year |
| 100-year | 100-year | 100-year |

NOTE: Peak flow rate of the post-construction design storm shall be reduced to the peak flow rate of the corresponding predevelopment design storm shown in the table.

- B. For modeling purposes, the predevelopment ground cover conditions shall be determined using the corresponding ground cover assumptions presented in § 388-21D of this chapter.
- C. For regulated activities involving only redevelopment, no peak flow rate controls are required when and only if the regulated impervious surface area is at least 20% less than the total existing impervious surface area to be disturbed by the regulated activity. In all cases where this requirement is not met, the redevelopment regulated activity shall achieve the peak flow rate controls presented in Table 388-20.1, using the redevelopment ground cover assumptions presented in § 388-21D. This design criterion for redevelopment is only permitted with approval of the Township Engineer. It shall result in no impact on downstream properties. [Amended 10-17-2022 by Ord. No. 452-22]
- D. Only the area of the proposed regulated activity shall be subject to the peak flow rate control standards of this chapter. Undisturbed areas for which the discharge point has not changed are not subject to the peak flow rate control standards.
- E. Areas located outside of the site (i.e., areas outside of the regulated activity) that drain through a proposed site are not subject to peak flow rate control requirements. Drainage facilities located on the site shall be designed to safely convey flows from outside of the site through the site.

- F. When a regulated activity contains or is divided by multiple drainage areas, the peak flow rate controls shall be separately addressed for each drainage area.
- G. The effect of structural and nonstructural stormwater management practices implemented as part of the overall site design may be taken into consideration when calculating total storage volume and peak flow rates.
- H. Regulated activities located within the Darby Creek Watershed (refer to Appendix F¹²⁵) shall achieve the applicable peak flow release rate control requirements presented in the approved PA Act 167 plan for that watershed and as presented in Table 388-20.2 below:

Table 388-20.2
Peak Rate Control Standards for Darby Creek Watershed

| Post-Construction Design Storm Frequency (24-hour duration) | Predevelopment Design Storm | |
|--|---|---|
| | New Development Regulated Activities | Redevelopment Regulated Activities |
| 2-year | 1-year | 1-year |
| 5-year | 5-year | 5-year |
| 10-year | 10-year | 10-year |
| 25-year | 25-year | 25-year |
| 50-year | 50-year | 50-year |
| 100-year | 100-year | 100-year |

NOTE: Peak flow rate of the post-construction design storm shall be reduced to the peak flow rate of the corresponding predevelopment design storm shown in the table.

- I. Regulated activities located within the Crum Creek Watershed (refer to Appendix F¹²⁶) shall achieve the applicable peak flow release rate control requirements presented in the approved PA Act 167 plan for that watershed and as presented in Tables 388-20.3 and 388-20.4 below, and as identified in the Crum Creek Management Districts Map in Appendix G of this chapter (the map is Appendix A of the Crum Creek Act 167 Plan Model Ordinance, and "Appendix A" therefore appears in the title block of the map, although it is contained in Appendix G of this chapter).¹²⁷

125. Editor's Note: Appendix F is included as an attachment to this chapter.

126. Editor's Note: Appendix F is included as an attachment to this chapter.

127. Editor's Note: Appendix G is included as an attachment to this chapter.

Table 388-20.3
Peak Rate Control Standards for Crum Creek Watershed, Management District A

| Post-Construction Design Storm Frequency (24-hour duration) | Predevelopment Design Storm | |
|--|---|---|
| | New Development Regulated Activities | Redevelopment Regulated Activities |
| 2-year | 1-year | 1-year |
| 5-year | 5-year | 5-year |
| 10-year | 10-year | 10-year |
| 25-year | 25-year | 25-year |
| 50-year | 50-year | 50-year |
| 100-year | 100-year | 100-year |

NOTE: Peak flow rate of the post-construction design storm shall be reduced to the peak flow rate of the corresponding predevelopment design storm shown in the table.

Table 388-20.4
Peak Rate Control Standards for Crum Creek Watershed, Management District B

| Post-Construction Design Storm Frequency (24-hour duration) | Predevelopment Design Storm | |
|--|---|---|
| | New Development Regulated Activities | Redevelopment Regulated Activities |
| 2-year | 1-year | 1-year |
| 5-year | 2-year | 2-year |
| 10-year | 5-year | 5-year |
| 25-year | 10-year | 10-year |
| 50-year | 25-year | 25-year |
| 100-year | 100-year | 100-year |

NOTE: Peak flow rate of the post-construction design storm shall be reduced to the peak flow rate of the corresponding predevelopment design storm shown in the table.

§ 388-21. Calculation methodology. [Amended 12-15-2014 by Ord. No. 424-14]

- A. Stormwater runoff from all regulated activity sites shall be calculated using a generally accepted calculation technique(s) that is based on the NRCS Soil Cover Complex Method. Table 388-21.1 summarizes acceptable computation methods. The method selected for use shall be based on the individual limitations and suitability of each method for a particular site.

Table 388-21.1
Acceptable Computation Methodologies for SWM Site Plan

| Method | Developed By | Applicability |
|---|---------------------------------------|--|
| 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 where limitations described in TR-55 are met |
| HEC-1/HEC-HMS | United States Army Corps of Engineers | Applicable where use of a full hydrologic computer model is desirable or necessary |
| Other methods | Varies | Other computation methodologies approved by the Township |

- B. All calculations using the Soil Cover Complex Method shall use the appropriate design rainfall depths for the various return period storms consistent with this chapter. Rainfall depths used shall be obtained from the latest version of the Precipitation-Frequency Atlas of the United States, National Oceanic and Atmospheric Administration (NOAA), National Weather Service, Hydrometeorological Design Studies Center, Silver Spring, Maryland (NOAA Atlas 14) values consistent with a partial duration series. When stormwater calculations are performed for routing procedures or infiltration, water quality and runoff volume functions, the duration of rainfall shall be 24 hours. **[Amended 10-17-2022 by Ord. No. 452-22]**
- C. The applicant shall utilize the following ground cover assumptions for all predevelopment water quality and runoff volume, infiltration volume and peak flow rate calculations:
 - (1) For regulated activities involving new development, the following ground cover assumptions shall be used:
 - (a) For areas that are woods (as defined in Article II of this chapter), predevelopment calculations shall assume ground cover of "woods in good condition."
 - (b) For all other areas (including all impervious surfaces), predevelopment calculations shall assume ground cover of "meadow."
 - (2) For regulated activities involving redevelopment, the following ground cover assumptions shall be used:
 - (a) For areas that are woods (as defined in Article II of this chapter), predevelopment calculations shall assume ground cover of "woods in good condition."
 - (b) For areas that are not woods or not impervious surfaces, predevelopment calculations shall assume ground cover of "meadow."
 - (c) For areas that are impervious surfaces, predevelopment calculations shall assume all impervious areas as "meadow" ground cover, except for those existing impervious surfaces which are served by stormwater management facilities designed and constructed in conformance with the current ordinance. **[Amended 1-15-2018 by Ord. No. 433-18]**
 - (3) The applicant shall determine which stormwater standards apply to the proposed regulated

activity as follows:

- (a) Stormwater standards for new development shall apply to all proposed regulated activities that involve only new development activities as defined in this chapter.
 - (b) Stormwater standards for redevelopment shall apply to all proposed regulated activities that involve only redevelopment activities as defined in this chapter.
 - (c) At the discretion of the Township Engineer, regulated activities that involve a combination of both new development and redevelopment activities, as defined in this chapter, may either:
 - [1] Apply the stormwater standards (redevelopment or new development) that are associated with the activity that involves the greatest amount of land area; or
 - [2] Apply the redevelopment and new development stormwater standards to the corresponding redevelopment and new development portions of the proposed regulated activity.
- D. Runoff curve numbers (CN) for both predevelopment and proposed (post-construction) conditions to be used in the Soil Cover Complex Method shall be obtained from Table C-1 in Appendix C of this chapter.¹²⁸
- E. Weighted averaging of runoff coefficients shall not be used for manual computations or input data for water quality and runoff volume calculations.
- F. Hydraulic computations to determine the capacity of pipes, culverts, and storm sewers shall be consistent with methods and computations contained in the Federal Highway Administration Hydraulic Design Series No. 5 (Publication No. FHWA-NHI-01-020 HDS No. 5, as amended). Hydraulic computations to determine the capacity of open channels shall be consistent with methods and computations contained in the Federal Highway Administration Hydraulic Engineering Circular No. 15 (Publication No. FHWA-NHI-05-114 HEC 15, as amended). Values for Manning's roughness coefficient (n) shall be consistent with Table C-3 in Appendix C of this chapter.
- G. Runoff calculations shall include the following assumptions:
- (1) Average antecedent moisture conditions (for the Soil Cover Complex Method only, for example, TR-55, TR-20).
 - (2) A Type II distribution storm (for the Soil Cover Complex Method only, for example, TR-55, TR-20).

§ 388-22. Other requirements.

- A. Any BMP intended to hold standing water for four days or longer shall be designed to incorporate biologic controls consistent with the West Nile Virus Design Guidance found in Appendix D,¹²⁹ PADEP Document 363-0300-001, "Design Criteria - Wetlands Replacement/Monitoring" (as amended), or contact the Pennsylvania State Cooperative Wetland Center or the Penn State Cooperative Extension Office for design information.

128.Editor's Note: Appendix C is included as an attachment to this chapter.

129.Editor's Note: Appendix D is included as an attachment to this chapter.

- B. Any stormwater basin required or regulated by this chapter designed to store runoff and requiring a berm or earthen embankment shall be designed to provide an emergency spillway to safely convey flow up to and including the one-hundred-year proposed conditions. The height of embankment shall provide a minimum one foot of freeboard above the maximum pool elevation computed when the facility functions for the one-hundred-year proposed conditions inflow. Should any BMP require a dam safety permit under 25 Pa. Code Chapter 105 regulations, the facility shall be designed in accordance with and meet the regulations of 25 Pa. Code Chapter 105 concerning dam safety; 25 Pa. Code Chapter 105 may require the safe conveyance of storms larger than the one-hundred-year event.
- C. Any drainage conveyance facility and/or channel not governed by 25 Pa. Code Chapter 105 regulations shall be designed to convey, without damage to the drainage facility or roadway, runoff from the twenty-five-year storm event. Larger storm events (fifty-year and one-hundred-year storms) shall also be safely conveyed in the direction of natural flow without creating additional damage to any drainage facilities, nearby structures, or roadways.
- D. Conveyance facilities to or exiting from stormwater management facilities (i.e., detention basins) shall be designed to convey the design flow to or from the facility.
- E. Roadway crossings or structures located within identified floodplain areas shall be able to convey runoff from a 100-year design storm consistent with Federal Emergency Management Agency National Flood Insurance Program – Floodplain Management Requirements and Chapter 220, Floodplains. **[Amended 5-15-2017 by Ord. No. 428-17]**
- F. Any stormwater management facility located within a PennDOT right-of-way shall comply with PennDOT minimum design standards and permit submission and approval requirements. **[Amended 10-17-2022 by Ord. No. 452-22]**
- G. Adequate erosion protection and energy dissipation shall be provided along all open channels and at all points of discharge. Design methods shall be consistent with the Federal Highway Administration Hydraulic Engineering Circular No. 11 (Publication No. FHWA-IP-89-016, as amended) and the PADEP Erosion and Sediment Pollution Control Program Manual (Publication No. 363-2134-008, as amended), or other design guidance acceptable to the Township Engineer. **[Amended 12-15-2014 by Ord. No. 424-14]**

§ 388-23. Other conveyance and system design standards.

Refer to Chapter A490, Standard Construction and Material Specifications for Public Improvements, Articles I, VII and VIII and Appendix 1, of the Code of Easttown Township for other conveyance and system design standards.

ARTICLE IV
SWM Site Plan Requirements

§ 388-24. General requirements.

For any regulated activity, unless exempt per the provisions of § 388-6:

- A. Preparation and implementation of an approved SWM site plan is required.
- B. No regulated activity shall commence until the Township issues written approval of a SWM site plan, which demonstrates compliance with the requirements of this chapter, and, if required, a letter of adequacy has been issued by the Conservation District for an erosion and sediment control plan. **[Amended 12-15-2014 by Ord. No. 424-14]**
- C. The preliminary or final approval of subdivision and/or land development plans and the issuance of any building or occupancy permit shall not proceed until the applicant has received written approval of a SWM site plan from the Township. **[Amended 12-15-2014 by Ord. No. 424-14]**
- D. The SWM site plan approved by the Township shall be on site throughout the duration of the regulated activity. **[Amended 12-15-2014 by Ord. No. 424-14]**

§ 388-25. Plan contents. [Amended 12-15-2014 by Ord. No. 424-14]

The SWM site plan shall consist of a general description of the project, including items described in § 388-16, calculations, maps, and plans. A note on the maps shall refer to the associated computations and erosion and sediment control plan by title and date. The cover sheet of the computations and erosion and sediment control plan shall refer to the associated maps by title and date. All SWM site plan materials shall be submitted to the Township in a format that is clear, concise, legible, neat, and well organized; otherwise, the SWM site plan shall not be accepted for review and shall be returned to the applicant. The following items shall be included in the SWM site plan:

- A. General:
 - (1) A general description of the proposed project;
 - (2) A listing of all regulatory approvals required for the proposed project and the status of the review and approval process for each. Final approval or adequacy letters must be submitted to the Township prior to (or as a condition of) the Township's issuing final approval of the SWM site plan. Proof of application or documentation of required permit(s) or approvals for the programs listed below shall be part of the SWM site plan, if applicable:
 - (a) NPDES permit for stormwater discharges associated with construction activities; **[Amended 10-17-2022 by Ord. No. 452-22]**
 - (b) PADEP permits, as needed:
 - [1] PADEP joint permit application;
 - [2] Chapter 105 (Dam Safety and Waterway Management);
 - [3] Chapter 106 (Floodplain Management);
 - (c) PennDOT highway occupancy permit;

- (d) Erosion and sediment control plan letter of adequacy; and
 - (e) Any other permit under applicable state or federal regulations;
- (3) A statement, signed by the applicant, acknowledging that any revision to the approved SWM site plan shall be submitted to and approved by the Township, and that a revised erosion and sediment control plan shall be submitted to, and approved by, the Conservation District or Township (as applicable) for a determination of adequacy prior to construction of the revised features;
- (4) The following signature block, signed and sealed by the qualified licensed professional responsible for the preparation of the SWM site plan: **[Amended 1-15-2018 by Ord. No. 433-18]**

"I _____ (name), on this date _____ (date of signature), hereby certify to the best of my knowledge that the SWM site plan meets all design standards and criteria of Easttown Township Code Chapter 388, Stormwater Management." [Note: include signature, name, discipline of professional license, and license stamp or seal here.]

- (5) The following signature block for the Township: **[Added 10-17-2022 by Ord. No. 452-22]**

"On behalf of Easttown Township, _____ (Township Engineer), on this date _____, has reviewed and hereby certifies to the best of my knowledge that the SWM site plan meets all design standards and criteria of Easttown Township Code Chapter 388, Stormwater Management.

- B. Maps or plan sheets. Map(s) or plan sheets of the site shall be submitted on minimum twenty-four-inch by thirty-six-inch sheets and shall be prepared in a form that meets the requirements for recording at the Chester County Office of the Recorder of Deeds and the requirements of the operation and maintenance (O&M) plan and O&M agreement (Article VII). If the SALDO has additional or more stringent criteria than this chapter, then the SALDO criteria shall also apply. Unless otherwise approved by the Township Engineer, the contents of the maps or plan sheets shall include, but not be limited to:
- (1) A location map, with a scale of one inch equals 2,000 feet or greater, showing the site location relative to highways, municipal boundaries, or other identifiable landmarks.
 - (2) The name of the project, tax parcel number(s), and the names, addresses and phone numbers of the owner of the property, the applicant, and firm preparing the plan.
 - (3) Signature and seal of the qualified licensed professional(s) responsible for preparation of the maps and plan sheets.
 - (4) The date of SWM site plan submission and revision dates, as applicable.
 - (5) A graphic and written scale of one inch equals no more than 50 feet.
 - (6) A North arrow.
 - (7) Legal property boundaries, including:
 - (a) The total project property boundary and size with distances marked to the nearest foot and bearings to the nearest degree.

- (b) Boundaries, size and description of purpose of all existing easements and deed-restricted areas of the project property, with distances marked to the nearest foot and bearings to the nearest degree.
- (8) Existing natural resources and natural or man-made hydrologic features that are located within the site or receiving discharge from, or that may otherwise be impacted by, the proposed regulated activity, including but not limited to:
- (a) All existing natural resources, hydrologic features and drainage patterns, including natural waterways, water bodies, wetlands, streams (intermittent and perennial), ponds, lakes, vernal pools, etc., natural infiltration areas and patterns, areas of significant natural evapotranspiration, and other water features and aquatic resources.
 - (b) Any existing man-made drainage features, BMPs, conveyances, facilities, open channels, swales, drainage patterns, or other flood, stormwater or drainage control features.
 - (c) For the site, discharge points and locations of concentrated flows and their drainage areas.
 - (d) For named waters, show names and their watershed boundaries within the site.
 - (e) Special management areas (as per § 388-13P).
 - (f) For the water bodies, streams and wetlands identified in Subsection B(8)(a), label or otherwise show the following attributes, if applicable:
 - [1] The designated use as determined by PADEP (25 Pa. Code Chapter 93);
 - [2] Impairments listed on the PADEP "Integrated List" (as updated) and the listed source and cause of impairment;
 - [3] Name, date, and target pollutant(s) for any approved total maximum daily load (TMDL); and
 - [4] Drainages to water supply reservoirs.
 - (g) Areas that are part of the Pennsylvania Natural Diversity Inventory (PNDI) and a list of potential impacts and clearances received (for regulated activities involving one acre or more of proposed earth disturbance).
 - (h) Woods, vegetated riparian buffers and other areas of natural vegetation.
 - (i) Topography using contours (with elevations based on established bench marks) at intervals of two feet. In areas of slopes greater than 15%, five-foot contour intervals may be used. The datum used and the location, elevation and datum of any bench marks used shall be shown.
 - (j) Areas classified by the Township as steep slopes.
 - (k) Soil names and boundaries, general type of soils with hydrologic soil group noted, and in particular note areas most conducive to infiltration BMPs, such as groups A and B, etc., estimated permeabilities in inches per hour, and location and other results of all soil tests and borings.
 - (l) If present, areas with underlying carbonate geologic units, existing sinkholes, subsidence or other karst features, and any associated groundwater recharge areas with increased

vulnerability to contamination.

- (m) Any contaminated surface or subsurface areas of the site.
- (n) Water supply wells:
 - [1] Location of existing well(s) on the project property and delineation of the(ir) recharge area(s) (if known), or a fifty-foot-diameter assumed recharge area.
 - [2] Location of existing well(s) within 50 feet beyond the boundary of the project property boundary (if public water supply is proposed for the regulated activity).
- (o) Current one-hundred-year floodplain boundaries, elevations, and floodway boundaries for any identified floodplain area on or within 100 feet of the property. **[Amended 5-15-2017 by Ord. No. 428-17]**
- (p) Boundaries of riparian buffer(s) as required by Chapter 274, Natural Resources Protection, of this Code.
- (9) Location of the proposed regulated activity, limits of earth disturbance (disturbed area), and BMPs and conveyances relative to the location of existing natural resources and hydrologic features and special management areas resulting from the site design process of § 388-16.
- (10) Description of existing and proposed ground cover and land use, including the type and total area.
- (11) Existing and proposed man-made features, including roads, paved areas, buildings, and other impervious and pervious surfaces on the project property (or an appropriate portion of the property as determined in consultation with the Township Engineer) and within the proposed disturbed area, and including the type and total area of the following:
 - (a) Existing impervious surfaces (must differentiate existing impervious surfaces installed after November 18, 2013); **[Amended 10-17-2022 by Ord. No. 452-22]**
 - (b) Existing impervious surfaces proposed to be replaced;
 - (c) Existing impervious surfaces to be permanently removed and replaced with pervious ground cover;
 - (d) New or additional impervious surfaces; and
 - (e) Percent of the site covered by impervious surfaces for both the existing and proposed post-construction conditions.
- (12) The total extent of the upstream area draining through the site.
- (13) All BMPs, conveyances and other stormwater management facilities shall be located on the plan sheets, including design drawings, profile drawings, construction details, materials to be used, description of function, etc.
- (14) Complete delineation of the flow paths used for calculating the time of concentration for the predevelopment and post-construction conditions shall be included.
- (15) The locations of all existing and proposed utilities, sanitary sewers, on-lot wastewater facilities (including subsurface tanks and leach fields), and water supply lines within the site and within

50 feet beyond the proposed limits of earth disturbance.

- (16) A grading plan, including all areas of proposed earth disturbance and the proposed regulated activity and delineating the boundary or limits of earth disturbance of the site. The total disturbed area of the site shall be noted in square feet and acres.
- (17) Proposed final grade elevations and contours at intervals of two feet. In areas of steep slopes (greater than 15%), five-foot contour intervals may be used.
- (18) For each proposed BMP and conveyance included in the SWM site plan (including any to be located on any property other than the property being developed by the applicant), the following shall be included on the SWM site plan map or plan sheets:
 - (a) Identification of the person responsible for ongoing inspections, operation, repair, and maintenance of the BMP or conveyance after completion of construction.
 - (b) Delineation of the land area, structures, impervious surfaces, and conveyances draining to and from the BMP or conveyance.
 - (c) Easements, as per the requirements of Article VII, that shall include:
 - [1] Boundaries labeled with distances shown in feet and bearings to the nearest degree;
 - [2] Notes or other documentation, as needed, to grant the Township the right of access to all BMPs and conveyances for the purposes of inspection and enforcement of the requirements of this chapter, and any applicable O&M plans and O&M agreements;
 - [3] Notes or other documentation, as needed, to grant the Township the right of access to all roadways necessary to access all BMPs and conveyances, where roadways are not to be dedicated to the Township;
 - [4] Notes or other documentation as needed to grant the owner of any BMP or conveyance the right of access for the purpose of inspection, operation, maintenance, and repair of the BMP or conveyance that is to be owned, operated and maintained by a person other than the Township and other than the owner of the property on which the BMP or conveyance is located;
 - [5] A minimum twenty-foot-wide perimeter (or other width as determined in consultation with the Township Engineer) around all BMPs and conveyances;
 - [6] Sufficient vehicular ingress to and egress from a public right-of-way or roadway, as determined in consultation with the Township Engineer; and
 - [7] Accompanying notes or other documentation, as needed, and in accordance with Article VII, describing the type, purpose and total area of easements, who the easement is granted to, and the rights, duties and obligations of the parties with respect to every BMP or conveyance.
 - (d) Boundaries of land areas (if any) for which deed restrictions are required for the purpose of protecting and prohibiting disturbance to a BMP or conveyance, indicating the area to which the restriction applies with distances shown in feet and bearings to the nearest degree, and a written description of the type, purpose and nature of the restriction.
 - (e) Other items that may be needed to comply with all other requirements of Article VII.

C. A written description of the following information shall be included in the SWM site plan:

- (1) Existing features, conditions, natural resources, hydrologic features, and special management areas [as listed in Subsection B(8)];
- (2) How the site design achieves the requirements of § 388-16, and if applicable, where they could not be achieved and why;
- (3) The overall stormwater management design concept for the project and how the site design achieves the requirements of §§ 388-13 through 388-23 of Article III;
- (4) Proposed features and conditions, proposed erosion and sediment control features, proposed BMPs, conveyances, and any other stormwater facilities;
- (5) A description of the effect of the project (in terms of flow alteration and runoff volumes, water quality and peak flows, etc.) on existing natural resources, hydrologic features and special management areas, adjacent and downgradient properties, and any existing municipal or other stormwater conveyance system(s) that may be affected by or receive runoff from the regulated activity (whether located within or outside of the area of the regulated activity), and specifics of how erosion, water quality and flow impacts will be avoided or otherwise mitigated;
- (6) Proposed nonpoint source pollution controls and justification and confirmation that the proposed project will not result in any increased pollutant loadings to any existing stream or stream impairment identified by PADEP or to any receiving water body;
- (7) Expected project time schedule; and
- (8) Description of construction stages or project phases, if so proposed.
- (9) A detailed justification must be included in the SWM site plan if BMPs other than green infrastructure methods, LID practices, or CD are proposed to achieve the volume, rate, and water quality controls under this chapter. **[Added 10-17-2022 by Ord. No. 452-22]**

D. A detailed site evaluation conducted by a qualified licensed professional for projects proposed in areas of carbonate geology or karst topography, and other environmentally sensitive areas, such as contaminated sites and brownfields, as described in § 388-13O and R of this chapter.

E. Stormwater runoff design computations and documentation, such as hydrologic, hydraulic, and structural computations, assumptions, BMP loading ratios, etc., consistent with the guidelines and criteria presented in the PA BMP Manual (as amended) or other guidance acceptable to the Township Engineer, and used in the design of the BMPs, conveyances and other features proposed to be utilized for stormwater management, or as otherwise necessary to demonstrate that the requirements of this chapter have been met, specifically including the requirements in §§ 388-13 and 388-16 through 388-21.

F. Inspections, operation and maintenance requirements. The following documents shall be prepared and submitted to the Township for review and approval as part of the SWM site plan, in accordance with the requirements of Article VII, for each BMP and conveyance included in the SWM site plan (including any to be located on any property other than the property being developed by the applicant):

- (1) An O&M plan;
- (2) An O&M agreement;

- (3) Any easement agreements that are needed to ensure access, inspection, maintenance, operation, repair and permanent protection of any permanent BMP(s) and conveyances associated with the regulated activity;
 - (4) Any written deed, deed amendment or equivalent document (if needed) to be recorded against a subject property, as shown on the SWM site plan maps or plan sheets, or recorded plan sheets for the purpose of protecting and prohibiting disturbance to a BMP or conveyance; and
 - (5) Written approval, easement agreements, or other documentation for discharges to adjacent or downgradient properties when required to comply with § 388-13G and Article VII of this chapter.
- G. An erosion and sediment control plan, where applicable, as prepared for and submitted to the Conservation District and/or Township. A letter of adequacy from the Conservation District, if applicable, must be submitted to the Township prior to (or as a condition of) the Township's final approval of the SWM site plan.
- H. A highway occupancy permit from the Pennsylvania Department of Transportation (PennDOT) District Office must be submitted to the Township prior to (or as a condition of) the Township's final approval of the SWM site plan when utilization of a PennDOT stormwater management system is proposed.

§ 388-26. Plan submission. [Amended 12-15-2014 by Ord. No. 424-14]

A complete SWM site plan that complies with all applicable provisions of § 388-25 shall be submitted to the Township for review and approval, as follows:

- A. The SWM site plan shall be coordinated with the applicable state and federal permit process and the Township SALDO review process. All permit approvals or letters of adequacy not yet received by the applicant at the time of submittal of the SWM site plan to the Township must be submitted to the Township prior to (or as a condition of) the Township's final approval of the SWM site plan.
- B. For projects that require SALDO approval, the SWM site plan shall be submitted by the applicant as part of the preliminary plan submission where applicable for the regulated activity.
- C. For regulated activities that do not require SALDO approval, the SWM site plan shall be submitted by the applicant for review in accordance with instructions from the Township.
- D. The number of copies of the SWM site plan to be submitted by the applicant for review shall be in accordance with instructions from the Township.
- E. The corresponding review fee shall be submitted to the Township simultaneously with the SWM site plan, per the Township's fee schedule.
- F. Financial security, per the requirements of § 388-8, shall be submitted to the Township prior to approval of the SWM site plan.

§ 388-27. Plan review.

- A. The SWM site plan shall be submitted to the Township for review by the Township Engineer for consistency with this chapter and the respective PA Act 167 stormwater management plan(s). The Township Engineer will review the SWM site plan for any subdivision or land development for compliance with this chapter and the Township SALDO provisions not otherwise superseded by this

chapter. [Amended 12-15-2014 by Ord. No. 424-14]

- B. If applicable, the applicant shall have received a letter of adequacy from the Conservation District or other PADEP approval for the proposed regulated activity prior to (or as a condition of) final approval by the Township. [Amended 12-15-2014 by Ord. No. 424-14]
- C. The Township Engineer will notify the applicant and the Township in writing, within 45 calendar days, whether the SWM site plan is consistent with the requirements of this chapter. If the SWM site plan involves a subdivision and land development plan, the notification shall occur within the time period allowed by the MPC (as amended). If a longer notification period is provided by other statute, regulation, or ordinance, the applicant will be so notified by the Township. [Amended 12-15-2014 by Ord. No. 424-14]
 - (1) The Township Engineer may approve the SWM site plan with conditions reasonably defined to make the SWM site plan compliant with the terms of this chapter and, if so, shall provide the conditions for approval in writing.
 - (2) If the Township Engineer disapproves the SWM site plan, the Township Engineer will forward a letter or e-mail to the applicant, with a copy to the Township, citing the reason(s) and specific chapter sections for the disapproval. Disapproval may be due to inadequate information to make a reasonable judgment as to compliance with this chapter. Any SWM site plans that are disapproved may be revised by the applicant and resubmitted in accordance with § 388-29. Resubmission will commence a new Township review and notification time period.
- D. The Township will not grant final approval to any proposed subdivision, land development, or regulated activity specified in this chapter unless the SWM site plan has been approved by the Township Engineer. [Amended 12-15-2014 by Ord. No. 424-14]
- E. All required permits from PADEP shall be obtained and submitted to the Township prior to (or as a condition of) final approval of any proposed subdivision, land development, or other regulated activity by the Township. [Amended 12-15-2014 by Ord. No. 424-14]
- F. No building permits for any regulated activity will be approved by the Township unless the SWM site plan has been approved by the Township Engineer. All required permits from PADEP shall be obtained prior to issuance of a building permit. [Amended 12-15-2014 by Ord. No. 424-14]
- G. The Township Engineer's approval of a SWM site plan shall be valid for a period not to exceed five years commencing on the date that the Township approved the SWM site plan. If stormwater management facilities included in the approved SWM site plan have not been constructed or, if constructed, as-built plans of these facilities have not been approved within this five-year time period, then the applicant may seek reinstatement of approval of the expired SWM site plan. If the Township determines that the expired SWM site plan is consistent and compliant with current regulations and requirements, then the expired SWM site plan will be reinstated; otherwise, it will be rejected. The applicant will be prohibited from conducting any regulated activity until a reinstated or newly approved SWM site plan is obtained in accordance with § 388-29 of this chapter. [Amended 12-15-2014 by Ord. No. 424-14]
- H. All or portions of the final approved SWM site plan shall be recorded (as record plans) per the instructions of the Township. [Amended 12-15-2014 by Ord. No. 424-14]
- I. Upon completion of construction, the applicant shall be responsible for completing final as-built plans of all BMPs, conveyances, or other stormwater management facilities included in the approved SWM

site plan as per the requirements of § 388-31 of this chapter.

- J. For any SWM site plan that proposes to use any BMPs other than green infrastructure, LID practices, or CD to achieve the volume and rate controls required under this chapter, the Township will not approve the SWM site plan unless it determines that green infrastructure, LID practices, and CD are not practicable. [Added 10-17-2022 by Ord. No. 452-22]

§ 388-28. Revision of plans.

- A. A submitted SWM site plan under review by the Township shall be revised and resubmitted for any of the following reasons: [Amended 12-15-2014 by Ord. No. 424-14]
- (1) A change in stormwater management BMPs, conveyances, facilities or techniques;
 - (2) Relocation or redesign of stormwater management BMPs, conveyances, or facilities; or
 - (3) Soil or other site conditions are not as stated on the SWM site plan as determined by the Township Engineer, and the new conditions necessitate design changes.
- B. The revised SWM site plan shall be resubmitted in accordance with § 388-26 and subject to review as specified in § 388-27 of this chapter.
- C. A revision to an approved SWM site plan shall be submitted to the Township, accompanied by the applicable Township review fee. [Amended 12-15-2014 by Ord. No. 424-14]

§ 388-29. Resubmission of disapproved plans. [Amended 12-15-2014 by Ord. No. 424-14]

Any SWM site plan deemed disapproved may be revised and resubmitted with the revisions addressing the Township Engineer's concerns documented in writing. The submission shall be addressed to the Township in accordance with § 388-26 of this chapter, distributed accordingly, and be subject to review as specified in § 388-27 of this chapter. The applicable Township review fee shall accompany a resubmission of a SWM site plan previously determined to be disapproved.

ARTICLE V
Performance and Inspection of Regulated Activities; Final As-Built Plans

§ 388-30. Performance and inspection of regulated activities.

- A. All regulated activities shall be conducted, operated and maintained in accordance with the requirements set forth in Articles III, VII, and VIII of this chapter. When a SWM site plan is required by this chapter, all regulated activities shall be performed in accordance with the requirements of the final approved SWM site plan.
- B. The Township Engineer or other Township designee shall be provided access to the site to inspect all phases of the erosion and sediment control measures and installation of the permanent BMPs and conveyances at such times as deemed appropriate by the Township Engineer or other Township designee. **[Amended 12-15-2014 by Ord. No. 424-14]**
- C. Periodic inspections may be made by the Township Engineer or other designee during construction. The final approved SWM site plan shall be on file and available for viewing at the site throughout the duration of the construction activity. **[Amended 12-15-2014 by Ord. No. 424-14]**
- D. Inspections, including but not limited to a final inspection, of all constructed BMPs, conveyances, or other stormwater facilities and related improvements may be conducted by the Township Engineer or other designee to confirm compliance with this chapter and with the final approved SWM site plan prior to the issuance of any occupancy permit, use permit, or other form of final approval of the project by the Township. **[Amended 12-15-2014 by Ord. No. 424-14]**
- E. Upon completion of construction, every permanent stormwater BMP, conveyance or other stormwater management facility constructed or used as part of the regulated activity shall be operated, maintained and inspected by the landowner, or other designated person, in accordance with the O&M plan and O&M agreement approved by the Township. **[Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]**
- F. The Township or its designee may periodically inspect any permanent stormwater BMP, conveyance or stormwater management facility for compliance with this chapter, an approved O&M plan, or an approved O&M agreement, per the provisions of Article IX. The Township may inspect at any time it has reason to believe a violation exists. The Township may pursue enforcement for violations consistent with the provisions of Article IX. **[Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]**
- G. If an NPDES permit for stormwater discharges associated with construction activities was required for the regulated activity, a notice of termination (NOT) approval must be obtained upon completion of construction prior to final approval of the project by the Township. **[Added 10-17-2022 by Ord. No. 452-22]**

§ 388-31. Final as-built plans.

- A. For all regulated activities, the applicant shall provide to the Township final as-built plans (signed and sealed by a qualified licensed professional) of all BMPs, conveyances, other stormwater facilities, and related improvements shown in the final approved SWM site plan. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. The final as-built plans shall include the following for all BMPs, conveyances, other stormwater facilities and related improvements:

- (1) The location, elevations, dimensions, and as-built conditions of all BMPs, conveyances, other stormwater facilities, and related improvements, including topographic contours and all typical details for storm drainage and conveyance systems, stormwater management facilities and impervious surfaces (including an impervious surfaces table that identifies preexisting, as-approved and as-built impervious surface areas) included in the approved SWM site plan. The latitude and longitude coordinates for all permanent SWM BMPs must also be submitted at the central location of the BMPs; and **[Added 10-17-2022 by Ord. No. 452-22]**
 - (2) Explanation of any discrepancies or variations from the final approved SWM site plan, other related approved construction plans, calculations and specifications (and approved revisions thereto).
- C. The final as-built plans shall include a certification of completion signed and sealed by a qualified licensed professional verifying that all permanent BMPs and conveyances have been constructed according to the final approved SWM site plan and related approved construction plans, calculations and specifications.
- D. All areas of the regulated activity draining to BMPs must be stabilized prior to submittal of the as-built plans.
- E. After receipt of the as-built plans by the Township, the Township or its designee may review the as-built plans for consistency with this chapter, the final approved SWM site plan, other related approved construction plans, and subsequent approved revisions thereto, as well as actual conditions at the site, and the Township may conduct a final inspection, as per § 388-30D. **[Amended 12-15-2014 by Ord. No. 424-14]**
- F. The as-built plans must be received by the Township within 90 days from substantial completion of the work, reviewed and determined to be acceptable by the Township Engineer prior to: **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (1) Close out of the drainage permit or other close out of the project by the Township;
 - (2) Release of the financial security or other performance guarantee; and
 - (3) Dedication of the stormwater facilities to the Township, or conveyance to a homeowners' association, or other person responsible for operation, maintenance and repair.
- G. Final occupancy permit(s) or use permit or other final approval to use or operate the constructed improvement may not be issued by the Township until the final as-built plans have been accepted by the Township Engineer. **[Amended 12-15-2014 by Ord. No. 424-14]**
- H. Upon final acceptance of the final as-built plans by the Township Engineer, the applicant shall review and, if required by the Township, revise and re-record the O&M plan and the O&M agreement to reflect the final as-built conditions and information for each permanent BMP or conveyance, in accordance with the requirements of Article VII. **[Amended 12-15-2014 by Ord. No. 424-14]**
- I. All or portions of the final as-built plans shall be recorded if required by the Township. **[Amended 12-15-2014 by Ord. No. 424-14]**

ARTICLE VI
Fees and Expenses

§ 388-32. Site plan review and inspection fees. [Amended 12-15-2014 by Ord. No. 424-14]

- A. Fees have been established by the Township as adopted by resolution of the Township Board of Supervisors from time to time or as otherwise allowed by law to defray plan review and construction inspection costs incurred by the Township. A fee or fees for all expenses listed in § 388-33A shall be paid by the applicant at the time of SWM site plan submission.
- B. A review and inspection fee schedule has been established by resolution of the Township Board of Supervisors based on the size of the regulated activity and based on the Township's costs for reviewing SWM site plans, O&M plans and agreements and as-built plans, and conducting inspections pursuant to § 388-30. The Township shall periodically update the review and inspection fee schedule to ensure that review costs are adequately reimbursed.

§ 388-33. Expenses covered by fees.

- A. The fees required of the applicant by this chapter shall, at a minimum, cover:
 - (1) Administrative costs;
 - (2) The review of the SWM site plan by the Township, the Township Engineer and other Township consultants; **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (3) Coordination and meetings with the applicant;
 - (4) The inspection of erosion and sediment control measures, BMPs, conveyances and other related improvements during construction;
 - (5) Review of project communications, reports, and additional supporting information;
 - (6) Other site inspections;
 - (7) The final inspection upon completion of the BMPs, conveyances, and other stormwater management facilities and related improvements presented in the SWM site plan; and
 - (8) Review of final as-built plan submission and revised calculations and inspections as needed.
- B. The applicant shall also reimburse all expenses incurred by the Township for any additional work or Township consultant fees required to enforce any permit provisions regulated by this chapter, correct violations, and ensure proper completion of remedial actions. **[Amended 12-15-2014 by Ord. No. 424-14]**

ARTICLE VII
Operation and Maintenance Responsibilities and Easements

§ 388-34. General requirements.

The following shall apply to all regulated activities in accordance with the requirements of the subsequent sections of this Article VII:

- A. Continuing operations and maintenance responsibilities of all permanent BMPs, conveyances, or other stormwater management facilities shall be reviewed and approved by the Township along with the SWM site plan. The Township may require an offer of a dedication of such facilities as part of the requirements for approval of the SWM site plan. Such a requirement is not an indication that the Township will accept the facilities. The Township reserves the right to accept or reject the operations and maintenance responsibility for any portion of or all of the BMPs, conveyances or other stormwater controls and facilities. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. An operation and maintenance (O&M) plan shall be submitted to the Township for review and approval for all existing and proposed permanent BMPs and man-made conveyances or other stormwater facilities identified in the SWM site plan. Multiple BMPs or conveyances may be addressed by a combined O&M plan where all such facilities are similar in O&M requirements and ownership. **[Amended 12-15-2014 by Ord. No. 424-14]**
- C. The O&M plan(s) and O&M agreement(s) shall name the person identified in the SWM site plan who shall be the owner of and be responsible for ongoing inspections, operation, repair, and maintenance of each BMP or conveyance following completion of construction.
- D. For any BMP or man-made conveyance (including any to be located on any property other than the property being developed by the applicant) to be owned by a person other than the Township:
[Amended 12-15-2014 by Ord. No. 424-14]
 - (1) An O&M agreement shall be submitted to the Township for review and approval; and
 - (2) The O&M plan shall be attached to, incorporated within, and recorded as a public record along with a fully executed O&M agreement, all of which shall be recorded as a restrictive covenant that runs with the land and shall be binding upon the landowner and any heirs, administrators, successors in interest or assigns of the landowner.
- E. The following shall be provided for all BMPs and conveyances (including any to be located on any property other than the property being developed by the applicant) by an O&M or other agreement or by otherwise establishing covenants, easements, deed restrictions, or by dedication to the Township:
[Amended 12-15-2014 by Ord. No. 424-14]
 - (1) Permanent protection of the BMP or conveyance from disturbance or alteration;
 - (2) Right of entry and access for the Township for inspection and enforcement of this chapter (including § 388-45G) and any applicable O&M plan or O&M agreement; and
 - (3) Right of entry and access for the person owning the BMP or conveyance and responsible for fulfilling the O&M requirements when that person is not the Township and is different from the owner of the property on which the BMP or conveyance is located (such as may be applicable for § 388-13G of this chapter).
- F. All O&M and other agreements, covenants, easements and deed restrictions shall:

- (1) Be submitted to the Township for review and approval; [Amended 12-15-2014 by Ord. No. 424-14]
 - (2) Be recorded as a public record, upon approval, against each parcel(s) which is part of the SWM site plan or otherwise contains any BMP or conveyance comprising part of the regulated activity which is the subject of an O&M agreement; and
 - (3) Run with the land and be binding upon the landowner, its heirs, administrators, successors in interest, and assigns.
- G. The materials, documents and content required by this Article VII may be prepared in conjunction with and incorporated with similar materials, documents and content required for other permit or approval applications, such as those required by PADEP for the post-construction stormwater management plan.

§ 388-35. Operation and maintenance plans. [Amended 12-15-2014 by Ord. No. 424-14]

The following items shall be included in the O&M plan, unless otherwise approved by the Township Engineer:

- A. A plan sheet(s) or map(s) showing each BMP and man-made conveyance and which shall include, but not be limited to:
 - (1) Property(ies) identification (owner name and address and property address and/or lot and/or tax parcel number, etc.), property boundaries and tax parcel number of the land parcel on which the BMP or conveyance is located.
 - (2) Name, address, phone number, date prepared, signature and seal of the licensed professional responsible for preparation of the plan sheet or map.
 - (3) Clear identification of the location, dimensions, and function of each BMP or conveyance covered by the O&M plan.
 - (4) The location of each BMP and conveyance relative to roadways, property boundaries, or other identifiable landmarks and existing natural drainage features such as streams, lakes, ponds, or other bodies of water within the immediate vicinity of, or receiving discharge from, the BMP or conveyance.
 - (5) Delineation of the land area, structures, impervious surfaces and conveyances draining to and from the BMP.
 - (6) Representative elevations and/or topographic contours at intervals of two feet, or other as acceptable to the Township Engineer.
 - (7) Other features, including FEMA floodplain and floodway boundaries, sinkholes, etc., located within the immediate proximity of each BMP and conveyance.
 - (8) Locations of areas of vegetation to be managed or preserved that function as a BMP or conveyance.
 - (9) The locations of all surface and subsurface utilities, on-lot wastewater facilities, sanitary sewers, and waterlines within 20 feet of each BMP or conveyance.
 - (10) The following as it pertains to any easements, covenants and deed restrictions established for

each applicable BMP or conveyance:

- (a) Boundaries delineated with bearings and distances shown that encompass the BMP or conveyance and that include a twenty-foot perimeter area surrounding these features and sufficient vehicular ingress to and egress from a public right-of-way and roadway;
 - (b) Labels specifying the type and purpose of the easement, covenant, or deed restriction and who it benefits; and
 - (c) Labels with reference to any corresponding easement agreement, covenant, deed restriction or other document to be recorded.
- (11) The plan sheet or map shall be prepared at sufficient scale for Township review, and ultimately for the use by the person responsible for operation and maintenance, and shall also be prepared at a legible scale that meets the requirements for recordation along with (and as an attachment to) the O&M agreement and O&M plan at the Chester County Office of the Recorder of Deeds.
- B. The following information shall be included in the O&M plan and written in a manner consistent with the knowledge and understanding of the person who will be responsible for the maintenance activities:
- (1) The name and address of the following:
 - (a) Property(ies) on which each BMP or conveyance is located;
 - (b) Owner of the property;
 - (c) Owner of each stormwater BMP or conveyance who is responsible for implementation of the O&M plan;
 - (d) Person responsible for maintaining adequate liability insurance and payment of taxes; and
 - (e) Person preparing the O&M plan.
 - (2) A description of each BMP and conveyance and how the BMPs and conveyances are intended to function.
 - (3) A description of actions necessary to operate, inspect, and maintain each BMP or conveyance, including but not limited to:
 - (a) Lawn care, vegetation maintenance, landscaping and planting;
 - (b) Clean out of accumulated debris and sediment (including from grates, trash racks, inlets, etc.); and
 - (c) Other anticipated periodic maintenance and repair.
 - (4) The following statement shall be included:

"The landowner acknowledges that, per the provisions of the Township's Stormwater Management Ordinance, it is unlawful to modify, remove, fill, landscape, alter or impair the effectiveness of or place any structure, other vegetation, yard waste, brush cuttings, or other waste or debris into any permanent stormwater management BMP or conveyance described in this O&M plan or to allow the BMP or conveyance to exist in a condition which does not conform to this O&M plan, without written approval from the Township."

- (5) Inspection and maintenance schedules.
- (6) Explanation of the purpose and limitations of any easements, covenants, or deed restrictions associated with any BMP or conveyance that are to be recorded against the property.
- C. A statement that no BMP or man-made conveyance may be used by the owner or others for any purpose other than its intended stormwater control function, or, if approved by the Township Engineer, a statement of specific allowable uses of the BMP (i.e., recreational benefits that maybe associated with certain BMPs owned by a homeowners' association, or allowable uses by an individual residential landowner).
- D. A statement that establishes a reasonable time frame for remedy of deficiencies found by the owner during their inspections.
- E. Language needed to fulfill the requirements of § 388-38B and C of this chapter.

§ 388-36. Operation and maintenance agreements. [Amended 12-15-2014 by Ord. No. 424-14]

- A. An O&M agreement shall be required for any BMP or man-made conveyance to be owned by a person other than the Township, and the agreement shall:
 - (1) Be between the owner of the BMP or conveyance and the Township and shall be substantially the same as the O&M agreement in Appendix E,¹³⁰
 - (2) Incorporate the approved O&M plan(s) for all BMPs or conveyances to be covered by the O&M agreement;
 - (3) Set forth the rights, duties and obligations of the owner of the BMP or conveyance and the Township, and be consistent with the approved O&M plan(s);
 - (4) Be recorded as a deed restriction or restrictive covenant that runs with the land and shall be binding upon the landowner, its heirs, administrators, successors in interest, and assigns;
 - (5) Be submitted to the Township for review prior to approval of the SWM site plan;
 - (6) Upon approval by the Township, be signed by the designated owner of the BMP or conveyance and submitted for signature by the Township; and
 - (7) When fully executed, be recorded by the landowner at the Chester County Office of the Recorder of Deeds following Township approval of the O&M plan and prior to the start of construction.
- B. Other items or conditions may be required by the Township to be included in the O&M agreement

¹³⁰Editor's Note: Appendix E is included as an attachment to this chapter.

where determined necessary by the Township to guarantee the satisfactory operation and maintenance of all permanent BMPs and conveyances.

- C. In the O&M agreement preparation process, the Township shall inform the person responsible for the operation and maintenance whether the submission of periodic (annual or other frequency) inspection and maintenance reports will be required.
- D. After approval of the final as-built plans per the requirements of Article V, the applicant shall review and, if necessary and if required by the Township, revise and re-record the O&M plan and O&M agreement to reflect the final as-built conditions of each BMP and conveyance if different from the information included in the original recorded documents.

§ 388-37. Easements and deed restrictions.

- A. Easements shall be established in connection with any regulated activity for all permanent BMPs and conveyances that will not be dedicated to or otherwise owned by the Township (including any to be located on any property other than the property being developed by the applicant) and shall:
[Amended 12-15-2014 by Ord. No. 424-14]
 - (1) Include all land area occupied by each BMP or conveyance;
 - (2) Include a twenty-foot-wide perimeter (or other width as determined in consultation with the Township Engineer) surrounding the feature(s);
 - (3) Provide sufficient vehicular ingress and egress from a public right-of-way and roadway;
 - (4) Permanently protect every BMP and conveyance from disturbance or alteration where not otherwise protected by a recorded O&M agreement, covenant, deed restriction or other means;
 - (5) Grant the Township the right, but not the duty, to access every BMP and conveyance from a public right-of-way or public roadway to conduct periodic inspections and to undertake other actions that may be necessary to enforce the requirements of this chapter, or of any applicable O&M plan or O&M agreement; where roadways will not be dedicated to the Township, the Township shall be granted access to the private roadways as necessary to access every BMP and conveyance;
 - (6) Grant the owner of each BMP and conveyance the right to access, inspect, operate, maintain, and repair the BMP or conveyance when the feature is to be owned, operated and maintained by a person other than the Township and other than the owner of the parcel on which it is located;
 - (7) Be shown, with bearings and distances noted, on the SWM site plan map/plan sheets, O&M plan map/plan sheets, final as-built plans, and be signed and sealed by a qualified licensed professional;
 - (8) Include language legally sufficient to ensure that the easement shall run with the land and bind the landowner granting the easement, its heirs, administrators, successors in interest and assigns into perpetuity; and
 - (9) Be recorded at the Chester County Office of the Recorder of Deeds following Township approval and prior to the start of construction.
- B. For any BMP or conveyance to be owned by a person other than the Township or the landowner owning the parcel upon which a BMP or conveyance is located, an easement agreement shall be

prepared and executed between the landowner and the owner of the BMP or conveyance, which shall:
[Amended 12-15-2014 by Ord. No. 424-14]

- (1) Describe the ownership interests of all parties to the easement agreement, including the ownership of the BMP or conveyance;
 - (2) Include a written legal (metes and bounds) description of the easement area, with reference to a recorded plan sheet showing the legal boundaries of the easement area (or an accompanying plan sheet/map), signed and sealed by a qualified licensed professional;
 - (3) Grant an easement from the landowner to the owner of each BMP and conveyance, establishing the right and obligation to occupy, access, inspect, operate, maintain, and repair the BMP or conveyance;
 - (4) Include a description of the purpose of the easement and the responsibilities of the parties involved;
 - (5) Incorporate by reference or be recorded with the corresponding O&M plan and O&M agreement;
 - (6) Restrict the landowner's use of the easement area of the parcel on which the BMP or conveyance is located, consistent with the rights granted to the owner of the BMP or conveyance;
 - (7) Be submitted to the Township for review and approval prior to approval of the SWM site plan;
 - (8) Upon approval by the Township, be signed by the owner of the BMP(s) or conveyance(s) and the landowner and submitted for signature by the Township;
 - (9) Include language legally sufficient to ensure that the easement will run with the land affected by the easement and that the easement agreement is binding upon the parties to the easement agreement, their heirs, administrators, successors in interest and assigns into perpetuity;
 - (10) Contain additional provisions or information as required by the Township; and
 - (11) When fully executed, be recorded by the landowner at the Chester County Office of the Recorder of Deeds against all parcels affected by the terms of the easement agreement within 14 days of the Township's approval of the corresponding O&M plan.
- C. For any BMP or conveyance which is designed to receive runoff from another parcel or parcels and which is owned by the landowner of the parcel upon which the BMP or conveyance is located, in addition to any easement or easement agreement required pursuant to Subsection A or B, an easement agreement shall be prepared and executed between the landowner of the parcel or parcels draining to the BMP or conveyance and the owner of the BMP or conveyance. This easement agreement shall:
- (1) Describe the ownership interests of all parties to the easement agreement, including the ownership of all affected parcels and of the BMP or conveyance;
 - (2) Provide for the grant of a drainage easement from the owner of the BMP or conveyance to the landowner of the parcel(s) draining to the BMP, which shall extend from the shared parcel boundary(ies) to the receiving BMP and shall include the connecting flow path(s) or conveyance;
 - (3) Include a written legal (metes and bounds) description of the easement area, with reference to a recorded plan sheet showing the legal boundaries of the easement area (or an accompanying

- plan sheet/map), signed and sealed by a licensed professional;
- (4) Incorporate by reference or be recorded with the corresponding O&M plan and O&M agreement;
 - (5) State that the purpose of the easement agreement is to ensure the continuous right of the discharging parcel to discharge onto the parcel containing the BMP and into the BMP or conveyance;
 - (6) Restrict the BMP or conveyance owner's use of the easement area of the parcel upon which the BMP or conveyance is located, consistent with the purpose of the easement granted;
 - (7) Establish the duty and responsibility of the landowner of the parcel or parcels draining to the BMP or conveyance to maintain the existing drainages on the discharging parcel or parcels as designed and constructed to discharge to the receiving BMP;
 - (8) Include language legally sufficient to ensure that the easement will run with the land and will bind all parties to the easement agreement, their heirs, administrators, successors in interest and assigns into perpetuity;
 - (9) Be submitted to the Township for review and approval prior to approval of the SWM site plan;
[Amended 12-15-2014 by Ord. No. 424-14]
 - (10) Contain all additional provisions or information as the Township may require upon review; and
[Amended 12-15-2014 by Ord. No. 424-14]
 - (11) Be executed by the parties to the easement agreement and recorded at the Chester County Recorder of Deeds Office against the draining parcel(s) and the parcel upon which the BMP or conveyance is located within 14 days of the Township's approval of the corresponding O&M plan.
[Amended 12-15-2014 by Ord. No. 424-14]
- D. For any area(s) shown on the SWM site plan maps/plan sheets or as-built plan sheets as requiring, or area(s) that is otherwise determined to require, deed restriction(s) for the purpose of protecting and prohibiting disturbance to a BMP or conveyance, such deed restrictions will be incorporated into a written deed, restrictive covenant, or equivalent document. The deed or other document shall:
- (1) Include a clear and understandable description of the purpose, terms and conditions of the restricted use;
 - (2) Include the written legal description (metes and bounds description) of the area to which the restrictions apply that is consistent with the boundary shown on the O&M plan sheets and SWM site plan maps/plan sheets;
 - (3) Make reference to any corresponding O&M plan(s) and O&M agreement(s);
 - (4) Include language legally sufficient to ensure that the terms of the restriction run with the land and shall be binding upon the landowner, its heirs, administrators, successors in interest, and assigns;
 - (5) Be submitted to the Township for review and approval prior to approval of the SWM site plan;
[Amended 12-15-2014 by Ord. No. 424-14]
 - (6) Upon approval by the Township, be signed by the landowner and owner of the BMP or conveyance and submitted to the municipality; and
[Amended 12-15-2014 by Ord. No. 424-14]

424-14]

- (7) Be fully executed and recorded at the Chester County Office of the Recorder of Deeds within 14 days of the Township's approval of the O&M plan. [Amended 12-15-2014 by Ord. No. 424-14]

§ 388-38. Other post-construction responsibilities.

- A. The provisions of § 388-42 of this chapter shall apply to any permanent BMP or conveyance that is constructed as part of an approved SWM site plan or covered by an approved O&M plan.
- B. The person responsible for the operation and maintenance of a BMP or conveyance shall make records of the installation and of all maintenance and repairs and shall retain the records for at least 10 years. These records shall be submitted to the Township. [Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]
- C. The owner of each BMP and conveyance shall keep on file with the Township the name, address, and telephone number of the person responsible for maintenance activities and implementation of the O&M plan. In the event of a change, new information shall be submitted by the BMP or conveyance owner to the Township within 20 working days of the change. [Amended 12-15-2014 by Ord. No. 424-14]
- D. Upon final inspection, the Township shall inform the person responsible for the operation and maintenance whether the submission of periodic (annual or other frequency) inspection and maintenance reports will be required. [Added 10-17-2022 by Ord. No. 452-22]

§ 388-38.1. Inspection and BMP operation and maintenance requirements (landowner or owner's designee). [Added 10-17-2022 by Ord. No. 452-22]

- A. The landowner or the owner's designee shall inspect SWM BMPs, facilities and/or structures installed under this chapter according to the following frequencies, at a minimum, to ensure the BMPs, facilities and/or structures continue to function as intended.
- B. Inspections should be conducted during or immediately following precipitation events or in dry weather conditions if the BMP design parameters include dewatering within a specified period of time. A written inspection report shall be created to document each inspection. The inspection report shall contain the date and time of the inspection, the individual(s) who completed the inspection, the location of the BMP, stormwater management facility, or structure inspection, observations on performance, and recommendations for improving performance, if applicable. Inspection reports for annual and triennial inspections shall be submitted to the Township within 30 days following completion of the inspection.

ARTICLE VIII Prohibitions

§ 388-39. Prohibited discharges.

- A. Any drain or conveyance, whether on the surface or subsurface, that allows any nonstormwater discharge, including sewage, process wastewater, and wash water, to enter the Township's separate storm sewer system, riparian buffers, wetlands, or other waters of the commonwealth is prohibited. **[Amended 12-15-2014 by Ord. No. 424-14; 10-17-2022 by Ord. No. 452-22]**
- B. No person shall allow, or cause to allow, discharges into the Township's separate storm sewer system or the waters of the commonwealth that are not composed entirely of stormwater, except: **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (1) As provided in Subsection C below; and
 - (2) Discharges allowed under a state or federal permit.
- C. The following discharges are authorized unless they are determined by the Township to be significant contributors to pollution to the Township's separate storm sewer system or to the waters of the commonwealth: **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (1) Discharges from firefighting activities;
 - (2) Potable water sources, including waterline and fire hydrant flushings, if such discharges do not contain detectable concentrations of total residual chlorine (TRC); **[Amended 10-17-2022 by Ord. No. 452-22]**
 - (3) Noncontaminated irrigation drainage water; **[Amended 10-17-2022 by Ord. No. 452-22]**
 - (4) Noncontaminated HVAC condensation and water from geothermal systems; **[Amended 10-17-2022 by Ord. No. 452-22]**
 - (5) Springs;
 - (6) Water from crawl space pumps;
 - (7) Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used;
 - (8) Diverted stream flows;
 - (9) Flows from riparian habitats and wetlands;
 - (10) Uncontaminated water from foundations or from footing drains;
 - (11) Lawn watering;
 - (12) (Reserved)¹³¹
 - (13) Uncontaminated groundwater;

¹³¹Editor's Note: Former Subsection C(12), listing dechlorinated swimming pool discharges, was repealed 10-17-2022 by Ord. No. 452-22.

- (14) Residential (i.e., not commercial) vehicle wash water where cleaning agents are not utilized; **[Amended 10-17-2022 by Ord. No. 452-22]**
 - (15) Routine external building washdown (which does not use detergents or other compounds); and
 - (16) Noncontaminated hydrostatic test water discharges, if such discharges do not contain detectable concentrations of TRC. **[Added 10-17-2022 by Ord. No. 452-22]**
- D. In the event that the Township determines that any of the discharges identified in Subsection C significantly contribute pollutants to the Township's separate storm sewer system or to the waters of the commonwealth, or is notified of such significant contribution of pollution by PADEP, the Township will notify the responsible person to cease the discharge. **[Amended 12-15-2014 by Ord. No. 424-14]**
- E. Upon notice provided by the Township under Subsection D, the discharger shall, within a reasonable time period, as determined by the Township consistent with the degree of pollution caused by the discharge, cease the discharge. **[Amended 12-15-2014 by Ord. No. 424-14]**
- F. Nothing in this section shall affect a discharger's responsibilities under state law.

§ 388-40. Prohibited connections.

The following connections are prohibited, except as provided in § 388-39C above:

- A. Any drain or conveyance, whether on the surface or subsurface, that allows any nonstormwater discharge, including sewage, process wastewater, and wash water, to enter a separate storm sewer system and any connections to the separate storm sewer system from indoor drains and sinks. Any drain or conveyance that delivers nonstormwater discharges directly into wetland, riparian buffers, or other waters of the commonwealth is prohibited. **[Amended 10-17-2022 by Ord. No. 452-22]**
- B. Any drain or conveyance connected from a commercial or industrial land use to a separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by the Township. **[Amended 12-15-2014 by Ord. No. 424-14]**

§ 388-41. Roof drains and sump pumps.

- A. Roof drains and sump pump discharges shall not be connected to sanitary sewers.
- B. Roof drain, sump pump, foundation and footing drain discharges:
 - (1) To the maximum extent practicable, shall discharge to infiltration or vegetative BMPs or to vegetated or other areas with adequate capacity;
 - (2) May be connected to streets, storm sewers, or roadside ditches only if determined necessary or acceptable by the Township Engineer; and **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (3) Shall be considered in stormwater management calculations to demonstrate that conveyance and receiving facilities have adequate capacity.

§ 388-42. Alteration of BMPs. [Amended 12-15-2014 by Ord. No. 424-14]

- A. No person shall modify, remove, fill, landscape, alter, or impair the effectiveness of any stormwater BMPs, conveyances, stormwater management facilities, areas or structures, unless the activity is part

of an approved maintenance program, without the written approval of the Township. [Amended 10-17-2022 by Ord. No. 452-22]

- B. No person shall place any structure, fill, landscaping, additional vegetation, yard waste, brush cuttings, or other waste or debris into a BMP or conveyance, or within a stormwater easement, that would limit or alter the functioning of the stormwater BMP or conveyance without the written approval of the Township.

ARTICLE IX
Enforcement and Penalties

§ 388-43. Public nuisance.

- A. Any regulated activity conducted in 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. A separate violation will be found to exist for each section of this chapter found to have been violated.
- D. To the extent that the Township does not enforce any provision of this chapter, such action or inaction shall not constitute a waiver by the Township of its rights of future enforcement hereunder.
[Amended 12-15-2014 by Ord. No. 424-14]

§ 388-44. Right of entry. [Amended 12-15-2014 by Ord. No. 424-14]

- A. Upon presentation of proper credentials, duly authorized officers or agents of the Township may enter at reasonable times upon any property within the Township to inspect the implementation, condition, or operation and maintenance of all erosion and sediment controls and permanent stormwater BMPs, conveyances, or other stormwater management facilities both during and after completion of a regulated activity or for compliance with any requirement of this chapter. **[Amended 10-17-2022 by Ord. No. 452-22]**
- B. Persons working on behalf of the Township shall have the right to temporarily locate on or in any BMP, conveyance or other stormwater management facility in the Township such devices as are necessary to conduct monitoring and/or sampling of the discharges from such BMP or conveyance or other stormwater facilities. **[Amended 10-17-2022 by Ord. No. 452-22]**
- C. Failure of the landowner or representative to grant access to the Township within 24 hours of notification, verbal or written, is a violation of this chapter. Failure to grant immediate access in the case of an emergency is a violation of this chapter.

§ 388-45. Enforcement.

- A. The Township Engineer or other designee is hereby authorized and directed to enforce all of the provisions of this chapter. The Township Board of Supervisors may delegate enforcement duties, including the initial determination of chapter violation and service of notice, if notice is given, to such other officers or agents as the Township shall deem qualified for that purpose. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. It shall be the responsibility of the landowner of the real property on which any regulated activity is proposed to occur, is occurring, or has occurred to comply with the applicable terms and conditions of this chapter.
- C. All Township inspections for compliance with the approved SWM site plan shall be the responsibility of the Township or its designee. **[Amended 12-15-2014 by Ord. No. 424-14]**
- D. During any stage of the work of any regulated activity, if the Township Engineer or other designee determines that the erosion and sediment control measures, permanent BMPs, conveyances or other stormwater facilities are not being installed or maintained in accordance with the approved SWM site plan, the Township may suspend or revoke any existing permits or other approvals until the

deficiencies are corrected or until a revised SWM site plan is submitted and approved, if and as determined to be necessary by the Township Engineer or other designee. [Amended 12-15-2014 by Ord. No. 424-14]

- E. In the event that the Township Engineer or other designee finds that a person has violated a provision of this chapter or fails to conform to the requirements of any permit or approval issued by the Township or any O&M plan or O&M agreement approved by the Township, the Township may order compliance by written notice of the violation to the landowner. [Amended 12-15-2014 by Ord. No. 424-14]
- F. Such notice may, without limitation, require the following remedies:
 - (1) Performance of monitoring, analyses, and reporting;
 - (2) Elimination of prohibited connections or discharges;
 - (3) Cessation of any violating discharges, practices, or operations;
 - (4) Abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - (5) Payment of a fine to cover administrative and remediation costs and/or forfeiture of financial security;
 - (6) Implementation of stormwater controls, BMPs, and conveyances; and
 - (7) Operation, maintenance or repair of BMPs, conveyances or other stormwater facilities.
- G. Such notice shall set forth the nature of the violation(s), citing to specific sections of this chapter which have not been met, and establish a time limit for commencement of correction and completion of correction of the violation(s). The notice shall provide for a right of the landowner's appeal to the Township Board of Supervisors in accordance with § 388-48 of this chapter. Said notice shall further advise that, if applicable, should the violator fail to take the required action within the established deadline, possible sanctions, clearly described, may be imposed, or the work may be done by the Township or designee, and the expense thereof shall be charged to the violator. [Amended 12-15-2014 by Ord. No. 424-14]
- H. Failure to comply within the time specified in such notice shall also subject such person to the penalty provisions of this chapter. All such penalties shall be deemed cumulative and shall not prevent the Township from pursuing any and all other remedies available in law or equity. [Amended 12-15-2014 by Ord. No. 424-14]

§ 388-46. Suspension and revocation of permits and approvals. [Amended 12-15-2014 by Ord. No. 424-14]

- A. Any building, land development, or other permit or approval issued by the Township may be suspended or revoked by the Township for:
 - (1) Noncompliance with or failure to implement any provision of the permit or approved SWM site plan or O&M agreement;
 - (2) A violation of any provision of this chapter or any other law or regulation applicable to the regulated activity;

- (3) The creation of any condition or the commission of any act during the regulated activity that constitutes or creates a hazard or nuisance or endangers the life, health, safety, or property of others; or
 - (4) Failure to correct a violation within the allowed time period per notice given by the municipality.
- B. Prior to revocation or suspension of a permit, unless there is immediate danger or threat of such danger to life, public health or property, at the request of the applicant, the Township's Board of Supervisors shall schedule a hearing on the violation and proposed revocation or suspension, pursuant to public notice. The expense of a hearing shall be the applicant's responsibility.
- C. A suspended permit or approval may be reinstated by the Township when:
- (1) The Township Engineer or other designee has inspected and approved the corrections to the BMPs, conveyances or other stormwater management facilities, or the elimination of the hazard or nuisance; and **[Amended 10-17-2022 by Ord. No. 452-22]**
 - (2) The Township is satisfied that the violation has been corrected.
- D. A permit or approval that has been revoked by the Township cannot be reinstated. The applicant may apply for a new permit or approval in accordance with this chapter.

§ 388-47. Violations and penalties; additional remedies.

- A. Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution, including reasonable attorneys' fees. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense. **[Amended 6-2-2014 by Ord. No. 422-14]**
- B. In addition, the Township may, through its Solicitor, 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 legal or equitable forms of remedy or relief. Such relief may include costs, fees, and charges, including the Township Solicitor's fees (charged at the hourly rate approved by the Township Board of Supervisors) and costs, as may be permitted by law. **[Amended 12-15-2014 by Ord. No. 424-14]**
- C. Notwithstanding any other provision of this chapter, the Township shall have the right at any or all times deemed necessary by the Township Engineer or designee to enter upon any property within the Township to inspect and, upon determination of a violation of this chapter, to correct the violation, with all expenses associated with correcting the violation to be charged to the property owner responsible for the violation. **[Amended 12-15-2014 by Ord. No. 424-14]**

§ 388-48. Appeals. [Amended 12-15-2014 by Ord. No. 424-14]

- A. Any person aggrieved by any action of the Township Engineer or other designee relative to the provisions of this chapter may appeal to the Township Board of Supervisors within 30 days of that

action.

- B. Any person aggrieved by any decision of the Township Board of Supervisors relative to the provisions of this chapter may appeal to the County Court of Common Pleas in the county where the activity has taken place within 30 days of the Township's decision.

Chapter 395

STREETS AND SIDEWALKS

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

GENERAL REFERENCES

Driveways — See Ch. 177.

Towing and impoundment of vehicles — See Ch. 439.

Snow emergencies; snow removal — See Ch. 362.

Standard construction and material specifications for public improvements — See Ch. A490.

Vehicles and traffic — See Ch. 430.

**ARTICLE I
Obstructions**
[Adopted 6-18-1956 by Ord. No. 29]

§ 395-1. Prohibited acts; exceptions.

From and after the effective date hereof, no person, firm, partnership, or corporation or the officers or employees thereof shall erect, construct, place, discard or maintain any obstruction to the safe or convenient use of the streets, roads, footwalks, culverts, drains or bridges in the Township. Nothing in this section, however, shall be construed to prohibit the construction or placement of temporary barricades which may be required for the public safety or of forms incident to and approved as a part of works for which a permit has been issued as hereinafter provided.

§ 395-2. Permit application; fee.¹³²

Any person, firm, partnership or corporation desiring to erect, construct or place any object, including, but not limited to, curbs, sidewalks, culverts, driveways, drains or ditches, within or over the right-of-way of any road or street of the Township, or to dig up the same, shall submit to the Township Engineer, on a form to be provided by the Township, a description of the work or object proposed and shall also, if required by him, submit specifications and a drawing to scale of the same, together with a written request for approval of said proposal and a fee in an amount established by resolution of the Board of Supervisors to defray the costs of administering this article. Nothing in this section shall be construed to require the submission of a request for approval of any work or placement for which approval is required and granted by the Commonwealth of Pennsylvania.

§ 395-3. Guaranties; bonds.

The Board of Supervisors may, in its discretion, as a condition precedent to approval by the Township Engineer, require the applicant or proposer to give to the Township a sum of money as a deposit and guaranty, or a performance bond in a form and with corporate surety approved by the Board, in an amount sufficient to defray the cost of the proposed work, as determined by the Township Engineer, within the time permitted.

§ 395-4. Investigation by Township Engineer; issuance of permit.

Upon receipt of the application and the payment of the fee as required by § 395-2, the Township Engineer shall examine the proposal and inspect the site thereof, and, if he shall find that the same, as proposed, will not result in a violation of this article, he shall issue a written permit for the project to proceed. The Township Engineer may, nevertheless, direct the amendment of any plan or proposal so as to make it conform to the requirements of this article; he may also set the dates and time of day when work may commence or be carried on and when it must be completed, and he shall not issue a permit if he believes, after investigation, that the object cannot be installed or the work cannot be accomplished without resulting in a violation of the provisions of this article, or that either the materials or methods proposed will be unsubstantial, unworkmanlike or otherwise unsuited to the requirements of the proposed object, work or project.

§ 395-5. Permit required; approval of changes required.

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

- A. No person, firm, partnership or corporation or the officers or employees thereof, required to request approval of a proposal or project by the terms of this article, shall commence or perform any work to erect, construct or place any object within or over the right-of-way of any street or road of the Township without first having received the permit of the Township Engineer and having met all the requirements of this article.
- B. No work required to be approved hereunder shall be performed in other than the approved manner or with other than the approved materials or, if so limited, during other than the approved hours without having first received the written permission for such change from the Township Engineer.

§ 395-6. Removal of obstructions; nonconforming or substandard work.

The Board of Supervisors shall have the power to remove, or cause to be removed, from the right-of-way of any street or road of the Township any obstruction to the safe or convenient use of the streets, roads, footwalks, culverts, drains and bridges and also to remove, or cause to be removed, therefrom any nonconforming or substandard work placed or performed after the effective date hereof and to recover the cost of such removal by summary proceedings.

§ 395-7. Violations and penalties. [Amended 10-7-1996 by Ord. No. 293-96]

Any person who violates or permits a violation of this article shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$600, plus all court costs, including reasonable attorneys' fees, incurred by the Township in the enforcement of this article. 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.

ARTICLE II
Street Openings
[Adopted 6-3-1974 by Ord. No. 122]

§ 395-8. Permit required; conditions.¹³³

In accordance with the provisions of 53 P.S. § 67322, as amended, no railroad or street railway shall hereafter be constructed upon any Township road, nor shall any railroad or street railway crossings, nor any gas pipe, water pipe, electric conduits, or other piping, be laid upon or in, nor shall any telephone, telegraph, or electric light or power poles, or any other obstructions be erected upon or in, any portion of a Township road, except under such conditions, restrictions and regulations relating to the installation and maintenance thereof as may be prescribed in permits granted by the Township for such purpose. All street excavations shall comply with Chapter A490 of this Code.

§ 395-9. Application for permit.¹³⁴

The application for a permit shall be on a form prescribed by the Township and submitted to the Township in duplicate. The application shall be accompanied by a fee in accordance with the schedule of fees set forth by the Department of Transportation for highway occupancy permits and restoration charges. In addition, the applicant shall submit two copies of a sketch showing such dimensions as the location of the intended facility, width of the traveled roadway, right-of-way lines and a dimension to the nearest intersecting street.

§ 395-10. Issuance of permit.

A permit shall be issued to the applicant after all the aforementioned requirements have been filed.

§ 395-11. Notice upon completion of work.

Upon completion of the work, the applicant shall give written notice thereof to the Township.

§ 395-12. Inspections; defects.¹³⁵

Upon completion of the work authorized by the permit, the Township shall inspect the work and, when necessary, enforce compliance with the conditions, restrictions and regulations prescribed by the permit. In addition to that inspection, the Board of Supervisors or its agents may reinspect the work not more than two years after its completion, and if any settlement of the road surface or other defect appears in the work contrary to the conditions, restrictions and regulations of the Township, the Board of Supervisors may enforce compliance therewith. Where any settlement or defect in the work occurs, if the applicant shall fail to rectify any such settlement or defect within 60 days after written notice from the Township to do so, the Township may do the work and shall impose upon the applicant the cost thereof, together with an additional 20% of such cost.

§ 395-13. Violations and penalties.¹³⁶

Any person who violates or permits a violation of this article shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine

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

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

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

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

of not more than \$600, plus all court costs, including reasonable attorneys' fees, incurred by the Township in the enforcement of this article. 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.

Chapter 400

SUBDIVISION AND LAND DEVELOPMENT

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 9-4-1973 by Ord. No. 118. Amendments noted where applicable.]

GENERAL REFERENCES

Natural resources protection — See Ch. 274.

Streets and sidewalks — See Ch. 395.

Parks and recreation areas — See Ch. 306.

Trees and shrubs — See Ch. 421.

Sewers and sewage disposal — See Ch. 345.

Zoning — See Ch. 455.

Stormwater management — See Ch. 388.

Standard construction and material specifications for public improvements — See Ch. A490.

**ARTICLE I
General Provisions**

§ 400-1. Title.

This chapter shall be known and may be cited as the "Easttown Township Subdivision and Land Development Ordinance of 1973."

§ 400-2. Purposes.

The purposes of this chapter are to:

- A. Provide for the harmonious, orderly, efficient and integrated growth of the Township;
- B. Assure that land to be developed shall be of such character that it can be used safely without danger to health or peril from fire, flood, erosion, excessive noise and smoke or other menace;
- C. Provide for drainage, water supply, sewage disposal and other appropriate utility services;
- D. Provide for the coordination of existing streets, parks, highways and land use with proposed streets, parks, highways and land use;
- E. Provide for a safe, convenient, and functional system for vehicular traffic on streets of such width, grade, and location as to accommodate prospective traffic as determined by existing and probable future land and building uses;
- F. Provide for arrangement of building lots, blocks and streets so as to afford adequate light, view and air and to facilitate fire protection;
- G. Assure land will be developed with due regard to topography and geologic conditions, so that the natural beauty of the land and vegetation shall be protected and enhanced;
- H. Provide for adequate open spaces for recreation, light and air and for adequate sites for schools, parks, playgrounds, and other community services, which shall be located as to provide access to such facilities for residents of all neighborhoods; and
- I. Secure equitable handling of subdivision and land development plans by providing uniform procedures and standards for observance both of subdividers and of Township officials.

§ 400-3. Scope.

From and after the effective date of this chapter, any subdivision and/or land development shall be in conformity with this chapter and all standards and specifications adopted as a part of such chapter.

§ 400-4. Interpretation.

In the interpretation and application of the provisions of this chapter, the said provisions shall be held to be the minimum requirements for the promotion and protection of the public health, welfare, and safety. Where the provisions of this chapter and all standards and specifications adopted under it impose greater restrictions than those of any other ordinance or regulations, the provisions of this chapter and its standards and specifications shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, ordinance or regulation shall be controlling.

ARTICLE II Terminology

§ 400-5. Word usage. [Amended 9-17-1990 by Ord. No. 235-90]

Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meanings herein indicated. The singular shall include the plural, and the plural shall include the singular. Words used in the present or past tenses shall include the future tense. The words "person," "applicant," "subdivider," and "owner" shall include a corporation, unincorporated association, trust, partnership, or other legal entity, as well as an individual. The words "shall" and "will" are always mandatory.

§ 400-6. Definitions.

- A. Undefined words shall have the meanings ascribed to them by definition in Chapter 455, Zoning, of the Code of the Township of Easttown, as amended. Otherwise, undefined words shall have ascribed to them their commonly accepted meanings as verified by dictionary definition. **[Added 8-17-1998 by Ord. No. 317-98]**
- B. As used in this chapter, except where the context clearly indicates otherwise, the following words and/or phrases have the meanings indicated below:

ALLEY — A right-of-way providing secondary vehicular access to the side or rear of lots.

APPLICANT — A landowner or developer, as hereinafter defined, who has filed an application for development, including his or its heirs, personal representatives, successors and assigns.

APPLICATION FOR DEVELOPMENT — Every application, whether preliminary or final, required to be filed and approved prior to the start of construction or development, including but not limited to an application for a building permit or for the approval of a subdivision plan or plot.

BLOCK — An area bounded by streets.

BUILDING SETBACK LINE — The line within a property defining the minimum required distance between any building to be erected and an adjacent right-of-way.

CARTWAY (ROADWAY) — The portion of a street right-of-way, paved or unpaved, customarily used by vehicles in the regular course of travel over the street.

CLEAR SIGHT TRIANGLE — An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of the street center lines.

COMMON OPEN SPACE — A parcel or parcels of land or an area of water, or a combination of land and water, within a development site and designed and intended for the use or enjoyment of residents of the development, but not including streets, off-street parking areas, and areas set aside for public facilities. Common open space shall be substantially free of structures but may contain such improvements as are in the subdivision or development plan as finally approved and as are appropriate for the recreation of residents.

CRITICAL AREAS — Areas of a subdivision or land development particularly subject to erosion and sedimentation, such as areas not covered with vegetation due to grading, cutting or filling, which contain exposed subsoils or mixtures of soil horizons, or excessively long slopes or steep grades.

CROSSWALK (INTERIOR WALK) — A publicly or privately owned right-of-way for pedestrian use extending from a street into a block or across a block to another street.

CUL-DE-SAC — A single-access minor street intersecting another street at one end and terminating in a vehicular turnaround at the other end. [Amended 9-17-1990 by Ord. No. 235-90¹³⁷]

DESIGN STANDARDS — Minimum standards for the layout by which a subdivision or land development is developed.

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.

DRAINAGE — The flow of water or liquid waste and the method of directing such flow, whether natural or artificial.

DWELLING UNIT — Any structure, or part thereof, designed to be occupied as a single housekeeping unit.

EASEMENT — A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public purpose, and within which the owner of the property shall not erect any permanent structures, but shall have the right to make any other use of the land which is not inconsistent with the rights of the grantee.

ENGINEER — A licensed professional engineer registered by the Commonwealth of Pennsylvania.

EROSION — The movement of soil by the action of wind and/or water.

IMPERVIOUS SURFACE(S) — Areas or materials which are substantially impenetrable by liquids, such as buildings, structures, paved areas, brick, flagstone, concrete pavers, concrete walkways and patios. [Added 9-17-1990 by Ord. No. 235-90]

IMPROVEMENTS — Grading, paving, curbing, streetlights, fire hydrants, water mains, sanitary sewers, storm sewers, detention basins, retention basins, culverts, streets, sidewalks, monuments, open space improvements, recreation facilities, buffer and screen plantings, street and replacement trees, and similar improvements. [Added 9-17-1990 by Ord. No. 235-90]

IMPROVEMENT SPECIFICATIONS — Minimum standards for the construction of the required improvements, such as streets, curbs, sidewalks, water mains, sewers, drainage, public utilities and other items required to render the land suitable for the use proposed.

LAND DEVELOPMENT — [Amended 9-6-1989 by Ord. No. 224-89]

- (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.

LANDOWNER — The legal or beneficial owner or owners of land, including the holder of an option

137. Editor's Note: This ordinance also added the definition "cul-de-sac street," which was subsequently repealed 5-3-1993 by Ord. No. 263-93.

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.**[Amended 9-17-1990 by Ord. No. 235-90]**

LOT — A designated parcel, 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.**[Amended 9-17-1990 by Ord. No. 235-90; 12-15-2014 by Ord. No. 424-14]**

LOT AREA — See "lot area, net" definition under Ch. 455, Zoning.**[Amended 4-6-1987 by Ord. No. 203-87; 12-15-2014 by Ord. No. 424-14]**

MARKER — An iron pipe or steel bar 3/4 inch in diameter and 30 inches in length.**[Added 5-3-1993 by Ord. No. 263-93]**

MONUMENT — A stone or concrete monument with a flat top at least four inches in diameter or square, containing a copper or brass dowel (plug), and at least 30 inches in length (preferred 30 inches to 36 inches). The monument shall be tapered so that the dimensions at the bottom be at least two inches greater than the top, to minimize movement caused by frost.**[Amended 5-3-1993 by Ord. No. 263-93]**

MPC — The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended by Act 170 of 1988, as amended from time to time.¹³⁸**[Added 9-17-1990 by Ord. No. 235-90]**

MULTIPLE-DWELLING BUILDING — A building containing more than one dwelling unit.¹³⁹

PLAN, AS-BUILT — A plan prepared by a surveyor or engineer showing dimensions and locations of all improvements as actually constructed. As-built plans shall be submitted to the Township Engineer within 90 days from substantial completion of the work.**[Added 5-3-1993 by Ord. No. 263-93; amended 12-15-2014 by Ord. No. 424-14]**

PLAN, CONSTRUCTION IMPROVEMENT — A plan prepared by a registered engineer or surveyor showing the construction details of streets, drains, sewers, bridges, culverts and other improvements as required by this chapter.

PLAN, FINAL — A complete and exact subdivision or land development plat, prepared for official recording as required by this chapter, and which includes all information required by the applicable provisions of Article V of this chapter.**[Amended 9-17-1990 by Ord. No. 235-90]**

PLAN, LAND DEVELOPMENT — A sketch, preliminary or final plan, including written and graphic documentation showing the provision for development of a lot when a plan of subdivision would not be applicable.**[Added 5-3-1993 by Ord. No. 263-93; amended 12-15-2014 by Ord. No. 424-14]**

PLAN, MAJOR STREET — The element of the County or Township Comprehensive Plan which shall show the general location, alignment, and dimensions and the identification and classification of existing and proposed streets, highways, and other thoroughfares.

PLANNING COMMISSION — The Easttown Township Planning Commission.

PLAN, OFFICIAL — The Comprehensive Plan (Master Plan) and/or future land use plan and/or ultimate right-of-way plan and/or Official Map and/or other such plans, or portions thereof, as may be adopted, pursuant to ordinance or statute, for the area of the Township in which the land development or subdivision is located.**[Amended 6-2-2014 by Ord. No. 422-14]**

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

139. Editor's Note: The original definition of "plan, conservation," which immediately followed this definition, was repealed 9-17-1990 by Ord. No. 235-90.

PLAN, OFFICIAL SEWAGE FACILITIES — The plan adopted by the Township and approved by the Pennsylvania Department of Environmental Protection which sets forth recommendations for the provision of adequate sewage systems in the Township in accordance with the Pennsylvania Sewage Facilities Act, Act 537, as amended (35 P.S. § 750.1 et seq.).[Added 5-3-1993 by Ord. No. 263-93; amended 6-2-2014 by Ord. No. 422-14]

PLAN, PRELIMINARY — A tentative subdivision or land development plat, prepared in accordance with and containing all of the information required by the applicable provisions of Article V of this chapter.[Amended 9-17-1990 by Ord. No. 235-90]

PLAN, PROFILE — A plan prepared by an engineer, architect or landscape architect, showing the vertical section of the existing grade and proposed grade along the center line of any proposed street and any street appurtenances to be constructed or installed, which must include cross sections of the street and other construction improvements.[Added 5-3-1993 by Ord. No. 263-93]

PLAN, RECORD — The copy of the final plan which contains the original endorsements of the County Planning Commission and the Township and which is intended to be recorded with the County Recorder of Deeds.

PLAN, SKETCH — An informal drawing of a proposed subdivision or land development, not a formal plat or plan submission, submitted for informal discussion as permitted by the applicable sections of Article V of this chapter.[Amended 9-17-1990 by Ord. No. 235-90]

PLAT — The map or plan of a subdivision or land development, whether preliminary or final.

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 not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.[Amended 9-17-1990 by Ord. No. 235-90]

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

RESIDENT PROPERTY OWNER — Any individual maintaining a voting address in the Township, owning real estate in his own or joint names. A tenancy in common or any other means of joint ownership shall be considered as an individual; however, the signature of any single joint owner shall be considered as binding the others.¹⁴⁰

REVERSE FRONTAGE LOT — A lot extending between and having frontage on two generally parallel streets (excluding service streets or alleys), with vehicular access solely from one street.

REVIEW — An examination of the sketch plan, preliminary plan, and/or final plan by the Planning Commission and/or the Easttown Township Board of Supervisors to determine compliance with this chapter and the administrative regulations, design standards and improvement specifications enacted pursuant thereto.

RIGHT-OF-WAY — The total width of any land reserved or dedicated as a street, alley, crosswalk or for other public purposes.

ROADWAY — See "cartway."

SANITARY SEWAGE DISPOSAL, COMMUNITY — A sanitary sewage collection system in which sewage is carried from individual lots by a system of pipes to a treatment and disposal plant,

140. Editor's Note: The original definition of "resubdivision," which immediately followed this definition, was repealed 9-17-1990 by Ord. No. 235-90.

generally serving a neighborhood area.

SANITARY SEWAGE DISPOSAL, ON-SITE — Any structure designed to treat sanitary sewage within the boundaries of an individual lot.

SANITARY SEWAGE DISPOSAL, PUBLIC — A sanitary sewage collection system in which sewage is carried from individual lots by a system of pipes to a publicly owned central treatment and disposal plant.

SEDIMENT — The resulting residue from erosion.

SEPTIC TANK — A covered watertight settling tank in which raw sewage is changed into solid, liquid, and gaseous states to facilitate further treatment and final disposal.

SIGHT DISTANCE — The required length of roadway visible to a driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic. Sight distance measurements shall be made from a point 3.5 feet above the center line of the road surface to a point 0.5 feet above the center line of the road surface.**[Amended 9-17-1990 by Ord. No. 235-90]**

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

STREET, PRIVATE — A strip of land or roadway intended for use as a means of vehicular and pedestrian circulation to provide access to more than one lot. A private street is intended for use of only the lots served rather than the general public.

STREET, PUBLIC — A strip of land, including the entire right-of-way (i.e., not limited to the cartway), intended for general public use as a means of vehicular and pedestrian circulation to provide access to more than one lot. The term "public street" includes any thoroughfare intended for public use. Public streets are further classified according to the functions they perform.

- (1) **MINOR LOCAL STREET** — A street used primarily to provide access to abutting properties.
- (2) **CUL-DE-SAC STREET** — A minor street intersecting another street and terminating in a vehicular turnaround at the other end.
- (3) **HALF (PARTIAL) STREET** — A street, generally parallel and adjacent to a property line, having a lesser right-of-way width than normally required for improvement and use of the street.
- (4) **MARGINAL ACCESS STREET** — A minor street, parallel and adjacent to a major street (but separated from it by a reserve strip), which provides access to abutting properties and control of intersections with the major street.
- (5) **COLLECTOR STREET** — A street which, in addition to providing access to abutting properties, intercepts minor streets to provide a route serving 50 or more dwelling units to give access to community facilities and/or other collector and major streets (streets in industrial commercial subdivisions shall generally be considered collector streets); sometimes called a "feeder street," which connects a local street system and a major street or highway system.
- (6) **MAJOR STREET or THROUGH HIGHWAY (ARTERIAL)** — A street serving a large volume of comparatively high-speed and long-distance traffic, including all facilities classified as main and secondary highways by the Pennsylvania Department of

Transportation; a highway on which preference is given to the through movement of traffic at the expense of cross traffic.

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

SUBDIVIDER — Any individual, copartnership or corporation (or agent authorized thereby) which undertakes the subdivision of land, as defined by this chapter, as the owner, lessee, equitable owner (or agent authorized thereby) of the land being subdivided.

SUBDIVISION — The division or redivision of a lot 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.**[Amended 9-6-1989 by Ord. No. 224-89; 12-15-2014 by Ord. No. 424-14]**

SURVEYOR — A licensed surveyor registered by the Commonwealth of Pennsylvania.

TILE DISPOSAL FIELD — A system of open-jointed or perforated pipes laid in the upper strata of the soil to distribute sewage effluent into the soil for absorption and evaporation.

WATER DISTRIBUTION SYSTEM, COMMUNITY — A system for supplying and distributing water from a common source to dwellings and other buildings, but generally not confined to one neighborhood.

WATER DISTRIBUTION SYSTEM, ON-SITE — A system for supplying and distributing water to a single dwelling or other building from a source located on the same lot.

**ARTICLE III
General Requirements**

§ 400-7. Compliance required.

- A. No subdivision of any lot or parcel of land shall be affected and no land development shall be affected and no street, alley, sanitary sewer, storm sewer, water main or other facilities in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel, or for the common use of occupants of buildings abutting or to abut thereon, except in strict accordance with the provisions of this chapter. [Amended 12-15-2014 by Ord. No. 424-14]
- B. No lot in a subdivision or land development may be sold, no permit to erect, alter or repair any building or structure upon land in a subdivision or land development may be issued and no building or structure may be erected in a subdivision or land development unless and until a subdivision and/or land development plan, as applicable, has been approved and recorded and until the required improvements have been installed or their construction, installation and completion have been guaranteed by deposit with the Township and the Easttown Municipal Authority, as applicable, of financial security in an amount sufficient to cover the costs of any such improvements. [Amended 9-17-1990 by Ord. No. 235-90]

ARTICLE IV
Administration and Enforcement

§ 400-8. Enforcement and preventive remedies. [Amended 9-17-1990 by Ord. No. 235-90]

- A. In the event that any improvements required by any final plan approval have not been installed and completed as provided in this chapter or in accord with the approved final plan, the developer shall be in default, and the Supervisors shall enforce any corporate bond, financial security agreement or other security by any appropriate legal or equitable remedies. Upon the Supervisor's written notice of default to the financial institution posting the financial security or corporate bond guaranteeing installation, construction and completion of any required improvement or maintenance thereof, said financial institution shall forthwith pay over to the Township any amount or amounts demanded by the Township comprising the bond or financial security. If the proceeds of any corporate bond or other financial security are insufficient to pay the costs of installing or making repairs or corrections to all of the improvements covered by the security, the Supervisors may, at their option, install all or part of the improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable actions to recover the monies necessary to complete the remainder of these improvements, including proceeding against the developer on the developer's bond. 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 the recovery of all court costs and legal fees incurred by the Township in any such action or actions.
- B. In addition to other remedies, the Township may institute and maintain appropriate actions at law or in equity to restrain, correct or abate violations of this chapter, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. **[Amended 6-2-2014 by Ord. No. 422-14]**
- C. The Township may refuse to issue any permit or grant any approval necessary to further improve or develop any real property within a subdivision or land development which has been developed or which has resulted from a subdivision or land development of real property in violation of this chapter or any ordinance adopted pursuant to MPC Article V.¹⁴¹ This authority to deny such permit or approval shall apply to any of the following:
 - (1) The owner of record at the time of such violation.
 - (2) The vendee or lessee of the owner of record at the time of such violation, without regard as to whether such vendee or lessee has actual or constructive knowledge of the violation.
 - (3) The current owner of record who acquired the property subsequent to the time of violation, without regard as to whether such current owner had actual or constructive knowledge of the violation.
 - (4) The vendee or lessee of the current owner of record who acquired the property subsequent to the time of the violation, without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
 - (5) The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring lots or parcels of ground in any subdivision or land development shall not exempt the seller or transferor from any such penalties or from the

¹⁴¹Editor's Note: See 53 P.S. § 10501 et seq.

remedies herein provided for. [Added 6-2-2014 by Ord. No. 422-14]

- D. As an additional condition for the issuance of a permit or the granting of an approval to any owner, current owner, vendee or lessee described in the preceding subsection for any such property, the Township shall 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.

§ 400-9. Fees. [Amended 8-18-1980 by Ord. No. 164-80; 9-17-1990 by Ord. No. 235-90]

The Supervisors shall establish by resolution a schedule of application fees and a collection procedure for all fees and costs required to be paid by an applicant or developer when submitting an application for subdivision or land development under the provisions of this chapter.

§ 400-10. Modifications. [Amended 9-17-1990 by Ord. No. 235-90¹⁴²]

The Supervisors may grant a modification of one or more of the requirements of this chapter if the literal enforcement thereof will exact undue hardship upon the developer because of peculiar conditions pertaining to the land which is the subject of the application. The granting of such modification shall be discretionary with the Supervisors, who must be satisfied that the undue hardship results from the circumstances described in MPC Section 910.2(a),¹⁴³ will not be detrimental or contrary to the public interest and welfare, and will not be contrary to the purposes and intent of this chapter. All requests for modification shall be in writing and must accompany and be a part of the application for preliminary subdivision or land development. Such request shall state in full the grounds and facts of unreasonableness or hardship upon which the request is based, cite the provision or provisions of this chapter involved, and describe the minimum requested modification, and the Planning Commission shall recommend action to the Supervisors. The Supervisors shall keep a written record of their action with respect to any such request, but the failure of the Supervisors to act on any such request shall not result in a deemed approval thereof.

142. Editor's Note: This ordinance also repealed original § 403, Exception, which immediately followed this section.

143. Editor's Note: See 53 P.S. § 10910.2(a).

ARTICLE V
Procedural Requirements

§ 400-11. General requirements. [Amended 9-17-1990 by Ord. No. 235-90]

All preliminary and final subdivision or land development plans shall be reviewed and shall be either approved or disapproved by the Supervisors in accordance with the procedure specified in this article. Any incomplete application received for filing shall not be accepted, but shall be returned to the party submitting the application within a reasonable time, together with an explanation of the items of incompleteness. The time within which the Township must review a plan, render a decision and communicate it to any applicant, as specified in this chapter, shall not commence to run until such time as a complete application is submitted and accepted by the Township for filing.

§ 400-12. Optional sketch plan. [Amended 9-17-1990 by Ord. No. 235-90]

- A. A sketch plan for any subdivision or land development may, at the developer's option, be submitted to the Planning Commission for review. A sketch plan is not required to be filed, and submission of a sketch plan does not constitute a formal submission of an application for approval of a subdivision or a land development. The sketch plan procedure is provided to afford the developer the opportunity to submit information for review and informal discussion with the Planning Commission before engaging in the detailed engineering design required for the preparation of a preliminary plan.
- B. The submission of a sketch plan shall not preclude the developer from proceeding with preliminary or final subdivision or land development applications, and the failure of the Planning Commission to act on any sketch plan shall not result in a deemed approval thereof.

§ 400-13. Sketch plan procedure. [Amended 9-17-1990 by Ord. No. 235-90]

- A. For informational purposes, 10 copies of the sketch plan may be submitted to the Township Secretary for distribution to the Planning Commission not later than 14 days prior to a regularly scheduled meeting of the Planning Commission. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. When submitted, the sketch plan shall show the following:
 - (1) A location map which highlights the location of the lot within the Township and depicts adjoining and nearby roads. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (2) Lot boundaries, with dimensions and names of abutting owners. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (3) North arrow, scale and date.
 - (4) Streets on and adjacent to or near the lot, properly named or identified. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (5) Natural features of the site related to existing topography, soils, vegetation and watercourses, including such features as steep slopes, very steep slopes, identified floodplain areas and other critical environmental areas. **[Amended 5-15-2017 by Ord. No. 428-17]**
 - (6) Man-made features of the site, including existing buildings and major structures.
 - (7) Proposed general street and lot layout.

- (8) In the case of a land development plan, the proposed location of all buildings and major structures, parking areas and other construction and/or improvements.
 - (9) Proposed method(s) of water supply and sanitary sewage disposal.
- C. The Planning Commission will endeavor to review submitted sketch plans on the next convenient date available to the Planning Commission at a public meeting, and the applicant will be notified. No time limitation is imposed upon the Planning Commission in its review of a sketch plan, nor shall any formal procedure or time constraints be construed to apply to any such review. The Planning Commission may, but shall not be required, to make written comments to the developer about any sketch plan, or it may report its comments orally at a public meeting.

§ 400-14. Submission of preliminary plan. [Amended 9-17-1990 by Ord. No. 235-90]

- A. A preliminary plan for the subdivision or land development prepared in accordance with the requirements set forth hereinafter in this chapter shall be filed with the Township Secretary during normal business hours. The preliminary plan application shall be submitted to the Township Secretary not later than 21 days prior to a regularly scheduled meeting of the Planning Commission. The Township Secretary or his designee shall review each plan submitted for filing to insure that the application is complete as required by this section. Incomplete submission under Subsection B of this section shall be noted on the face of the application, or in a separate writing, and the application, together with all plans and accompanying documents, including the filing fees, shall be returned within a reasonable time to the applicant. **[Amended 5-3-1993 by Ord. No. 263-93; 12-15-2014 by Ord. No. 424-14]**
- B. Official submission of a preliminary plan shall consist of:
 - (1) Thirteen copies of the application for preliminary plan review. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (2) Thirteen copies of the preliminary plan. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (3) Four completed copies of the "Planning Modules for Land Development."
 - (4) Thirteen copies of any other document, report or other supplementary data and plans required by any provision of this chapter. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (5) The filing and/or escrow fees established by resolution of the Supervisors: **[Amended 6-2-2014 by Ord. No. 422-14]**
 - (a) For the filing of the plan; and
 - (b) To reimburse the Township for charges incurred by it in the payment of its Solicitor, professional consultants and engineer in reviewing and/or issuing reports with respect to the plan submission.
- C. Upon receipt of a completed application in accordance with the preceding paragraph, the Township Secretary shall forward complete copies of the application for review, the plan and all supplementary documents to the Township Engineer, Township Solicitor, Township Planning Commission Solicitor, Township Landscape Architect, Township Transportation Engineer, Township Zoning Officer, the Township Planning Commission, and such parts of the application to other governmental agencies having jurisdiction as required. The number of copies for distribution shall be provided in accordance with § 400-14B or administratively determined by the Township Secretary from time to time. One

complete copy of the application and plans shall be submitted electronically in a PDF format.
[Amended 12-15-2014 by Ord. No. 424-14]

§ 400-15. Review of preliminary plan. [Amended 9-17-1990 by Ord. No. 235-90]

- A. The Township may send adjoining property owners notice of the first public Planning Commission meeting where the plan will be discussed at least two weeks prior to the public meeting and/or post the property. Failure to send the neighbor notification shall not be a procedural or substantive defect.
[Added 6-2-2014 by Ord. No. 422-14]
- B. Review by Township Engineer and other committees or consultants.
 - (1) The Township Engineer's review shall include an examination of the content of the plans to verify that all information required by this chapter is presented in the plan submitted; an investigation of the plan to verify compliance with this and all other applicable Township ordinances; an examination of the engineering feasibility of the scheme of development in compliance with this chapter and all other applicable ordinances of the Township; and such other review as he shall decide is relevant and material. The Township Engineer may confer with the developer or the developer's engineer in his review and analysis of the plan and shall forward his written comments on the plan to the Planning Commission within a reasonable time.
 - (2) The Township Solicitor, Township Planning Commission Solicitor, Township Landscape Architect, Township Transportation Engineer, Township Zoning Officer, and other appropriate Township committees or consultants may be directed to review the preliminary plan and offer comments to the Township Planning Commission and/or Board of Supervisors. [Added 6-2-2014 by Ord. No. 422-14; amended 12-15-2014 by Ord. No. 424-14]
- C. Township Planning Commission. [Amended 6-2-2014 by Ord. No. 422-14]
 - (1) Upon receipt of the Township Engineer's comments, the Planning Commission shall, at a public meeting, examine the plan to determine compliance with this chapter, Chapter 455, Zoning, and all other applicable Township ordinances and regulations. When available, the written comments of the Chester County Planning Commission, any other appropriate Township consultant or committee and any other public agency shall be considered, and the developer, his engineers and consultants may appear at a designated Planning Commission public meeting at which the application is scheduled for discussion to review and discuss the plan. The Planning Commission shall submit a written report to the Supervisors, together with the Township Engineer's review, and shall recommend either approval or disapproval of the plan or approval of the plan subject to recommended conditions.
 - (2) If, during the course of the Planning Commission's review of the preliminary plan and prior to final action by the Commission, the plan is revised by the applicant, such revision shall note the date or dates of any such revisions. No revised plan shall be accepted for filing or review unless it is preceded or accompanied by a timely written extension, signed by the applicant, extending the period within which the Township must render and communicate a decision upon the initially filed plan then pending for an additional 90 days, calculated in accordance with this Subsection C(2). No additional filing fee shall be required for a revised plan following this procedure. Revised plans shall be submitted to the Township Secretary not later than 21 days prior to a regularly scheduled meeting of the Planning Commission and shall be distributed by the Township Secretary in accordance with § 400-14C. [Amended 12-15-2014 by Ord. No. 424-14]

D. Board of Supervisors.

- (1) When a preliminary plan has been officially reviewed and forwarded to the Supervisors by the Planning Commission, such plan shall be placed on its agenda for review and action. The Supervisors may, before acting on a preliminary subdivision or land development plan, hold a public hearing thereon.
- (2) In acting on the preliminary plan, the Supervisors shall review the plan and the written comments of the Township Engineer, the Planning Commission, the Chester County Planning Commission, any other appropriate Township consultant or committee and all other reviewing agencies, together with comments from public hearings, if any, to determine the plan's conformity to this chapter and all other applicable Township ordinances. The Supervisors may specify conditions, changes, modifications or additions to a plan and may make their decision to grant preliminary approval subject to such reasonable conditions as they shall impose. **[Amended 6-2-2014 by Ord. No. 422-14]**
- (3) The Supervisors shall render a decision and communicate it to the applicant not later than 90 days following the date of the regular meeting of the Planning Commission next following the date a complete preliminary subdivision or land development application is filed, provided that, should the next regular meeting of the Planning Commission following the date the application is filed occur more than 30 days following the filing of the application, the said ninety-day period shall be measured from the 30th day following the day a complete application has been filed.
- (4) The decision of the Supervisors shall be in writing and shall be communicated to the applicant personally or mailed to him at the address appearing on his application not later than 15 days following the Supervisors' decision.
- (5) When the application is not approved in terms as filed, the Supervisors' decision shall specify the defects found in the application and plans and shall describe the requirements which have not been met and shall, in each case, cite the provisions of the statute or ordinance relied upon.
- (6) In the event the Supervisors approve a preliminary plan, subject to conditions, the applicant shall notify the Supervisors, in writing, within 30 days of the date of the Supervisors' decision, of his acceptance of all of the conditions. Upon such acceptance, the conditional preliminary plan approval shall become an approved preliminary plan, subject to the accepted conditions, as of the date of the Supervisors' conditional preliminary plan approval. Should the applicant not notify the Board within the said thirty-day period of his acceptance of all of the conditions, the Supervisors' decision shall be deemed to be a rejection, which shall constitute a final rejection by the Supervisors of the preliminary plan as of the date of the Supervisors' initial conditional approval decision. The developer's notification shall be timely if physically received by the Township within the required thirty-day period or if mailed within said thirty-day period when accompanied by a proof of mailing within said period by submission to the Township of present Post Office Form 3817, Certificate of Mailing, which shows the date, the name of the sender, the name of the Township as addressee, and the development's name.
- (7) Approval of the preliminary subdivision or land development plan shall not authorize the sale of lots, the lease of land, buildings or portions of buildings, or the subdivision or development of land.

§ 400-16. Submission of final plan. [Amended 9-17-1990 by Ord. No. 235-90]

- A. Within one year after the Supervisors' approval of the preliminary plan, a final plan for the subdivision or land development prepared in accordance with the requirements of this chapter shall be filed with the Township Secretary. The final plan application shall be submitted to the Township Secretary for distribution to the Supervisors not later than 21 days prior to a regularly scheduled meeting of the supervisors. An extension of time may, at the Supervisors discretion, be granted for cause shown upon request of the developer. The Township Secretary or his designee shall review each plan submitted for filing to insure that the application is complete as required by Subsection B of this section. Incomplete items shall be noted on the face of the application, or in a separate writing, and the application, together with all plans and accompanying documents, including the filing fees, shall be returned within a reasonable time to the applicant. [Amended 12-15-2014 by Ord. No. 424-14]
- B. Official submission of a final plan shall consist of:
- (1) Thirteen copies of the application for final plan review. [Amended 12-15-2014 by Ord. No. 424-14]
 - (2) Thirteen copies of the final plan. [Amended 12-15-2014 by Ord. No. 424-14]
 - (3) Thirteen copies of any other document, report or other supplementary data and plans required by any provision of this chapter. [Amended 12-15-2014 by Ord. No. 424-14]
 - (4) The approval issued by the Pennsylvania Department of Environmental Protection of the supplement of revision of the Township's sewage facilities plan, the water quality management permit issued by that Department, the approval of the Natural Resources Conservation Service and/or the permit issued by the Department of Environmental Protection as appropriate for sedimentation and erosion control, as applicable.
 - (5) The filing and/or escrow fees established by resolution of the Supervisors: [Amended 6-2-2014 by Ord. No. 422-14]
 - (a) For the filing of the plan; and
 - (b) To reimburse the Township for charges incurred by it in the payment of its professional consultants and engineer in reviewing and/or issuing reports with respect to the plan submission.
- C. Upon receipt of a completed application in accordance with the preceding paragraph, the Township Secretary shall forward complete copies of the application for review, the plan and all supplementary documents to the Township Engineer, Township Solicitor, Township Planning Commission Solicitor, Township Landscape Architect, Township Transportation Engineer, Township Zoning Officer, the Township Planning Commission and such parts of the application to the other governmental agencies having jurisdiction as required. The number of copies for distribution shall be provided in accordance with § 400-16B or administratively determined by the Township Secretary from time to time. One complete copy of the application and plans shall be submitted electronically in a PDF format. [Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]
- D. The Planning Commission may recommend and the Supervisors may permit approval of a final plan in sections or phases, each covering a reasonable portion of the entire proposed development as shown on the approved preliminary plan, provided that the first final plan section is submitted for review and approval within the time required by Subsection A of this section, and the last final plan section is submitted for review and approval within three years of the preliminary plan approval. In

any such case, in addition to requiring the posting of financial security to guarantee installation of improvements in the phase or section for which approval is then sought, if the Supervisors in the exercise of their discretion determine the same to be necessary, they may require the posting of financial security and the construction, installation and completion of all or a part of the required public improvements shown on the preliminary plan even though those improvements are to be physically located in a section or phase for which final approval is not then being sought. This paragraph shall be sufficient authority for the Supervisors to make that determination and impose it as a condition of approval of any section or phase of any final plan.

§ 400-17. Review of final plan. [Amended 9-17-1990 by Ord. No. 235-90]

A. Review by Township Engineer and other committees or consultants.

- (1) The Township Engineer's review shall include an examination of the content of the plans to verify that all information required by this chapter is presented in the plan submitted; an investigation of the plan to verify compliance with this and all other applicable Township ordinances and that the plan conforms to the preliminary plan approval; and examination of the engineering feasibility of the final designs for compliance with this and all other applicable Township ordinances; and such other review as he shall determine to be relevant and material. The Township Engineer may confer with the developer or the developer's engineer in his review and analysis of the plan and shall forward his written comments on the plan to the Planning Commission within a reasonable time.
- (2) The Township Solicitor, Township Planning Commission Solicitor, Township Landscape Architect, Township Transportation Engineer, Township Zoning Officer, and other appropriate Township committees or consultants may be directed to review the final plan and offer comments to the Township Planning Commission and/or Board of Supervisors. **[Added 6-2-2014 by Ord. No. 422-14; amended 12-15-2014 by Ord. No. 424-14]**

B. Township Planning Commission.

- (1) Upon receipt of the Township Engineer's comments, the Planning Commission shall, at a public meeting, examine the plan to determine compliance with this chapter, Chapter 455, Zoning, and all other applicable Township ordinances and regulations. When available, the written comments of the Chester County Planning Commission, any other appropriate Township consultant or committee and any other public agency shall be considered, and the developer, his engineers and consultants may appear at a designated Planning Commission public meeting at which the application is scheduled for discussion to review and discuss the plan. The Planning Commission shall submit a written report to the Supervisors, together with the Township Engineer's review, and shall recommend either approval or disapproval of the plan or approval of the plan subject to recommended conditions. **[Amended 6-2-2014 by Ord. No. 422-14]**
- (2) If, during the course of the Planning Commission's review of the final plan and prior to final action by the Commission, the plan is revised by the applicant, such revision shall note the date or dates of any such revisions. No revised plan shall be accepted for filing or review unless it is preceded or accompanied by a timely written extension, signed by the applicant, extending the period within which the Township must render and communicate a decision upon the initially filed plan then pending for an additional 90 days, calculated in accordance with Subsection C(3) of this section. No additional filing fee shall be required for a revised plan following this procedure. Revised plans shall be submitted to the Planning Commission not later than 21 days prior to a regularly scheduled meeting of the Planning Commission and shall be distributed by

the Township Secretary in accordance with § 400-16C. [Amended 12-15-2014 by Ord. No. 424-14]

- (3) Upon the Planning Commission's recommendation of approval of the final plan, the applicant shall submit to the Township an estimate of the costs of completion of the required improvements for the purpose of determining the amount of financial security required to guarantee their installation and completion. The estimate shall be prepared by a professional Pennsylvania-licensed engineer and shall be certified by such engineer to be the fair and reasonable estimate of such costs. The costs estimate so submitted shall be reviewed by the Township Engineer for accuracy and completeness, and he shall, within a reasonable time, recommend to the Township acceptance or rejection of the estimate. The Supervisors may refuse to accept such estimate for good cause shown. In the event the applicant and the Supervisors are unable to agree upon an estimate, the estimate shall be recalculated and recertified by an independent Pennsylvania-licensed professional engineer chosen mutually by the Board and the applicant. The estimate certified by such engineer shall be presumed fair and reasonable and shall be the final estimate. The fee for the services of said engineer shall be paid equally and promptly by the Township and the applicant.

C. Board of Supervisors.

- (1) When a final plan has been officially reviewed and forwarded to the Supervisors by the Planning Commission, such plan shall be placed on its agenda for review and action. The Supervisors may, before acting on a final subdivision or land development plan, hold a public hearing thereon.
- (2) In acting on the final plan, the Supervisors shall review the plan and the written comments of the Township Engineer, the Planning Commission, the Chester County Planning Commission, any other appropriate Township consultant or committee and all other reviewing agencies, together with comments from public hearings, if any, to determine the plan's conformity to this chapter and all other applicable Township ordinances. The Supervisors may specify conditions, changes, modifications or additions to a plan which they deem necessary and may make their decision to grant final plan approval subject to such reasonable conditions as they shall impose. [Amended 6-2-2014 by Ord. No. 422-14]
- (3) The Supervisors shall render a decision and communicate it to the applicant not later than 90 days following the date of the regular meeting of the Planning Commission next following the date a complete final subdivision or land development application is filed, provided that, should the next regular meeting of the Planning Commission following the date the application is filed occur no more than 30 days following the filing of the application, the said ninety-day period shall be measured from the 30th day following the date a complete application has been filed.
- (4) The decision of the Supervisors shall be in writing and shall be communicated to the applicant personally or mailed to him at the address appearing on his application not later than 15 days following the Supervisors' decision.
- (5) When the application is not approved in terms as filed, the Supervisors' decision shall specify the defects found in the application and plans and shall describe the requirements which have not been met and shall, in each instance, cite the provisions of the statute or ordinance relied upon.
- (6) In the event the Supervisors approve a final plan, subject to conditions, the applicant shall notify the Supervisors, in writing, within 30 days of the date of the Supervisors' decision, of his

acceptance of all of the conditions. Upon such acceptance, the conditional final plan approval shall become an approved final plan, subject to the accepted conditions, as of the date of the Supervisors' conditional final plan approval. Should the applicant not notify the Supervisors within the said thirty-day period of his acceptance of all of the conditions, the Supervisors' decision shall be deemed to be a rejection, which shall constitute a final rejection by the Supervisors of the final plan as of the date of the Supervisors' initial conditional approval decision. The developer's notification shall be timely if physically received by the Township within the required thirty-day period or if mailed within said thirty-day period when accompanied by a proof of mailing within said period by submission to the Township of present Post Office Form 3817, Certificate of Mailing, which shows the date, the name of the sender, the name of the Township as addressee, and the development's name.

- (7) Approval of the final plan shall constitute approval of the development in accordance with and only in accordance with the final plan approval, subject, nevertheless, to compliance with Subsection C(6) of this section in the event of a conditional approval; provided, however, approval of the final plan shall not authorize the sale of lots, the lease of land, buildings or portions of buildings, or the subdivision or development of land until such time as the financial security guaranteeing the required improvements is posted with or secured to the Township, the subdivision and the land development agreement, the financial security agreement and developer's bond are fully executed and delivered to the Township, the plan is recorded, and the Township has issued all necessary and proper permits.

D. Release of approved plan and recording. [Amended 5-3-1993 by Ord. No. 263-93]

- (1) When requested by the applicant in order to facilitate financing, the Supervisors shall furnish the applicant with a signed copy of a resolution indicating approval of the final plan contingent upon the applicant obtaining satisfactory financial security. This resolution shall not be issued until the applicant has accepted all conditions, if any, attached by the Supervisors to a conditionally approved final plan. The final plan shall not be signed by the Supervisors nor recorded until all required security agreements have been fully executed by both the applicant and, where required, the financial institution issuing or providing the financial security, and the financial security is delivered or secured to the Township and is in place irrevocably guaranteeing the completion of the required improvements. The resolution of contingent approval shall expire and be deemed to be revoked if the financial security agreements are not executed and the financial security in place within 90 days of the date of the plan's contingent approval, unless a written extension is requested in writing by the applicant and granted by the Supervisors. Such extension shall not be unreasonably withheld and shall be placed in writing at the applicant's request.
- (2) Upon approval and signing of the final plan by the Supervisors and its release to the applicant, the applicant shall, within 90 days thereafter, record the final plan in the office of the Recorder of Deeds of Chester County. The applicant shall provide five approved final plans to the Township Secretary for the required Township signatures for recording. The final plan shall not be accepted for recording by the Recorder unless the plan on its face contains the signatures of a majority of the Supervisors and evidences approval by the County Planning Commission. After a final plan has been approved and recorded, all streets and public grounds on such plan shall be and become part of the Official Map of Easttown Township without public hearing. The applicant shall return two hard copies of the recorded plan and one electronic copy in PDF format to the Township. [Amended 12-15-2014 by Ord. No. 424-14]
- (3) Concurrently with the recording of the final plan, the applicant shall record in the office of the

Recorder of Deeds of Chester County the approved declaration of restrictions, covenants and easements, together with any other recordable easements or other documents required by the final plan approval. In no event shall lots be conveyed from the approved plan prior to such recording.

§ 400-18. Minor subdivisions and land developments. [Added 9-17-1990 by Ord. No. 235-90]

- A. A subdivision or land development application which seeks preliminary or final approval of a residential subdivision or land development of five or fewer lots or units, or a commercial, industrial, office or professional use or combination thereof containing no more than one lot or building, or one building not exceeding 5,000 square feet in gross floor area may, at the election of the applicant, be submitted as a minor subdivision application.
- B. An applicant submitting an application for a minor subdivision may elect to submit such application in the form of a final plan, in which event the procedures required by §§ 400-14 and 400-15 of this chapter shall not be applicable. Nothing herein contained, however, shall preclude the applicant from first submitting a sketch plan and/or a preliminary plan.

§ 400-19. Status of approved preliminary and final plans. [Amended 9-17-1990 by Ord. No. 235-90]

A subdivision or land development plan, whether preliminary or final, which has been granted approval by the Supervisors in accordance with the procedure established in this article shall be subject to the protections, restrictions and requirements imposed by MPC Section 508(4), Subparagraphs (i) through (vii), as said sections may, from time to time, be amended.¹⁴⁴

§ 400-20. Resubdivision procedure.

- A. This chapter shall not be construed to require an applicant to comply with subdivision procedures in each and every case for minor shifts in lot lines because of excessive topography or similar types of development problems. For purposes of review, however, the Board of Supervisors shall be solely responsible for review and approval of resubmissions involving lot line changes. If major street changes or other modifications to easements or rights-of-way are involved, the County Planning Commission shall be notified and its recommendations considered.
- B. In making any alterations, the following shall be observed:
 - (1) No lot shall be created that is smaller than the minimum dimensions required by Chapter 455, Zoning. [Amended 12-15-2014 by Ord. No. 424-14]
 - (2) Easements reserved for drainage shall not be changed.
 - (3) No lot shall be created which does not abut a street.
 - (4) The character of the area shall be maintained.
- C. In every case, the applicant shall prepare a record plan and submit said plan for the endorsements of the Township Engineer and the Board of Supervisors, identifying the previous record plan, and shall record the revised plan.

¹⁴⁴Editor's Note: See 53 P.S. § 10508(4)(i) through (vii).

§ 400-21. Contents of sketch plan.

The scale and sheet size of the sketch plan of a proposed subdivision shall be as required for preliminary plans. The sketch plan shall be legibly drawn approximately to the scale of one inch equals 600 feet and contain at least:

- A. Lot boundaries, accurately labeled. [Amended 12-15-2014 by Ord. No. 424-14]
- B. The name of the Township, county and state in which the development is located.
- C. North point.
- D. Written and graphic scales.
- E. Significant topographical and physical features.
- F. Existing and proposed general street and lot layouts.
- G. Date and name of developer and subdivision.

§ 400-22. Contents of preliminary plan. [Amended 9-17-1990 by Ord. No. 235-90; 5-3-1993 by Ord. No. 263-93]

- A. The preliminary plan of a proposed development shall be clearly and legibly drawn to a scale of one inch equals 50 feet, except that, if the average size of the proposed lots in the subdivision is five acres or larger, the plan may be drawn to a scale of one inch equals 100 feet. The preliminary plan shall contain, where relevant, all of the information required in this subsection upon penalty of being refused for filing.
- B. The original drawing, and all submitted prints thereof, shall be made on sheets a minimum of 24 inches by 36 inches to a maximum of 36 inches by 48 inches. If the preliminary plan requires more than one sheet, a key diagram showing relative location of the several sections shall be drawn on each sheet. [Amended 11-21-2022 by Ord. No. 453-22]
- C. The preliminary plan shall show:
 - (1) Name or any other identifying title of the proposed subdivision and of the Township, county, and state.
 - (2) North point, graphic scale, written scale, and date, including the month, day and year that the original drawing was completed; the month, day and year that the original drawing was revised, for each revision; and a clear and concise description and location of the changes made in each revision.
 - (3) Name of record owner (and developer).
 - (4) The preliminary plan shall be prepared by a registered professional engineer or a registered surveyor in accordance with the Act of May 23, 1945 (P.L. 913, No. 367, 63 P.S. § 148 et seq.), as may be amended, known as the "Engineer, Land Surveyor and Geologist Registration Law," except that this requirement shall not preclude the preparation of a plat in accordance with the Act of January 24, 1966 (1965 P.L. 1527, No. 535, 63 P.S. § 901 et seq.), as may be amended, known as the "Landscape Architects' Registration Law," when it is appropriate to prepare the plat using professional services as set forth in the definition of the "practice of landscape architecture" under Section 2 (63 P.S. § 902) of that Act. The plat shall bear the name, address,

telephone number, seal and signature of such registered professionals responsible for the plan.
[Amended 7-21-1997 by Ord. No. 302-97; 6-2-2014 by Ord. No. 422-14]

- (5) The names of all abutting subdivisions, if any, with the book and page numbers where recorded, and the names of the owners of all adjacent unplotted land, if any, and the book and page number where recorded.
- (6) A key map, for the purpose of locating the property being subdivided, drawn at a scale of one inch equals 600 feet and showing the relation of the property, differentiated by tone or pattern, to adjoining property and to all streets, roads, municipal boundaries, and recorded subdivision plans existing within 1,000 feet of any part of the property. In addition, the approximate distance to the nearest existing street shall be shown, and a title, scale, and North point shall be indicated.
- (7) Total lot boundaries of the property being developed, showing bearings and distances, and a statement of total acreage of the property. [Amended 12-15-2014 by Ord. No. 424-14]
- (8) Contour lines at vertical intervals of two feet shall be U.S. Coast and Geodetic Survey datum.
- (9) Location and elevation of the datum used shall be a known, established bench mark.
- (10) All existing sewer lines, waterlines, fire hydrants, utility transmission lines, culverts, bridges, railroads, watercourses, easements, rights-of-way and other significant man-made or natural features within the proposed subdivision and within 50 feet from the boundaries of the proposed subdivision.
- (11) All existing buildings and other structures.
- (12) All existing streets, including streets of record (recorded but not constructed), on or abutting the lot, including names, right-of-way widths, cartway (pavement) widths and approximate grades. [Amended 12-15-2014 by Ord. No. 424-14]
- (13) The full plan of proposed development, including:
 - (a) Location and width of all streets and rights-of-way, with a statement of any conditions governing their use.
 - (b) Suggested street names and utility easement locations.
 - (c) Building setback lines along each street.
 - (d) Lot lines with approximate dimensions.
 - (e) A statement of the intended use of all nonresidential lots and parcels.
 - (f) Lot numbers and a statement of the total number of lots and parcels.
 - (g) Sanitary and storm sewers (and other drainage facilities), with the location, material, size and invert elevation of all manholes, inlets and culverts; and any proposed connections with existing facilities.
 - (h) Parks, playgrounds and other areas dedicated or reserved for public use, with any conditions governing such use.

D. The preliminary plan shall be accompanied by the following supplementary data:

- (1) Typical street cross-section drawing(s) for all proposed streets. Cross-section drawings may be shown on either the preliminary plan or on profile sheets.
- (2) Profiles and elevations at fifty-foot stations along the center line and along the top of cartway (pavement) edges or along the top of the curb for both sides of each proposed street shown on the preliminary plan. The plan shall also include the profile of the nearest connecting streets for a distance of 100 feet beyond the boundary of the subdivision and/or the land development. Such profiles shall show existing and finished grades at one of the following sets of scales or any combination hereof:
 - (a) One inch equals 10 feet horizontal and one inch equals one foot vertical; or
 - (b) One inch equals 20 feet horizontal and one inch equals two feet vertical; or
 - (c) One inch equals 40 feet horizontal and one inch equals four feet vertical; or
 - (d) One inch equals 50 feet horizontal and one inch equals five feet vertical.
- (3) A plan for the surface drainage of the lot to be developed. [Amended 12-15-2014 by Ord. No. 424-14]
 - (a) The plan shall show:
 - [1] The location, design and cross sections of all proposed drainage facilities and shall be accompanied by stormwater runoff calculations based upon:
 - [a] Full development of the property as proposed by the subdivision or land development plan;
 - [b] Existing development at higher elevation in the drainage area that drains to the lot; and
 - [c] Drainage from the anticipated undeveloped land at higher elevation in the drainage area reasonably anticipated based upon current zoning regulations; and
 - [2] The proposed method of accommodating the anticipated stormwater runoff designed in accordance with § 400-55.
 - (b) The plan shall show the location and type of all proposed erosion and sedimentation control measures, including grassed waterways, diversions, debris basins or ponds, structures for water control, open drains and tile fields, proposed dates when such measures shall be in effect, and shall be accompanied by supporting data demonstrating compliance with the erosion and sedimentation control standards mandated in § 400-56.
- (4) Preliminary designs of any bridges or culverts which may be required. Such designs shall meet all applicable requirements of the Department of Environmental Protection and/or the Pennsylvania Department of Transportation and shall be subject to the approval of the Township Engineer.
- (5) Three completed copies of a subdivision sewage disposal report.
- (6) Conservation plan overlay, as defined in § 400-24, Conservation plan. Such plan shall be subject to the review of the Chester County Soil and Water Conservation District.

- (7) Four copies of the planning module for land development as required by the Pennsylvania Sewage Facilities Act, Act 537.

§ 400-23. Contents of final plan. [Amended 7-21-1986 by Ord. No. 199-86; 9-17-1990 by Ord. No. 235-90; 5-3-1993 by Ord. No. 263-93]

- A. The final plan of a proposed subdivision shall be clearly and legibly drawn to a scale of one inch equals 50 feet, except that, if the average size of the proposed lots in the subdivision is five acres or larger, the plan may be drawn to a scale of one inch equals 100 feet.
- B. The original drawing, and all submitted prints thereof, shall be made on sheets a minimum of 24 inches by 36 inches to a maximum of 36 inches by 48 inches or such other size as the Recorder of Deeds of Chester County may specify. If the final plan requires more than one sheet, a key diagram showing the relative location of the several sections shall be drawn on each sheet. **[Amended 11-21-2022 by Ord. No. 453-22]**
- C. The final plan shall include:
- (1) Name of proposed subdivision (or other identifying title) and of Township, county and state.
 - (2) North point, graphic scale, written scale, and date, including the month, day and year that the original drawing of the final plan was completed; the month, day and year that the original drawing was revised, for each revision; and a clear and concise description and location of the change made in each revision.
 - (3) Name of the record owner (and developer) of the lot, and the source(s) of title to the land being developed, as shown by the records of the County Recorder of Deeds. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (4) The final plan shall be prepared by a registered professional engineer or a registered surveyor in accordance with the Act of May 23, 1945 (P.L. 913, No. 367, 63 P.S. § 148 et seq.), as may be amended, known as the "Engineer, Land Surveyor and Geologist Registration Law," except that this requirement shall not preclude the preparation of a plat in accordance with the Act of January 24, 1966 (1965 P.L. 1527, No. 535, 63 P.S. § 901 et seq.), as may be amended, known as the "Landscape Architects' Registration Law," when it is appropriate to prepare the plat using professional services as set forth in the definition of the "practice of landscape architecture" under Section 2 (63 P.S. § 902) of that Act. The plat shall bear the name, address, telephone number, seal and signature of such registered professionals responsible for the plan. **[Amended 7-21-1997 by Ord. No. 302-97; 6-2-2014 by Ord. No. 422-14]**
 - (5) The names of all abutting subdivisions, if any, with the book and page numbers where recorded, and the names of the owners of all adjacent unplotted land, if any, and the book and page number where recorded.
 - (6) A key map, for the purpose of locating the property being subdivided, drawn at a scale of one inch equals 600 feet and showing the relation of the property, differentiated by tone or pattern, to adjoining property and to all streets, roads, municipal boundaries and recorded subdivision plans existing within 1,000 feet of any part of the property. In addition, the approximate distance to the nearest street shall be shown, and a title, scale, and North point shall be indicated.
 - (7) The total lot boundary lines of the area being developed with accurate distances to hundredths of a foot and bearings to 1/4 of a minute. These boundaries shall be balanced and closed with an

error of closure not to exceed one foot in 10,000 feet; provided, however, that the boundary(s) adjoining additional unplatted land of the subdivider (for example, between separately submitted final plan sections) are not required to be based upon field survey and may be calculated. The project boundaries shall be tied into the Pennsylvania Coordinate System. The monuments shall be indicated, along with a statement of the total area of the property being developed. In addition, the engineer or surveyor shall certify to the accuracy of the survey, the drawn plan, and the placement of the monuments. [Amended 12-15-2014 by Ord. No. 424-14]

- (8) The name (or number) and cartway width and lines of all existing public streets and the name and location of all other roads within the property.
- (9) The following data for the cartway edges (curblines) and right-of-way lines of all recorded (except those which are to be vacated) and/or proposed streets and for the right-of-way lines of all existing streets within the property:
 - (a) The length (in feet and hundredths of a foot) of all straight lines and of the radius and the arc (or chord) of all curved lines (including curved lot lines); and
 - (b) The width (in feet) of the cartway, right-of-way and of the ultimate right-of-way, and (in degrees, minutes and quarters of a minute) of the delta angle of all curved lines, including curved lot lines.
- (10) All straight lot lines and chords and radii of curved lot lines, defined (in feet and hundredths of a foot) by distances, and (in degrees, minutes and quarters of a minute) either by magnetic bearings or by angles of deflection from other lot and street lines.
- (11) Lot numbers and a statement of the total number of lots (and parcels).
- (12) A statement of the intended use of all nonresidential lots. A statement of restrictions of any type which exist or will exist as covenants in the deed(s) for all lots contained wholly or in part in the development and, if covenants are recorded, including the Deed Book and page number.
- (13) The proposed building reserve (setback) line for each lot, or the proposed placement of each building and where applicable, location of on-site sewage and water facilities.
- (14) The location (and elevation, if established) of all existing and proposed street monuments.
- (15) All easements or rights-of-way where provided for or owned by public services or any other party who has secured them and any limitations on such easements or rights-of-way. Rights-of-way shall be shown and accurately identified on the plan, and easements shall either be shown or specifically described on the plan. Utility easements should be located in cooperation with the appropriate public utility companies.
- (16) Location, size and invert elevation of all sanitary and storm sewers and location of all manholes, inlets and culverts (these data may be submitted as a separate plan).
- (17) If the development proposes a new street intersection with a state legislative route, the Pennsylvania Department of Transportation intersection permit number(s) shall be indicated for all such intersections.
- (18) A certificate of ownership, acknowledgement of plan and offer to dedicate shall be lettered on the plan and shall be duly acknowledged and signed by the owner(s) of the property and notarized.

(19) A certificate requesting approval of the plan by the Township Supervisors, Township Engineer and by the Township Planning Commission shall be presented.

(20) A space measuring three inches square shall be left along the lower edge of the sheet, in order that the Recorder of Deeds may acknowledge receipt and recording of the plan when it is presented.

D. The final plan shall be accompanied by the following supplementary data:

(1) Typical street cross-section drawing(s) for all proposed streets. Cross-section drawings may be shown either on the final plan or on the profile sheets.

(2) Profile sheets for all proposed streets within the lot. [Amended 12-15-2014 by Ord. No. 424-14]

(a) Such profiles shall show at least the following information, properly labeled:

[1] Existing (natural) profile along both cartway edges or along the center line of each street.

[2] Profiles and elevations at fifty-foot stations along the center line and along the top of the cartway (pavement) edges or along the top of curb for both sides of each proposed street shown on the preliminary plan.

[3] The length of all vertical curves.

[4] Existing and proposed sanitary sewer mains and manholes.

[5] Existing and proposed storm sewer facilities and drainage improvements.

(b) The profile sheets shall be legibly drawn at one of the following sets of scales or any combination thereof:

[1] One inch equals 10 feet horizontal and one inch equals one foot vertical; or

[2] One inch equals 20 feet horizontal and one inch equals two feet vertical; or

[3] One inch equals 40 feet horizontal and one inch equals four feet vertical; or

[4] One inch equals 50 feet horizontal and one inch equals five feet vertical.

(3) All offers of dedication, and covenants governing the reservation and maintenance of undedicated open space, shall bear the certificate of approval of the Township Solicitor as to their legal sufficiency.

(4) Such private deed restrictions, including building setback lines, as may be imposed upon the property as a condition to sale, together with a statement of any restrictions previously imposed which may effect the title to the land being developed.

(5) Conservation plan.

§ 400-24. Conservation plan. [Amended 9-17-1990 by Ord. No. 235-90]

A. The conservation plan which is required to accompany the preliminary and final subdivision or land development plan shall be clearly and legibly drawn to the same scale as that of the preliminary and

final plan and shall be in the form of a transparent overlay to those plans.

- B. The conservation plan shall show and shall designate with explanatory notes the total lot boundaries of the property being subdivided or developed and the following site features both within the proposed development and at least 100 feet beyond its boundaries: **[Amended 12-15-2014 by Ord. No. 424-14]**

- (1) Contour lines at vertical intervals of not more than two feet.
- (2) Location and elevation to which contour elevations refer. Where reasonably practicable, the datum used shall be a known, established bench mark.
- (3) Areas with existing slope exceeding 20%, as measured between two-foot contour lines, wherever contour lines are separated by a horizontal distance of 10 feet or less.
- (4) All existing watercourses and lakes, ponds, impoundments, or other bodies of water, and all areas within the identified floodplain area, as defined in Chapter 220, Floodplains. **[Amended 5-15-2017 by Ord. No. 428-17]**
- (5) Generalized soil types, as mapped in the Web Soil Survey, latest edition, as prepared by the United States Department of Agriculture, Natural Resources Conservation Service, noting areas of poor drainage, alluvial soils, and soils with seasonal or perennial high-water table. **[Amended 1-15-2018 by Ord. No. 433-18]**
- (6) Location and results of all soil percolation tests.
- (7) Delineation of wetlands as defined by the U.S. Army Corps of Engineers, including those inventoried by the U.S. Fish and Wild Life Service for the National Wetlands Inventory, and those determined to fall under the jurisdiction of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection.
- (8) All existing vegetation, denoted as to type or character, such as woodland, orchard, pasture, crop land, meadow, wetland vegetation, lawn or garden.
- (9) All existing tree masses, tree lines and hedgerows, trees over four-inch caliper as measured 36 inches from ground level which are not part of a tree mass, denoted as to type and size, and individual trees over four-inch caliper measured at said height located within a tree mass, denoted as to type and size where clearing or removal of trees is proposed.
- (10) Existing structures and other improvements.
- (11) Historic resources or potential historic resources, including structures, ruins, sites, traces, routes or trails, specifically including all such resources or potential resources listed in the National Register of Historic Places, the Pennsylvania Register of Historic Places, the Chester County Historic Sites Survey, the Historic American Building Survey, and any such resources identified in the Township's Comprehensive Plan, denoting locational relationship to the boundaries of any historic district listed in the National Register of Historic Places or designated by ordinance pursuant to Act 167-1961, as amended.
- (12) Existing paths and trails devoted to pedestrian, equestrian or bicycle use.
- (13) Location and type of any existing erosion and sedimentation control measures, whether natural or man-made, including grassed waterways, diversions, debris basins and tile fields and, where applicable, supporting data assuring compliance with the erosion and sedimentation control

standards established in § 400-56.

- (14) Any other significant existing natural or man-made features.
- (15) Delineation of those portions of the lot visible from adjacent public roads.
- (16) The extent to which any of the site features identified pursuant to this section are proposed to be cleared, removed or otherwise altered to accommodate proposed development shall be shown on a transparent overlay plan at the same scale identified in this section, together with a narrative explaining the necessity for such action, which, when required, shall be included as part of the environmental impact assessment (EIA). All proposed alterations of the natural grade, whether by cut or by fill, exceeding two feet, together with the reasons and necessity for such alteration, shall be supplied in narrative form as part of the EIA. Notations shall be included on the face of the plan demonstrating feasibility of compliance with provisions of § 400-69.

§ 400-25. Environmental impact assessment. [Amended 9-17-1990 by Ord. No. 235-90]

A subdivision or land development application which seeks preliminary or final approval of a residential subdivision or land development of more than five lots or units, or a commercial, industrial, office or professional use or combination thereof containing more than one lot or building, or one building in excess of 5,000 square feet in gross floor area, or any use which requires conditional use approval shall be accompanied by an environmental impact assessment (EIA) report in narrative form prepared in accordance with the provisions of this section and containing the following:

A. Analysis of site features.

- (1) The general character of the site features required by § 400-24B are to be identified on the conservation plan. The narrative shall describe existing characteristics of the property with respect to geography, topography, groundwater and surface water hydrology, soils, vegetation, existing improvements and uses and other site feature categories designated in that subsection.
- (2) A visual analysis, including: **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (a) The scope and character of views into the lot from outside the lot from public roads and from private properties in relationship to identified site features;
 - (b) The scope and character of views within the lot in relationship to identified site features; and
 - (c) The scope and character of external views from within the lot.
- (3) A description accompanied by exhibits, diagrams or other necessary documentation, which depict and describe those remedial, protective and mitigative measures proposed by the applicant to control all adverse impacts upon site features which will occur as a result of the proposed subdivision or land development. An "adverse impact" is any development activity which will alter the site features described in § 400-24B. These measures shall include those measures mandated by current federal, state, county and Township statutes, ordinances and regulations, including, but not limited to, sedimentation and erosion control, stormwater runoff control, water quality control, air quality control, wetlands and similar requirements related to remediation of adverse impacts of a specific project, such as regrading, revegetation, screening and the creation of landscaped areas, wetlands, fencing, emission control, traffic control, noise control and similar requirements.

- (4) The names, addresses, telephone numbers and qualifications of persons directly responsible for preparing the EIA.
- B. Identification of community services and facilities. Community facilities need assessment, accompanied by supplemental plans or maps necessary to identify the community facilities required to serve the proposed development. The assessment shall describe the extent to which existing community facilities and services, such as schools, libraries, hospitals and other health care facilities, fire protection, police protection, ambulance and rescue service are alleged to be sufficient to accommodate the demands of future occupants of the proposed subdivision or land development and the need for additional expanded community facilities and services.
- C. Natural resources impact. A study prepared by a registered professional engineer indicating the likely impact of the proposed development on the existing sewer, water, groundwater, solid waste and drainage systems serving the Township. Said impact analysis shall identify existing capacity of facilities proposed to serve the subdivision or land development, the prospects of those facilities being able to provide service to it, and any improvements that are required as a direct result of the proposed subdivision or land development. The study shall identify the ability of sewer, water, solid waste and drainage systems to continue to provide efficient and economic service to existing users, considering the added service requirements of the proposed subdivision or land development.
- D. Recreation impact. A study prepared by a qualified professional which shall analyze the demand for recreation facilities which the proposed subdivision or land development will generate and determine whether adequate facilities exist or are planned or proposed. As a minimum, the study shall include the following:
 - (1) A description of the recreational facilities to be provided by the developer.
 - (2) A description of the entity proposed by the developer to be responsible for maintenance of the recreational facilities to be provided by the developer.
 - (3) A description of existing Township recreational facilities and the impact of the proposed development on these facilities. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (4) A description of accessibility of developer-proposed recreational facilities to general Township residents.
 - (5) The developer shall be required, as a condition of final plan approval, to provide for the construction of recreational facilities suitable for the uses intended in any subdivision or land development for residential use in accordance with the formula contained in § 400-58C.
- E. Traffic impact study.
 - (1) Prepared by a qualified professional traffic engineer, the traffic study shall include, at a minimum:
 - (a) Anticipated traffic volumes and patterns to be generated by the proposed development;
 - (b) An analysis of the impact of the development as a generator of both local and nonlocal traffic;
 - (c) A circulation inventory of the existing public street network which can be reasonably anticipated to service the proposed development;
 - (d) The existing roadway conditions of those roads and streets contiguous to the development

- or which may be reasonably anticipated to service the access needs of the development;
- (e) Existing traffic volumes as determined by both weekday morning and evening peak period traffic counts at those intersections in the immediate vicinity of the development which are reasonably anticipated to serve as access intersections to the development;
 - (f) A volume/capacity analysis to determine the levels of service at the foregoing intersections;
 - (g) Projection of site-generated traffic demand, which shall be combined with existing traffic volumes increased by 5% per annum projected over a period of five years, to determine future traffic projections; and
 - (h) The projected costs of traffic improvements necessitated by the development required to correct any deficiencies in the foregoing road and street systems.
- (2) The study shall be reviewed by the Planning Commission, the Township Engineer and, at the Township's discretion, a traffic consultant selected by the Township, who, collectively, shall determine the accuracy of the study's information and projections. All deficient service capacity caused or contributed to by the proposed development occurring because of existing inadequacies in the public streets, intersections and other facilities to and/or servicing the proposed development shall be identified, and the Supervisors may, as a condition of approval of any plan, require the applicant to provide, construct, and install such off-site improvements thereto as are reasonably caused by and/or related to the proposed development. In lieu thereof, the developer may, with the Planning Commission's approval, but shall not be required to, make a contribution to the Easttown Township Highway and Traffic Improvement Fund in such amount as determined in accordance with the procedure for establishing public improvements costs otherwise provided for in this chapter.
- F. Lot averaging and clustering. Where clustering is proposed in accordance with the provisions of § 455-1 of Chapter 455, Zoning, or lot averaging is proposed in accordance with the provisions of Article VI of Chapter 455, Zoning, or where any other alternative to development is permitted as of right in the applicable zoning district(s), a comparative analysis shall be made of the impacts identified in Subsection E of this section with those that might reasonably be expected should development according to standard base zoning requirements be applied to the same lot for which alternative design treatment is proposed. [Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]

§ 400-26. Improvement guarantees. [Amended 9-17-1990 by Ord. No. 235-90]

- A. No final plan shall be finally approved unless all improvements required by this chapter have been installed, constructed, completed and approved by the Township or, as a condition of final plan approval, the developer has provided for the deposit with the Township of financial security and Township inspection fees in an amount sufficient to completely pay for the costs of any such improvements and necessary Township inspections and has executed the agreements specified in Subsection A(1) of this section. Where public sanitary sewer lines are to be installed in any subdivision or land development subject to the jurisdiction of the Easttown Municipal Authority, the financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of that Authority and need not be included within the financial security posted with the Township. [Amended 5-3-1993 by Ord. No. 263-93]
- (1) The developer shall execute the Township's standard form subdivision and land development

agreement, financial security agreement, which shall also be executed by the financial institution issuing the financial security, and the developer's performance bond. The terms and conditions of these agreements shall not be amended or modified except as approved by the Township Solicitor and the Supervisors.

- (2) The developer shall also post with the Township at the time the financial security is posted such amount as established by resolution of the Supervisors to reimburse the Township for charges incurred by it in the payment of its Solicitor, professional consultants and Engineer in reviewing and/or issuing reports with respect to the plan submission or the making of inspections and issuing of reports about the required improvements. Such fees shall include the fees of those acting under the direct supervision and control of the Township Engineer for such purpose, including consultants and the Municipal Authority's engineer. The fees so established shall be reasonable and shall be the ordinary and customary fees charged by the Township when such fees are not reimbursed or otherwise imposed on developers. The Township Engineer or consultant shall periodically bill the Township for all inspection fees. In the event the developer disputes the amount of any such fee, the procedure established in MPC Section 510(g)(1) through (5)¹⁴⁵ shall be mandatory for the resolution of any such dispute.
- B. The types of financial security acceptable to the Township include federal- or commonwealth-chartered lending institution irrevocable letters of credit, a restrictive account or an escrow account in such lending institutions, or such other security as the Supervisors, in their sole discretion, deem acceptable financial security for the purposes of this section. Such financial security shall be posted with a bonding company or federal- or commonwealth-chartered lending institution chosen by the developer, provided that said institution is authorized to conduct business within the Commonwealth of Pennsylvania. The developer shall also execute and post an unsecured bond which secures to the public the completion of all improvements required by the final plan on or before the date fixed by the Supervisors in approving the plan or as specified in the subdivision and land development agreement.
- C. The amount of financial security to be posted for completion of the required improvements shall be equal to 110% of the costs of completion estimated as of 90 days following the date scheduled for completion by the developer. Annually, the Township may adjust the amount of the financial security by comparing the actual costs of the improvements which have been completed and the estimated costs for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the Township may require the developer to post additional security in conformity with this section in order to assure that the financial security equals 110% at all times.
- D. If the developer requires more than one year from the date of posting of financial security to complete the required improvements, the amount of financial security determined pursuant to § 400-17B(3) shall 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 costs of completing the required improvements as reestablished on or about the expiration of the preceding one-year period.
- E. When definite stages of work of installation of the required improvements have been completed, the developer may make written request to the Supervisors to release or authorize release, from time to time, of such portions of the financial security as are necessary for payment to the contractor or contractors performing such stages of work. The Supervisors shall have 45 days from receipt of such

¹⁴⁵Editor's Note: See now 53 P.S. § 10510(g)(1) through (7).

request within which to permit the Township Engineer to certify, in writing, to the Supervisors that such portion of the work for which release is sought has been completed in accordance with this chapter and the approved final plan. Upon such certification, the Supervisors shall authorize release or reduction by the financial institution issuing the financial security of an amount as estimated by the Township Engineer which fairly represents the value of the completed improvements. If the Supervisors fail to act within 45 days, the Supervisors shall be deemed to have approved the release or reduction as requested; provided, however, prior to final release at the time of completion and certification by the Township Engineer, the Board shall require retention of 10% of the estimated costs of the improvements.

§ 400-27. Release from improvement guarantees. [Added 9-17-1990 by Ord. No. 235-90]

- A. When the developer has completed all of the required improvements, the developer shall give written notice to the Supervisors, by certified or registered mail, of such completion and shall send a copy of such notice to the Township Engineer. The Supervisors shall, within 10 days after receipt of such notice, direct and authorize the Township Engineer to inspect all of the public improvements. The Township Engineer shall file a written inspection report with the Supervisors. The report shall be made and mailed within 30 days after receipt by the Township Engineer of the Board's written authorization to him to inspect the improvements. The Township Engineer's report shall be reasonably detailed and shall indicate approval or rejection of the improvements, either in whole or in part. If any of the improvements, or any portion thereof, are not approved or are rejected by him, his report shall contain a statement of the reasons for such nonapproval or rejection. Within 15 days of the Supervisors' receipt of the Township Engineer's report, the Supervisors shall give written notice to the developer by certified or registered mail of their action with relation thereto. Failure of the Supervisors or the Township Engineer to act within these time limitations shall constitute a deemed approval that the improvements are acceptable and a release of the financial security.
- B. If any portion of the improvements shall not be approved or shall be rejected by the Supervisors, the developer shall proceed to complete those improvements, and, upon completion, the same procedure of notification, as outlined in Subsection A of this section, shall be followed.
- C. When the Supervisors accept dedication of all or some of the required improvements following their completion and approval by the Township, the Supervisors shall require the posting of financial security to secure structural integrity and functioning of those improvements in accordance with the design and specifications as depicted on the approved final plan and in the supplementary data and documents approved as a part thereof, for a term of 18 months from the date of the Supervisors' acceptance of dedication. This financial security shall be of the same type as otherwise required in § 400-26 for the installation, construction and completion of such improvements, and the amount of the required financial security shall equal 15% of the actual costs of installation of said improvements as finally calculated.
- D. The Supervisors may require dedication to the Township of one or more elements of the required improvements, but shall not be required to accept dedication, except as the Supervisors determine necessary for the promotion and protection of the public welfare. Prior to acceptance of any such dedication, the Board may require that the developer supply a title insurance certificate from a reputable title insurance company which proves that the proposed elements to be dedicated are free and clear of all liens and encumbrances of any kind. Such dedication shall be made and accepted only by deeds and agreements approved as to form and content by the Township Solicitor, subject to the Supervisors' approval. Each proposed deed of dedication shall be accompanied by all required public filing fees, and no dedication shall be accepted until approved by resolution of the Supervisors duly adopted at a public meeting. The as-built plan required by § 400-29 shall be filed of record with the

Township Secretary as a condition precedent to any offer of dedication.

- E. Whenever a developer proposes to establish or continue a street which is not offered for dedication or not required to be offered for dedication, prior to release of the final plan for recording, he shall enter into an agreement in form suitable for recording with the Township, approved by the Township Solicitor, binding himself, his heirs, successors, administrators and assigns, which shall establish the conditions under which the street may later be offered for dedication. This agreement shall contain and require the following and shall be recorded in the office of the Recorder of Deeds, together with the final plan:
- (1) An irrevocable offer to dedicate the street shall be made only for the street as a whole.
 - (2) The street shall comply with all minimum specifications required by this chapter and shall require that the owners of the lots along the street agree to include with the offer of dedication sufficient financial security, as estimated by the Township Engineer, to restore the street to Township specifications and thereafter maintain the street for a period of 18 months from the date of such dedication.
 - (3) The method of assessing such repair and maintenance costs among the various owners along the street shall be stipulated in the offer of dedication.
 - (4) A copy of the developer's agreement offering future dedication shall be and become a part of each deed with respect to each lot sold by the developer along the proposed street to be dedicated, binding the owners of said lots to the terms of the agreement. The existence of this agreement shall appear on the face of the final plan, as approved and recorded.

§ 400-28. Required documents for ownership of common facilities. [Added 9-17-1990 by Ord. No. 235-90]

- A. The final plan shall be accompanied by the declaration of covenants, easements and restrictions to which the subdivision and land development will be subject, together with the bylaws of any legal entity or organization by which such entity or organization will be governed.
- B. The following methods may be used to preserve, own, and maintain common open space, community recreation facilities, community sewage facilities, central water supply facilities, stormwater management facilities, common parking areas and driveways, private streets, or any other common or community facilities (hereinafter referred to as "common facilities"): condominium, homeowners' association, dedication in fee simple, easements, and transfer to a private conservation organization. The following specific requirements are associated with each of the various methods:
- (1) Homeowners' association. The common facilities may be held in common ownership by a homeowners' association. If a homeowners' association is formed, it shall be governed according to the following regulations:
 - (a) The developer shall provide to the Township a description of the association, including its bylaws and documents governing maintenance requirements and use restrictions for common facilities.
 - (b) The association shall be legally established or incorporated by the applicant and shall be operating with adequate financial subsidization by the developer before the sale of any buildings or dwelling units in the development.
 - (c) Membership in the association shall be mandatory for all purchasers and subsequent

owners of lots, buildings or dwelling units.

- (d) The association shall be responsible to continuously maintain and insure the common facilities.
 - (e) The association shall be responsible for all real estate taxes on common facilities.
 - (f) The members of the association shall share equitably the costs of maintaining, replacing when necessary, insuring and operating common facilities.
 - (g) In the event of any proposed transfer of common facilities by the homeowners' association or the assumption of their maintenance by the Township as hereinafter provided, notice of such action shall be given to all members of the homeowners' association by said association.
 - (h) The association shall have or hire adequate staff, as necessary, to administer, maintain, and operate common facilities.
- (2) Condominium. Common facilities may be controlled through the use of condominium agreements. Such agreements shall be in conformance with the Uniform Condominium Act¹⁴⁶ in effect at the time of construction or transfer. All of the above-described land and facilities shall be held as common elements.
- (3) Transfer of easements to a private conservation organization. With permission of the Township, any owner may transfer easements on open space lands to a private, nonprofit organization, among whose purposes is to conserve open space land and/or natural resources, provided that:
- (a) The organization is acceptable to the Township and is a bona fide conservation organization with perpetual existence;
 - (b) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions; and
 - (c) A maintenance arrangement, acceptable to the Township, is established between the owner and the grantee.
- (4) Fee simple dedication. The Township or other public agency acceptable to the Township may, but shall not be required to, accept dedication of any portion or portions of the common facilities, provided:
- (a) Any common facilities so dedicated are accessible to the residents of the Township;
 - (b) There is no cost to the Township of acquisition; and
 - (c) The Township agrees to and has adequate access to maintain such common facilities.
- (5) Dedication of easements. The Township may, but shall not be required to, accept easements for public use of any portion or portions of the common facilities, title of which is to remain in ownership by condominium or homeowners' association, provided:
- (a) Any common facilities so dedicated are accessible to the residents of the Township;

¹⁴⁶Editor's Note: See 68 Pa.C.S.A. § 3101 et seq.

- (b) There is no cost to the Township of easement acquisition; and
- (c) A satisfactory maintenance agreement is reached between the owner and the Township.

C. Maintenance and operation of common facilities.

- (1) Each preliminary plan application shall be accompanied by a narrative description of the maintenance and operation of common facilities which shall define ownership; establish necessary regular and periodic operation and maintenance responsibilities; estimate staffing needs, insurance requirements and associated costs; and define the means for funding such facilities on an ongoing basis. In form and content approved by the Supervisors, upon approval of and as a condition of the final plan, the Supervisors may require the establishment of an escrow fund by the applicant, under the control of the Supervisors and the homeowners' association or other entity formed to own and maintain common facilities, to guarantee sufficient capital is available at all times for their maintenance, upkeep and replacement. The amount of such fund shall be determined by the Supervisors upon recommendations of the Township Engineer based upon the size and extent of such common facilities and may be funded as lots or buildings are sold by the developer. Dispute about such amount shall be resolved by the procedure established in § 400-17B(3). Funds so established shall be segregated in a separate account in the name of the Township and such entity, and no funds shall be released from such account without the written authorization of the Chairman of the Supervisors, who shall be the account's authorized signatory.
- (2) In the event that the organization established to own and maintain the common facilities or any successor organization shall at any time after their establishment fail to maintain, repair, or replace all or any portion of them, the Township may serve written notice upon such organization describing the deficiencies with respect to the common facilities, and said notice shall include a demand that such deficiencies of maintenance, repair or replacement be cured within 30 days thereof and shall state the date and place of hearing thereon which shall be held within 14 days of the notice. At such hearing, the Township may modify the terms of the original notice as to the deficiencies and may give an extension of time within which said deficiencies shall be corrected. If the deficiencies set forth in the original notice or in the modifications thereof shall not be corrected within the said 30 days or any extension thereof, the Township, in order to preserve the taxable values of the premises and to prevent the common facilities from becoming a public nuisance, may enter upon the premises on which the common facilities are located and maintain them for a period of one year. Said entry and maintenance shall not constitute a taking of said common facilities. Before the expiration of said year, the Township shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common facilities, call a public hearing upon notice to said organization, or to the residents and owners of the dwelling units attendant thereto, at which hearing such organization or the residents and owners of the aforesaid dwelling units shall 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 common facilities in a reasonable condition, the Township shall cease to maintain said common facilities. If they are not ready and able to maintain the common facilities in a reasonable condition, the Township may, in its discretion, continue to maintain them during the next succeeding year and, subject to a similar hearing and determination, in the year thereafter. The decision of the Township in any such case shall constitute a final administrative decision subject to judicial review.
- (3) The cost of such maintenance and enforcement proceedings by the Township shall be assessed

ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common facilities and shall become a lien on said properties. The Township, at the time of entering upon such common facilities for the purpose of maintenance, shall file a lien in the office of the Prothonotary of Chester County upon those properties to recover all such costs and expenses.

§ 400-29. As-built plan. [Added 9-17-1990 by Ord. No. 235-90]

- A. Upon completion of a subdivision or land development, contemporaneously with the filing by the developer of the maintenance agreement and maintenance escrow, but in no event later than 90 days from substantial completion of the development, the developer shall file of record with the Township the as-built plan and profile sheets, which shall be drawn at the same scale as the final plan. Refer to Appendix 2 of the Public Improvements Specifications, which are contained in Chapter A490 of the Easttown Township Code, for as-built plan requirements. **[Amended 6-2-2014 by Ord. No. 422-14]**
- B. Such plan shall be certified by the engineer who prepared the final plan or the project engineer to be in accordance with the actual details of construction.

ARTICLE VI
Development and Design Standards

§ 400-30. Applicability. [Amended 9-17-1990 by Ord. No. 235-90]

The following standards and requirements shall be complied with in all subdivisions and land developments. No modification or deviation of the requirements stated in this article shall be permitted except as provided in § 400-10 of this chapter, or as otherwise provided by other applicable sections of this chapter.

§ 400-31. Land and use requirements.

- A. All proposed subdivisions and land development shall comply fully with the existing zoning regulations applicable to the land, and no parcel of land shall be created, either by inclusion or exclusion from a proposed subdivision, which cannot be properly utilized for a permitted use under the existing zoning regulations.
- B. Land subject to hazards to life, health, or property, such as may arise from fire, floods, disease, or other cause, shall not be subdivided for building purposes or developed unless the hazards have been eliminated or unless the plans show adequate safeguard against them.
- C. No on-site sewage disposal facility shall be permitted to be installed unless applicable Township, state and/or Chester County standards are fully satisfied.
- D. No basement, cellar, or slab foundation shall be constructed in an identified floodplain area.
[Amended 5-15-2017 by Ord. No. 428-17]
- E. Proposed developments shall be coordinated with existing nearby neighborhoods with particular reference to street layout and the provision of sanitary sewage and water facilities so that the community as a whole may develop harmoniously.

§ 400-32. General standards for public streets.

- A. The location and width of all public streets shall conform to the official plans or to such parts thereof as may have been adopted by the Township and/or the county.
- B. The proposed public street system shall extend existing or recorded streets at the same or greater width, but in no case at less than the required minimum width.
- C. Where, in the opinion of the Township Planning Commission, it is desirable to provide for public street access to adjoining property, public streets shall be extended by dedication to the boundary of such property.
- D. New minor public streets shall be so designed as to discourage through traffic, but the developer shall give adequate consideration to provision for the extension and continuation of major and collector streets into and from adjoining properties.
- E. Where a development abuts an existing public street of improper width or alignment, the Township may require the dedication of land sufficient to widen the street or correct the alignment.

§ 400-33. Partial and half streets.

- A. New half or partial streets will not be permitted, except where essential to the reasonable development

of a lot in conformance with the other requirements and standards of this chapter and where, in addition, satisfactory assurance for dedication of the remaining part of the public street can be obtained. [Amended 12-15-2014 by Ord. No. 424-14]

- B. The developer shall provide the entire required right-of-way, or as much thereof as lies within his property, along all existing public streets which traverse or abut his property.

§ 400-34. Street widths.

- A. Minimum street right-of-way, cartway, and pavement widths shall be as shown on the official plans or Comprehensive Plan or, if not shown on such plans, shall be as follows:

| Public Street Type | Required Width (in feet) with Curbs |
|------------------------------|-------------------------------------|
| Minor street: | |
| Right-of-way | 50 |
| Cartway | 28 |
| Collector street: | |
| Right-of-way | 60 |
| Cartway | 36 |
| Major street: | |
| Right-of-way | See Note (a) |
| Cartway | See Note (b) |
| Permanent cul-de-sac street: | |
| Right-of-way | 50 |
| Cartway | 30 |
| Marginal access street: | |
| Right-of-way | See Note (b) |
| Cartway | 24 |

NOTES:

(a) As specified in the official plans or Comprehensive Plan, or as determined after consulting with the Township, the County Planning Commission, and the Pennsylvania Department of Transportation.

(b) Variable, depending on use requirements.

Additional right-of-way and cartway widths may be required by the Township Planning Commission for the purpose of promoting the public safety and convenience or to provide parking in commercial and industrial areas and in areas of high-density residential development.

- B. All streets intended to be dedicated shall be paved in accordance with Township regulations. (See Chapter A490.) [Amended 6-2-2014 by Ord. No. 422-14]
- C. The applicant may request, in accordance with § 400-10, a modification of the requirements of this

§ 400-34. If the Board of Supervisors grants part or all of the request for modification, the applicant shall pay to the Township a fee-in-lieu of the construction of street widening in an amount based on the gross area of the street widening otherwise required, and as established by resolution of the Board of Supervisors in effect at the time of application. The fee shall be used by the Township for street construction, repair, and/or maintenance within the Township. [Added 7-17-2023 by Ord. No. 457-23]

§ 400-35. Street grades.

- A. On public streets, there shall be a minimum center-line grade of 3/4%.
- B. Center-line grades shall not exceed the following:
 - (1) Minor street: 7%.
 - (2) Collector street: 6%.
 - (3) Major street: 6%.
 - (4) Street intersection: 5%.

§ 400-36. Horizontal curves.

- A. Whenever public street lines are deflected in excess of 5°, connections shall be made by horizontal curves.
- B. To ensure adequate sight distance, minimum center-line radii for horizontal curves shall be as follows:
 - (1) Minor streets: 150 feet.
 - (2) Collector streets: 300 feet.
 - (3) Major streets: 500 feet.
- C. A tangent of at least 100 feet shall be introduced between all horizontal curves on collector and major public streets.

§ 400-37. Vertical curves.

At all changes of public street grades where the algebraic difference exceeds 1%, vertical curves shall be provided to permit the following minimum sight distances:

- A. Minor streets: 200 feet.
- B. Collector streets: 300 feet.
- C. Major streets: 400 feet.

§ 400-38. Intersections.

- A. Public streets shall intersect as nearly as possible at right angles but in no event at less than an angle of 60%.
- B. No more than two streets shall intersect at the same point.

- C. A public street intersecting another street shall either intersect directly opposite to it or shall be separated by at least 150 feet between center lines, measured along the center line of the street being intersected.
- D. Intersections shall be approached on all sides by a straight leveling area, the grade of which shall not exceed 4% within 100 feet of the intersection of the nearest right-of-way lines.
- E. Intersections with major public streets shall be located not less than 1,000 feet apart, measured from center line to center line, along the center line of the major public street.
- F. Public street curb intersections shall be rounded by a tangent arc with a minimum radius of:
 - (1) Twenty feet for intersections involving only minor streets.
 - (2) Thirty feet for all intersections involving a collector street.
 - (3) Forty feet for all intersections involving a major street.
- G. Public street right-of-way lines shall be parallel to (concentric with) curb arcs at intersections.
- H. Street name signs shall be installed at all street intersections. The design and placement of such signs and the names of the streets shall be subject to the approval of the Township Board of Supervisors.

§ 400-39. Sight distance at intersections.

- A. Clear sight triangles shall be provided at all public street intersections. Within such triangles, no vision-obstructing object shall be permitted which obscures vision above the height of 30 inches and below 10 feet measured from the center-line grade of intersecting public streets. Such triangles shall be established in accordance with PennDOT specifications. [Amended 12-15-2014 by Ord. No. 424-14]
- B. Wherever a portion of the line of such triangles occurs behind (i.e., from the street) the building reserve (setback) line, such portion shall be shown on the final plan of the development and shall be considered a building setback (reserve) line.

§ 400-40. Restriction of access.

- A. Wherever a development abuts or contains an existing or proposed public street with an ultimate right-of-way of 60 feet or more, the Township Planning Commission shall require restrictions of access to the major street by:
 - (1) Provision of reverse frontage lots; or
 - (2) Provision of public service streets along the rear of the abutting lots, together with prohibition of private driveways intersecting the major streets; or
 - (3) Provision of public marginal streets, provided that the reserve strips establishing such marginal access streets shall be definitely placed within the jurisdiction of the Township under an agreement meeting the approval of the Township. Except as specified above, reserve strips shall be prohibited.
- B. Dead-end public streets are prohibited unless designed as cul-de-sac streets or designed for future access to adjoining properties.

- C. Any public street dead-ended for access to an adjoining property or because of authorized stage development shall be provided with a temporary, all-weather turnaround within the development, and the use of such turnaround shall be guaranteed to the public until such time as the public street is extended.
- D. Unless future extension is clearly impractical or undesirable, the turnaround right-of-way shall be placed adjacent to the lot boundary line to permit extension of the street at full width. [Amended 12-15-2014 by Ord. No. 424-14]
- E. All cul-de-sac public streets, whether permanently or temporarily designed as such, shall be provided at the closed end with a fully paved turnaround. The minimum radius to the pavement edge or curbline shall be 50 feet, and the minimum radius of the right-of-way shall be 60 feet.
- F. Drainage of cul-de-sac public streets shall preferably be towards the open end.
- G. The center-line grade on a cul-de-sac public street shall not exceed 7%, and the grade of the diameter of the turnaround shall not exceed 4%.

§ 400-41. Curbs and sidewalks. [Amended 8-19-2013 by Ord. No. 417-13]

Curbs and sidewalks shall be required on all streets.

- A. Curbs shall be vertical type. Rolled curb-and-gutter type may be installed only upon the approval of the Board of Supervisors, except that rolled curbs shall not be used on streets whose grade exceeds 6% or on any collector or major streets. The transition from one type to another shall be made only at a street intersection, and adequate provision shall be made for driveway entrances.
- B. Except along Lancaster Avenue and streets within the Village of Berwyn Districts, sidewalks shall be a minimum of four feet in width on all streets. Where required, snow strips shall be three feet in width and shall be grassed. [Amended 2-4-2019 by Ord. No. 437-19]
- C. On portions of Lancaster Avenue that are not located within the Village of Berwyn Zoning Districts, sidewalks shall be a minimum of four feet in width. Where required, snow strips shall be five feet in width and shall be grassed. Sidewalk dimensions and design shall conform with PennDOT and other applicable state and federal standards.
- D. Sidewalks on streets within the Village of Berwyn Districts shall be designed according to Chapter 274, Natural Resources Protection, Article XII, Village of Berwyn Streetscape Design Standards.
- E. Curbs and sidewalks shall be designed and constructed as specified in Chapter A490. Should there be a conflict, the more stringent requirements shall govern and control. [Added 6-2-2014 by Ord. No. 422-14]
- F. The applicant may request, in accordance with § 400-10, a modification of the requirements of this § 400-41. If the Board of Supervisors grants part or all of the request for modification, the applicant shall pay to the Township a fee-in-lieu of the construction of curbs and/or sidewalk in an amount based on the length of the curb and/or the gross area of the sidewalk otherwise required and as established by resolution of the Board of Supervisors in effect at the time of application. The fee shall be used by the Township for curb and/or sidewalk construction, repair, and/or maintenance within the Township. [Added 7-17-2023 by Ord. No. 457-23]

§ 400-42. Street names.

- A. Proposed public streets which are obviously in alignment with others already existing and named shall bear the names of the existing streets.
- B. In no case shall the name of a proposed street duplicate an existing public street name in the Township or in the postal district, irrespective of the use of the suffix "street," "road," "avenue," "boulevard," "drive," etc.
- C. All public street names shall be subject to the approval of the Board of Supervisors upon recommendation of the Planning Commission.

§ 400-43. Block layout.

The lengths, width and shape of blocks shall be determined with due regard to provision of adequate sites for buildings of the type proposed, zoning requirements, topography, and requirements for safe and convenient vehicular and pedestrian circulation, including the reduction of intersections with major public streets.

§ 400-44. Length of blocks.

- A. Blocks shall have a minimum length of 600 feet.
- B. In the design of blocks longer than 1,000 feet, special consideration shall be given to the requirements of satisfactory fire protection and pedestrian access.
- C. Where practicable, blocks along major and collector streets shall not be less than 1,000 feet long.

§ 400-45. Crosswalks.

- A. Crosswalks may be required wherever necessary to facilitate pedestrian circulation and to give access to community facilities as well as in blocks of over 1,000 feet in length.
- B. Such crosswalks shall have a width of not less than 10 feet and a paved walk of not less than three feet.

§ 400-46. Depth of blocks.

Residential blocks shall be of sufficient depth to accommodate two tiers of lots, except where reverse frontage lots are required along a major public street, or where prevented by the size, topographical conditions or other inherent conditions of property, in which case the Township Planning Commission may approve a single tier of lots.

§ 400-47. Commercial and industrial blocks.

Blocks in commercial and industrial areas may vary from the elements of design detailed in § 400-46 if required by the nature of the use. In all cases, however, adequate provision shall be made for off-street parking and loading areas as well as for traffic circulation and parking for employees and customers.

§ 400-48. General standards for lots and parcels.

- A. The size, shape and orientation of lots shall be appropriate for the type of development and use contemplated.
- B. Insofar as practical, side lot lines shall be at right angles to straight public street lines or radial to

curved public street lines.

- C. Wherever feasible, lot lines shall follow Township boundaries rather than cross them, in order to avoid jurisdictional problems.
- D. Depth and width of parcels intended for nonresidential uses shall be adequate for the use proposed and sufficient to provide satisfactory space for on-site parking, loading and unloading, setbacks, landscaping, etc.
- E. If, after subdividing, there exist substandard remnants of land, they shall be either incorporated in existing or proposed lots or legally dedicated to public use, if acceptable to the Township.

§ 400-49. Lot frontage.

- A. All lots shall have direct access to a public street or to a private street and shall have a minimum frontage at the street right-of-way line of at least 50 feet (except flag lots, which shall have a minimum width of 35 feet where the flag lot access strip meets the street), unless otherwise provided by the applicable zoning district regulation. [Amended 8-17-1998 by Ord. No. 317-98]
- B. Double or reverse frontage lots shall be avoided except where required to provide separation of residential development from major public streets or to overcome specific disadvantages of topography or orientation.
- C. All residential reverse frontage lots shall have a rear yard with a minimum depth of 60 feet, measured in the shortest distance, from the proposed dwelling unit to the ultimate right-of-way and shall, within such rear yard and immediately adjacent to the right-of-way, have a planting screen easement of at least 10 feet in width, across which there shall be no right of access.

§ 400-50. Building setback lines.

- A. The minimum building setback line shall be in accordance with Chapter 455, Zoning, of the Code of Easttown Township.¹⁴⁷

§ 400-51. Driveways.

Driveways constructed within street rights-of-way shall be subject to the Easttown Township rules and regulations of Chapter 177, Driveways, as it may be amended from time to time, and to the following:

- A. Private driveways on corner lots shall be located at least 40 feet from the point of intersection of the nearest street right-of-way lines.
- B. In order to provide a safe and convenient means of access, grades on private driveways should not exceed 10%. In addition, driveways shall be paved where grades exceed 7%.
- C. In order to provide safe and convenient ingress and egress, private driveway entrances should be rounded at a minimum radius of five feet or should have a flare constructed that is equivalent to this radius at the point of intersection with the cartway edge (curbline).
- D. In order to facilitate the use of the rights-of-way for access to the property and to prevent unlawful uses of the rights-of-way, the maximum width of a driveway in the right-of-way shall be 14 feet for single-family residential properties and shall be no greater than the minimum width required for

¹⁴⁷Editor's Note: Former Subsection B, regarding lots abutting a railroad, was repealed 1-15-2018 by Ord. No. 433-18.

access for nonresidential properties. [Added 2-4-2019 by Ord. No. 437-19]

§ 400-52. Lot size.

Lot dimensions and areas shall not be less than specified by the provisions of Chapter 455, Zoning, for the area in which the development is located.

§ 400-53. Sanitary sewage disposal and water supply systems.

- A. The developer shall provide a sanitary sewage disposal facility consistent with existing physical, geographical and geological conditions and in conformance with all applicable Township ordinances and state, county and federal regulations. [Amended 6-2-2014 by Ord. No. 422-14]
- B. Wherever approval by the Pennsylvania Department of Environmental Protection or by the federal government is required for the water supply or sanitary sewage disposal system(s) for a proposed development, the Planning Commission shall require that a copy of such approval certification be submitted with both preliminary and final plans. Where a package plant is contemplated, such system or systems shall be demonstrated to be fully operable before any certificate of occupancy is granted.
- C. All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems located in identified floodplain areas as defined in Chapter 220, Floodplains) shall be designed to prevent discharges from the systems into floodwaters. All new or replacement water facilities and sanitary sewer facilities and private package sewage treatment plants (including pumping stations and collector systems located in identified floodplain areas as defined in Chapter 220, Floodplains) shall be designed to minimize or eliminate infiltration of floodwaters into the system and shall be located and constructed to minimize or eliminate flood damage and impairment. [Added 2-16-1981 by Ord. No. 170-81; amended 5-15-2017 by Ord. No. 428-17]
- D. All public sanitary sewer systems shall be designed and constructed in accordance with the latest version of the Standard Specifications for Construction of Sanitary Sewers and Appurtenances, as adopted by the Easttown Municipal Authority. [Added 6-2-2014 by Ord. No. 422-14]

§ 400-54. Water supply.

- A. Wherever an existing public or approved community water system is geographically and economically accessible to a proposed development, a distribution system shall be designed to furnish an adequate supply of water to each lot, with adequate main sizes and fire hydrant locations to meet the specifications of the Insurance Services Office (ISO). A copy of the approval of such system by the appropriate public agency or utility company shall be submitted with the final plan. Suitable agreements shall also be established for the ownership and maintenance of such distribution system. [Amended 6-2-2014 by Ord. No. 422-14]
- B. Where individual on-site water supply system(s) are to be utilized, each lot so served shall be of a size and shape to allow safe location of such a system.
- C. Where individual on-site water supply system(s) are to be utilized, it is required that the developer provide at least one test well for each 10 lots or fraction thereof. Such wells should be drilled, double-cased, grout-sealed into bedrock, at least 50 feet deep, and shall have a reliable yield of at least five gallons per minute, based on a twenty-four-hour pump test of potable drinking water, as certified by a state or county health officer and in accordance with the Township regulations. The developer shall submit evidence of county approval before any certificate of occupancy is issued.

§ 400-55. Stormwater management. [Amended 9-17-1990 by Ord. No. 235-90; 12-15-2014 by Ord. No. 424-14]

For any subdivision an/or land development application proposing new development, earth disturbance of any type or creation of a new building lot, stormwater management shall be provided in accordance with Chapter 388 and Appendix Ch. A490 of this Code.

§ 400-56. (Reserved)¹⁴⁸

§ 400-57. (Reserved)¹⁴⁹

§ 400-58. Public facilities. [Amended 9-17-1990 by Ord. No. 235-90]

- A. In reviewing subdivision and land development plans, the Planning Commission shall consider the adequacy of the community facilities identified in § 400-25B of this chapter to serve the needs of the additional users proposed by the development and shall recommend to the Supervisors those minimum facilities which shall be required to be provided by the developer as a condition to plan approval.
- B. Every subdivider or land developer shall be required to reserve areas of land within the proposed development for support facilities which can be reasonably anticipated as necessary to serve the development, including but not limited to parks, playgrounds, open space, recreational equipment, parking facilities and any other facility proposed to be used in common by the residents or occupiers of the development.
- C. In subdivisions or land developments of 10 or more residential units, where the open space regulations of § 400-62 do not apply, the Supervisors shall require that adequate open space and recreational facilities and equipment be provided and reserved on the development site, unless the Supervisors approve a fee in lieu of such reservation as an alternative to compliance with the following minimum standards:

| Number of Units | Minimum Playground and Neighborhood Park Acreage to be Recommended |
|-------------------------|---|
| 10 to 49 | 2.0 |
| 50 to 174 | 3.0 |
| 175 to 374 | 5.5 |
| 375 to 624 | 6.5 |
| 625 to 800 | 8.0 |
| For each additional 175 | 1.5 |

§ 400-59. Community assets. [Amended 9-17-1990 by Ord. No. 235-90]

- A. All significant natural and man-made site features as identified on the conservation plan, including without limitation large trees, water sources, wetlands, steep or wooded slopes, historic areas and

148.Editor's Note: Former § 400-56, Erosion and sediment control, as amended, was repealed 12-15-2014 by Ord. No. 424-14.

149.Editor's Note: Former § 400-57, Stormwater management in Darby, Crum Creek and Cobbs Creek Watersheds, added 4-4-2005 by Ord. No. 359-05, as amended, was repealed 12-15-2014 by Ord. No. 424-14.

structures, views and similar community assets, which, if preserved, will add attractiveness and value to the subdivision or land development, shall be preserved.

- B. Whenever such site features may be more effectively preserved by the subdivision or land development of tracts in accordance with the lot averaging or clustering provisions contained in Chapter 455, Zoning, which may otherwise be applicable thereto, the developer shall give full consideration to development in accordance with those provisions.

§ 400-60. Utility and drainage easements.

- A. Where easements are required, they shall be a minimum width of 20 feet. No structures shall be placed within such easements.
- B. To the fullest extent possible, easements shall be centered on or adjacent to rear or side lot lines.
- C. There shall be a minimum distance of 50 feet, measured in the shortest distance, between any proposed dwelling unit and any petroleum products or natural gas transmission line which traverses the subdivision.

§ 400-61. Utilities located within flood-prone areas. [Added 2-16-1981 by Ord. No. 170-81; amended 5-15-2017 by Ord. No. 428-17]

All utilities, such as gaslines, electrical and telephone systems, and water supply and sanitary sewage systems, being placed in identified floodplain areas, as defined in Chapter 220, Floodplains, shall comply with the requirements of Chapter 220, Floodplains.

§ 400-62. Park, open space and recreation facilities. [Added 9-17-1990 by Ord. No. 235-90]

Where Chapter 455, Zoning, requires the establishment and setting aside of open space, all land designated for such purpose shall comply with the following minimum criteria and standards:

- A. Such land shall be suitable for both active and passive recreational uses as required by this chapter, Chapter 455, Zoning, or as determined necessary by the Supervisors upon recommendation of the Planning Commission, without interfering with adjacent dwelling units, parking, driveways and roads.
- B. Active recreational uses shall include, but are not necessarily limited to, play fields, ball fields, tennis and racquetball courts, basketball courts, fitness trails, picnic areas, recreational buildings and similar features. The minimum areas required for active recreational open space use, which shall be comprised of ground suitable for development and construction of such uses thereon, shall be adequate to serve the proposed development, but at a minimum shall comprise and be provided for in an area equal to at least 25% of the required open space.
- C. No more than 40% of the required open space shall be comprised of areas within the identified floodplain area, any area with slopes in excess of 20%, any area comprised of chewacla, weahadkee, or worsham soils, any area subject to existing or proposed utility easements, any wetlands or other environmentally sensitive lands, and any area devoted to parking or vehicular circulation. [Amended 5-15-2017 by Ord. No. 428-17]
- D. Open space shall be interconnected with common areas on abutting parcels wherever possible, including provisions for pedestrian pathways for general public use to create a linked pathway system within the Township. Recreation areas shall be accessible to all dwelling areas within a development,

either by abutting thereon or over easements expressly dedicated for that purpose, and shall be accessible by one or more public streets.

- E. Open space shall be provided with sufficient parking when determined reasonably necessary by the Supervisors, upon recommendation of the Planning Commission, for the residents safe and convenient access, use, and enjoyment thereof, and with safe and convenient access by adjoining street frontage or other rights-of-way or easements capable of accommodating pedestrian, bicycle, maintenance and vehicle traffic, and containing customary and appropriate access improvement; provided, however, no minimum parking area required by any provision of Chapter 455, Zoning, or by this chapter shall be located in the open space.
- F. No buildings or structures, except those related to recreational uses, shall be constructed or located in open space.
- G. Open space areas shall be suitably landscaped either by retaining existing natural cover and wooded areas and/or by a landscaping plan designed to enhance recreational areas by utilization of plantings which are consistent with the purposes of this section and which minimize maintenance costs. Open space shall be comprised of areas not less than 150 feet in width; provided, however, open space may be connected by a trail system or pathway network less than 150 feet in width, but such areas shall not be counted as part of the required minimum open space.
- H. Open space shall be made subject to such declarations, restrictions and covenants complying with § 400-28 of this chapter as required by the Supervisors, for the purpose of preservation, maintenance and improvement of the open space and recreational facilities, which shall be recorded in the office of the Recorder of Deeds of Chester County, Pennsylvania, contemporaneously with recordation of the final plan.

§ 400-63. Dedication of open space and recreational facilities. [Added 9-17-1990 by Ord. No. 235-90]

- A. Whenever any provision of this chapter or Chapter 455, Zoning, requires reservation of land for parks, playgrounds, and/or recreational facilities, the Supervisors may require the public dedication of land by the developer for that purpose, the payment of fees in lieu thereof or the private reservation of land for such purpose, or any combination thereof in accordance with the formally adopted Easttown Township Recreation Plan. In such instance, required park and recreational facilities shall be in accordance with principles and standards as otherwise provided for in this chapter.
- B. The amount of any fee in lieu of the dedication or reservation of land and provision for recreational facilities shall be fixed from time to time by the Supervisors in a resolution designated for that purpose. All fees so collected shall, upon their receipt by the Township, be deposited in the Easttown Township Park, Open Space and Recreation Reserve Fund, which shall be an interest-bearing account. Such fees shall be expended only for the provision, acquisition, operation or maintenance of land or recreational facilities within Easttown Township at such locations as shall be selected by the Supervisors for the establishment, enlargement, or improvement of community or neighborhood parks and recreational facilities reasonably accessible to the subdivision or land development for which such fees have been paid. **[Amended 12-15-2014 by Ord. No. 424-14]**
- C. Upon request of the developer who has paid such fees, the Township shall refund such fee, plus interest accumulated thereon from the date of payment, if the Township has used the fees so paid for a purpose other than a purpose permitted by this section or by law, unless the developer specifically waives in writing the requirement that such fees be for limited purposes or waives in writing the requirement that such fees be repaid. **[Amended 12-15-2014 by Ord. No. 424-14]**

ARTICLE VII
Improvement Specifications

§ 400-64. General requirements.

- A. Physical improvements to the property being developed shall be provided, constructed, and installed as shown on the record plan in accordance with the requirements of the Township.
- B. As a condition to review of a final plan by the Township Planning Commission, the developer shall agree with the Township as to installation of all improvements shown on the plan and required by this chapter. Before the record plan may be endorsed by the Township, the developer shall submit a completed original copy of the subdivision improvements agreement.
- C. All improvements installed by the developer shall be constructed in accordance with the design specifications of the Township. (See Chapter A490.) If there are no applicable county or state regulations, the Township may authorize that specifications be prepared by a registered professional engineer. **[Amended 6-2-2014 by Ord. No. 422-14]**
- D. Supervision of the installation of the improvements required by this chapter shall in all cases be the responsibility of the Township or of the appropriate state regulatory agency.

§ 400-65. Sanitary sewage disposal systems.

Sanitary sewage disposal system(s) shall be provided, consistent with the design standards and requirements contained in § 400-53 of this chapter. Where it shall appear that the area to be developed or subdivided shall be served within a reasonable time by a community sewage system, capped sewers shall be provided.

§ 400-66. Water supply systems.

Wherever feasible, the subdivision shall be provided with a complete public or community water distribution system. The design and installation of such system shall be subject to the approval of the engineer of the appropriate water utility company and/or Township Engineer. The design and installation of such community distribution system shall be subject to the approval of the Pennsylvania Department of Environmental Protection and the County Health Department, and such system shall be further subject to satisfactory provision for the maintenance thereof.

§ 400-67. Fire hydrants.

Wherever a public or community water supply system is provided, fire hydrants shall be installed within 600 feet of all existing and proposed structures, measured by way of accessible streets as specified by the Middle States Department Association of Fire Underwriters and the Fire Marshal providing service in the area.

§ 400-68. Monuments.

- A. Permanent stone or concrete monuments shall be accurately placed at the intersection of all lines forming angles and at changes in directions of lines in the boundary (perimeter) of the property being subdivided. Markers shall be placed at all property corners of lots being subdivided. **[Amended 5-3-1993 by Ord. No. 263-93]**
- B. All monuments shall be placed by a registered engineer or surveyor so that the scored (by an indented

cross in the top of the monument) point shall coincide exactly with the point of intersection of lines being monumented.

- C. Monuments shall be set with their top level with the finished grade of the surrounding ground.
- D. All streets shall be monumented (preferably on the right-of-way lines) at the following locations:
 - (1) At least one monument at each intersection;
 - (2) At changes in direction of street lines, excluding curb arcs at intersections;
 - (3) At each end of each curbed street line, excluding curb arcs at intersections;
 - (4) An intermediate monument wherever topographical or other conditions make it impossible to site between two otherwise required monuments;
 - (5) At such other places along the line of streets as may be determined by the Township to be necessary so that any street may be readily defined in the future.

§ 400-69. Landscaping. [Amended 9-21-2009 by Ord. No. 391-09]

Landscape improvements shall be provided as set forth in Chapter 274, Natural Resources Protection, of the Township's Code, as amended, in particular in adherence to those standards and requirements as provided in Article XI, entitled "Landscaping."

ARTICLE VIII
Amendments; Penalties; Appeals

§ 400-70. Amendments. [Amended 9-17-1990 by Ord. No. 235-90]

- A. Amendments to this chapter shall become effective only after a public hearing conducted by the Supervisors after public notice published once each week for two successive weeks in a newspaper of general circulation in Easttown Township. The notice shall state the time and place of the hearing and the nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.
- B. In the case of an amendment other than that prepared by the Planning Commission, the Supervisors shall submit each such amendment to the Planning Commission and the Chester County Planning Commission at least 30 days prior to the date fixed for the public hearing thereon.
- C. Public notice of the hearing shall include the following:
 - (1) The time and place of the meeting at which passage will be considered;
 - (2) A statement that copies of the amendment may be examined without charge or obtained for a charge not greater than the cost thereof at the Township administrative offices; and
 - (3) The text of the amendment or the title thereof and a brief summary setting forth all of the provisions in reasonable detail. If the full text is not included, a copy thereof shall be supplied at the time the notice is published to the newspaper in which publication occurs, and an attested copy shall be filed in the Chester County Law Library.
- D. Should substantial amendments be made to the amendment during the hearing process, before voting upon enactment, the Supervisors shall, at least 10 days prior to enactment, readvertise, in one newspaper of general circulation in the Township, a brief summary setting forth all of the provisions in reasonable detail, together with a summary of the amendment.
- E. Within 30 days after adoption, the Supervisors shall forward a certified copy of the amendment to the Chester County Planning Commission.
- F. Amendments may be incorporated into the Township's official ordinance book by reference with the same force and effect as if duly recorded therein.

§ 400-71. Violations and penalties. [Amended 9-6-1989 by Ord. No. 224-89]

Any person, partnership, corporation or other legal entity (hereinafter "person") who or which has violated any 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 attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the 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 violating this chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the Magisterial District Judge, and, thereafter, each day that a violation continues shall constitute a separate violation.

§ 400-72. Appeals. [Amended 9-17-1990 by Ord. No. 235-90]

Appeals from the action of the Supervisors in either approving or disapproving a preliminary plan or a final plan, or from a conditional preliminary plan or final plan approval unacceptable to the applicant, shall be taken and made in accordance with the applicable provisions of the MPC.

Chapter 409

TAXATION

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

ARTICLE I

Discounts and Penalties

[Adopted 12-4-1979 by Ord. No. 156; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 409-1. Discount for timely payment; penalty for late payment.

It is hereby enacted and ordained, pursuant to the provisions of the Act of May 25, 1945, P.L. 1050, as amended,¹⁵⁰ that from and after January 1, 1980, all taxpayers subject to payment of taxes levied and assessed by the Supervisors of Easttown Township shall be entitled to a discount of 2% from the amount of any such tax or taxes upon the payment of the whole amount thereof within two months of the date of such tax notice, and all taxpayers who shall fail to make payment of any such taxes charged against them for four months after the date of the tax notice shall be charged a penalty of 10%, which penalty shall be added by the Tax Collector and collected by him.

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

ARTICLE II

Delinquent Tax Collector

[Adopted 12-17-2001 by Ord. No. 335-01; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 409-2. Appointment; powers and duties.

In accordance with Act 104 of 2000, the Chester County Tax Claim Bureau is hereby appointed the Easttown Township Delinquent Tax Collector. Said appointment provides for the collection of delinquent taxes in accordance with and provides for the same powers, rights, privileges, duties and obligations as are set forth in Section 686 of the Act of March 10, 1949 (P.L. 30, No. 14), known as the "Public School Code of 1949," as amended.¹⁵¹

¹⁵¹Editor's Note: See 24 P.S. § 6-686.

ARTICLE III
Compliance with Act 57 of 2022
[Adopted 11-21-2022 by Ord. No. 455-22]

§ 409-3. Definitions.

The following words and phrases shall have the following meanings given to them unless the context clearly indicates otherwise:

ADDITIONAL CHARGE — 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.

QUALIFYING EVENT —

- A. For the purposes of real property, the date of transfer of ownership.
- 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.

TAX COLLECTOR — The elected Tax Collector for Easttown Township, Chester County, any authorized or designated delinquent Tax Collector, the Chester 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," 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.

§ 409-4. Waiver of charges, terms and conditions.

The Tax Collector shall, 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:

- A. Provides a waiver request of additional charges, on a form provided by the state Department of Community and Economic Development, to the Tax Collector in possession of the claim within 12 months of a qualifying event;
- B. Attests that the tax notice was not received; and
- C. Provides the Tax Collector in possession of the claim with one of the following:
 - (1) A copy of the deed showing the date of real property transfer; or
 - (2) A copy of the title following the acquisition of a mobile or manufactured home subject to taxation as real estate showing the date of issuance or a copy of an executed lease agreement between the owner of a mobile or manufactured home and the owner of a parcel of land on which the mobile or manufactured home will be situated showing the date the lease commences; and
- D. Pays the face value amount of the tax notice for the real estate tax with the waiver request.

§ 409-5. Effect of waiver.

A taxpayer granted a waiver and paying real estate tax as provided in Act 57 and in this article shall not be subject to an action at law or in equity for an additional charge relating to the waived amounts, and any claim existing or lien filed for an additional charge shall be deemed satisfied as to the waived amounts.

§ 409-6. Tax Collector protection from liability.

A Tax Collector accepting a waiver and payment in good faith in accordance with Act 57 and with this article shall not be personally liable for any amount due or arising from the real estate tax that is the subject of the waiver.

Chapter 421

TREES AND SHRUBS

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

GENERAL REFERENCES

Natural resources protection — See Ch. 274.

Zoning — See Ch. 455.

Subdivision and land development — See Ch. 400.

ARTICLE I
Removal of Hazardous Conditions
[Adopted 9-3-1996 by Ord. No. 292-96]

§ 421-1. Responsibility of property owners.

It shall be the obligation of every owner of property within Easttown Township which abuts a public road or public road right-of-way to maintain and remove any shrubbery, trees or like vegetation or like portions thereof which the Board of Supervisors or its appointed agent determines constitutes a hazardous condition to the use of a public road or which impairs the proper use or maintenance of such roads.

§ 421-2. Notice of violation.

- A. Upon determination by the Board of Supervisors, or its agent, that a violation of the provisions of § 421-1 above exists, the owner of property upon which such violation exists shall be notified in writing as to such violation. Such notice shall be forwarded to the owner's last known address as shown on the Chester County real estate tax records or posted upon the property. Such notice shall describe the nature of the violation and direct that the same be abated in a specified number of days or that the Township or its agent shall undertake such abatement and collect the costs thereof from the violator.
- B. The written notice set forth hereinabove shall not be required when it is determined by the Board of Supervisors or its agent that a condition exists which creates an immediate hazard to use of the public road.
- C. The notice set forth hereinabove shall not be required prior to the removal of trash and other refuse from public roadsides.

§ 421-3. Failure to comply.

In the event the violator fails to take the action as specified in the notice provided for in § 421-2 above within the time set forth therein, the Township may take such action as may be necessary to abate the violation and charge and collect the same as provided for in § 421-4 hereafter.

§ 421-4. Violations and penalties.¹⁵²

Any person who violates or permits a violation of this article shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$600, plus all court costs, including reasonable attorneys' fees, incurred by the Township in the enforcement of this article. 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.

§ 421-5. Minimum maintenance requirements.

Without intending to limit the provisions of § 421-1 above, the minimum requirements for the maintenance

¹⁵²Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

of visibility at road intersections and for vertical clearance above a road or road right-of-way are set forth in Appendix A, attached hereto and incorporated by reference.¹⁵³

§ 421-6. Effect on other provisions; form of notice.

- A. Nothing herein is intended to limit the authority of the Department of Transportation of the Commonwealth of Pennsylvania from enforcing the provisions of the Pennsylvania Vehicle Code¹⁵⁴ or of the Township in proceeding pursuant to the provisions of the Second Class Township Code, including, but not limited to, Section 2325 of the Act of May 1, 1933 (P.L. 103, No. 69), as reenacted and amended November 9, 1995 (P.L. 350, No. 60), as amended.¹⁵⁵
- B. The form of notice to violators as set forth in § 421-2 of this chapter shall be the form of notice referred to in the provisions of Subsection (a) of Section 2325 of the Second Class Township Code referred to hereinabove.

153. Editor's Note: Appendix A is on file in the Township offices.

154. Editor's Note: See 75 Pa.C.S.A. § 101 et seq.

155. Editor's Note: See 53 P.S. § 67325.

Chapter 430**VEHICLES AND TRAFFIC**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 8-6-1956 by Ord. No. 31. Amendments noted where applicable.]

GENERAL REFERENCES

Parking lots — See Ch. 299.

Towing and impoundment of vehicles — See Ch. 439.

Streets and sidewalks — See Ch. 395.

§ 430-1. Title.

This chapter shall be known and may be cited as the "Easttown Township Traffic Ordinance of 1956."

§ 430-2. Definitions.

The words and phrases used in this chapter shall have the meanings respectively ascribed to them in Section 102 of the Vehicle Code of the Commonwealth of Pennsylvania, as supplemented and amended.¹⁵⁶

§ 430-3. Signs. [Amended 7-1-1974 by Ord. No. 123]

- A. The Board of Supervisors hereby declares that it has, as authorized by the Vehicle Code,¹⁵⁷ caused, and may in the future cause, official signs to be erected on and along or at the access point to certain public roads and highways of the Township regulating the parking of vehicles or restricting the direction of turns from the place of such signs.
- B. From and after the effective date hereof, no person shall park any vehicle on any such road or highway in any manner contrary to the regulations so established or make any turn contrary to the sign restricting the direction of turns.

§ 430-4. Temporary parking regulations.

The peace officers of Easttown Township are authorized and directed, from time to time, as the need shall arise, to make and to provide for temporary parking regulations on and along the public roads and highways of the Township and, in pursuance thereof, to cause temporary signs of the Township to be erected or placed and maintained giving notice of such temporary regulations. From and after the effective date hereof, no person shall park any vehicle on any street or road of the Township in any manner contrary to temporary parking regulations made, provided for and posted as hereinabove set forth.¹⁵⁸

§ 430-5. Fire lanes. [Added 1-3-2006 by Ord. No. 366-05; amended 2-21-2006 by Ord. No. 367-06]

Upon the written request of an owner of property that has lanes and roads open to public use (other than

156. Editor's Note: See 75 Pa.C.S.A. § 102.

157. Editor's Note: See 75 Pa.C.S.A. § 101 et seq.

158. Editor's Note: Original § 3(c), pertaining to parking during the Devon Horse Show, which was added 5-17-1971 by Ord. No. 111 and immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

public roads and parking areas), the Fire Chief of the fire company having jurisdiction over the subject property (or the Fire Chief's designee) shall designate appropriate areas as fire lanes. Such areas shall be controlled by official signs prohibiting stopping or parking, and, further, such areas shall be striped or crosshatched on the pavement surface. The cost of such signs and pavement markings shall be borne by the owner of the subject property. Any person stopping or parking a vehicle in the designated fire lane shall be in violation of this chapter and shall be subject to a summary proceeding under the Rules of Criminal Procedure as provided for in the Second Class Township Code, 53 P.S. § 66601(c.1)(2). Emergency vehicles are exempted from the foregoing restriction.

§ 430-6. Time-limit parking.

No person shall park a vehicle or allow the same to remain parked upon any of the streets or parts of streets described in this section, between the hours specified, for longer than the time indicated in said schedule:

| Name of Street | Side | Time Limit; Hours/ | | Location |
|--|-------------|--|--|---|
| | | Days | | |
| Berwyn Avenue [Added 3-20-1967 by Ord. No. 79] | North | 2 hrs.; 8:00 a.m. to 6:00 p.m./All | | Between Main Avenue and Waterloo Avenue |
| Berwyn Avenue [Added 2-16-1981 by Ord. No. 169-81] | North | 2 hrs.; 8:00 a.m. to 6:00 p.m./All | | Between St. Jude's loading drive to 25 feet east of Main Avenue |
| Berwyn Avenue [Added 5-15-1989 by Ord. No. 221-89] | North | 2 hrs.; 8:00 a.m. to 6:00 p.m./All, except Saturdays, Sundays and holidays | | From a point 90 feet west of Waterloo Avenue to the intersection of Knox Avenue |
| Berwyn Avenue [Added 4-2-1990 by Ord. No. 230-90] | North | 2 hrs.; 8:00 a.m. to 6:00 p.m./Weekdays | | From Woodside Avenue west for a distance of approximately 348 feet ¹⁵⁹ |
| Devon Boulevard [Added 11-2-1987 by Ord. No. 208-87] | Both | 2 hrs.; 8:00 a.m. to 6:00 p.m./All, except Saturdays, Sundays and holidays | | From Berkley Road to Chester Road |
| Devon Boulevard [Added 5-4-1992 by Ord. No. 249-92] | East | 2 hrs.; 8:00 a.m. to 6:00 p.m./All | | Between Lancaster Avenue and Berkley Road |
| Devon Boulevard [Added 2-7-2005 by Ord. No. 357-05] | West | 2 hrs.; 8:00 a.m. to 6:00 p.m./All | | Between Lancaster Avenue and Berkley Road |
| Devonwood Lane, Devon [Added 3-20-1989 by Ord. No. 217-89] | Both | 2 hrs.; 8:00 a.m. to 6:00 p.m./All, except Saturdays, Sundays and holidays | | Entire length |
| Dorset Road [Added 11-17-1980 by Ord. No. 166-80] | East | 10 mins.; All/All | | From Lancaster Avenue south for 250 feet; no stopping between 9:00 p.m. and 1:00 a.m. |

¹⁵⁹.Editor's Note: See § 430-8, Permit parking, for exceptions to this time-limit parking restriction for residents.

| Name of Street | Side | Time Limit; Hours/ Days | Location |
|--|------|--|--|
| Dorset Road [Added 11-17-1980 by Ord. No. 166-80] | West | 10 mins.; All/All | From 250 feet south of Lancaster Avenue to 450 feet south of Lancaster Avenue |
| Highland Avenue, Devon [Added 11-21-1988 by Ord. No. 215-88] | Both | 2 hrs.; 8:00 a.m. to 6:00 p.m./All, except Saturdays, Sundays and holidays | From Fairfield Road east for a distance of approximately 350 feet |
| Main Avenue, Berwyn [Added 3-15-2004 by Ord. No. 351-04] | Both | 1 hr.; All/All | From Lancaster Avenue south for a distance of 140 feet |
| Main Avenue, Berwyn [Added 5-16-1988 by Ord. No. 211-88] | East | 2 hrs.; 8:00 a.m. to 6:00 p.m./All, except Saturdays, Sundays and holidays | From Berwyn Avenue to First Avenue |
| Main Avenue, Berwyn [Added 7-18-1988 by Ord. No. 212-88; amended 4-1-1996 by Ord. No. 285-96; repealed 3-15-2004 by Ord. No. 351-04] | -- | 2 hrs.; 8:00 a.m. to 6:00 p.m./All | Parking lot located at the southeast corner of Lincoln Highway and Waterloo Avenue |
| Station Avenue, Devon [Added 3-20-1989 by Ord. No. 217-89] | Both | 2 hrs.; 8:00 a.m. to 6:00 p.m./All, except Saturdays, Sundays and holidays | Entire length |

§ 430-7. Parking prohibited at all times.

No person shall park a vehicle at any time upon any of the highways or parts thereof described below:

| Name of Street | Side | Location |
|--|-------|---|
| Beaumont Road [Added 9-20-1993 by Ord. No. 265-93] | North | From Newtown Road east for a distance of approximately 938 feet to the east boundary line of Beaumont Elementary School |
| Berwyn Avenue [Added 2-16-1981 by Ord. No. 169-81] | North | No parking between signs in front of Central Penn Bank property |
| Berwyn Avenue [Added 2-16-1981 by Ord. No. 169-81] | North | From Main Avenue east for 25 feet and from Main Avenue west for 30 feet |
| Berwyn Avenue [Added 4-1-2019 by Ord. No. 439-19] | North | From the intersection with Midland Avenue for 40 feet |

| Name of Street | Side | Location |
|--|-------|---|
| Berwyn Avenue [Added 6-2-1980 by Ord. No. 162-80] | North | From Waterloo Avenue west for a distance of 90 feet |
| Bridge Avenue, Berwyn [Added 5-15-1989 by Ord. No. 221-89] | East | From Berwyn Avenue north for 125 feet |
| Bridge Avenue, Berwyn [Added 5-15-1989 by Ord. No. 221-89] | East | From Berwyn Avenue south for 55 feet |
| Bridge Avenue, Berwyn [Added 7-7-2003 by Ord. No. 346-03] | East | For a distance of 180 feet north from the entrance to Johnson Park and along the east side of the parking lot in Johnson Park |
| Central Avenue [Added 4-15-2002 by Ord. No. 337-02] | South | From 110 Central Avenue south to the end of the road |
| Central Avenue [Added 12-20-1993 by Ord. No. 269-93] | West | From Lancaster Avenue south to Berwyn Avenue Extension, a distance of approximately 265 feet |
| Chester Road [Added 10-21-2013 by Ord. No. 418-13] | South | Between South Valley Forge Road and Bella Vista Road |
| Daventry Road [Added 8-20-2018 by Ord. No. 435-18] | South | From Waterloo Avenue east for a distance of 50 feet |
| Dorset Road [Added 11-17-1980 by Ord. No. 166-80] | East | From Berkley Road north for 225 feet |
| Dorset Road [Added 11-17-1980 by Ord. No. 166-80] | West | From Lancaster Avenue south for 250 feet |
| Dorset Road [Added 11-17-1980 by Ord. No. 166-80] | West | From 450 feet south of Lancaster Road to Berkley Road |
| Eastwood Road [Added 3-20-1967 by Ord. No. 79] | East | From its intersection with Midland Avenue to Woodside Avenue |
| Edgewood Avenue [Added 12-1-1997 by Ord. No. 309-97] | North | From the intersection of Leopard Road west for a distance of 220 feet, bordering the property at 264 Leopard Road |
| First Avenue [Added 6-2-1980 by Ord. No. 162-80] | North | Between Bridge Avenue and Central Avenue |
| First Avenue [Added 5-15-1995 by Ord. No. 280-95] | North | From Walnut Avenue east for 25 feet |
| Highland Avenue, Devon [Added 5-5-1986 by Ord. No. 198-86] | North | From Waterloo Road west for a distance of 290 feet |
| Highland Avenue, Devon [Added 10-20-1986 by Ord. No. 201-86] | South | From Waterloo Road west for a distance of 290 feet |
| Knox Avenue, Berwyn [Added 6-16-1997 by Ord. No. 300-97] | Both | For a distance of 25 feet in both directions of the 90° turn |
| Knox Avenue, Berwyn [Added 8-16-2004 by Ord. No. 353-04] | North | From Aiken Avenue east for a distance of 65 feet |

| Name of Street | Side | Location |
|--|-------------|--|
| Lakeside Avenue [Added 1-4-2000 by Ord. No. 329-00] | Both | From Lancaster Avenue to Woodside Avenue |
| Leopard Road [Added 12-20-1993 by Ord. No. 269-93] | East | From Lancaster Avenue south to Potter Avenue |
| Leopard Road [Added 1-19-1999 by Ord. No. 323-99] | West | From Lancaster Avenue south to Potter Avenue |
| Main Avenue [Added 2-16-1981 by Ord. No. 169-81] | Both | From Berwyn Avenue north for 25 feet |
| Main Avenue [Added 3-20-1967 by Ord. No. 79] | West | From Berwyn Avenue south for a distance of 50 feet |
| Main Avenue, Berwyn [Added 5-16-1988 by Ord. No. 211-88] | West | From Berwyn Avenue south for a distance of approximately 150 feet |
| Maple Avenue [Added 8-16-2004 by Ord. No. 353-04] | South | Opposite the driveway of 861 Maple Avenue for a distance of 25 feet to the east and 25 feet to the west |
| Midland Avenue [Added 3-20-1967 by Ord. No. 79] | East | From its intersection with Lincoln Highway to Woodside Avenue |
| North Lakeside Avenue [Added 3-16-1998 by Ord. No. 310-98; amended 9-20-1999 by Ord. No. 326-99] | Both | Entire length |
| North Waterloo Road, Devon [Added 11-2-1987 by Ord. No. 208-87] | West | From Lancaster Avenue to Old Lancaster Road |
| Potter Avenue [Added 5-15-1995 by Ord. No. 280-95] | Both | From Walnut Avenue west for a distance of 115 feet |
| Potter Avenue, Berwyn [Added 8-16-2004 by Ord. No. 353-04] | South | From Leopard Road east for a distance of 50 feet |
| South Fairfield Road [Added 7-17-2000 by Ord. No. 330-00] | Both | From Sugartown Road south for a distance of 250 feet |
| Sugartown Road, Berwyn [Added 11-1-2004 by Ord. No. 356-04] | South | For a distance of 88 feet east of Chandlee Drive and a distance of 223 feet west of Chandlee Drive |
| Sugartown Road, Berwyn [Added 11-1-2004 by Ord. No. 356-04] | South | For a distance of 73 feet east of Waynesbrooke Road and a distance of 248 feet west of Waynesbrooke Road |
| Valley Forge Road [Added 11-17-1980 by Ord. No. 167-80] | West | From Lancaster Avenue to South Devon Avenue |
| Walnut Avenue [Added 5-15-1995 by Ord. No. 280-95; repealed 6-19-1995 by Ord. No. 281-95] | | |

| Name of Street | Side | Location |
|---|-------|--|
| Waterloo Road (L.R. 142, Spur A), North [Added 7-7-1969 by Ord. No. 98] | East | From Penn-Central Railroad underpass to its intersection with Old Lancaster Road (Twp. Road 415) |
| Waynesborough Road [Added 7-10-1981 by Ord. No. 175-81] | South | From the Township line east to Darby-Paoli Road (Route 252) |
| Woodside Avenue [Added 6-2-1980 by Ord. No. 162-80] | North | From Midland Avenue west for a distance of 455 feet |

§ 430-8. Permit parking.

Parking in the following areas shall be allowed by those vehicles displaying a valid parking permit issued by the Township. Parking permits shall be issued only to residents of the streets listed below:

| Name of Street | Side | Location; Restrictions |
|--|-------|---|
| Berwyn Avenue [Added 4-2-1990 by Ord. No. 230-90] | North | Residents living on the north side of Berwyn Avenue, from Woodside Avenue west for a distance of approximately 348 feet, because of the lack of off-street parking, shall be exempt from the two-hour parking restriction, provided their vehicle displays a parking permit sticker which shall be issued by the Township. No more than 2 permits shall be issued per household. |
| Main Avenue, Berwyn [Added 3-15-2004 by Ord. No. 351-04] | Both | From 140 feet south of Lancaster Avenue to Berwyn Avenue, permit parking only. Vehicles displaying valid parking permits issued by the Township for this section of Main Avenue shall be eligible to park in this section. Residents living along this section of Main Avenue shall be eligible to receive parking permits from the Township. No more than 2 permits shall be issued per residence. |

§ 430-9. One-way streets.

- A. The peace officers of the Township are authorized and directed, from time to time, as the condition of traffic upon the roads and highways of the Township shall warrant, to prohibit temporarily other than one-way traffic on any of the roads or highways of the Township and shall cause to be erected and maintained, during the period of such temporary prohibition, official signs of the Township giving notice thereof, which signs shall be posted conspicuously at points where any such road or highway affected thereby joins other highways. From and after the effective date hereof, no person shall drive or operate any vehicle on that portion of any road or street of the Township which has been designated as a temporary one-way street, as hereinabove provided, in a direction contrary to that indicated and required by such signs.
- B. The streets or parts of streets described in this section are hereby designated as one-way streets in the direction indicated, and it shall be unlawful for any person to drive a vehicle on any one-way street other than in the direction established for traffic on that street:

| Name of Street ¹⁶⁰ | Direction of Travel | Limits |
|---|---------------------|---|
| Main Avenue | South | Between Lancaster Avenue and First Avenue |
| Railroad Station | North | Road extending diagonally from the intersection of Lancaster Avenue and Waterloo Road toward the Devon Station of the Pennsylvania Railroad |
| Waynesborough Road [Added 10-7-1974 by Ord. No. 130] | West | Between Sugartown Road and Darby-Paoli Road |

§ 430-10. Speed limits.

The speed limit for both directions of traffic along the streets or parts thereof described in this section is hereby established at the rate of speed indicated below. It shall be unlawful for any person to drive a vehicle at a higher speed than the maximum prescribed for that street or part of a street.

| Name of Street | Speed Limit (mph) | Location |
|---|----------------------|--|
| Abbey Road [Added 6-6-1966 by Ord. No. 72] | 25 | Entire length |
| Annadale Drive [Added 2-3-2003 by Ord. No. 344-03] | 25 | Entire length |
| Argyle Road [Added 10-20-1980 by Ord. No. 165-80; amended 4-6-1981 by Ord. No. 174-81; 4-19-1999 by Ord. No. 324-99] | 25 | Entire length |
| Arlington Road [Added 8-20-1962 by Ord. No. 59] | 25 | From Lancaster Avenue to Berkley Road |
| Ashby Road, Paoli [Added 7-18-2005 by Ord. No. 363-05] | 25 | Entire length |
| Augusta Court [Added 2-3-2003 by Ord. No. 344-03] | 25 | Entire length |
| Beaumont Road [Added 2-17-1997 by Ord. No. 295-97] | 25 | From Dorset Road west to the cul-de-sac (entire 100 Block) |
| Beaumont Road [Added 10-20-1980 by Ord. No. 165-80; amended 11-16-1992 by Ord. No. 253-92; 8-4-1997 by Ord. No. 303-97] | 25 | Between Route 252 and Waterloo Road |
| Berkley Road [Added 10-1-1956 by Ord. No. 32] | 25 | Between South Valley Forge Road and Arlington Road |

160. Editor's Note: The original entry designating Berkley Road as a one-way street was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

| Name of Street | Speed Limit (mph) | Location |
|--|----------------------|--|
| Berwyn Avenue [Added 7-1-1985 by Ord. No. 192-85] | 25 | From Midland Avenue to Bridge Avenue |
| Berwyn Baptist Road [Added 8-17-1987 by Ord. No. 206-87] | 25 | From Conestoga Road to Landsende Lane |
| Berwyn-Paoli Road [Added 9-19-1966 by Ord. No. 75; amended 8-15-1977 by Ord. No. 142; 6-2-1980 by Ord. No. 162-80] | 25 | From Rt. 30 (L.R. 142) to Sugartown Road (L.R. 15112) |
| Black Swan Lane [Added 8-19-2002 by Ord. No. 341-02] | 25 | Entire length |
| Bridge Avenue [Added 7-1-1985 by Ord. No. 192-85] | 25 | From Lancaster Avenue to dead end |
| Buttonwood Road [Added 3-20-1961 by Ord. No. 53] | 35 | Between Darby-Paoli Road and the Township line |
| Byrd Drive [Added 4-19-1999 by Ord. No. 324-99] | 25 | Entire length |
| Canterbury Lane [Added 7-2-1979 by Ord. No. 153A] | 25 | From Leopard Road to Green Hill Lane |
| Cascade Court [Added 2-3-2003 by Ord. No. 344-03] | 25 | Entire length |
| Castlehill Lane [Added 2-3-2003 by Ord. No. 344-03] | 25 | Entire length |
| Central Avenue [Added 5-5-1986 by Ord. No. 198-86] | 25 | Entire length |
| Church Road (L.R. 15118) [Added 7-7-1969 by Ord. No. 98] | 35 | From Sugartown Road (L.R. 15112) throughout its entire length to the border of Newtown Township in Delaware County |
| Clovelly Lane [Added 1-7-1985 by Ord. No. 185-85; amended 2-17-1997 by Ord. No. 295-97; 6-7-1999 by Ord. No. 325-99] | 25 | Entire length |
| Conestoga Road | 35 | Entire length |
| Country Roads [Added 6-6-1966 by Ord. No. 72] | 25 | Entire length |
| Doral Circle [Added 2-3-2003 by Ord. No. 344-03] | 25 | Entire length |

| Name of Street | Speed Limit (mph) | Location |
|---|----------------------|--|
| Dorset Road [Added 11-3-1969 by Ord. No. 102; amended 1-7-1980 by Ord. No. 157-80; 7-18-1994 by Ord. No. 274-94; 6-7-1999 by Ord. No. 325-99] | 25 | Entire length |
| Eastwood Road [Added 11-17-1997 by Ord. No. 308-97] | 25 | From Midland Avenue to Woodside Avenue |
| Evergreen Lane [Added 10-20-1997 by Ord. No. 306-97] | 25 | Entire length |
| Exeter Road [Added 2-18-2020 by Ord. No. 443-20] | 25 | Entire length |
| Farm Road, Berwyn [Added 2-22-1994 by Ord. No. 271-94] | 25 | Entire length |
| Greenhill Lane [Added 10-20-1980 by Ord. No. 165-80; amended 4-6-1981 by Ord. No. 174-81; 4-19-1999 by Ord. No. 324-99] | 25 | Entire length |
| Highland Avenue [Added 6-15-1998 by Ord. No. 313-98] | 25 | Entire length |
| Inverness Lane [Added 2-3-2003 by Ord. No. 344-03] | 25 | Entire length |
| Kromer Avenue, Berwyn [Added 9-17-2007 by Ord. No. 377-07] | 25 | Entire length |
| Ladderback Lane [Added 1-7-1985 by Ord. No. 185-85; amended 6-7-1999 by Ord. No. 325-99] | 25 | Entire length |
| Lakeside Avenue [Added 8-20-1962 by Ord. No. 59] | 25 | From Lancaster Avenue to Arlington Road |
| Lantern Lane [Added 4-19-1999 by Ord. No. 324-99] | 25 | Entire length |
| Lenape Drive [Added 8-15-1977 by Ord. No. 141; amended 6-7-1999 by Ord. No. 325-99] | 25 | Entire length |
| Leopard Road, L.R. 15115 [Added 9-4-1979 by Ord. No. 155] | 35 | Between Darby-Paoli Road, L.R. 15111, and Sugartown Road, L.R. 15112 |
| Lincoln Highway (L.R. 142) [Added 10-1-1962 by Ord. No. 60] | 40 | From Lakeside Avenue in Berwyn to Valley Forge Road in Devon |
| Lindsey Drive, Berwyn [Added 12-20-1993 by Ord. No. 269-93] | 25 | Entire length |
| Maple Avenue [Added 5-5-1986 by Ord. No. 198-86] | 25 | Entire length |

| Name of Street | Speed Limit (mph) | Location |
|---|----------------------|---|
| Midland Avenue [Added 11-17-1997 by Ord. No. 307-97; amended 8-3-1998 by Ord. No. 315-98] | 25 | Entire length |
| Millbrook Road [Added 8-21-2017 by Ord. No. 430-17] | 25 | Entire length |
| Morris Lane [Added 4-19-1999 by Ord. No. 324-99] | 25 | Entire length |
| Muirfield Court [Added 2-3-2003 by Ord. No. 344-03] | 25 | Entire length |
| Newtown Road [Added 10-25-1958 by Ord. No. 45] | 35 | From Sugartown Road to the Township line |
| North Fairfield Road [Added 5-21-1990 by Ord. No. 231-90] | 25 | From Old Lancaster Road to the Tredyffrin Township line |
| North Lakeside Avenue, Berwyn [Added 2-22-1994 by Ord. No. 271-94] | 25 | Entire length |
| North Valley Forge Road [Added 9-3-1968 by Ord. No. 84] | 25 | From Conestoga Road (L.R. 15136) northward to the boundary line of Easttown and Tredyffrin Townships |
| North Valley Forge Road [Added 10-17-1966 by Ord. No. 77; repealed 3-1-1993 by Ord. No. 259-93] | | |
| Oakwood Lane [Added 8-20-1985 by Ord. No. 194-85] | 25 | From Fairfield Road to Arlington Road |
| Old Lancaster Road | 25 | Between its intersection with Lancaster Avenue and Midland Avenue and the boundary line of the Township |
| Olympia Hills Circle [Added 2-3-2003 by Ord. No. 344-03] | 25 | Entire length |
| Pebble Spring Drive, Berwyn [Added 6-20-2005 by Ord. No. 362-05] | 25 | Entire length |
| Pennsylvania Avenue [Added 8-18-1969 by Ord. No. 99] | 25 | Entire length |
| Potter Avenue [Added 5-5-1986 by Ord. No. 198-86] | 25 | Entire length |
| Prescott Road [Added 12-7-2020 by Ord. No. 447-20] | 25 | Entire length |
| St. Andrews Drive [Added 2-3-2003 by Ord. No. 344-03] | 25 | Entire length |
| Signal Hill Lane [Added 4-19-1999 by Ord. No. 324-99] | 25 | Entire length |

| Name of Street | Speed Limit (mph) | Location |
|---|----------------------|---|
| South Devon Avenue [Added 5-5-1997 by Ord. No. 299-97] | 25 | Entire length |
| South Fairfield Road [Added 3-7-1988 by Ord. No. 210-88; amended 6-7-1999 by Ord. No. 325-99] | 25 | Entire length |
| South Leopard Road [Added 4-1-1968 by Ord. No. 82; amended 5-21-1990 by Ord. No. 231-90] | 25 | Entire length |
| South Valley Forge Road [Added 9-4-1990 by Ord. No. 233-90] | 25 | From Ladderback Lane to the Township line |
| South Valley Forge Road [Added 1-7-1980 by Ord. No. 157-80] | 30 | From South Devon Avenue to the Township line |
| South Valley Forge Road [Added 10-4-1971 by Ord. No. 113] | 25 | From Sugartown Road (L.R. 15112) northward to Berkley Road |
| Stanwich Drive [Added 2-3-2003 by Ord. No. 344-03] | 25 | Entire length |
| Station Road [Added 3-1-1993 by Ord. No. 259-93] | 30 | From Waterloo Road to Old Lancaster Road |
| Sugartown Road [Added 10-25-1958 by Ord. No. 45; amended 3-20-1961 by Ord. No. 53] | 35 | From Darby-Paoli Road to Valley Forge Road |
| Twinbrook Road [Added 9-15-1997 by Ord. No. 305-97; amended 10-16-2023 by Ord. No. 458-23] | 25 | Entire length |
| Valley Forge Road [Added 3-1-1993 by Ord. No. 259-93] | 30 | Between Old Lancaster Road and Conestoga Road |
| Valley Forge Road [Added 10-20-1969 by Ord. No. 100] | 25 | From Sugartown Road (L.R. 15112) southward to South Devon Avenue |
| Walnut Avenue [Added 5-5-1986 by Ord. No. 198-86] | 25 | Entire length |
| Waterloo Avenue (L.R. 15114) [Added 7-18-1966 by Ord. No. 73] | 25 | From its beginning at the Lincoln Highway, L.R. 142, T.R. 30, to Midland Avenue, for a distance of 2,525 feet |
| Waterloo Road (L.R. 15117) [Added 7-15-1968 by Ord. No. 83] | 35 | From its intersection with Lincoln Highway (L.R. 142) south to Newtown Road (L.R. 15113) |
| Waterloo Road [Added 11-1-1999 by Ord. No. 327-99] | 25 | Between Newtown Road and Darby-Paoli Road |

| Name of Street | Speed Limit (mph) | Location |
|--|----------------------|---|
| Wayland Road [Added 3-16-1970 by Ord. No. 103; amended 8-18-2008 by Ord. No. 385-08] | 25 | Entire length |
| Waynesborough Road [Added 3-17-1997 by Ord. No. 297-97] | 35 | From Route 252 west to the Willistown Township line |
| White Horse Road [Added 3-21-1966 by Ord. No. 71] | 35 | Entire length |
| Woodside Avenue [Added 10-1-1956 by Ord. No. 32] | 25 | From First Avenue to South Lakeside Avenue |

§ 430-11. Speed humps. [Added 6-6-2005 by Ord. No. 361-05]

The Easttown Township Board of Supervisors hereby authorizes the installation of speed humps, as defined in Easttown Township Resolution No. 04.19.04, as supplemented and amended, on the 300 and 400 Blocks of Old Lancaster Road, Devon, Easttown Township. The installation of speed humps is authorized at the following locations:

| Name of Street | Location |
|---|---|
| Old Lancaster Road | 200 feet +/- west of the most eastern intersection with Littlebrook Road |
| Old Lancaster Road | 250 feet +/- east of the intersection with Warren Avenue |
| Old Lancaster Road | 360 feet +/- east of the most eastern intersection with Littlebrook Road |
| Old Lancaster Road | 360 feet +/- west of the most western intersection with North Fairfield Road |
| Lindsey Drive [Added 6-2-2014 by Ord. No. 422-14] | Starting at the intersection with Waterloo Avenue to the intersection with Sugartown Road |

§ 430-12. Vehicle weight restrictions.

From and after the effective date hereof, no person shall drive or operate any truck, trailer, tractor-trailer or other commercial vehicle having a gross weight of 10,000 pounds or more on any of the following named streets or roads of the Township, except for the purpose of delivering or picking up goods, wares, merchandise or household effects to or from properties abutting thereon:

| Name of Street | Limits |
|-------------------|--|
| Berwyn-Paoli Road | Between Lancaster Avenue and Sugartown Road |
| Fairfield Road | Between Conestoga Road and Highland Avenue |
| Francis Avenue | Between Conestoga Road and Old Lancaster Road |
| Kromer Avenue | Between Warren Avenue and the boundary line of Easttown Township |

| Name of Street | Limits |
|---|--|
| Old Lancaster Road | Between the eastern Township boundary line of Easttown Township and Lancaster Avenue |
| South Leopard Road [Added 5-21-1990 by Ord. No. 231-90] | Entire length |
| South Valley Forge Road [Added 5-4-1992 by Ord. No. 249-92] | From Sugartown Road to South Devon Avenue |
| Station Road | Between the Devon Station of the Pennsylvania Railroad and Conestoga Road |
| Warren Avenue | Between Old Lancaster Road and Kromer Avenue |
| Waynesborough Road | Between Sugartown Road and Darby-Paoli Road |

§ 430-13. Direction of traffic by peace officers.

The peace officers of the Township are authorized and directed, from time to time, as the need occasioned by traffic and the condition of the public highways and roads of the Township shall determine, to regulate the traffic therein by personally directing such traffic.

§ 430-14. Through highways.

The Board of Supervisors hereby declares that it has, in compliance with the provisions of the Vehicle Code,¹⁶¹ designated, and may in the future designate, certain streets or roads, or parts thereof, of the Township as through highways and has caused, or may cause, official signs bearing the word "stop" to be erected at the entrances thereto.

§ 430-15. Stop intersections. [Amended 6-2-2014 by Ord. No. 422-14]

The intersections described in this section (in addition to intersections with the through streets established by this chapter) are hereby established as stop intersections, and official stop signs shall be erected in such a position upon the first-named street as to face traffic approaching the second-named street. Every driver of a vehicle approaching any such intersection upon the first-named street, in the direction or directions indicated in each case, shall come to a full stop before entering any such intersection.

| Stop Sign on | Direction of Travel | At Intersection of |
|------------------------|---------------------|--------------------|
| Aiken Avenue | North | Berwyn Avenue |
| Aiken Avenue | South | First Avenue |
| Annadale Drive (4-way) | Both | St. Andrews Drive |
| Argyle Road | Both | Green Hill Road |
| Argyle Road, Berwyn | Both | Hawthorne Place |

¹⁶¹Editor's Note: See 75 Pa.C.S.A. § 101 et seq.

| Stop Sign on | Direction of Travel | At Intersection of |
|--|----------------------------|---------------------------|
| Ashby Road | South | Berwyn-Paoli Road |
| Ashby Road | West | Fairway Road |
| Augusta Court | West | St. Andrews Drive |
| Bartholomew Road | North | First Avenue |
| Bartholomew Road | South | Midland Avenue |
| Beaumont Road | All | Newtown Road |
| Beaumont Road | East | Dorset Road |
| Bella Vista Road | North | Berkley Road |
| Bella Vista Road | South | Chester Road |
| Berkley Road | Both | Chester Road |
| Berkley Road (4-way) | Both | Chester Road |
| Berkley Road (4-way) | Both | South Fairfield Road |
| Berwyn Avenue [Added 1-17-2017 by Ord. No. 428.1-17] | Both | Woodside Avenue |
| Berwyn Avenue | West | Bridge Avenue |
| Blackburn Drive | West | Leopard Road |
| Black Swan Lane | North | Sugartown Road |
| Boulder Lane | North | Grantham Road |
| Buttonwood Road | North | Darby-Paoli Road |
| Byrd Drive | East | Leopard Road |
| Byrd Drive | South | Darby-Paoli Road |
| Canterbury Circle | North | Green Hill Lane |
| Canterbury Lane | Both | Byrd Drive |
| Canterbury Lane | East | Leopard Road |
| Canterbury Lane | South | Green Hill Lane |
| Cascade Court | South | St. Andrews Drive |
| Castlehill Lane | South | Waterloo Road |
| Chester Road | Both | Berkley Road |
| Continental Lane | South | Waynesborough Road |
| Country Road | West | Abbey Road |
| Crum Creek Drive | South | Wayland Road |

| Stop Sign on | Direction of Travel | At Intersection of |
|--|----------------------------|---|
| Cymry Drive [Amended 8-21-2023 by Ord. No. 459-23] | South | Beaumont Road |
| Daventry Road | North | Lakeside Avenue |
| Daventry Road | South | Watford Lane |
| Derwydd Lane | East | Newtown Road |
| Devon Boulevard | Both | Chester Road |
| Devon Boulevard [Added 10-1-2018 by Ord. No. 436-18] | North | 17 Devon Boulevard parking lot access drive |
| Devon Boulevard [Added 10-1-2018 by Ord. No. 436-18] | South | 138 Lancaster Avenue parking lot access drive |
| Devonwood Lane | West | Station Road |
| Dogwood Lane | East | Waterloo Avenue |
| Doral Circle | Both | St. Andrews Drive |
| Dorset Road (4-way) | Both | Exeter Road |
| Dorset Road (4-way) | Both | South Devon Avenue |
| Dundee Place | South | Dundee Place |
| Eastwood Road | South | Woodside Avenue |
| Eastwood Road | West | Midland Avenue |
| Edgewood Avenue | East | Leopard Road (2) |
| Ethan Allen Road | East | Llewelyn Road |
| Ethan Allen Road | North | Beaumont Road |
| Exeter Road | Both | South Fairfield Road |
| Farm Lane | North | Farm Road |
| Farm Road | West | Leopard Road |
| Farragut Road | East | Nathan Hale Road (2) |
| First Avenue | North | Woodside Avenue |
| First Avenue | West | Waterloo Avenue |
| Fox Creek Road | North | Darby-Paoli Road |
| Fox Creek Road | West | Hereford Road |
| Graham Way | East | North Valley Forge Road |
| Grange Road (3-way stop) | | Valley Forge Road |
| Grantham Road | East | Fox Creek Road |
| Grantham Road | North | Boulder Lane |

| Stop Sign on | Direction of Travel | At Intersection of |
|-------------------------|----------------------------|---------------------------|
| Greenhill Circle | North | Greenhill Lane |
| Greenhill Lane | North | Evergreen Road |
| Greenhill Lane | South | Byrd Drive |
| Grubbs Mill Road | West | South Valley Road |
| Gwilym Circle | North | Newtown Road |
| Hastings Place | North | Daventry Road |
| Hawthorne Place | Both | Argyle Road |
| Hearn Avenue | South | Edgewood Avenue |
| Heatherwood Road | East | Arlington Road |
| Hedgemere Road | West | Wetherby Lane |
| Hereford Drive | North | Buttonwood Road |
| Inverness Lane | South | Grubbs Mill Road |
| James Lane | South | Blackburn Drive |
| Kent Place | East | Watford Lane |
| Knox Avenue | West | Aiken Avenue |
| Ladderback Lane | Both | Clovelly Lane |
| Ladderback Lane | North | South Valley Forge Road |
| Ladderback Lane | South | Church Road |
| Lakeside Avenue (3-way) | Both | Sylvan Lane |
| Lakeside Court | West | Lakeside Avenue |
| Landsende Road | East | North Fairfield Road |
| Landsende Road | North | Berwyn-Baptist Road |
| Leopard Way | East | Leopard Road |
| Littlebrook Road | South | Old Lancaster Road (2) |
| Llanelly Lane | East | Cymry Drive |
| Llewelyn Road | East | Derwydd Road |
| Llewelyn Road | South | Waterloo Road |
| Longcourse Lane | South | Berwyn-Paoli Road |
| Maple Avenue | North | Potter Avenue |
| Meadow Lane | North | Sugartown Road |
| Meadow Lane | West | Meadow Lane |
| Midland Avenue | Both | Woodside Avenue |

| Stop Sign on | Direction of Travel | At Intersection of |
|---|----------------------------|----------------------------------|
| Midland Avenue | West | Waterloo Avenue |
| Midland Circle | East | Waterloo Avenue |
| Millbrook Road | Both | Newtown Road |
| Millbrook Road | West | Darby-Paoli Road |
| Morris Lane | North | Argyle Road |
| Muirfield Court | North | St. Andrews Drive |
| Nathan Hale Road | South | Beaumont Road |
| Northfield Road | North | Church Road |
| North Valley Forge Road | North | Old Lancaster Road |
| Oakwood Lane | East | Fairfield Road |
| Oakwood Lane | West | Arlington Road |
| Old Lancaster Avenue [Added 8-21-2023 by Ord. No. 459-23] | East | Devon State Road |
| Old Lancaster Road (4-way) | Both | Warren Avenue and Francis Avenue |
| Old Lancaster Road, Devon (4-way) | Both | Station Avenue |
| Olympia Hills Circle | Both | St. Andrews Drive |
| Pebble Springs Drive | South | Whitehorse Road |
| Pheasant Run Drive | North | Devon Road |
| Pilgrim Lane | West | Lenape Drive |
| Pinecroft Road | North | Buttonwood Road |
| Pondview Drive | South | Church Road |
| Potter Avenue | East | Walnut Avenue |
| Prescott Road | West | Darby-Paoli Road |
| Quail Ridge Drive | West | Pheasant Run Drive |
| Saratoga Road | Both | Waterloo Road |
| Saratoga Road | South | Millbrook Road |
| Signal Hill Lane | East | Lantern Lane |
| South Fairfield Road | Both | Exeter Road |
| South Fairfield Road (4-way) [Added 5-20-2019 by Ord. No. 440-19] | Both | Sugartown Road |
| Spencer Road | Both | North Fairfield Road |
| Spencer Road | East | Devon State Road |

| Stop Sign on | Direction of Travel | At Intersection of |
|---|----------------------------|---------------------------|
| Spencer Road | East | North Valley Forge Road |
| Spencer Road | West | Devon State Road |
| Spencer Road | West | Landsende Road |
| Spring Lane | South | Millbrook Road |
| Stanwich Drive | Both | Annadale Drive |
| Station Road, Devon | Both | Devonwood Lane |
| Stonegate Drive | West | Waterloo Road |
| Sugartown Road (4-way) [Added 5-20-2019 by Ord. No. 440-19] | Both | South Fairfield Road |
| Sussex Place | North | Watford Lane |
| Sylvan Lane | West | Lakeside Avenue |
| Tenby Road | East | Newtown Road |
| Tenby Road | West | Llewelyn Road |
| Twinbrook Road | West | Grubbs Mill Road |
| Waltham Road | North | Millbrook Road |
| Waltham Road | South | Prescott Road |
| Waterloo Road | West | Boulder Lane |
| Wayland Road | East | Whitehorse Road |
| Wayland Road | West | Crum Creek Drive |
| Wetherby Lane | South | Church Road |
| Winthrop Road | South | Lenape Drive |
| Woodside Avenue [Added 1-17-2017 by Ord. No. 428.1-17] | Both | Berwyn Avenue |
| Woodside Avenue | East | Lakeside Avenue |

§ 430-16. Yield intersections. [Added 1-7-1980 by Ord. No. 158-80]

The intersections described in this section are hereby established as yield intersections, and official yield signs shall be erected in such a position upon the first-named street as to face traffic approaching the second-named street in the direction or directions indicated. Every driver of a vehicle approaching any such intersection upon the first-named street, in the direction or directions indicated in each case, shall slow down or stop the vehicle and then yield the right-of-way to any vehicle in the intersection or approaching on the second-named street so closely as to constitute a hazard during the time that the driver is moving across or within such intersection.

| Yield Sign on | Direction of Travel | At Intersection of |
|---|----------------------------|---------------------------|
| Berwyn-Paoli Road [Added 6-2-2014 by Ord. No. 422-14] | East | Berwyn-Paoli Road |
| Signal Hill Lane | East | Lantern Lane |

§ 430-17. Prohibited right turns on red signal. [Added 6-2-1980 by Ord. No. 162-80]

There shall be no turn on red permitted at the following traffic signals:

| Signal on | Direction of Travel | At Intersection of |
|------------------|----------------------------|---------------------------|
| Cassatt Avenue | South | Rt. 30 |
| Howellville Road | South | Rt. 30 |
| Rt. 30 | West | Cassatt Avenue |
| Rt. 30 | West | Devon State Road |
| Rt. 30 | West | Old Lancaster Road |
| Sugartown Road | West | Darby-Paoli Road |
| Waterloo | North | Rt. 30 |

§ 430-17.1. Parking for handicapped persons. [Added 7-16-2018 by Ord. No. 434-18]

The following are designated as parking for handicapped persons:

| Street | Side | Location | Purpose |
|---------------|-------------|---------------------------------|---|
| Walnut Avenue | East | 150 feet north of Potter Avenue | 1 parking space for handicapped persons |

§ 430-17.2. Prohibited left turns. [Added 10-1-2018 by Ord. No. 436-18]

There shall be no left turn at the following intersection:

| Left Turn Restriction On | Direction of Travel | At the Intersection of |
|---------------------------------|----------------------------|-------------------------------|
| Devon Boulevard | North | Lancaster Avenue |

§ 430-18. Violations and penalties.¹⁶² [Amended 10-1-1956 by Ord. No. 32; 9-21-1981 by Ord. No. 178-81; 1-2-1996 by Ord. No. 284-96; 2-17-2004 by Ord. No. 350-04; 8-15-2011 by Ord. No. 405-11]

- A. Unless another penalty is expressly provided by the Vehicle Code (75 Pa.C.S.A. § 101 et seq., as amended) or except as herein specified, every person convicted of a violation of a provision of this chapter, or any supplement thereto, shall be liable to a penalty of \$25 and the costs of prosecution. [Amended 6-2-2014 by Ord. No. 422-14]

^{162.}Editor's Note: Original § 13, No left turn, added 6-2-1980 by Ord. No. 162-80, which immediately preceded this section, was repealed 6-2-2014 by Ord. No. 422-14.

B. There is hereby established a penalty of \$80 for illegal parking on the public streets and highways of Easttown Township, including any public parking areas, in the following locations: **[Amended 5-15-2023 by Ord. No. 456-23]**

- (1) The 100 and 200 Blocks of Lancaster Avenue.
 - (2) The 001 to, and including, 300 Blocks of Dorset Road.
 - (3) Devon Boulevard.
 - (4) Bella Vista Road.
 - (5) The 100 and 200 Blocks of Berkley Road.
 - (6) The 100 and 200 Blocks of Chester Road.
 - (7) The 001 to, and including, 300 Blocks of South Valley Forge Road.
 - (8) The 100 and 200 Blocks of Sugartown Road.
 - (9) The 001 to, and including, 300 Blocks of South Fairfield Road.
 - (10) The 001 to, and including, 300 Blocks of South Waterloo Road.
 - (11) Any location in which Easttown Township has posted signs giving notice of temporary parking regulations or restrictions pursuant to § 430-4 (Temporary parking regulations).
- C. Failure to pay the fine set forth in a citation within the time and manner prescribed in such citation shall be a violation of this chapter, which will be enforced in an action brought before a Magisterial District Judge in the same manner as provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

Chapter 439**VEHICLES, TOWING AND IMPOUNDMENT OF**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 7-5-2000 by Ord. No. 331-00. Amendments noted where applicable.]

GENERAL REFERENCES

Parking lots — See Ch. 299.

Vehicles and traffic — See Ch. 430.

§ 439-1. Statutory authority; purpose.

The provisions of this chapter are enacted pursuant to the provisions of Section 6109(a)(22) of the Pennsylvania Motor Vehicles Code,¹⁶³ authorizing the removal and impounding of vehicles parked on the streets or highways or public property of the Township in violation of any local ordinances or the provisions of the Pennsylvania Motor Vehicle Code or which have been abandoned (as defined by the Vehicle Code) or which are parked in such a manner as to interfere with traffic or pose a hazard to others.

§ 439-2. Removal and impoundment authorized.

The Township, acting through the Township Police Department, or its authorized employees, shall have the authority to remove and impound or order the removal and impounding of any vehicle parked, stopped or standing as hereinabove described in § 439-1.

§ 439-3. Designation of tow-away zones.

Tow-away zones shall be designated by appropriate permanent or temporary signs setting forth that the parking or stopping area has been designated a tow-away zone. Vehicles which have been abandoned or parked or stopped in such a manner as to interfere with traffic or pose a hazard to others are subject to removal and impoundment whether or not the location is designated as a tow-away zone.

§ 439-4. Approved towing and storage facilities.

The removal and impounding of vehicles pursuant to this chapter shall be by approved storage facilities (facilities) only. Such facilities shall be designated from time to time by resolution adopted by the Board of Supervisors. Every such facility shall submit evidence to the Township that it is bonded or has liability insurance in an amount satisfactory to the Supervisors as sufficient to indemnify owners of impounded vehicles against loss or damage to those vehicles while in the custody of the facility for the purpose of towing or storage. Every approved storage facility shall submit to the Supervisors a schedule of charges for towing and storage of vehicles pursuant to this chapter. Upon approval by the Board of Supervisors, such charges shall be adhered to by the storage facility and no additional charges shall be demanded or collected from any person whose vehicle has been removed or impounded under this chapter until such new charges are approved by the Supervisors. Any person or entity violating this provision is subject to removal as an approved facility.

¹⁶³Editor's Note: See 75 Pa.C.S.A. § 6109(a)(22).

§ 439-5. Payment of towing and storage charges.

The payment of towing and/or storage charges shall not relieve the person responsible for the subject vehicle from liability for the payment of any fine or penalty for the violation of the provisions of this chapter.¹⁶⁴

§ 439-6. Records of vehicles removed or impounded.

The Township shall cause a record to be kept of all vehicles removed or impounded under this chapter. Such records shall be reasonably available to the persons claiming responsibility for such vehicle and shall specify the location of the impounded vehicle.¹⁶⁵

§ 439-7. Reports; disposition of unclaimed vehicles.

After a period of 15 days, if any vehicle in storage pursuant to the provisions of this chapter remains unclaimed, a report shall be filed with the Pennsylvania Department of Transportation as provided in Section 7311 of the Pennsylvania Motor Vehicle Code¹⁶⁶ by the person or entity having custody of the vehicle at that time. In the event the subject vehicle has not been claimed after 30 days, such vehicle may be transferred to a licensed salvager, who will then be responsible for complying with the requirements of the Pennsylvania Motor Vehicle Code, 75 Pa.C.S.A. § 101 et seq., as amended.

164.Editor's Note: Original § 6, Towing and storage costs, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

165.Editor's Note: Original § 8, Penalty and costs, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

166.Editor's Note: See 75 Pa.C.S.A. § 7311.

Chapter 447**WIRELESS COMMUNICATIONS FACILITIES**

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 12-15-2014 by Ord. No. 424-14. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 455.

§ 447-1. Short title.

This chapter shall be known as the "Wireless Communications Facilities Chapter."

§ 447-2. Purpose.

A. The purpose of this chapter is to regulate the placement, construction and modification of wireless communications facilities, in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the Township. The purpose of this chapter may be achieved through adherence to the following objectives:

- (1) Protect residential areas and land uses from potential adverse impacts that wireless communications facilities might create, including but not limited to negative impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, and health and safety of persons and property;
- (2) Establishment of clear and nondiscriminatory local regulations concerning wireless telecommunications providers and services that are consistent with federal and state laws and regulations pertaining to telecommunications providers;
- (3) Encourage providers of wireless communications facilities to locate facilities, to the extent possible, in areas where the adverse impact on the community is minimal;
- (4) Encourage the location of wireless communications facilities in nonresidential areas and allow wireless communications facilities in residential areas only when necessary to meet functional requirements of the telecommunications industry as defined by the Federal Communications Commission;
- (5) Minimize the total number of wireless communications facilities in residential areas;
- (6) Encourage and, where legally permissible, require cooperation between competitors and, as a primary option, joint use of new and existing towers, tower sites and suitable structures to the greatest extent possible, in order to reduce cumulative negative impact on the Township;
- (7) Ensure wireless communications facilities are configured in a way that minimizes the adverse visual impact of the facilities, as viewed from different vantage points, through careful design, landscape screening, minimal impact siting options and camouflaging techniques, and through assessment of technology, current location options, siting, future available locations, and

- innovative siting techniques;
- (8) Enable wireless communication companies to enter into lease agreements with the Township to use Township property for the placement of wireless facilities, where consistent with other public needs, as a means to generate revenue for the Township;
 - (9) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently;
 - (10) Provide for the prompt removal of wireless communications facilities that are abandoned or no longer inspected for safety concerns and building code compliance, and provide a mechanism for the Township to cause these abandoned wireless communications facilities to be removed as necessary to protect the citizens from imminent harm and danger;
 - (11) Avoid potential damage to adjacent properties from tower failure, through strict compliance with state building and electrical codes;
 - (12) Provide a means for public input on wireless communication facility placement, construction and modification; and
 - (13) Address new technologies, including but not limited to, distributed antenna systems, data collection units, cable wi-fi and other wireless communications facilities.
- B. In furtherance of these objectives, the Township shall give due consideration to the zoning code, existing land uses, and environmentally sensitive areas when approving sites for the location of communication towers and antennas.
- C. These objectives were developed to protect the public health, safety and welfare, to protect property values, and to minimize visual impact, while furthering the development of enhanced telecommunications services in the Township. These objectives were designed to comply with the Federal Telecommunications Act of 1996 and the Pennsylvania Wireless Broadband Collocation Act. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.
- D. To the extent that any provision of this chapter is inconsistent or conflicts with other provisions related to wireless communications facilities in the Code of this Township, the provisions of this chapter shall control. Otherwise, this chapter shall be construed consistently with the other provisions and regulations of the Township.
- E. In reviewing any application to place, construct or modify wireless communications facilities, the Township shall act within a reasonable period of time after an application for a permit is duly filed, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The Township shall approve, approve with conditions, or deny the application in accordance with this title, this chapter, and other applicable ordinances and regulations.

§ 447-3. Definitions.

Terms used in this chapter shall have the following meaning, whether or not the terms are capitalized. Unless otherwise expressly stated, terms not defined in this chapter shall be construed consistent with the general definitions section of the Zoning Ordinance of the Township,¹⁶⁷ and, if not defined therein, with

their common and ordinary meaning.

ANTENNA — Any system of wires, rods, discs, panels, flat panels, dishes, whips, or other similar devices used for the transmission or reception of wireless signals. An antenna may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna. An antenna shall not include tower-based wireless communications facilities as defined below.

CO-LOCATION — The mounting of one or more WCFs, including antennae, on an existing tower-based WCF, or other previously approved and constructed wireless support structure including monopoles, towers, electrical transmission towers and water towers.

DISTRIBUTED ANTENNA SYSTEM (DAS) — A network of spatially separated antenna sites connected to a common source that provides wireless service within a geographic area or structure.

EMERGENCY — A condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in a right-of-way to be unusable and result in loss of the services provided.

FCC — The Federal Communications Commission.

GUYED TOWER — A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

LATTICE TOWER — A wireless communication support structure which consists of metal crossed strips or bars to support antennas and related equipment.

MONOPOLE — A freestanding structure which consists of a single vertical pole, fixed into the ground and/or attached to a foundation built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities. Antenna(s) may be externally mounted (visible antenna) or internally mounted (no visible antennas).

RIGHT-OF-WAY or ROW — The surface of and space above and below any real property in the Township in which the Township, county or commonwealth has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the Township, county or commonwealth, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for utility purposes, but excluding lands other than streets that are owned by the Township, county or commonwealth. The phrase "in the right(s)-of-way" means in, on, over, along, above and/or under the right(s)-of-way." The phrase "existing right-of-way" is the legal right-of-way as established by the commonwealth or other appropriate governing authority and which is currently in existence. The phrase "future right-of-way" is the right-of-way deemed necessary to provide adequate width for future street improvements.

SMALL WIRELESS FACILITIES (SWF) — [Added 2-4-2019 by Ord. No. 437-19]

A. Wireless communication facilities (WCF) that meet each of the following conditions:

(1) The facilities:

- (a) Are mounted on structures 50 feet or less in height including their antennas;
- (b) Are mounted on structures no more than 10% taller than other adjacent structures; or
- (c) Do not extend the existing structures on which they are located to a height more than

167. Editor's Note: See Ch. 455, Zoning.

- 50 feet or by more than 10%, whichever is greater;
- (2) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume;
 - (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any preexisting associated equipment with the structure, is no more than 28 cubic feet in volume;
 - (4) The facilities do not require antenna structure registration under law;
 - (5) The facilities are not located on tribal land, as defined by law; and
 - (6) The facilities do not result in human exposure to radiofrequency radiation excess of applicable safety standards.

B. SWFs may be tower-based or structure-mounted.

STEALTH TECHNOLOGY — Camouflaging methods applied to tower-based wireless communications facilities, structure-mounted wireless communications facilities, antennae and other wireless communications facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted antennae, building-mounted antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, flag poles and light poles.

SUBSTANTIALLY CHANGE —

- A. Any increase in the height of a wireless support structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed wireless communications facility may exceed the size limits set forth herein if necessary to avoid interference with existing antennas; or
- B. Any further increase in the height of a wireless support structure which has already been extended by more than 10% of its originally approved height or by the height of one additional antenna array.

TOWNSHIP — A Township, borough or city or as more specifically defined herein.

WIRELESS COMMUNICATIONS FACILITIES (WCF) — An unstaffed facility for the transmission and reception of radio or microwave signals used for commercial communications. A WCF provides services which include cellular phone, personal communication services, other mobile radio services, and any other service provided by wireless common carriers licensed by the Federal Communications Commission (FCC). WCFs are composed of two or more of the following components:

- A. Antenna;
- B. Mount;
- C. Equipment enclosure;
- D. Security barrier.

WIRELESS COMMUNICATIONS FACILITIES EQUIPMENT ENCLOSURE — A small structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing

wireless communication signals. Associated equipment may include air conditioning and emergency generators.

WIRELESS COMMUNICATIONS FACILITIES, STRUCTURE-MOUNTED — A wireless communication facility located on existing structures such as buildings, light poles, utility poles, flag poles, transformers, and/or tanks, and includes co-location as defined herein. This does not include support structures for antennae or related equipment that is mounted to the ground or at ground level, and also does not include WCF located upon single-family or two-family dwellings which is prohibited in the Township.

WIRELESS COMMUNICATIONS FACILITIES, TOWER-BASED — A structure that is used for the purpose of supporting one or more antennae, including, but not limited to, self-supporting towers and monopoles. DAS hub facilities are considered to be tower-based WCFs.

WIRELESS COMMUNICATIONS SERVICES — Any personal wireless services as defined in the Federal Telecommunications Act of 1996, including federally licensed wireless telecommunications services consisting of cellular services, personal communications services (PCS), specialized mobile radio services (SMR), enhanced specialized mobile radio services (ESMR), paging, and similar services that currently exist or that may be developed in the future.

WIRELESS SUPPORT STRUCTURE — A freestanding structure, such as a tower-based wireless communications facility, or any other support structure that could support the placement or installation of a wireless communications facility if approved by the Township.

ZONING ORDINANCE — The Zoning Ordinance as adopted and amended by the Township in its entirety.¹⁶⁸

§ 447-4. General siting criteria and design considerations.

- A. This Township encourages wireless communications services providers to use existing sites or more frequent, less noticeable sites instead of attempting to provide coverage through use of taller towers. To that end, applicants shall consider the following priority of preferred locations for wireless communications facilities:
 - (1) Co-location, without an increase in the height of the building, pole or structure upon which the facility would be located;
 - (2) Co-location, where additional height is necessary above existing building, pole, or structure;
 - (3) A replacement pole or structure for an existing one;
 - (4) A new pole or structure altogether.
- B. Co-location shall be encouraged for all wireless communication facilities' applications and is implemented through less complex permit procedures.
 - (1) To the greatest extent technically feasible, applicants for new monopole facilities shall be required to build mounts capable of accommodating at least two other carriers.
 - (2) Any wireless communication facility that requires a conditional use approval under the provisions of this chapter shall be separated by a minimum of 500 feet from any other facility requiring a conditional use approval, unless the submitted engineering information clearly indicates that the requested site is needed in order to provide coverage for the particular provider

¹⁶⁸Editor's Note: See Ch. 455, Zoning.

and other siting options have been analyzed and proven infeasible.

- C. The following wireless communications facilities are prohibited in the Township unless shown by the applicant to be technologically necessary to meet wireless coverage requirements:
 - (1) Guyed towers; and
 - (2) Lattice towers.

§ 447-5. Tower-based communications facilities.

- A. General requirements applicable to all tower-based wireless communications facilities.

- (1) Standard of care. Tower-based WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical and safety codes, including, but not limited to, the most recent editions of the American National Standards Institute Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Tower-based WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
- (2) Wind. Tower-based WCF shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association (ANSFEINTIA-222-E Code, as amended).
- (3) Height. Tower-based WCF shall be designed at the minimum functional height and shall not exceed a maximum total height of 150 feet, which height shall include all subsequent additions or alterations. All tower-based WCF applicants must submit documentation to the Township justifying the total height of the structure. To the extent permissible by law, any height extensions to an existing tower-based WCF shall require building permit approval by the Township.
- (4) Additional antennae. As a condition of approval for all tower-based WCF, the WCF applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antennae on their tower-based WCF where technically and economically feasible. The owner of a tower-based WCF shall not install any additional antennae without obtaining the prior written approval of the Township.
- (5) Visual or land use impact. The Township reserves the right to deny an application for the construction or placement of any tower-based WCF based upon site specific aesthetics and/or land use impact based upon legitimate regulatory factors including Township ordinances, protection of natural resources, scenic vistas, and protections set forth in the Township's Comprehensive Plan and any related planning documents.
- (6) Public safety communications. Tower-based WCF shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (7) Maintenance. The following maintenance requirements shall apply:
 - (a) Tower-based WCF shall be fully automated and unattended on a daily basis and shall be

- visited only for maintenance or emergency repair.
- (b) Such maintenance shall be performed to ensure the upkeep of the WCF in order to promote the safety and security of the Township's residents.
 - (c) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (8) Radio frequency emissions. Tower-based WCF shall not, by itself or in conjunction with any other WCF, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- (9) Historic protections. No tower-based WCF may be located on a property, building or structure that is listed on the National Register of Historic Places, the Pennsylvania Register of Historic Places or included on a list of official historic places and/or within historic districts as established and maintained by the Township. No tower-based WCF may be located upon property that contains a historic building or structure and also may not be located within 150 feet of any historic building, structure, property or designated historic district.
- (10) Identification. All tower-based WCFs shall post a notice in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency and such contact information shall also be provided to the Township.
- (11) Lighting. Tower-based WCF shall not be artificially lighted, except as required by law and as may be approved by the Township. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.
- (12) Appearance. The tower portion of tower-based WCF shall employ stealth technology including, if feasible, galvanized and/or painted with a rust-preventative paint of an appropriate color to harmonize with surroundings, and maximize the use of a like facade to blend in with the existing surroundings and neighboring buildings to the greatest extent possible.
- (13) Noise. Tower-based WCF shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and local regulations, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- (14) Aviation safety. Tower-based WCF shall comply with all federal and state laws and regulations concerning aviation safety.
- (15) Conditional use and notice. Upon submission of an application for a tower-based WCF and scheduling of the required conditional use hearing, the applicant shall mail notice thereof to the owner or owners of every property within 800 feet of property lines of the parcel or property upon which the proposed facility is to be situated. Such notice requirements shall be met by the applicant and proof of notification provided to the Township and also confirmed by the applicant as part of the conditional use hearing.
- (16) Application requirements. An application for a tower-based WCF shall not be approved unless the applicant can show that the wireless communications equipment planned for the proposed tower-based WCF cannot be accommodated on an existing wireless support structure, including

a wireless support structure that could be considered and approved by the Township such as existing water towers or similar type structures. The following information must be submitted as part of a completed application:

- (a) Project description including a design narrative, technology description, and co-location analysis indicating the alternative locations and technologies considered;
 - (b) Existing wireless coverage map overlaid on a current aerial photo showing provider's existing facilities and wireless coverage in the area, including the gap in coverage which is resulting in the need for the tower-based WCF;
 - (c) Proposed wireless coverage map overlaid on a current aerial photo showing provider's wireless coverage with the proposed facility;
 - (d) Site information on scaled plans, including the following:
 - [1] Site plan;
 - [2] Elevation drawings;
 - [3] Undergrounding details, as applicable;
 - [4] Screening, camouflaging or landscaping plan and cost estimate, as appropriate; and
 - [5] All plans and drawings for a tower and antenna shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
 - (e) Photos and photo simulations showing the existing appearance of the site and appearance of the proposed installation from nearby public viewpoints;
 - (f) A copy of the current FCC license for the entity that will own or operate the tower-based WCF, including the contact information of the operator of the facility. The applicant shall also provide a copy of all applicable FCC regulations with which it is required to comply and a schedule of estimated FCC inspections; and
 - (g) Any other documentation deemed necessary by the Township in order to issue a decision.
- (17) Retention of experts/consultants. Applicants may use various methodologies and analyses, including geographically based computer software, to determine the specific technical parameters of the services to be provided utilizing the proposed wireless communications facilities, such as expected coverage area, antenna configuration, capacity, and topographic constraints that affect signal paths. In certain instances, a third-party expert, and other consultants, may be needed to review the engineering and technical data submitted by an applicant. The Township may at its discretion require consultant assistance, including third-party engineering and technical review as part of a permitting process. The costs of such reviews shall be borne by the applicant. The selection of the third-party expert and other consultants is at the discretion of the Township. The third-party expert review is intended to address interference and public safety issues and be a site-specific review of engineering and technical aspects of the proposed wireless communications facilities and/or a review of the applicants' methodology and equipment used, and is not intended to be a subjective review of the site which was selected by an applicant. Based on the results of the expert review, the Township may require changes to the proposal. The third-party review shall address the following:
- (a) The accuracy and completeness of submissions;

- (b) The applicability of analysis techniques and methodologies;
 - (c) The validity of conclusions reached;
 - (d) The viability of other site or sites in the Township for the use intended by the applicant; and
 - (e) Any specific engineering or technical issues deemed necessary by the Township.
- (18) Engineer inspection. Prior to the Township's issuance of a permit authorizing construction and erection of a tower-based WCF, a structural engineer registered in Pennsylvania shall issue to the Township a written certification of the proposed WCF's ability to meet the structural standards offered by either the Electronics Industries Association or the Telecommunications Industry Association and certify the proper construction of the foundation and the erection of the structure.
- (19) Timing of approval.
- (a) Within 30 calendar days of the date that an application for a tower-based WCF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. The Township shall have 14 days from the receipt of the additional information to issue a letter of completeness, or request additional information as appropriate. All applications for tower-based WCF shall be acted upon within 150 days of the receipt of a fully completed application for the approval of such tower-based WCF and the Township shall advise the applicant in writing of its decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the one-hundred-fifty-day review period. If the application is subject to conditional use approval, such conditional use provisions will remain applicable to the application; however, the timing of approval shall not fall outside the timeline set forth in this section unless agreed upon by the applicant and the Township.
 - (b) Timing of approval for SWF. Within 10 calendar days of the date that an application for a tower-based WCF that is also a SWF is filed with the Township, the Township shall notify the applicant, in writing, of any information that may be required to complete such application. The Township shall have 10 days from the receipt of the additional information to issue a letter of completeness or request additional information as appropriate. All applications for tower-based WCF that also constitute a SWF shall be acted upon within 90 days of the receipt of a fully completed application for the approval of such tower-based WCF which also constitutes a SWF, and the Township shall advise the applicant, in writing, of its decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the ninety-day review period. If the application is subject to conditional use approval, such conditional use provisions will remain applicable to the application; however, the timing of approval shall not fall outside the timeline set forth in this section unless agreed upon by the applicant and the Township. **[Added 2-4-2019 by Ord. No. 437-19]**
- (20) Nonconforming uses. Nonconforming tower-based WCF which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location, but must otherwise comply with the terms and conditions of this chapter.

- (21) Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a tower-based WCF, as well as related inspection, monitoring and related costs. All permit fees and consultant fees must be paid in full by the applicant prior to a building permit being issued to the applicant.
- (22) Bond. Prior to the issuance of a permit, the owner of a tower-based WCF shall, at its own cost and expense, obtain and maintain from a surety licensed to do business in Pennsylvania a bond, or other form of financial security acceptable to the Township's Solicitor, in an amount of \$100,000 to assure the faithful performance of the terms and conditions of this chapter. The language contained in the bond or other form of financial security shall be reviewed and approved by the Township Solicitor. The bond shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this chapter, including removal of the tower by the Township if necessary, after reasonable notice and opportunity to cure. The owner shall file the bond with the Township prior to, or at the same time as, the issuance of the permit.
- (23) Insurance. Each person that owns or operates a tower-based WCF greater than 40 feet in height shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the tower-based WCF. Each person that owns or operates a tower-based WCF 40 feet or less in height shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering each tower-based WCF.
- (24) Indemnification. Each person that owns or operates a tower-based WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the tower-based WCF. Each person that owns or operates a tower-based WCF shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of tower-based WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- (25) Removal. In the event that use of a tower-based WCF is planned to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCF or portions of WCF shall be removed as follows:
 - (a) All unused or abandoned tower-based WCF and accessory facilities shall be removed within six months of the cessation of operations at the site unless a time extension is approved by the Township.
 - (b) If the WCF is not removed within six months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and accessory facilities and

equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.

- (c) Any unused portions of tower-based WCF, including antennas, shall be removed within six months of the time of cessation of operations. The Township must approve all replacements of portions of a tower-based WCF previously removed.

B. Specific requirements applicable to tower-based wireless communications facilities located outside of the rights-of-way.

(1) Development regulations.

- (a) Zoning districts. Tower-based WCF located outside of the rights-of-way shall be permitted by conditional use in the following zoning districts in the Township:
 - [1] PBO District (Planned Business Office District); and
 - [2] VB District (Village Business District).
- (b) Sole use on a lot. A tower-based WCF is permitted as a sole use on a lot subject to the minimum lot area and yards complying with the requirements for the applicable zoning district.
- (c) Combined with another use. A tower-based WCF may be permitted on a property with an existing use or on a vacant parcel in combination with another permitted use, subject to the following conditions:
 - [1] The existing use on the property shall be any permitted use in the applicable district, and need not be affiliated with the tower-based WCF.
 - [2] Minimum lot area. The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the tower-based WCF, the WCF equipment enclosure, security fence, and buffer planting.
 - [3] Minimum setbacks. The tower-based WCF and WCF equipment enclosure shall comply with the setback requirements for the applicable zoning district, provided that tower-based WCF shall not violate any other required separation distances from other uses or districts as may be provided elsewhere in the Zoning Ordinance.¹⁶⁹

(2) Surrounding environment.

- (a) The tower-based WCF applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the tower-based WCF shall be preserved to the maximum extent possible.
- (b) The tower-based WCF applicant shall submit a soil report to the Township showing compliance with the accepted industry standards and to document and verify the design specifications of the foundation of the tower-based WCF as being compliant with all applicable safety regulations.

(3) Security fencing and screening.

¹⁶⁹Editor's Note: See Ch. 455, Zoning.

- (a) A security fence having a maximum height of six feet shall completely surround any tower-based WCF and WCF equipment enclosure.
 - (b) An evergreen screen that consists of a hedge, or a row of evergreen trees or some similar type of vegetative buffer approved by the Township, shall be located along the perimeter of the security fence.
 - (c) The WCF applicant shall submit a landscape plan for review and approval by the Township for all proposed screening.
- (4) Wireless communications facility equipment enclosure and accessory equipment.
- (a) Ground-mounted equipment associated to, or connected with, a tower-based WCF shall be underground. In the event that an applicant can demonstrate that the equipment cannot be located underground to the satisfaction of the Township Engineer, then the ground mounted equipment shall be screened from public view using stealth technologies.
 - (b) All wireless communications facility equipment enclosures and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.
- (5) Access road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to tower-based WCF. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the WCF owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility.
- (6) Inspection. The Township reserves the right to inspect any tower-based WCF to ensure compliance with the provisions of this chapter and any other provisions found within the federal, state or local law. The Township and/or its agents shall have the authority to enter the property upon which a tower-based WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- (7) Zoning setback exceptions.
- (a) Generally, wireless communications facilities placed on private property must meet certain required setbacks. However, in some circumstances, allowing modifications to setbacks may better achieve the goal of this chapter of concealing such facilities from view.
 - (b) The Township as part of a conditional use process, may approve modifications to be made to setbacks when:
 - [1] An applicant for a wireless communication facility can demonstrate that placing the facility on certain portions of a property will provide better screening and aesthetic considerations than provided under the existing setback requirements; or
 - [2] The modification will aid in retaining open space and trees on the site; or
 - [3] The proposed location allows for the tower-based wireless communication facility to be located a greater distance from residentially zoned properties.
 - (c) This zoning setback modification cannot be used to waive/modify any setback required

under the state building codes or fire codes.

- (d) A request for a setback exception shall be made at the time the initial application is submitted, unless later suggested and recommended by the Township as part of the review process.
- C. Specific requirements applicable to tower-based wireless communications facilities located within the rights-of-way.
 - (1) Prohibited in underground utility areas. Tower-based WCF are prohibited along any roadways or corridors of the Township which are served primarily by underground utilities. Tower-based WCF regardless of height are prohibited from being located in the front facade or front yard of any property in a residentially zoned district.
 - (2) Permitted by conditional use.
 - (a) Tower-based WCF that are 40 feet or higher are permitted in the following zoning districts:
 - [1] PBO District (Planned Business Office District); and
 - [2] VB District (Village Business District).
 - (b) Tower-based WCF that are 40 feet or shorter in height are permitted along the following corridors and roadways, regardless of the underlying zoning district, provided that they are not located within 50 feet of an area which is primarily served by underground utilities:
 - [1] Sugartown Road (south side of road only);
 - [2] Route 252 (west side of Route 252 only);
 - [3] Newtown Road.
 - (3) Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all tower-based WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
 - (4) Restoration. If appropriate, the applicant shall provide an estimate of the cost of restoration to the ROW by disturbances caused by its installation of a tower-based WCF. After completion of any maintenance, placement, installation, or removal of any tower-based WCF in the ROW, the owner of such facility shall, at its own expense, restore the ROW to its original condition within 20 days or such longer period as may reasonably be required and approved by the Township. Additionally:
 - (a) For one year following the completion of such work, the owner of such tower-based WCF shall guarantee its work and correct, at its own expense, any restoration work that does not satisfy the construction standards under the Township's codes; and
 - (b) The owner of the tower-based WCF shall exercise due care in such restoration of the ROW and shall take all reasonable steps to safeguard work site areas.
 - (5) Equipment location. Tower-based WCF and accessory equipment shall be located so as not to

cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:

- (a) Ground-mounted equipment, walls, or landscaping shall not be located within 18 inches of the face of the curb.
 - (b) Ground-mounted equipment that cannot be undergrounded shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
 - (c) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - (d) Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.
 - (e) Any underground vaults related to tower-based WCF shall be reviewed and approved by the Township.
- (6) Relocation or removal of facilities. Within 60 days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of tower-based WCF shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any tower-based WCF when the Township, consistent with its police powers and any applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- (a) The construction, repair, maintenance or installation of any Township improvement or other public improvements necessary within the right-of-way.
 - (b) The operations of the Township or other governmental entity is required or being interfered with, in the right-of-way.
 - (c) Vacation of a street or road or the release of a utility easement.
 - (d) An emergency as determined by the Township.
- (7) Compensation for ROW use. In addition to other permit fees as required by the Township, every tower-based WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each tower-based WCF shall pay an annual fee as determined by the Township to compensate the Township for the Township's costs incurred in connection with the activities described above.

§ 447-6. Structure-mounted wireless communications facilities.

- A. Provisions applicable to all structure-mounted wireless communications facilities.
 - (1) Standard of care. Any structure-mounted WCF shall be designed, constructed, operated,

maintained, repaired, modified and removed in strict compliance with all current applicable technical, and safety codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any WCF shall at all times be maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.

- (2) Wind. Any structure-mounted WCF shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSFEINTIA-222-E Code, as amended).
- (3) Public safety communications. Structure-mounted WCF shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (4) Aviation safety. Structure-mounted WCF shall comply with all federal and state laws and any local regulations concerning aviation safety.
- (5) Maintenance. The following maintenance requirements shall apply:
 - (a) The structure-mounted WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - (b) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
 - (c) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (6) Radio frequency emissions. Structure-mounted WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- (7) Historic protections. Structure-mounted WCF shall not be located on a property, building or structure that is listed on the National Register of Historic Places, the Pennsylvania Register of Historic Places or included on the list of official historic places and/or within historic districts as established and maintained by the Township. No structure-mounted WCF may be located upon property that contains a historic building or structure and also may not be located within 150 feet of any historic building, structure, property or designated historic district.
- (8) Insurance. Each person that owns or operates a structure-mounted WCF shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the structure-mounted WCF.
- (9) Indemnification. Each person that owns or operates a structure-mounted WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out

of, but not limited to, the construction, installation, operation, maintenance or removal of the structure-mounted WCF. Each person that owns or operates a structure-mounted WCF shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a structure-mounted WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

- (10) Removal. In the event that use of a structure-mounted WCF is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCF or portions of WCFs shall be removed as follows:
- (a) All abandoned or unused WCFs and accessory facilities shall be removed within three months of the cessation of operations at the site unless a time extension is approved by the Township.
 - (b) If the WCF or accessory facility is not removed within three months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.

B. Specific requirements applicable to structure-mounted wireless communications facilities that do not substantially change the physical dimensions of the wireless support structure to which they are attached.

- (1) Permitted by building permit. Structure-mounted WCF that do not substantially change the physical dimensions of the wireless support structure to which they are proposed to be attached are permitted by building permit in all zoning districts in the Township.
- (2) A structure-mounted WCF proposing a co-location in a zoning district or designated area where WCF are not currently permitted by this chapter may still be permitted if there are currently wireless support structures in place and available for co-location. Such co-location shall be subject to the regulations and conditions prescribed below and the prior written approval of the Township.
- (3) Timing of approval.
 - (a) Within 30 calendar days of the date that an application for a structure-mounted WCF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. The Township shall have 14 days from receipt of the additional information to issue a letter of completeness, or request additional information as appropriate. Within 90 calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's ninety-day review period.
 - (b) Timing of approval for SWF. Within 10 calendar days of the date that an application for a structure-mounted WCF that is also a SWF is filed with the Township, the Township shall

notify the applicant, in writing, of any information that may be required to complete such application. The Township shall have 10 days from receipt of the additional information to issue a letter of completeness or request additional information as appropriate. Within 60 calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the applicant, in writing, of such decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's sixty-day review period. [Added 2-4-2019 by Ord. No. 437-19]

- (4) Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a structure-mounted WCF. [Amended 2-4-2019 by Ord. No. 437-19]
- C. Specific requirements applicable to structure-mounted wireless communications facilities that do substantially change the wireless support structure to which they are attached.
- (1) Permitted in certain zones subject to regulations.
- (a) Structure-mounted WCF that substantially change the wireless support structure to which they are proposed to be attached are permitted by conditional use in the following zoning districts, and within ROW of the following roadways:
- [1] PBO District (Planned Business Office District);
- [2] VB District (Village Business District);
- [3] Sugartown Road (south side of road only);
- [4] Route 252 (west side of Route 252 only); and
- [5] Newtown Road.
- (b) To the extent feasible, the WCF should not be located in the front facade or front yard of any property in a residentially zoned district.
- (2) Conditional use and notice. Upon submission of the application for the structure-mounted WCF and scheduling of the required conditional use hearing, the applicant shall mail notice thereof to the owner or owners of every property within 800 feet of the property line of the parcel or property upon which the proposed facility is to be situated. Such notice requirements shall be met by the applicant and proof of notification provided to the Township and also confirmed by the applicant as part of the conditional use hearing.
- (3) Timing of approval.
- (a) Within 30 calendar days of the date that an application for a structure-mounted WCF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. The Township shall have 14 days from receipt of the additional information to issue a letter of completeness, or request additional information as appropriate. Within 90 calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required

by the applicant to provide the information shall not be counted toward the Township's ninety-day review period. If the application is subject to conditional use approval, such conditional use provisions will remain applicable to the application; however, the timing of approval shall not fall outside the timeline set forth in this section unless agreed to by all parties.

- (b) Timing of approval for SWF. Within 10 calendar days of the date that an application for a structure-mounted WCF that is also a SWF is filed with the Township, the Township shall notify the applicant, in writing, of any information that may be required to complete such application. The Township shall have 10 days from receipt of the additional information to issue a letter of completeness or request additional information as appropriate. Within 60 calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the applicant, in writing, of such decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's sixty-day review period. If the application is subject to conditional use approval, such conditional use provisions will remain applicable to the application; however, the timing of approval shall not fall outside the timeline set forth in this section unless agreed to by all parties. [Added 2-4-2019 by Ord. No. 437-19]
- (4) Application requirements. An application for a structure-mounted WCF that proposes to substantially change the wireless support structure must submit the following as part of a completed application:
 - (a) Project description including a design narrative, technology description, and co-location analysis indicating the alternative locations and technologies considered;
 - (b) Existing wireless coverage map overlaid on a current aerial photo showing provider's existing facilities and wireless coverage in the area;
 - (c) Proposed wireless coverage map overlaid on a current aerial photo showing provider's wireless coverage with the proposed facility;
 - (d) Photos and photo simulations showing the existing appearance of the site and appearance of the proposed installation from nearby public viewpoints;
 - (e) Any other documentation deemed necessary by the Township in order to issue a decision.
- (5) Retention of experts. The Township may hire any consultant and/or expert necessary to assist the Township in reviewing and evaluating the application for approval of the WCF, and reviewing any potential violations. This analysis may include determining whether or not the co-location is substantially changing the wireless support structure despite falling outside the technical scope as defined in this chapter's definition section. The applicant or the owner of the WCF shall reimburse the Township for all expert and/or consultant costs.
- (6) Bond. Prior to the issuance of a permit, the owner of each individual structure-mounted WCF shall, at its own cost and expense, obtain and maintain from a surety licensed to do business in Pennsylvania a bond, or other form of security acceptable to the Township's Solicitor, in an amount of \$25,000 for each individual structure-mounted WCF, to assure the faithful performance of the terms and conditions of this chapter. The bond language or other financial security language shall be reviewed and approved by the Township's Solicitor. The bond shall provide that the Township may recover from the principal and surety any and all compensatory

damages incurred by the Township for violations of this chapter, after reasonable notice and opportunity to cure. The owner shall file a copy of the bond with the Township.

- (7) Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a structure-mounted WCF, as well as related inspection, monitoring and related costs. All permit fees and reimbursement for expert/consultant fees shall be paid in full by the applicant prior to the issuance of any building permits.
- D. Additional requirements applicable to structure-mounted wireless communications facilities located outside the rights-of-way that substantially change the wireless support structure to which they are attached.
- (1) Development regulations. Structure-mounted WCF shall be co-located on existing structures, such as existing buildings or tower-based WCF subject to the following conditions:
- (a) Such WCF does not exceed a maximum height of 150 feet.
- (b) If the WCF applicant proposes to locate the communications equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
- (c) A six-foot-high security fence shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.
- (2) Design regulations.
- (a) Structure-mounted WCF shall employ stealth technology and be treated to match the supporting structure in order to minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
- (b) Structure-mounted WCF, which are mounted to a building or similar structure, may not exceed a height of 15 feet above the roof or parapet, whichever is higher.
- (c) All structure-mounted WCF applicants must submit documentation to the Township justifying the total height of the non-tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
- (d) Antennae, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension than is reasonably necessary for their proper functioning.
- (e) Noncommercial usage exemption. The design regulations enumerated in this paragraph shall not apply to direct broadcast satellite dishes installed for the purpose of receiving video and related communications services at residential dwellings.
- (3) Removal, replacement, and/or modification.
- (a) The removal and replacement of structure-mounted WCF and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not increase the overall size of the WCF or the numbers of antennae.
- (b) Any material modification to WCF shall require a prior amendment to the original permit

or authorization.

- (4) Inspection. The Township reserves the right to inspect any WCF to ensure compliance with the provisions of this chapter and any other provisions found within the local, state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time upon reasonable notice to the operator, to ensure such compliance.

E. Additional requirements applicable to structure-mounted wireless communications facilities located in the rights-of-way.

- (1) Co-location. Structure-mounted WCF in the ROW shall be co-located on existing poles, such as existing utility poles or light poles.
- (2) Design requirements.
- (a) WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
- (b) Antennae and all support equipment shall be treated to match the supporting structure. WCFs and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
- (3) Compensation for ROW use. In addition to permit fees as described above, every structure-mounted WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each structure-mounted WCF shall pay an annual fee to the Township to compensate the Township for its costs incurred in connection with the activities described above. The annual ROW management fee for structure-mounted WCF shall be determined by the Township and shall be based on the Township's actual ROW management costs as applied to such structure-mounted WCF.
- (4) Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all structure-mounted WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- (5) Restoration. If appropriate, the applicant shall provide an estimate of the cost of restoration to the ROW by disturbances caused by its installation of any structure-mounted WCF. If necessary, after completion of any maintenance, placement, installation, or removal of any structure-mounted WCF in the ROW, the owner of such facility shall, at its own expense, restore the ROW to its original condition within 20 days or such longer period as may reasonably be required and approved by the Township. Additionally:
- (a) For one year following the completion of any such necessary work, the owner of such structure-mounted WCF shall guarantee its work and correct, at its own expense, any

restoration work that does not satisfy the construction standards under the Township's codes; and

- (b) The owner of the structure-mounted WCF shall exercise due care in any such restoration of the ROW and shall take all reasonable steps to safeguard work site areas.
- (6) Equipment location. Structure-mounted WCF and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
 - (a) Ground-mounted equipment, walls, or landscaping shall not be located within 18 inches of the face of the curb.
 - (b) Ground-mounted equipment shall be located underground. In the event an applicant can demonstrate, to the satisfaction of the Township Engineer, that ground-mounted equipment cannot be undergrounded, then all such equipment shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
 - (c) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - (d) Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.
 - (e) Any underground vaults related to structure-mounted WCF shall be reviewed and approved by the Township.
- (7) Relocation or removal of facilities. Within 60 days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a structure-mounted WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
 - (a) The construction, repair, maintenance or installation of any Township improvement or other public improvements necessary within the right-of-way.
 - (b) The operations of the Township or other governmental entity is required or being interfered with, in the right-of-way.
 - (c) Vacation of a street or road or the release of a utility easement.
- (8) An emergency as determined by the Township.

§ 447-7. Violations and penalties; police powers.

- A. Penalties. Any person violating any provision of this chapter shall be subject, upon finding by a magisterial district judge, to a penalty not exceeding \$500, for each and every offense, together with attorneys' fees and costs. A separate and distinct violation shall be deemed to be committed each day on which a violation occurs or continues to occur. In addition to an action to enforce any penalty

imposed by this chapter and any other remedy at law or in equity, the Township may apply to a Federal District Court for an injunction or other appropriate relief at law or in equity to enforce compliance with or restrain violation of any provision of this chapter.

- B. Determination of violation. In the event a determination is made that a person has violated any provision of this chapter, such person shall be provided written notice of the determination and the reasons therefore. Except in the case of an emergency, the person shall have 30 days to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the Township may, in its reasonable judgment, extend the time period to cure, provided the person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the Township may take any and all actions authorized by this chapter and/or federal and/or Pennsylvania law and regulations.
- C. Police powers. The Township, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the Township under applicable local, state and federal laws and regulations.

Chapter 455

ZONING

[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 6-18-2007 by Ord. No. 376-07. Amendments noted where applicable.]

GENERAL REFERENCES

Natural resources protection — See Ch. 274.

Streets and sidewalks — See Ch. 395.

Parks and recreation areas — See Ch. 306.

Subdivision and land development — See Ch. 400.

Stormwater management — See Ch. 388.

Trees and shrubs — See Ch. 421.

ARTICLE I **General Provisions**

§ 455-1. Title.

This chapter shall be known and may be cited as the "Easttown Township Zoning Ordinance."

§ 455-2. Purposes; community development objectives.

- A. Purposes. This chapter is enacted under and pursuant to the Municipalities Planning Code¹⁷⁰ to promote, protect, and facilitate the general health, safety and welfare through:
 - (1) Coordinated and practical community development.
 - (2) Provision for appropriate population densities, a diversity of housing types, and prevention of overcrowding of land.
 - (3) Provisions for adequate light, air, open space and recreation.
 - (4) Provision for adequate parking and loading.
 - (5) Provision for safe and efficient travel by vehicles, bicycles and pedestrians.
 - (6) Provision of appropriate water and sewer facilities and capacity.
 - (7) Provision for the protection and preservation of natural resources.
 - (8) Provision for schools, public grounds, and other public improvements.
 - (9) Protection against loss of health, life, or property from fire, flood, or other dangers.
- B. Community development objectives. This chapter is enacted to implement the Easttown Township Comprehensive Plan, as may be amended or readopted, and the Open Space, Recreation, and Environmental Resources Plan, as may be amended or readopted. [Amended 11-21-2022 by Ord. No. 453-22]
 - (1) The statement of goals from the 2018 Easttown Township Comprehensive Plan are as follows:
 - (a) Improve pedestrian and bicyclist mobility.
 - (b) Maintain character and improve parking options in the Village of Berwyn.
 - (c) Establish a vision for Devon Center.
 - (d) Make the Route 30 Corridor a complete street.
 - (e) Enhance services the Township provides.
 - (f) Responsibility guide future land use.
 - (2) The statement of goals from the 1993 Open Space, Recreation, and Environmental Resources Plan are as follows:
 - (a) Preserve environmentally sensitive open space and natural resources such as areas

¹⁷⁰Editor's Note: See 53 P.S. § 10101 et seq.

noteworthy for physical, historic, cultural, recreation.

- (b) Provide a balance of active and passive recreational areas and facilities for the use and enjoyment of individuals, groups and families of all ages who live in the Township.

§ 455-3. Interpretation.

In the interpretation and application of this chapter, the provisions hereof shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. Where the provisions of this chapter impose greater restrictions than those of any other ordinance or regulation, the provisions of this chapter shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, ordinance or regulation shall be controlling.

§ 455-4. Statutory authority.

This chapter has been adopted in accordance with the provisions of Article VI, Zoning, of the Municipalities Planning Code.¹⁷¹

§ 455-5. Applicability.

The provisions of this chapter shall govern all land, buildings, and structures within the boundaries of Easttown Township. Any lawfully existing building or structure and any lawfully existing use of a building or land not in conformity with the regulations herein prescribed shall be regarded as nonconforming but may be continued, extended or changed, subject to the special regulations contained within this chapter.

§ 455-6. Administration and enforcement. [Amended 6-2-2014 by Ord. No. 422-14]

This chapter shall be administered by the Township Zoning Officer and shall be enforced by the Township Board of Supervisors, Zoning Officer and/or any other enforcement officer of the Township with approval of the Board of Supervisors as per the applicable provisions of Article XIII, Administration and Enforcement, and Chapter 1, General Provisions.

§ 455-7. Liability.

The granting of any permit under this chapter shall create no liability upon, nor a cause of action against, any Township official or employee for damages or injury that may occur from the use, construction, or enlargement of structures or the use of land.

¹⁷¹Editor's Note: See 53 P.S. § 10601 et seq.

ARTICLE II
Zoning Districts and Zoning Map

§ 455-8. Establishment of districts.

- A. Base districts. For the purpose of this chapter, the Township of Easttown is hereby divided into eight base zoning districts, which shall be designated as follows: [Amended 8-19-2013 by Ord. No. 417-13]

| | |
|-----|--|
| AA | Residential District |
| R-1 | Residential District |
| R-2 | Residential District |
| R-3 | Residential District |
| R-4 | Residential District |
| R-5 | Residential District |
| PBO | Planned Business – Office District |
| VB | Village of Berwyn – Village Business District |
| VT | Village of Berwyn – Village Transition District |
| VR | Village of Berwyn – Village Residential District |

- B. Overlay districts. For the purpose of this chapter, three overlay districts are incorporated as per the provisions of Article VII of this chapter and shall be delineated on the Zoning Map¹⁷² as follows: [Amended 12-13-2016 by Ord. No. 427-16]

| | |
|------|-------------------------------|
| DC | Devon Center Overlay District |
| PA | Planned Apartment |
| MF-A | Multifamily A |
| MF-B | Multifamily B |

- C. Natural resource protection. For the purposes of this chapter, the location of and provisions applicable to natural resources are located in Chapter 274, Natural Resources Protection, incorporated by reference in Article VII of this chapter.

§ 455-9. Purposes of districts.

In addition to the purposes and community development objectives listed in § 455-2, the purpose of each district is listed below.

- A. AA Residential District. The AA Residential District is intended to:

- (1) Provide for farming, conservation, recreation and low-density single-family detached dwellings on lots of sufficient size for on-lot sewage disposal systems.
- (2) Facilitate agriculture, conservation, recreation, low-density residential and open space uses that

¹⁷²Editor's Note: The Zoning Map is included as an attachment to this chapter.

preserve the remaining natural resources within this area.

- (3) Protect streams, valleys, vegetation and the natural contours and condition of the land.
- (4) Facilitate the conservation and proper utilization of groundwater supplies and control of pollution, surface water flooding and erosion.

B. R-1 Residential District. The R-1 Residential District is intended to:

- (1) Provide for low-density single-family residential units on lots of sufficient size for on-lot sewage disposal systems.
- (2) Foster protection of sensitive natural resources and areas conditionally suitable for on-lot sewage disposal systems.
- (3) Provide for the preservation of natural resources, historic resources, and open space through lot averaging development options.

C. R-2 Residential District. The R-2 Residential District is intended to:

- (1) Permit medium-density single-family residential units appropriate for available public water and sewage facilities.
- (2) Protect the established neighborhood character in terms of lot and housing size.
- (3) Preserve sensitive natural resources.

D. R-3 Residential District. The R-3 Residential District is intended to:

- (1) Permit higher density single-family residential uses appropriate for available public water and sewage facilities.
- (2) Preserve the character of the traditional neighborhood development pattern.
- (3) Preserve sensitive natural resources.

E. R-4 Residential District. The R-4 Residential District is intended to:

- (1) Permit high-density single-family residential uses appropriate for available public water and sewage facilities.
- (2) Preserve the character of the traditional neighborhood development pattern.
- (3) Preserve sensitive natural resources.

F. R-5 Residential District. The R-5 Residential District is intended to:

- (1) Provide high-density single-family dwelling units and allow for multifamily dwellings.
- (2) Provide for two-family dwellings.
- (3) Permit residential uses at a density which is appropriate to available public water and sewage facilities.
- (4) Preserve the character of the traditional neighborhood development pattern.
- (5) Preserve sensitive natural resources.

G. PBO Planned Business-Office District. The Planned Business-Office District is intended to:

- (1) Make provisions for primarily office and limited business uses along the major highway corridor where typical business, commercial, and office uses and developments exist, to provide goods and services within the Township, as well as employment opportunities and tax ratables.
- (2) Preserve the ability of Route 30 to promote traffic movement through the Township by controlling the size, number, and location of access points onto the roadway and promoting access management and parking strategies to maximize safety and traffic flow.
- (3) Allow for multifamily uses at a density which is appropriate to available public water and sewage facilities.
- (4) Preserve sensitive environmental features.
- (5) Protect the character of adjacent residential districts by separating incompatible land uses and densities through appropriate buffers and screening or landscaping measures.

H. Village of Berwyn Districts: Village Business District (VB), Village Transition District (VT), and Village Residential District (VR). The Village of Berwyn Districts intend to provide a variety of retail, commercial, residential, institutional, and mixed uses within the Village of Berwyn and its immediately contiguous areas, as depicted on the Zoning Map,¹⁷³ consistent with the maintenance, preservation and enhancement of the traditional Village of Berwyn atmosphere. It is recognized that the purpose of this district is to serve the needs of the Easttown community, while at the same time preserving and enhancing the unique qualities of the district. Specific objectives of the district include the following: [Amended 8-19-2013 by Ord. No. 417-13]

- (1) Encourage economic development while promoting the traditional main street development form along Lancaster Avenue.
- (2) Protect existing residential uses and structures of historical or architectural significance.
- (3) Promote and maintain a walkable community in the district using pedestrian-scaled design principles.
- (4) Allow for mixed-use development where appropriate by encouraging the integration of commercial and residential uses within buildings, concentrating commercial uses at ground level.
- (5) Employ design principles that preserve and enhance existing desirable architectural and streetscape elements that are typical of Berwyn and ensure that new construction and redevelopment projects are compatible with the surrounding community.
- (6) Employ parking, circulation, and mobility strategies that maximize efficiency and safety.

§ 455-10. District boundaries.

The boundaries between districts include the center lines of streets, alleys, streams, or railroad rights-of-way, or follow platted lot lines, municipal boundaries, or such lines extended or lines parallel or perpendicular thereto, unless specifically otherwise indicated. Distances not specifically indicated on the Zoning Map¹⁷⁴ shall be determined by the scale of the map. Where figures are shown on the Zoning Map

¹⁷³Editor's Note: The Zoning Map is included as an attachment to this chapter.

between a street and a district boundary line, they indicate that the district boundary line runs parallel to the right-of-way line at a distance therefrom equivalent to the number of feet so indicated. Where uncertainty exists as to the location of any said boundaries as shown on the Zoning Map, the following rules shall be used to identify the boundary:

- A. Where a district boundary is indicated as approximately following the center line of a street, lane, stream or other watercourse, or right-of-way of a power line, railroad or other public utility, such center line shall be construed to be such boundary.
- B. Where a district boundary is indicated as approximately following a lot or other property line, such lot or property line shall be construed to be such boundary.
- C. Where a district boundary divides a lot or runs through undivided property, the location of such boundary, unless otherwise specified by dimensions on the Zoning Map, shall be determined by the use of the scale appearing on said map.
- D. Where dimensions are shown on the Zoning Map between a street or watercourse and a district boundary, they shall indicate that the district boundary runs parallel to the center line of the street or watercourse at a distance therefrom equivalent to the number of feet so indicated, unless otherwise specified. Where scaled distances do not agree with such dimensions, the dimensions shall control.

§ 455-11. Federal, state, county or Township-owned property. [Amended 12-15-2014 by Ord. No. 424-14]

Federal, state, or county-owned property shall be subject to the provisions of this chapter only insofar as is permitted by the Constitution and laws of both the United States of America and the Commonwealth of Pennsylvania. In the case of Township-owned property, the use provisions of this chapter shall not apply.

§ 455-12. Zoning Map.¹⁷⁵

- A. The location and boundaries of zoning districts, except for overlay zones as defined herein, shall be shown upon the map attached to and hereby made a part of this chapter, which shall be designated as the "Easttown Township Zoning Map." Said map and all notations, references and 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.
- B. If, and whenever, the Board of Supervisors makes changes to the boundaries or other matters included on said map, such changes shall be reflected on the map promptly following enactment of such amendment.

174. Editor's Note: The Zoning Map is included as an attachment to this chapter.

175. Editor's Note: The Zoning Map is included as an attachment to this chapter.

ARTICLE III
Land Uses and Dimensional Requirements

§ 455-13. Land uses.

- A. Except as may be hereinafter specified, no building, structure, or land shall be used or occupied, and no building or structure or part thereof shall be erected, constructed, moved, or altered, and no new lot shall be created unless in conformity with all of the appropriate regulations herein specified for the district in which it is located.
- B. Land Use Table. A land use may be permitted by right, conditional use, or special exception, or may not be permitted in a district at all. See the attached Land Use Table in Figure 3-1 to determine if and by what means a land use is permitted in each zoning district.¹⁷⁶
- C. General requirements for permitted land uses.
 - (1) Permitted uses by right. Within each district, there may be principal uses and their accessory uses permitted by right, provided that:
 - (a) The use is reviewed, approved, and a zoning permit is obtained from the Zoning Officer.
 - (b) There is only one principal use permitted per lot meeting the dimensional requirements, except as provided in § 455-35A.
 - (c) The use complies with all applicable general and supplemental development and design requirements.
 - (2) Permitted uses by conditional use. Within each district, there may be principal uses and their accessory uses permitted by conditional use as per Article XIV, provided that:
 - (a) A conditional use is granted by the Board of Supervisors, and a zoning permit is obtained from the Zoning Officer.
 - (b) There is only one principal use permitted per lot meeting the dimensional requirements, except as provided in § 455-35A.
 - (c) The use complies with all applicable general and supplemental development and design requirements.
 - (3) Permitted uses by special exception. Within each district, there may be principal uses and their accessory uses permitted by special exception as per Article XV, provided that:
 - (a) A special exception is granted by the Zoning Hearing Board, and a zoning permit is obtained from the Zoning Officer.
 - (b) There is only one principal use permitted per lot meeting the dimensional requirements, except as provided in § 455-35A.
 - (c) The use complies with all applicable general and supplemental development and design requirements.
 - (4) Accessory uses and structures. All typical accessory uses and/or structures to the permitted uses

176. Editor's Note: The Land Use Table is included as an attachment to this chapter.

shall be permitted, provided:

- (a) They are located on the same lot as the principal use.
- (b) They are clearly subordinate to the principal use.
- (c) They have been properly addressed as part of the application for a building permit, subdivision, land development, special exception or conditional use, and a zoning permit has been obtained from the Zoning Officer as per § 455-95.
- (d) They comply with all applicable general and supplemental development and design requirements in §§ 455-47 and 455-48.
- (5) Natural resource protection. Where applicable, all permitted uses shall comply with the natural resource protection requirements specified in Chapter 274, Natural Resources Protection, as incorporated by reference in Article VII of this chapter.
- (6) General regulations. Where applicable, all permitted uses shall comply with the general regulations and specifications indicated in Article VIII.
- (7) Supplemental regulations. Where applicable, all permitted uses shall comply with the supplemental regulations and specifications indicated in Article IX.
- (8) Off-street parking and loading. Where applicable, all permitted uses shall comply with the off-street parking and loading requirements specified under Article X.
- (9) Signs. Where applicable, all permitted uses shall comply with the requirements for signs, as specified under Article XI.

§ 455-14. Dimensional requirements.

- A. Lots and structures in all districts shall meet or exceed the minimal or meet or fall below the maximum dimensional requirements contained in Figure 3-2, Dimensional Requirements Table.¹⁷⁷
- B. Maximum height requirements do not apply to chimneys, steeples on churches, elevator bulkheads, ventilators, and ornamental spires.
- C. No yard or lot existing as of the effective date of this chapter shall be reduced in dimension or area below the minimum requirement herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements herein.
- D. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- E. The front yard setback requirements of this chapter for dwellings shall not apply to any lot where the average setback on developed lots located wholly or in part within 100 feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot is less than the minimum setback required. In such cases, the front yard setback on such lot may be less than the required setback, but not less than the average of the existing setbacks on the developed lots.¹⁷⁸

177. Editor's Note: The Dimensional Requirements Table is included as an attachment to this chapter.

178. Editor's Note: Original § 301.F, regarding minimum road frontage requirements, which immediately followed this subsection, was repealed 9-21-2009 by Ord. No. 391-09.

F. The maximum impervious surface permitted on any lot shall be as set forth in Figure 3-2, Dimensional Requirements Table.¹⁷⁹ When calculating existing and proposed impervious surface to determine compliance with maximum impervious surface, impervious surfaces located within rights-of-way shall be excluded from the calculation. The Township Engineer shall resolve any dispute as to whether cover is impervious.¹⁸⁰ [Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14; 1-15-2018 by Ord. No. 433-18]

179. Editor's Note: The Dimensional Requirements Table is included as an attachment to this chapter.

180. Editor's Note: Original § 301.H, which immediately followed this subsection, was repealed 6-2-2014 by Ord. No. 422-14.

ARTICLE IV
Planned Business – Office District (PBO)

§ 455-15. Purpose.

The Planned Business – Office District is designed to make special provisions for limited business and office uses in selected locations along a major highway where typical commercial use and development is not desirable by reason of its tendency to cause highway congestion and hazards.

§ 455-16. Use regulations.

- A. Uses by right. The following uses shall be permitted by right, subject to compliance with the area and bulk regulations of Article III and the other applicable provisions of this chapter:
- (1) On a lot less than one acre in size, any one of the following uses: **[Amended 1-15-2018 by Ord. No. 433-18]**
 - (a) Bank or financial institution.
 - (b) Laundromat or dry cleaner.
 - (c) Personal service commercial use, such as a barber, hairdresser or tailoring establishment.
 - (d) Professional or business offices.
 - (e) Retail commercial use.
 - (f) Any use of the same general character as the above uses.¹⁸¹
 - (2) On a lot equal to or greater than one acre in size, any one of the following uses: **[Amended 11-21-2022 by Ord. No. 453-22]**
 - (a) Apartment accessory to a nonresidential use in accordance with § 455-50.
 - (b) Forestry in accordance with § 455-58.
 - (c) Funeral home in accordance with § 455-59.
 - (d) Grocery store.
 - (e) Multifamily building or development in accordance with §§ 455-64 and 455-65.
 - (f) Veterinary clinic in accordance with § 455-71.
 - (g) Wholesale trade business.
 - (h) (Reserved)¹⁸²
 - (i) Automobile car wash. **[Added 8-19-2013 by Ord. No. 417-13]**
 - (3) On a lot equal to or greater than one acre in size, a combination of by right uses permitted in Subsection A(1) are permitted, provided, the uses provided for in Subsection A(2) do not exceed

181.Editor's Note: Original Subsection f, Wireless communications facility, which immediately followed this subsection, was repealed 3-4-2013 by Ord. No. 413-13.

182.Editor's Note: Former Subsection A(2)(h), regarding warehouses, was repealed 11-21-2022 by Ord. No. 453-22.

50% of the gross floor area of all buildings constructed, erected or converted under the provisions of Article IV. [Added 11-21-2022 by Ord. No. 453-22]

B. Conditional uses. The following uses shall be permitted as a conditional use when authorized by the Board of Supervisors, subject to the procedures and requirements of Article XIV, along with any reasonable conditions that the Board shall impose under § 455-106 of this chapter, on a lot no less than one acre in size and in compliance with the area and bulk regulations in § 455-17, within Article III, and any other applicable provisions of this chapter: [Amended 3-4-2013 by Ord. No. 413-13; 8-19-2013 by Ord. No. 417-13; 6-2-2014 by Ord. No. 422-14]

- (1) Adaptive reuse in accordance with § 455-49.
- (2) Automobile gasoline service station in accordance with § 455-51.
- (3) Automobile gasoline service station and convenience store in accordance with §§ 455-51 and 455-55.
- (4) Automobile repair.
- (5) Automobile sales.
- (6) Commercial day-care center in accordance with § 455-53.
- (7) Commercial recreation.
- (8) Community center.
- (9) Continuing care retirement community in accordance with § 455-54.
- (10) Drive-through service in accordance with § 455-56.
- (11) Hospital in accordance with § 455-62.
- (12) Hotel, motel or inn in accordance with § 455-63.
- (13) Light industry/manufacturing.
- (14) Nursery/landscaping sales, service.
- (15) (Reserved)¹⁸³
- (16) (Reserved)¹⁸⁴
- (17) Place of worship in accordance with § 455-67.
- (18) Planned commercial shopping center in accordance with § 455-68.
- (19) Restaurant, excepting a fast-food restaurant.¹⁸⁵
- (20) Building materials storage and sale.

183. Editor's Note: Former Subsection B(15), regarding outdoor cafes, was repealed 1-15-2018 by Ord. No. 433-18.

184. Editor's Note: Former Subsection B(16), parking facility, garage, was repealed 11-21-2022 by Ord. No. 453-22.

185. Editor's Note: Former Subsection B(20), regarding wireless communications facilities, which immediately followed this subsection, was repealed 12-15-2014 by Ord. No. 424-14. This ordinance also redesignated former Subsection B(21) and B(22) as Subsection B(20) and B(21), respectively.

- (21) Warehouses. [Amended 11-21-2022 by Ord. No. 453-22]
- (22) Uses similar to and of the same character as the above uses. [Added 11-21-2022 by Ord. No. 453-22]

- C. Accessory uses. The following accessory uses, buildings, and structures (including signs and parking associated with the accessory use) are permitted on the same lot with, and customarily incidental to, the above permitted uses:
 - (1) Accessory uses, buildings and structures in accordance with §§ 455-47 and 455-48.
 - (2) Outdoor cafe in accordance with § 455-66. [Added 1-15-2018 by Ord. No. 433-18]
 - (3) Parking facility, garage. [Added 11-21-2022 by Ord. No. 453-22]

§ 455-17. Area and bulk regulations.

- A. Minimum lot width. Every lot shall have a width of not less than 100 feet at the building setback line.
- B. Maximum impervious surface. Combined coverage (building or buildings, parking driveways, walkways) shall not exceed 65%.
- C. Minimum front yard setback. No building shall be located less than 40 feet from a street right-of-way line.
- D. Minimum side yard setback. No building shall be located less than 20 feet from a side property line.
- E. Minimum rear yard setback. No building shall be located less than 25 feet from a rear property line.
- F. Maximum building height. No building shall exceed 35 feet in height.
- G. Number of principal buildings. See § 455-35A.
- H. Minimum building separation. Where more than one building is proposed for a single lot, buildings shall be separated from each other by a distance of not less than 20 feet.

§ 455-18. General requirements for permitted land uses.

General requirements for permitted land uses shall be in conformance with those listed in Article III.

§ 455-19. Special regulations.

- A. Buffers.
 - (1) Along each side or rear property line, a buffer in accordance with § 274-34, Article X, of Chapter 274, Natural Resources Protection, as incorporated by reference in § 455-38 of this chapter, of not less than 10 feet in depth shall be provided, unless Subsection A(2) below applies. Along each street right-of-way, a buffer of not less than 10 feet shall be provided. No structures or impervious surfaces shall be located within said buffers, with the exception of necessary sidewalks and accessways along each street right-of-way line.
 - (2) Along each side or rear property line that directly abuts a residential district or use, a buffer in accordance with § 274-34, Article X, of Chapter 274, Natural Resources Protection, as incorporated by reference in § 455-38 of this chapter, of not less than 20 feet in depth shall be

provided. No structures or impervious surfaces shall be located within said buffers.

- B. All off-street parking, loading and access facilities and service areas used by motor vehicles shall comply with the provisions of Article X of this chapter, except that parking within front yard setbacks shall be permitted by conditional use.
- C. Any application for development under this article shall include or be accompanied by the following:
 - (1) Architecture and landscape architecture plans, in accordance with Chapter 274, Natural Resources Protection, where applicable, prepared by a registered architect or landscape architect, respectively, which shall include:
 - (a) Architectural schematic drawings prepared by an architect registered in the Commonwealth of Pennsylvania shall be required of the following:
 - [1] Plans of typical residences.
 - [2] Elevations of typical front and rear building facades of residences and accessory buildings.
 - (b) Architectural schematic drawings shall reflect the following considerations:
 - [1] The presentation of an overall architectural theme, as well as architectural recognition of individual residences.
 - [2] Compatibility of the proposed project with adjoining properties, particularly residential neighborhoods.
 - [3] Long-term durability and maintenance requirements of building materials.
 - (2) Application for development.
 - (a) Applications for development of multifamily development under this section shall be accompanied by a plan containing the information required by this section and Chapter 400, Subdivision and Land Development. The appropriate application fee, prescribed by resolution of the Board of Supervisors from time to time, shall be paid in advance, and the applicant shall agree to reimburse the Township for all costs incurred by it in connection with and in direct relation to the review and processing of the application.
 - (b) In addition, the following information shall be submitted to the Township:
 - [1] The nature of the landowner's interest in the land to be developed.
 - [2] The density of land use to be allocated to the site to be developed.
 - [3] The use and the approximate height, bulk, and location of dwellings and other structures and their proposed construction materials.
 - [4] The feasibility of proposals for the disposition of sanitary waste and stormwater and provision of public water supply.
 - [5] The substance of covenants, grants and easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures, including proposed easements or grants for public utilities.

- [6] A provision for parking of vehicles and the location and width of proposed streets and public ways.
- [7] A statement, which will show the ecological and economic impact of the development on the Township and especially as to the surrounding areas.
- [8] A traffic impact study documenting all improvements, which may be needed to avoid off-site congestion, or hazard, which might arise as a result of the construction of the project for which application is made.
- [9] Such other data as will indicate compliance with the development standards of this article.¹⁸⁶

186.Editor's Note: Original § 404.C.3, which immediately followed this subsection, was repealed 6-2-2014 by Ord. No. 422-14.

ARTICLE V
Village of Berwyn Districts (VB, VT and VR)
[Amended 9-21-2009 by Ord. No. 391-09; 8-19-2013 by Ord. No. 417-13]

§ 455-20. Purpose; objectives.

- A. The purpose of this district is to provide for a variety of retail, commercial, residential, institutional, and mixed uses within the Village of Berwyn and its immediately contiguous areas, as depicted on the Zoning Map,¹⁸⁷ consistent with the maintenance, preservation and enhancement of the traditional Village of Berwyn atmosphere. It is recognized that the purpose of this district is to serve the needs of the Easttown community, while at the same time preserving and enhancing the unique qualities of the district. Specific objectives of the district include the following:
 - (1) Encourage economic development while promoting the traditional main street development form along Lancaster Avenue.
 - (2) Protect existing residential uses and structures of historical or architectural significance.
 - (3) Promote and maintain a walkable community in the district using pedestrian-scaled design principles.
 - (4) Allow for mixed-use development where appropriate by encouraging the integration of commercial and residential uses within buildings, concentrating commercial uses at ground level.
 - (5) Employ design principles that preserve and enhance existing desirable architectural and streetscape elements that are typical of Berwyn, and ensure that new construction and redevelopment projects are compatible with the surrounding community.
 - (6) Employ parking, circulation, and mobility strategies that maximize efficiency and safety.
- B. Because there is a diversity of land uses, including commercial, office, institutional, and residential, and a variety of building types at different sizes and densities, the Village of Berwyn District is divided into three separate zoning districts as follows: the Village Business District (VB), the Village Transition District (VT), and the Village Residential District (VR).

§ 455-21. Use regulations for VB District.

- A. Uses by right in the Village Business District (VB). The following uses shall be permitted by right in the Village Business District (VB), subject to compliance with the area and bulk regulations of § 455-24 and the other applicable provisions of this chapter:
 - (1) Apartment accessory to nonresidential uses, permitted only on the second or higher floors in the same building, in accordance with § 455-50, housing any one of the following uses, which shall be located only on the ground-level floor of the building:
 - (a) Retail commercial use.
 - (b) Personal service commercial use.
 - (c) Professional or business office.

¹⁸⁷Editor's Note: The Zoning Map is included as an attachment to this chapter.

- (2) Bank or financial institution.
- (3) Bed-and-breakfast.
- (4) Convenience store.
- (5) Dwelling, multifamily, subject to the first floor regulations of § 455-25B(9). **[Amended 4-5-2021 by Ord. No. 448-21]**
- (6) Forestry in accordance with § 455-58.
- (7) Funeral home in accordance with § 455-59.
- (8) Grocery store.
- (9) Home occupation, minor, in accordance with § 455-61.
- (10) Laundry or dry cleaning.
- (11) Personal service commercial use.
- (12) Professional or business office.
- (13) Restaurant.
- (14) Restaurant, fast-food.
- (15) Retail commercial use.
- (16) Theater.

B. Conditional uses in the Village Business District (VB). The following uses shall be permitted as conditional uses when authorized by the Board of Supervisors, subject to the procedures and requirements of Article XIV, along with any reasonable condition that the Board shall impose under § 455-106 of this chapter, compliance with the area and bulk regulations of § 455-24 and the other applicable provisions of this chapter:

- (1) Automobile repair.
- (2) Commercial child/adult care in accordance with § 455-53.
- (3) Commercial recreation.
- (4) Community center.
- (5) Educational use.
- (6) Hotel, motel, or inn.
- (7) (Reserved)¹⁸⁸
- (8) Parking garage, private.
- (9) Parking garage, public.

¹⁸⁸Editor's Note: Former Subsection B(7), regarding outdoor cafes, was repealed 1-15-2018 by Ord. No. 433-18.

- (10) Parking lot, private.
- (11) Parking lot, public.
- (12) Place of worship in accordance with § 455-67.
- (13) Planned commercial shopping center.¹⁸⁹

C. Accessory uses in the Village Business District (VB). The following accessory uses, buildings, and structures (including signs and parking associated with the accessory use) are permitted on the same lot with, and customarily incidental to, any of the uses permitted by this section:

- (1) Accessory uses, buildings and structures permitted by right as per §§ 455-47 and 455-48.
- (2) Storage within a completely enclosed building.
- (3) Parking as permitted by Article X.
- (4) Signs as permitted by Article XI.
- (5) Outdoor cafe in accordance with § 455-66. [Added 1-15-2018 by Ord. No. 433-18]

§ 455-22. Use regulations for VT District.

- A. Uses by right in the Village Transition District (VT). The following uses shall be permitted by right in the Village Transition District (VT), subject to compliance with the area and bulk regulations of § 455-24 and the other applicable provisions of this chapter:
- (1) Apartment accessory to nonresidential uses, permitted only on the second or higher floors in the same building, in accordance with § 455-50, housing any one of the following uses, which shall be located only on the ground-level floor of the building:
 - (a) Retail commercial use.
 - (b) Personal service commercial use.
 - (c) Professional or business office.
 - (2) Bed-and-breakfast.
 - (3) Dwelling, single-family.
 - (4) Dwelling, townhouse.
 - (5) Dwelling, two-family, twin.
 - (6) Dwelling, two-family, duplex.
 - (7) Forestry in accordance with § 455-58.
 - (8) Funeral home in accordance with § 455-59.
 - (9) Home occupation, minor, in accordance with § 455-61.

¹⁸⁹Editor's Note: Former Subsection B(14), regarding wireless communications facilities, which immediately followed this subsection, was repealed 12-15-2014 by Ord. No. 424-14.

- (10) Laundry or dry cleaning.
- (11) Personal service commercial use.
- (12) Professional or business office.
- (13) Theater.

B. Conditional uses in the Village Transition District (VT). The following uses shall be permitted as conditional uses when authorized by the Board of Supervisors, subject to the procedures and requirements of Article XIV, along with any reasonable conditions that the Board shall impose under § 455-106 of this chapter, compliance with the area and bulk regulations of § 455-24 and the other applicable provisions of this chapter:

- (1) Commercial child/adult care in accordance with § 455-53.
- (2) Community center.
- (3) Dwelling, multifamily.
- (4) Educational use.
- (5) Outdoor cafe in accordance with § 455-66.
- (6) Parking garage, private.
- (7) Parking garage, public.
- (8) Parking lot, private.
- (9) Parking lot, public.
- (10) Place of worship in accordance with § 455-67.
- (11) Restaurant.
- (12) Restaurant, fast-food.
- (13) Retail commercial use.

C. Special exception uses in the Village Transition District (VT). The following uses shall be permitted as special exception uses when authorized by the Zoning Hearing Board, subject to the procedures and requirements of Article XV, along with any reasonable conditions that the Board shall impose under §§ 455-116A(11) and 455-117 of this chapter, compliance with the area and bulk regulations of § 455-24 and the other applicable provisions of this chapter:

- (1) Home occupation, major, in accordance with § 455-61.

D. Accessory uses in the Village Transition District (VT). The following accessory uses, buildings, and structures (including signs and parking associated with the accessory use) are permitted on the same lot with, and customarily incidental to, any of the uses permitted by this section:

- (1) Accessory uses, buildings and structures permitted by right as per §§ 455-47 and 455-48.
- (2) Storage within a completely enclosed building.

- (3) Parking as permitted by Article X.
- (4) Signs as permitted by Article XI.

§ 455-23. Use regulations for VR District.

- A. Uses by right in the Village Residential District (VR). The following uses shall be permitted by right in the Village Residential District (VR), subject to compliance with the area and bulk regulations of § 455-24 and the other applicable provisions of this chapter:
 - (1) Dwelling, single-family.
 - (2) Dwelling, two-family, twin.
 - (3) Dwelling, two-family, duplex, as an adaptive reuse.
 - (4) Dwelling, multifamily, as an adaptive reuse.
 - (5) Forestry in accordance with § 455-58.
 - (6) Home occupation, minor, in accordance with § 455-61.
- B. Conditional uses in the Village Residential District (VR). The following uses shall be permitted as conditional uses when authorized by the Board of Supervisors, subject to the procedures and requirements of Article XIV, along with any reasonable conditions that the Board shall impose under § 455-106 of this chapter, compliance with the area and bulk regulations of § 455-24 and the other applicable provisions of this chapter:
 - (1) Bed-and-breakfast.
 - (2) Educational use.
 - (3) Place of worship.
- C. Special exception uses in the Village Residential District (VR). The following uses shall be permitted as special exception uses when authorized by the Zoning Hearing Board, subject to the procedures and requirements of Article XV, along with any reasonable conditions that the Board shall impose under §§ 455-116A(11) and 455-117 of this chapter, compliance with the area and bulk regulations of § 455-24 and the other applicable provisions of this chapter:
 - (1) Home occupation, major, in accordance with § 455-61.
- D. Accessory uses in the Village Residential District (VR). The following accessory uses, buildings, and structures (including signs and parking associated with the accessory use) are permitted on the same lot with, and customarily incidental to, any of the uses permitted by this section:
 - (1) Accessory uses, buildings and structures permitted by right as per §§ 455-47 and 455-48.
 - (2) Storage within a completely enclosed building.
 - (3) Parking as permitted by Article X.
 - (4) Signs as permitted by Article XI.

§ 455-24. Area and bulk regulations.

The following area and bulk regulations shall apply within all Village of Berwyn Districts:

A. Minimum lot size (net lot area).

- (1) There is no minimum lot size in the VB and VT Districts.
- (2) Minimum lot size in the VR District is 5,000 square feet per dwelling unit.

B. Build-to line. [Amended 1-15-2018 by Ord. No. 433-18]

- (1) The build-to line shall be either the street right-of-way line or a dimension measured from the curbline/cartway as listed for specified streets in each district below, whichever is further from the curbline/cartway:
 - (a) Along Lancaster Avenue (VB District only): 12 feet.
 - (b) Along Leopard Road (VB District only): 15 feet.
 - (c) Along Old Lancaster Avenue and Lakeside Avenue (VB District only): 10 feet.
 - (d) Along Berwyn Avenue:
 - [1] VT District: 15 feet.
 - [2] VR District: 20 feet.
 - (e) Along all other roads:
 - [1] VB District: 10 feet.
 - [2] VT District: 15 feet.
 - [3] VR District: 20 feet.

Note: See Figures X-1; X-2; X-3; X-4; and X-5.

- (2) A building shall be set back from the build-to line by a minimum distance of five feet to a maximum distance of 15 feet for the purposes of a village garden, plaza, square, courtyard, recessed entrance, or outdoor dining area consistent with the streetscape standards in Chapter 274, Natural Resources Protection, Article XII.
- (3) Primary pedestrian access must be placed along the build-to line and not the rear or side of the building. Additional pedestrian access points may be located on other facades.

C. Lot width at the build-to line.

- (1) VB District: 20 feet minimum.
- (2) VT District: 20 feet minimum.
- (3) VR District: 50 feet minimum.

D. Lot width at street line.

- (1) VB District: 20 feet minimum.

(2) VT District: 20 feet minimum.

(3) VR District: N/A.

E. Side yard setback. **[Amended 1-15-2018 by Ord. No. 433-18]**

- (1) In the VB District, there is no required minimum side yard setback. However, if a new or expanded structure is not built up to the side lot line, the new or expanded portion of the building must be set back a minimum of 10 feet from the side lot line. See Figure X-1.
- (2) In the VT District and VR District, minimum side yard setbacks are determined by the type of building/use.
 - (a) Single-family detached dwellings and accessory buildings: five feet minimum. See Figure X-3.
 - (b) Attached residential dwellings (townhouse or twin/duplex): no minimum side yard setback if attached to an adjacent residential dwelling. The end row for an attached residential dwelling shall be set back a minimum of 10 feet from the side lot line. See Figures X-2 and X-3.
 - (c) All other permitted and conditional uses: 12 feet minimum. See Figures X-4 and X-5.

F. Rear yard setback. **[Amended 1-15-2018 by Ord. No. 433-18]**

- (1) VB District: 10 feet minimum. See Figure X-1.
- (2) VT District: 10 feet minimum. See Figures X-2 and X-4.
- (3) VR District: 20 feet minimum. See Figures X-3 and X-5.

G. Building coverage (based on net lot area).

- (1) VB District: 85% maximum.
- (2) VT District: 65% maximum.
- (3) VR District: must fit within total impervious surface coverage.

H. Maximum impervious surface coverage. **[Amended 12-15-2014 by Ord. No. 424-14; 1-15-2018 by Ord. No. 433-18]**

- (1) VB District: 95% maximum.
- (2) VT District: 75% maximum.
- (3) VR District: 45% maximum.

I. Green area (based on net lot area).

- (1) VB District: 5% minimum.
- (2) VT District: no minimum requirement.
- (3) VR District: no minimum requirement.

J. Building height. The minimum and maximum building height shall be as listed in the following

Building Height Table. The maximum building height shall not exceed the measure in stories or in feet, whichever is lower.

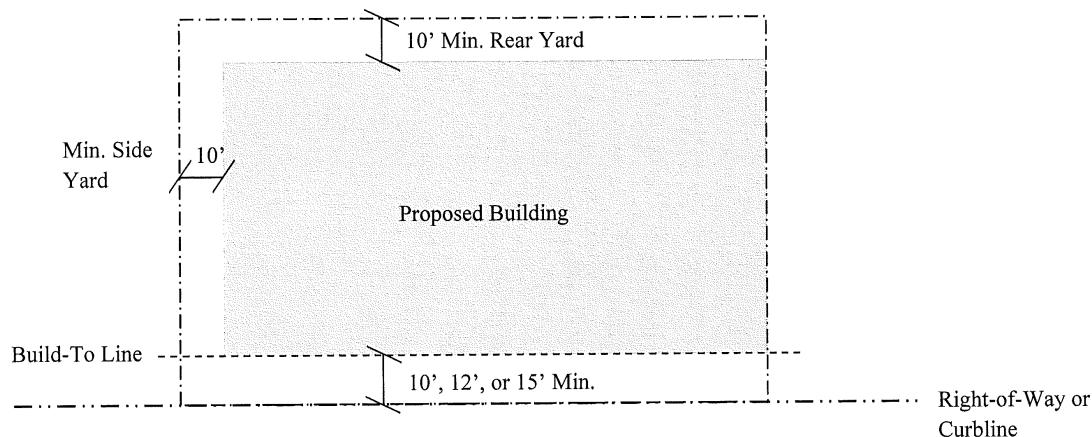
Building Height Table

Village Business (VB District)

| | North of Lancaster Avenue | South of Lancaster Avenue | Village Transition (VT District) | Village Residential (VR District) |
|------------------------------------|--|--|---|--|
| Minimum height | 2 stories | 2 stories | — | — |
| Street wall height (maximum) | 3 stories (42 feet) | 3 stories (42 feet) | 35 feet | 35 feet |
| Total height (maximum) | 4 stories (55 feet) | 3 stories (42 feet) | 35 feet | 35 feet |
| Fourth-story stepback (minimum) | 10 feet, or no stepback if fourth story is built within roof architecture* | — | — | — |

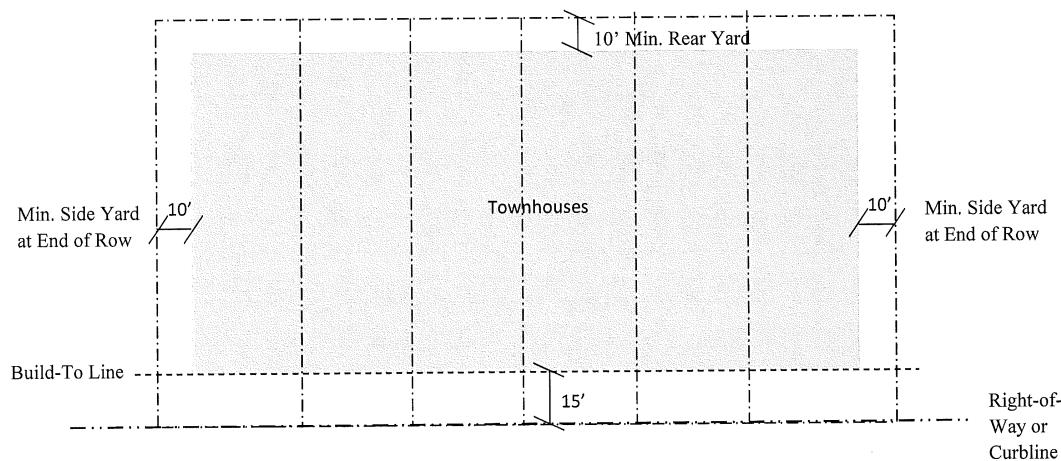
- * **NOTE:** If fourth story is built within roof architecture, then roof pitch shall not exceed a slope of 14:12.

Figure X-1
VB District Building and Structure Setbacks



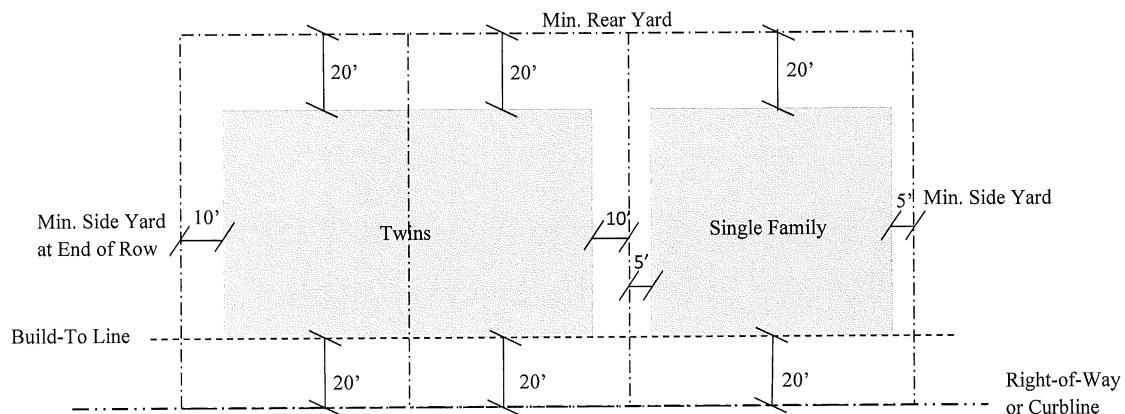
[Added 1-15-2018 by Ord. No. 433-18]

Figure X-2
VT District Residential Building and Structure Setbacks



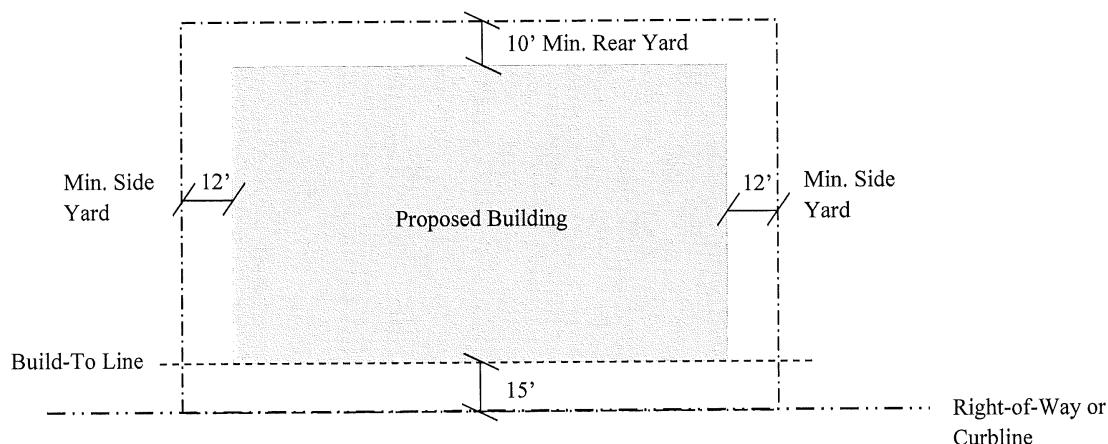
[Added 1-15-2018 by Ord. No. 433-18]

Figure X-3
VR District Residential Building and Structure Setbacks



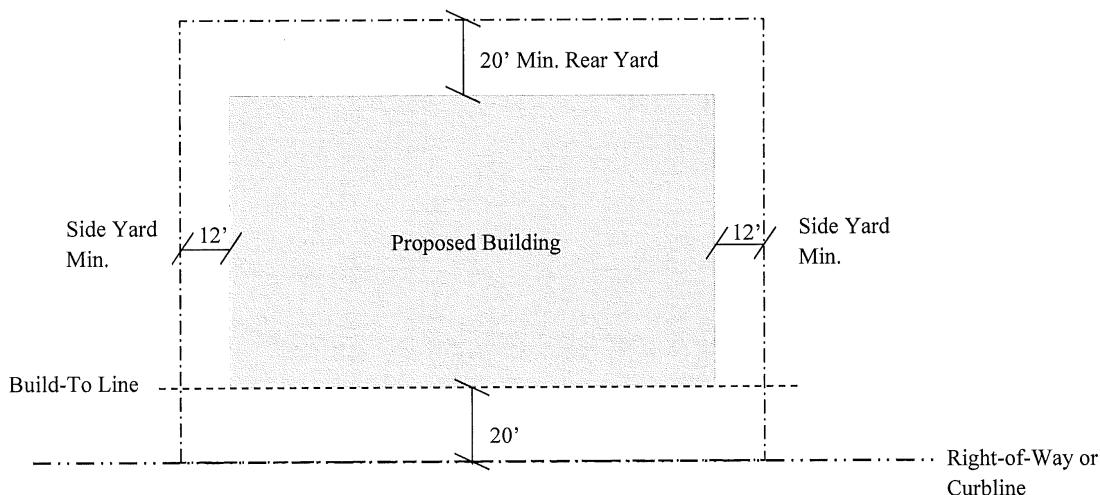
[Added 1-15-2018 by Ord. No. 433-18]

Figure X-4
VT District - "All Other Uses" Building and Structure Setbacks



[Added 1-15-2018 by Ord. No. 433-18]

Figure X-5
VR District - "All Other Uses" Building and Structure Setbacks



[Added 1-15-2018 by Ord. No. 433-18]

- K. Maximum density for multifamily dwellings. **[Added 4-5-2021 by Ord. No. 448-21; amended 4-4-2022 by Ord. No. 450-22]**
- (1) Dwelling, multifamily, in the VB Village Business District – 16 dwelling units per acre of net lot area.
 - (2) Dwelling, multifamily, including townhouse, in the VT Village Transition District – 12 dwelling units per acre of net lot area.

§ 455-25. Off-street parking regulations; design standards.

Each building, structure, or use constructed, established, erected, enlarged, modified or altered in the VB, VT and VR Districts shall provide and satisfactorily maintain off-street parking spaces in accordance with the requirements of this article, Article VIII (General Regulations), and Article X (Off-Street Parking and Loading). The parking regulations and design standards in this district shall supplement the regulations and design standards in Article X, and in the case the provisions of this article conflict with the provisions of Article X, the provisions of this article shall apply.

- A. Off-site parking alternatives. The following alternatives for off-street parking shall apply within the Village of Berwyn Districts:
- (1) Common parking lots. Two or more existing or proposed uses located on separate lots in the VB, VT and VR Districts may provide for required parking in a common parking lot if conditional use approval is granted by the Supervisors and if all of the following requirements are met (See Figure 5-1¹⁹⁰):
 - (a) If each lot has adequate parking, but combining the parking areas would yield added parking benefiting the uses, then parking may be combined on the lots, subject to compliance with this Subsection A(1).

¹⁹⁰Editor's Note: Figure 5-1 is included as an attachment to this chapter.

- (b) The total number of spaces provided for both uses may be reduced by 10% from the sum of the spaces required for each use individually.
 - (c) Common parking shall not be extended to include contiguous lots or parts thereof which lie outside the VB, VT and VR Districts.
 - (d) The owners of all lots involved join in a written application for land development in compliance with Chapter 400, Subdivision and Land Development, and agree in writing by execution of a land development agreement on an approved Township form to be fully bound to develop common parking to serve all of the lots.
 - (e) The preliminary sketch and final land development plans shall show a traffic circulation and parking plan meeting the minimum requirements of this chapter and Chapter 400, Subdivision and Land Development.
 - (f) A written agreement assuring the retention of parking spaces for such common parking lots shall be properly drawn and executed by the parties concerned and approved as to form and execution by the Township Solicitor as a part of conditional use approval. Such conditional use approval shall be rescinded by the Township and additional parking shall be obtained by the owner to meet the required standard in the following cases:
 - [1] If the Township determines the parking results in a public nuisance or adversely affects the public health, safety, or welfare.
 - [2] If at any time the parking is found in violation of any of the provisions of the conditional use.
 - [3] If the parking does not result in providing, or does not continuously provide, the approved amount of required parking.
 - [4] If such agreement is changed, amended, or extinguished, without notice and approval by the Township.
 - [5] If there is a change in use.
- (2) Off-site parking lots. Required parking spaces may be accommodated in off-site parking areas within the VB, VT and VR Districts, provided the following requirements are met and if conditional use approval is granted by the Supervisors (See Figure 5-2¹⁹¹):
- (a) The owner of a use or structure shall submit an application that includes a site plan and agreement showing joint use, agreement, maintenance responsibility, and location of the off-street parking area.
 - (b) The number of spaces fulfills the requirement for the structure and use for which the lot is designated to accommodate.
 - (c) Pedestrian walkways or sidewalks for pedestrian safety are available.
 - (d) The lot can be accessed by patrons where safe crossing of arterial or collector streets is available, and are located within 500 feet of the primary building in which the use is located.

191. Editor's Note: Figure 5-2 is included as an attachment to this chapter.

- (e) A written agreement assuring the retention of parking spaces for such off-site parking shall be properly drawn and executed by the parties concerned and approved as to form and execution by the Township Solicitor as a part of conditional use approval. Such conditional use approval shall be rescinded by the Township and additional parking shall be obtained by the owner to meet the required standard in the following cases:
- [1] If the Township determines the parking results in a public nuisance or adversely affects the public health, safety, or welfare.
 - [2] If at any time the parking is found in violation of any of the provisions of the conditional use.
 - [3] If the parking does not result in providing, or does not continuously provide, the approved amount of required parking.
 - [4] If such agreement is changed, amended, or extinguished, without notice and approval by the Township.
 - [5] If there is a change in use.
- (3) Shared parking lots. Required parking spaces may be accommodated by shared parking lots within the VB, VT and VR Districts, provided the following requirements are met and if conditional use approval is granted by the Supervisors (See Figure 5-3¹⁹²):
- (a) Up to 50% of the required parking spaces for a theater, restaurant, or other use of primarily evening entertainment may be provided and used jointly by banks, offices, retail stores, service establishments, places of worship, and other similar uses which are not normally open, used, or operated during evening hours (beyond typical business hours of 8:00 a.m. to 5:00 p.m.), and on Saturday and Sunday.
 - (b) As stated above, sharing of parking must be approved by a conditional use. In granting the conditional use, the Board of Supervisors shall consider, among other criteria, the hours of operation of the uses that are sharing required parking spaces and the number of spaces involved.
 - (c) Shared or common parking lots shall be provided with appropriate signage indicating the buildings and/or uses for which the spaces are available.
 - (d) Places of public assembly, including places of worship, auditoriums, gymnasiums or other assembly halls, may provide up to 20% of required parking.
 - (e) A written agreement assuring the retention of parking spaces for such sharing of required parking shall be properly drawn and executed by the parties concerned and approved as to form and execution by the Township Solicitor as a part of conditional use approval. Such conditional use approval shall be rescinded by the Township and additional parking shall be obtained by the owner to meet the required standard in the following cases:
- [1] If the Township determines the parking results in a public nuisance or adversely affects the public health, safety, or welfare.
 - [2] If at any time the parking is found in violation of any of the provisions of the

¹⁹²Editor's Note: Figure 5-3 is included as an attachment to this chapter.

conditional use.

- [3] If the parking does not result in providing, or does not continuously provide, the approved amount of required parking.
 - [4] If such agreement is changed, amended, or extinguished, without notice and approval by the Township.
 - [5] If there is a change in use.
- (4) On-street and public parking credit. Required parking spaces may be accommodated by on-street parking within the VB, VT and VR Districts, provided the following requirements are met and if conditional use approval is granted by the Supervisors (See Figure 5-4¹⁹³):
- (a) Only retail, professional office, or similar use within the VB, VT and VR Districts shall be permitted to count on-street parking toward off-street parking requirements.
 - (b) On-street parking may be counted towards meeting a maximum of 20% of off-street parking requirements, provided the spaces can be accessed without patrons crossing arterial or collector streets, and are located within 50 feet of the primary building in which the use is located.
 - (c) Spaces available in public parking lots may be counted towards meeting a maximum of 20% of off-street parking requirements, provided the spaces can be accessed by patrons where safe crossing of arterial or collector streets is available, and are located within 250 feet of the building entrance in which the use is located.
 - (d) On-street parking and public parking may comprise a combined maximum of 30% of off-street parking requirements.
- (5) Removal of curb cut(s). (See Figure 5-5¹⁹⁴). In the following cases within the VB, VT and VR Districts, the removal of a curb cut by a business or property owner to either increase the number of parking spaces or increase the open space, aesthetics, or access to a parking lot shall be permitted by conditional use, in accordance with the following:
- (a) Where an existing parking lot has more than one access and the applicant(s) can prove that removal of a curb cut(s) will improve the condition of the street from which it is removed and will not cause significant traffic issues at the remaining access point(s) as determined by the Township Engineer.
 - (b) Where two or more adjacent businesses can feasibly interconnect their existing or proposed parking lot(s), the number of curb cuts may be reduced and the total number of required spaces for the associated uses may be reduced by up to 20% per parking lot connection.

B. Design standards.

- (1) General regulations.
- (a) Parking shall be permitted on public or private streets within the VB, VT and VR Districts for the implicit use of providing parking for the solicitation of businesses within the VB,

193. Editor's Note: Figure 5-4 is included as an attachment to this chapter.

194. Editor's Note: Figure 5-5 is included as an attachment to this chapter.

VT and VR Districts, unless specifically prohibited by the Township police. The Township reserves the right to restrict on-street parking at locations where parking may be hazardous, impede sight distances, block fire hydrants, or for other substantive measures by placing signs, or other appropriate measures.

- (b) Required parking spaces for individual businesses shall not be double counted by more than one business use, unless specifically stated in an executed agreement approved by conditional use under Subsection A above.
- (2) Off-street parking access.
 - (a) Access drives or streets that cross the lot line along a public right-of-way shall be limited to two in number along the frontage of each right-of-way, and their center lines shall be placed at least 40 feet apart. On all corner properties, such accesses shall be spaced a minimum of 30 feet, measured at the curbline, between the center line of any such access and the right-of-way line parallel thereto. The separation distance shall not apply to single-family detached, semidetached and two-family residential lots in a development.
 - (b) All other access provisions shall be in accordance with Article X, § 455-74C.
- (3) Parking space size and design regulations.
 - (a) Perpendicular spaces within the VB, VT and VR Districts shall have minimum dimensions of nine feet wide by 18 feet long.
 - (b) All other parking space and design regulations shall be in accordance with Article X, § 455-74D.
- (4) Handicapped parking. All handicapped parking regulations shall be in accordance with Article X, § 455-74E.
- (5) Traffic lane and driveway dimensions.
 - (a) Traffic aisles and other vehicular accessways designed for circulation of motor vehicles within parking lots or between parking spaces shall have the following minimum widths. Where garages face each other, the garage doors shall be separated a minimum of 35 feet in order to provide adequate back-out area. **[Amended 1-15-2018 by Ord. No. 433-18]**

| Accessway (aisle) Width | |
|--------------------------------|----------------|
| One-Way | Two-Way |
| 14 feet | 22 feet |

- (b) Notwithstanding the provisions of Subsection B(5)(a) above, for a traffic aisle or other vehicular accessway leading to an off-street parking facility with less than 20 spaces in the VB, VT or VR District from any street other than Lancaster Avenue, the minimum width for a one-way or two-way accessway may be reduced to 12 feet.
- (c) All other traffic lane and driveway dimension regulations shall be in accordance with Article X, § 455-74F.
- (6) Minimum number of required off-street parking spaces. All owners and developers shall provide for each land use, at a minimum, sufficient off-street parking spaces to conform to

Article X, § 455-74G, H, and I. The Board of Supervisors may grant by conditional use a reduction in the number of off-street parking spaces provided, if an applicant can quantitatively demonstrate that the proposed use can be adequately served with fewer off-street parking spaces than would be required in Article X, § 455-74H and I. Factors unique to the subject application shall be considered and analyzed and may include, but not be limited to, proximity to one or more types of public transit; use of shared parking or similar strategies; and unique land use characteristics specific to the subject application that result in measurably less reliance on automobile use.

- (7) Landscaping. See Article XI, Landscaping, of Chapter 274, Natural Resources Protection.
- (8) Screening and buffering. Screening and buffering regulations shall be in accordance with Article X of Chapter 274, Natural Resources Protection, as incorporated by reference in § 455-38 of this chapter.
- (9) Multifamily buildings containing apartments on lots or parcels along Lancaster Avenue in the VB Village Business District shall comply with the following design requirements: **[Added 4-5-2021 by Ord. No. 448-21]**
 - (a) The first 35 feet in depth of the first or ground floor (sidewalk level) of the building measured at a right angle from the inside of the street wall along Lancaster Avenue shall not be used for the storage or parking of motor vehicles or the storage of personal property.
 - (b) The façade facing Lancaster Avenue shall not include a vehicular entrance-exit or vehicular accessway for motor vehicles or for storage facilities.
 - (c) A minimum of the first 35 feet in depth of the first or ground floor (sidewalk level) of the building measured at a right angle from the inside of the street wall along Lancaster Avenue shall be restricted to nonresidential uses for residents of the multifamily building and/or other nonresidential uses permitted in the VB District.

C. Parking shall not be permitted at grade level under any building in the VB, VT, or VR District, except as follows: **[Amended 11-21-2022 by Ord. No. 453-22]**

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Stand-alone public and private parking garages;
- (4) For all other buildings, podium parking shall be permitted, only as set forth below:
 - (a) Podium parking may be in the form of parking at grade level;
 - (b) Podium parking shall be accessed from a service drive or alley on the side or rear of a building;
 - (c) Podium parking, if unable to be accessed from a service drive or alley on the side or rear of a building, shall include a driveway no wider than 20 feet in width;
 - (d) The podium parking within the architecture of a building shall include a front facade to conceal views of the parking along the frontage street; and
 - (e) The first 30 feet of depth of the podium parking structure shall include a lobby space and

an amenity space that is visible from the frontage street.

ARTICLE VI **Lot Averaging**

§ 455-26. Purpose.

In addition to the general purposes and objectives listed in § 455-2, Purposes; community development objectives, of this chapter, the lot averaging design option is established for the following purposes:

- A. Allow qualifying parcels of land to be developed in such manner as to preserve and protect historic resources and environmentally sensitive land which contain any one or more of the following natural resources: steep slopes, wetlands or floodplains, and/or which are comprised in whole or in part of natural features, such as woodlands, hedgerows, and stream valleys.
- B. Allow variation in lot sizes to permit the location of buildings in a manner that is compatible with the undisturbed natural features and topography of the land proposed to be developed.
- C. Implement the policies of the Easttown Township Comprehensive Plan, as may be amended or readopted, and the Recreation, Open Space and Environmental Resources Plan, as may be amended or readopted, to protect environmentally sensitive areas and to preserve the Township's scenic character. **[Amended 11-21-2022 by Ord. No. 453-22]**
- D. To provide for the location of dwelling units and their accessory uses where they are least visible and hidden by topography or vegetation.

§ 455-27. Eligibility regulations.

- A. Applicable districts. Lot averaging is permitted in the following two zoning districts: AA and R-1.
- B. Conditional use process. Lot averaging is only permitted as a conditional use when approved by the Board of Supervisors, upon recommendation of the Township Planning Commission, in accordance with the procedures and standards specified in Article XIV of this chapter. Approval of each proposed lot averaging proposal shall be evaluated individually as it affects various site features.
- C. Minimum number of lots. A minimum of four lots must be proposed to be eligible for this design option.
- D. Dwelling type permitted. The lot averaging regulations of this article are permitted only for the development of single-family detached dwellings.
- E. Maximum yield of residential lots. When an applicant proposes to develop utilizing the lot averaging regulations of this article, the maximum yield for development of lots shall be determined in either of the following ways, after being accepted as sufficient by the Zoning Officer:
 - (1) A plan of conventional (non-lot-averaged) single-family development subdivision shall be submitted in sufficient engineering detail so as to afford review and determination of the maximum number of single-family lots achievable in the zoning district in which the lot or lots is/are located. The total number of dwelling units permitted under this article shall not exceed the number of lots which could be created by conventional single-family lot subdivision; or
 - (2) A determination of the maximum yield by taking the net lot area of the lot or lots proposed for development, subtracting 15% for rights-of-way, utilities, and similar features, and dividing this figure by the minimum lot size for the applicable zoning district in Figure 3-2¹⁹⁵ to establish the number of lots that may be developed under this article. A site plan of sufficient engineering

detail shall be submitted so as to afford review and determination that includes the location, zoning district, lot sizes, natural resources, minimum lot size requirements, and calculations described in this subsection.

- F. Ownership. The lot shall be held in single and separate ownership or, in the case of multiple ownership, shall be developed according to a single plan with common authority and responsibility. **[Amended 12-15-2014 by Ord. No. 424-14]**
- G. Site assessment. A site impact assessment in accordance with § 455-29 shall be submitted with the conditional use application, demonstrating how the lot warrants flexibility in design. **[Amended 12-15-2014 by Ord. No. 424-14]**

§ 455-28. Design regulations.

- A. The average lot size for all lots within a development using this design option shall be equal to or greater than the required minimum lot size based upon net lot area of the applicable zoning district. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. The remainder of the lots shall comply with the lot area and other dimensional requirements specified in Figure 6-1 below for the district in which the development lot is located. **[Amended 9-21-2009 by Ord. No. 391-09; 12-15-2014 by Ord. No. 424-14; 2-4-2019 by Ord. No. 437-19]**

**Figure 6-1
Lot Averaging Requirements**

| | AA District | R-1 District |
|--|--------------------|---------------------|
| Minimum net lot area (square feet) | 40,000 | 21,780 |
| Maximum impervious surface | 13.5% ^a | 18.5% ^a |
| Minimum frontage (feet) | 80 | 70 |
| Minimum front yard setback (feet) | 50 | 40 |
| Minimum side yard setback (aggregate — feet) | 40 | 30 |
| Minimum side yard setback (feet) | 20 | 15 |
| Minimum rear yard setback (feet) | 40 | 35 |

NOTES:

- ^a Represents the total impervious surface allowed based upon the tract(s) being subdivided, which shall be allocated to the newly created lots. The sum of the impervious surfaces for all newly created lots shall not exceed the total impervious surface that would have been allowed based on the lot area of the tract(s) being subdivided. The total area of impervious surface allocated to each new lot shall be noted on the recorded subdivision plan as restrictive covenant that runs with the land and such restriction shall also be included in the deed for each lot.

- C. Setbacks for yards abutting the perimeter of the lot shall equal the minimum setbacks otherwise

195. Editor's Note: Figure 3-2 is included as an attachment to this chapter.

required for standard lots in the district. [Amended 12-15-2014 by Ord. No. 424-14]

- D. Wherever possible, buildings shall:
 - (1) Be situated below ridgeline or tree line elevations to prevent disruption of existing vistas.
 - (2) Be located outside of broad, open vistas.
 - (3) Be set back from the parent lot boundaries and road frontage a distance that is equal to or greater than that of abutting lots. [Amended 12-15-2014 by Ord. No. 424-14]
- E. Approval by the Board of a conditional use allowing development using the lot averaging regulations of this article shall not determine the number of lots ultimately to be approved. Such number shall be determined only upon the Board's approval of a final subdivision and land development plan when compliance with all applicable regulations of Chapter 400, Subdivision and Land Development, is determined.
- F. No lot of such size as to be capable of further subdivision shall be included in determining the number of lots within the development lot to be developed using the lot averaging regulations of this article, unless its further subdivision is precluded by a deed restriction or restrictive covenant in form and content acceptable to the Township Solicitor, filed of record in the office of the Recorder of Deeds of Chester County, Pennsylvania, contemporaneously with the recording of the final plan and such preclusion is noted on the face of both the preliminary plan and the final plan approved by the Board and filed of record in said office. [Amended 12-15-2014 by Ord. No. 424-14]

§ 455-29. Site assessment.

- A. The following materials shall be submitted to provide sufficient information of site features to effectively evaluate and determine whether the proposed development should use the lot averaging design option:
 - (1) Identification and mapping of site features of the lot and other required preliminary plan information in accordance with the plan information requirements of § 400-19, Status of approved preliminary and final plans, of Chapter 400, Subdivision and Land Development. [Amended 12-15-2014 by Ord. No. 424-14]
 - (2) Identification and mapping of the natural resources on the site shall be in accordance with Article II of Chapter 274, Natural Resources Protection.
- B. Analysis. The applicant shall include a review of anticipated impacts that the proposed development will have on the site and its related features in terms of both positive and negative impacts. The application should demonstrate how a creative design approach would promote conservation and incorporation of local resources over conventional development approaches.

**ARTICLE VII
Overlay Districts**

§ 455-30. General provisions.

Overlay districts shall be used in accordance with the following:

- A. For the purposes of this chapter, the sections within this article shall be overlays to the underlying districts as shown on the Easttown Township Zoning Map,¹⁹⁶ and as such, the provision for each of these sections shall serve as supplements to the underlying zoning district provisions.
- B. In those areas of the Township where a section of this article applies, the provisions of the section shall be imposed in addition to the requirements of the underlying zoning district(s). In the event that a conflict exists between a section of this article and the underlying district(s), the provisions of this article shall apply. [Amended 12-13-2016 by Ord. No. 427-16; 1-15-2018 by Ord. No. 433-18]
- C. Should the boundaries or delineations of any section of this article be revised as a result of legislative or administrative actions or judicial decision, the zoning requirements of the underlying zoning district and other applicable section of this article shall continue to apply.

§ 455-31. Natural resources protection.

The establishment and administration of the provisions governing natural resources shall be governed by the provisions of the following articles of Chapter 274, Natural Resources Protection, which are incorporated by reference as if set forth fully herein, as may be amended from time to time in accordance with the procedures set forth in Article XVII of this chapter and the Municipalities Planning Code:

- A. (Reserved)¹⁹⁷
- B. Article IV, Wetlands and Watercourses.
- C. Section 274-18 of Article V, Riparian Buffer Zone (RBZ).
- D. Sections 274-22, 274-23 and 274-24 of Article VI, Steep Slopes.
- E. Sections 274-27 and 274-28 of Article VIII, Woodlands and Wooded Lots.

§ 455-32. Planned Apartment Overlay District (PA).

- A. Purpose and application of regulations. The Planned Apartment Overlay District (PA District) is designed primarily to make special provisions for low-impervious-coverage multifamily development. Notwithstanding § 455-30, when a development for lot(s) is proposed under the PA District regulations, the developer may not make use of any density or other provisions set forth in the underlying zoning district, or in the Multifamily Overlay A or B District, or in the DC Devon Center Overlay Districts. The PA District is established and developed only in accordance with the provisions of this section, and the requirements and provisions of Chapter 400, Subdivision and Land Development, all other applicable ordinances, and any other pertinent provisions of this chapter, except as set forth and limited herein. There shall be included in the Planned Apartment Overlay District such tracts of ground as are set forth as marked on the Easttown Township Zoning Map. [Amended 12-15-2014 by Ord. No. 424-14; 11-21-2022 by Ord. No. 453-22]

196. Editor's Note: The Zoning Map is included as an attachment to this chapter.

197. Editor's Note: Former Subsection A, which listed Article III, Floodplain Area, was repealed 5-15-2017 by Ord. No. 428-17.

B. Use regulations. A building or a unified group of buildings may be erected or used and a lot may be used or occupied for any of the following purposes and no other:

- (1) Multifamily dwelling development following review and approval of the plan for the specific use in accordance with the provisions of this article and Chapter 400, Subdivision and Land Development, and provided that the proposed use shall comply with the special area, buffer and other requirements of Subsections C and D below. **[Amended 6-2-2014 by Ord. No. 422-14]**
- (2) Accessory use on the same lot with and customarily incidental to the foregoing permitted uses. The term "accessory use" shall not include a business, except as is permitted below where such use is located within an apartment building, but may include:
 - (a) Private garage or off-street parking lot or area.
 - (b) In conjunction with a permitted multifamily dwelling structure development, accessory office or commercial use such as a restaurant, personal service shop, drugstore, similar retail store or a public garage operation, provided:
 - [1] Each such accessory use is conducted entirely within a multifamily dwelling structure and is located on the ground floor or, in the case of office use, on any other floor.
 - [2] The total area devoted to business use shall not exceed 10% of the total floor area of the building in which located, excluding basement and garage, except that, in the case of a building four stories or more in height, an additional 10% of the total floor area of a building may be utilized for office use.
 - [3] The net floor area of any one store, shop or similar use, except in the case of an office or restaurant, shall not exceed 1,500 square feet.
- (c) Signs as permitted in Article XI.

C. Area and bulk regulations.

- (1) Lot area (net lot area) and width. Every lot on which a multifamily dwelling structure is hereafter erected or used shall have a net lot area of not less than five acres, and such lot shall be not less than 300 feet in width at the building line. The total number of dwelling units shall not exceed 12 per acre based upon net lot area. **[Amended 12-15-2014 by Ord. No. 424-14]**
- (2) Building and floor area. Not more than 30% of the area of each lot may be occupied by buildings or other impervious surfaces, and the gross floor area of buildings on the lot shall not exceed 45% of the lot area.
- (3) Building placement. No building shall be located less than 150 feet from a street right-of-way line nor less than 75 feet from a side or rear property line, and no parking, loading or service area shall be located less than 75 feet from a street right-of-way or other property line.
- (4) Height regulations. No multifamily dwelling structure shall exceed 50 feet in height, exclusive of basement.

D. Special regulations.

- (1) In addition to the requirements of this chapter, the plan for the proposed development under this section shall comply with the standards of Chapter 400, Subdivision and Land Development,

and all other applicable ordinances.

- (2) Along each side or rear property line which directly abuts a single-family residence district in the Township or a similar district in an adjoining municipality, a perimeter buffer planting strip of not less than 50 feet in width, as defined in Chapter 274, Natural Resources Protection, shall be provided.
- (3) All off-street parking, loading, access facilities and service areas used by motor vehicles shall comply with the provisions of Article X. Off-street parking and loading space shall be located immediately contiguous to each apartment house.
- (4) A basement shall not contain habitable rooms except for janitor's living quarters, which shall be counted as a dwelling unit.

E. Special regulations for housing for the elderly. In order to permit development of special apartment housing for the elderly in the Planned Apartment Districts, certain deviations from the requirements of this chapter may be permitted when authorized as a conditional use in accordance with Article XIV and upon compliance with the following conditions:

- (1) With respect to apartments for the elderly constructed under authority of this section, the other provisions of this section and chapter shall be applicable, unless specifically changed by this Subsection E.
 - (a) The total number of dwelling units shall not exceed 24 per acre based upon net lot area.
[AMENDED 12-15-2014 by Ord. No. 424-14]
 - (b) The number of off-street parking spaces shall not be less than 1/2 parking space per dwelling unit.
- (2) Apartments shall be constructed in conformance with federal and state standards for the housing of persons:
 - (a) Who are single persons not less than 62 years of age or couples, one of whom is 62 years of age or more, or persons who are otherwise qualified for housing assistance payments for elderly families pursuant to relevant federal statutes or regulations.
 - (b) Whose incomes are low or moderate ones, as defined in relevant federal statutes or regulations.
- (3) No nursing home, convalescent home, hospital or other similar institution shall be authorized under the provisions of this section.
- (4) No more than 15% of the dwelling units in any building constructed in accordance with this section shall contain more than one bedroom.
- (5) Each dwelling unit shall have a minimum of 500 square feet, except that a minimum area of 420 square feet shall be applicable to a dwelling unit consisting of one room containing a living and sleeping area and cooking facilities (efficiency dwelling units).
- (6) The approval of such use shall be conditioned upon the recording of a deed restriction guaranteeing the continuance of the use. Each deed restriction shall provide that the authorized use under this section shall expire upon the failure to meet all the requirements of this section and within 12 months thereafter, unless extended by action of the Board of Supervisors, the structure shall be reconstructed to reduce the number of units, and the parking spaces shall be

increased, so that in all respects the applicable provisions of the other sections of this chapter are satisfied.

§ 455-33. Multifamily Overlay District.

- A. Purpose and application of regulations. The Multifamily Overlay District is designed primarily to make special provision for multifamily (including but not limited to townhouse, twin house, quadruplex and garden apartment) development in an orderly, appropriate manner in areas accessible to public water and sewer service as well as to a road network sufficient to accommodate the increased traffic to be anticipated from such multifamily development and to insure that such development projects are built in the manner and to the specifications shown on approved plans. The Multifamily Overlay District constitutes an alternate use in districts, which are now or may in the future be zoned for uses other than multifamily uses. When it is proposed that a lot or lots be developed in accordance with the underlying zoning, the provisions of this section shall not apply. The Multifamily Overlay District may be developed for multifamily use purposes only in accordance with the special provisions of this section and the provisions of Chapter 400, Subdivision and Land Development. [Amended 12-15-2014 by Ord. No. 424-14]
- B. Use regulations. A building or a unified group of buildings may be erected and used and a lot may be used or occupied for any of the following purposes and no other, when approved as a conditional use under Article XIV:
 - (1) Apartment. [Amended 6-2-2014 by Ord. No. 422-14]
 - (2) Townhouse, duplex or twin.
 - (3) Quadruplex or quadruplex cluster.
 - (4) Accessory use on the same lot with and customarily incidental to any of the foregoing permitted uses. The term "accessory use" shall not include a business but may include:
 - (a) Parking garage or off-street parking lot or area.
 - (b) Recreational facilities available for use only by residents of the development and their guests.
 - (c) Permitted accessory structures shall be limited to perimeter fences and decks, patios, and swimming pools. Swimming pools shall not be located closer to the street or street right-of-way line on which the associated dwelling unit fronts than a line parallel to and coincident with the rear facade of the dwelling unit, extended to its points of intersection with the side boundaries of the lot and not less than 20 feet from any building or accessory structure located on any other lot, provided that accessory structures located on lots are in conformance with the underlying regulations contained in Article VIII or IX of this chapter and shall be located in conformity with the said regulations as they pertain to the location of accessory structures. All accessory structures shall be approved in typical configuration as a part of a conditional use proceeding. Typical configuration shall consist of each principal building envelope and accessory structure envelope on each lot. [Amended 6-2-2014 by Ord. No. 422-14]
 - (5) No accessory buildings shall be permitted on the same lot as or within the designated open space area of a development under this section.
- C. Districts and site development regulations. There shall be included in the Multifamily Overlay

District such lots as are set forth on the Easttown Township Zoning Map,¹⁹⁸ marked respectively "Multifamily A" and "Multifamily B." [Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]

- (1) As to the lots of ground set forth on the Easttown Township Zoning Map marked "Multifamily A," the following site development standards shall apply:
 - (a) Lot area and width. A lot to be developed pursuant to this section shall be not less than 10 acres in area based upon net lot area, exclusive of portions of the lot less than 300 feet in width.
 - (b) There shall be a density of not more than 1.5 dwelling units per acre of net lot area; provided, however, that an increased density may be allowed under and in accordance with Subsection D(4) of this section.
 - (c) Land allocation.
 - [1] Coverage of the lot by principal and accessory buildings shall not exceed 15% of the net lot area, and total impervious surface, including building coverage, paved areas for automobile parking, pedestrian use and accessory use, shall not exceed 30% of the net lot area.
 - [2] A minimum area equal to 1/3 of an acre per dwelling unit shall be required and shall not be counted within the minimum required common open space for a development under this section.
 - [3] In addition to the standards and criteria established in Subsection E of this section and Article XIV, as part of the conditional use review process, it shall be incumbent upon the Planning Commission and the Board of Supervisors to require, to the greatest extent possible, that areas designated for open space purposes shall comply with the following:
 - [a] Impervious roadways, parking areas, and structural development, including recreational and stormwater management facilities, shall not be counted within minimum required open space areas.
 - [b] A maximum of 60% of the minimum required common open space area may include:
 - [i] Any area within the identified floodplain area. [Amended 5-15-2017 by Ord. No. 428-17]
 - [ii] Any area with slopes in excess of 20% over three consecutive, two-foot contours.
 - [iii] Any area comprised of Chewacla, Wehadkee, or Worsham soils.
 - [iv] Any area subject to existing or proposed utility easements.
 - [v] Any area devoted to parking or vehicular circulation.

¹⁹⁸Editor's Note: The Zoning Map is included as an attachment to this chapter.

constitute less than 35% of the gross lot area.

- [5] Areas designated as open space shall be restricted from further development, except for recreational uses and facilities in accordance with the recorded plan of development and the conditional use approval granted by the Board of Supervisors. Such restrictions shall be enforced by deed restriction, conservation easement, or agreement in form and content acceptable to the Township Solicitor suitable for recordation in the office of the Recorder of Deeds.
 - [6] In approving a conditional use application, in addition to the criteria established by Subsection E of this section and Article XIV, the Board may impose such additional reasonable conditions in regulating the siting of the development and the configuration of the open space as:
 - [a] Minimize negative impacts of development on the lot, as denoted in the statement of ecological and economic impact, required by Subsection E(2)(h).
 - [b] Maximize conservation of site features that can be identified as having particular conservation value, including steep slopes, floodplains, watercourses, wetlands, high groundwater areas, mature trees, woodlands, hedgerows, fence lines, historic sites or structures, historic road or other transport traces, paths and trails, and other noted landscape features.
 - [c] Minimize intrusion upon public and private views on and off site by preservation of natural features or installation of landscape buffers.
 - (d) Setback requirements. No principal building or group of townhouses or other multifamily structure shall be located closer than 150 feet to any adjoining single-family residence district nor 100 feet to any other adjoining district. No accessory structure or parking area shall be located closer than 125 feet to any adjoining single-family residence district nor 75 to any other adjoining district. No interior street, whether public or private, shall be located so as to have a pavement edge closer than 100 feet to any adjoining single-family residence district nor 50 feet to any other adjoining district. No community or recreational facility shall be located any closer than 150 feet to any adjoining single-family residence district nor 25 feet to any other adjoining district. The Board of Supervisors may, in its discretion, reduce the required size of setbacks by no more than 35% of the provisions set forth in this section when and in the case that the plans and specifications submitted for approval indicate an outstanding excellence of site planning, architectural design and/or landscaping.
- (2) As to the lots of ground set forth on the Easttown Township Zoning Map marked "Multifamily B," the following site development standards shall apply:
- (a) Lot area (net lot area) and width. Every lot shall have an area of not less than 10 acres of net lot area and shall have a minimum width of 300 feet on every side.
 - (b) There shall be a density of not more than 3.5 dwelling units per acre of net lot area; provided, however, that an increased density may be allowed under and in accordance with Subsection D(4) of this section.
 - (c) Land allocation. Coverage of the lot by principal and accessory buildings shall not exceed 20%, and combined impervious surfaces, including building coverage, paved areas for

automobile parking, pedestrian use, and accessory use, shall not exceed 40%. Contiguous open space and/or outdoor recreation areas shall have a minimum horizontal dimension of 50 feet and shall constitute at least 30% of the gross acreage and shall be convenient for use with respect to shape, location, and environmental conditions.

- (d) Setback requirements. No principal building or group of townhouses or other multifamily structure shall be located closer than 150 feet to any adjoining single-family residence district nor 100 feet to any other adjoining district. No accessory structure or parking area shall be located closer than 125 feet to any adjoining single-family residence district nor 75 feet to any other adjoining district. No interior street, whether private or public, shall be located so as to have a pavement edge closer than 100 feet to any adjoining single-family district nor 50 feet to any other adjoining district. No community or recreational facility shall be located any closer than 150 feet to any adjoining single-family residence district nor 25 feet to any other adjoining district. The Board of Supervisors may, in its discretion, reduce the required size of setbacks by no more than 35% of the provisions set forth in this section when and in the case that the plans and specifications submitted for approval indicate an outstanding excellence of site planning, architectural design and/or landscaping.

D. General development regulations. The following site development standards shall apply to any developments under this section:

- (1) Building separation. The minimum distance between separate buildings shall be as follows:
 - (a) Between facing walls within 45° of being parallel, 75 feet if both walls provide windows.
 - (b) In all other cases of facing walls, 60 feet.
 - (c) Where walls do not face each other for any of the distance of either wall, 25 feet between building corners.
- (2) Building dimensions.
 - (a) Height. No building shall exceed 35 feet in height. No accessory structure shall exceed 20 feet in height.
 - (b) Building length. No building or building group such as a townhouse group shall exceed 160 feet as its greatest dimension in length or depth. No townhouse group shall consist of more than 18 dwelling units.
 - (c) Offsets. No more than eight townhouse dwelling units shall be attached in a single group. No more than two contiguous units in any group may be constructed in line, and each unit shall have at least one plan element on any floor which projects or recedes within the wall plane of the facade a minimum dimension of two feet.
- (3) Dwelling units. Each dwelling unit within a multifamily structure shall contain at least 600 square feet of habitable space. Each dwelling unit shall have glazed window areas equal to at least 10% of its habitable area and movable sash window area equal to 5% of its habitable floor area.
- (4) Bonus densities. **[Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]**
 - (a) In any area designated as Multifamily A on the Easttown Township Zoning Map, where

no less than 50% of the lot shall be in contiguous open space, density may be increased by allowance of one additional dwelling unit for each acre of net lot area, provided that in no event shall such increased density allowed hereunder exceed two dwelling units per acre of net lot area.

- (b) In any area designated as Multifamily B on the Easttown Township Zoning Map, where not less than 40% of the lot shall be in contiguous open space, density may be increased by allowance of one additional dwelling unit for each acre of net lot area.
- (5) Utility services.
 - (a) All principal buildings shall be served by common piped water supply. They shall be served by public sewer facilities unless the Board of Supervisors shall permit appropriate interim arrangements upon specific finding that public facilities will be available within a period not exceeding three years and upon condition that all pipes and laterals necessary to connect to such public facilities shall be installed and that connection be made thereto as soon as available. All transmission lines, whether pipe or wire, shall be located underground.
 - (b) Transmission lines shall be located in restricted areas at least 15 feet wide reserved against future building and laid out to minimize unnecessary passage under pavement and buffer planting strips. Easements for extension of utilities to adjoining areas shall be provided where appropriate upon recommendation of the Planning Commission.
- (6) Off-street parking and vehicular circulation standards. Each building, structure, or use constructed, established, erected, enlarged, modified or altered under this section shall provide and satisfactorily maintain off-street parking spaces in accordance with the requirements of Article VIII, General Regulations, and Article X, Off-Street Parking and Loading. The parking regulations and design standards in this section shall supplement the regulations and design standards in Article X, and in the case the provisions of this section conflict with the provisions of Article X, the provisions of this section shall apply.
 - (a) General guidelines.
 - [1] A street and parking lot circulation plan should be prepared indicating vehicular movement patterns and expected peak-hour traffic volumes. Proposed streets should be classified according to classifications indicated in this chapter and Chapter 400, Subdivision and Land Development.
 - [2] Streets and parking lots should be planned to minimize traffic movement in the immediate vicinity of residential buildings and yards, with particular attention given to controlling noise and daytime and nighttime visual impacts of vehicles.
 - [3] Streets and parking lots should be planned to minimize their adverse impacts on adjoining properties. Buffers should be provided in accordance with Subsection D(10) of this section and Chapter 274, Natural Resources Protection.
 - (b) Minimum distances between streets, parking lots and residential buildings.
 - [1] Streets and residential buildings (measured from pavement to exterior building walls): 20 feet.
 - [2] Parking lots and residential buildings:

- [a] Without full screening: 20 feet.
 - [b] With full screening: 10 feet.
- (c) Design of streets and parking lots.
- [1] Size of parking space. Each parking space shall be a minimum of 190 square feet per car, excluding that area required for safe vehicular ingress and egress.
 - [2] Parking lot size. The sizes of parking lots should be harmonious with residential living environments. Large parking areas should be avoided.
 - [3] Parking lots for more than 20 cars shall include planted areas within such parking lots. A minimum of 100 square feet of planting area shall be provided for the first 20 parking spaces, plus 100 square feet of planting area for each 10 additional parking spaces, on a pro rata basis.
 - [4] Parking lots shall be designed so that not more than 10 parking spaces are placed in a continuous row without intervening planting area of at least 100 square feet.
 - [5] All planting areas proposed for street rights-of-way and parking lots shall be in conformance with Subsection D(10).
 - [6] Streets and parking areas shall be designed to permit safe movement of automobiles, emergency vehicles, moving vans and trash trucks.
 - [7] Streets and parking areas shall be designed with consideration given to plowing and piling of snow.
- (7) Pedestrian circulation plan. A pedestrian circulation plan shall be required as a part of all applications for multifamily conditional use approval. The plan shall indicate the locations, dimensions and materials to be used in providing for adequate pedestrian circulation in the proposed development.
- (a) The pedestrian circulation plan shall reflect the following considerations:
- [1] Provision of safe and adequate pedestrian movement in crossing of streets and parking areas.
 - [2] Provision of safe and adequate pedestrian routes to individual residences, with consideration given to privacy requirements of all residences.
 - [3] Specific provisions for schoolchildren and safe locations for school bus stops.
 - [4] Provisions for safe and adequate access between public transportation facilities and the proposed development, if appropriate.
 - [5] Multiple use of pedestrian routes for recreation purposes, including, when appropriate, provisions for leisure-time walking, jogging and bicycling.
 - [6] Aesthetic considerations to the alignments and materials used in construction of pedestrian routes.
 - [7] Maintenance considerations of the alignments and materials used in construction of pedestrian routes.

(b) Compliance with other regulations:

- [1] With all applicable provisions of Chapter 400, Subdivision and Land Development, pertaining to curbing, walkway dimensions and related matters.
- [2] With the landscaping provisions of this section.

(8) Solid waste storage and collection.

- (a) A plan for the storage and collection of trash, garbage and rubbish must be submitted as part of the application for multifamily conditional use approval, indicating methods and proposed locations for the storage and collection of all solid wastes.
- (b) The plan shall be prepared with full consideration given to health, safety and welfare of individual residents of the proposed development, as well as adjoining property owners.
- (c) If common solid waste storage and collection points are proposed, a roofed structure with walls on at least two sides must be provided. Such structures must be architecturally harmonious with other buildings in the proposed development and shall be considered as accessory buildings, which shall meet all requirements for such structures as set forth in this chapter and Chapter 400, Subdivision and Land Development.

(9) Emergency facilities and services.

- (a) Plans for streets, parking areas and building placement and construction shall be reviewed by the Chief of the local Fire Department.
- (b) The following provisions shall be met:
 - [1] Fire hydrants, as required by the local Fire Department, and all applicable provisions of the Township's subdivision regulations.
 - [2] Smoke detector devices, approved by the local Fire Department, which shall include a minimum of one per floor of each dwelling unit.
 - [3] Emergency vehicle accessways, where required, must have a minimum cartway width of 15 feet.
 - [4] A systematic building numbering system shall be designed and implemented, with all numbers to be displayed in a manner adequate for convenient recognition by fire, police and ambulance personnel. Such numbering system shall be subject to the review of the Chief of Police of Easttown Township.

(10) Architecture and landscape architecture regulations.

- (a) Architecture. Architectural schematic drawings prepared by an architect registered in the Commonwealth of Pennsylvania shall be required of:
 - [1] Plans of typical residences.
 - [2] Elevations of typical front and rear building facades of residences and accessory structures.
- (b) Architectural schematic drawings shall reflect the following considerations:

- [1] The presentation of an overall architectural theme, as well as architectural recognition of individual residences.
 - [2] Compatibility of the proposed project with adjoining properties, particularly residential neighborhoods.
 - [3] Long-term durability and maintenance requirements of building materials.
- (c) Landscape architecture. A landscape plan prepared by a landscape architect shall be required. The plan shall include the following information:
- [1] Approximate finished grades and drainage patterns of topography after project construction.
 - [2] Description of existing vegetation conditions on the lot and measures to be taken to protect such vegetation during and following construction. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - [3] Proposed locations and listing of plant materials, by species and size, to be planted at the project.
 - [4] Proposed locations and description of other landscape materials to be used at the project.
- (d) The landscape plan shall reflect the following considerations:
- [1] The definition of spaces within the proposed development, e.g., by creating enclosures, opens areas and landmarks. Particular attention shall be given to creating privacy for individual residences by the creative use of plants and structural materials harmonious with the overall architectural theme of the proposed development.
 - [2] The provision of visual screening:
 - [a] Within and between parking areas.
 - [b] Between parking areas and buildings.
 - [c] Between groups of buildings.
 - [d] Between buildings and streets.
 - [3] The provision of landscaped visual buffer zones along tract boundary lines of such width, density and variation of plantings as necessary to ensure privacy of adjoining properties. The minimum width of such buffer zones shall be 25 feet.
 - [4] The provision of landscaping to help improve human comfort and to serve as a means of energy conservation. Measures to be considered shall include the use of plant materials to reduce the chilling effects of strong prevailing winter winds and to provide shade during the hot summer months.
 - [5] The provision of plant materials and natural environments to provide food and cover for upland birds and other wildlife species compatible with residential communities.
 - [6] The provision of suitable gardening areas to be used by residents of the proposed development.

- [7] The use of plant species which add diversity and richness to the proposed development, in terms of colors and textures, as well as those species which are hardy, relatively disease and insect resistant, locally available, and primarily indigenous to the natural environments of the region.
 - [8] The use of landscape structural materials in the construction of fences, walls and other improvements, which are relatively durable and will not present unusual expense in maintenance or replacement.
- (11) Ownership and maintenance of common open space.
- (a) Application plans shall describe the plan for ownership and maintenance of common open space.
 - (b) The plan may provide for:
 - [1] Dedication to and maintenance by the Township if acceptable to the Board of Supervisors; and/or
 - [2] Private ownership and maintenance. The governing documents of a multifamily development shall provide, in perpetuity, for the common and uniform maintenance of all landscaped areas and common open space.
 - (c) The Board of Supervisors may require dedication, easements and/or deed restrictions covering all or portions of the common open space and may require the applicant to provide for and establish an organization for the maintenance of the common open space, organized under or similar to that required by the Uniform Condominium Act, 68 Pa.C.S.A. § 3101 et seq., as amended, and agree that such organization or group of unit owners holding undivided interest in the common open space shall not dispose of the common open space by sale or otherwise (except to a similar organization or group conceived and established to own and maintain common open space). In determining whether the organization described in the plan is adequate, the Board of Supervisors shall consider the type and structure of the organization from the standpoint of its capacity to raise revenue, meet obligations and properly maintain facilities. **[Amended 6-2-2014 by Ord. No. 422-14]**
 - (d) In the event the common open space is, in the judgment of the Board of Supervisors, permitted to deteriorate or not maintained in reasonable condition in accordance with the plan, the Township shall have the option of taking whatever steps are afforded by law to require compliance with the plan.
 - (e) In addition to any other remedies afforded by law, the Township shall have the right, which may be made part of the agreement with the applicant, to enter upon the common open space and maintain the same for a period not to exceed one year. The purpose of such action by the Township shall be to preserve the taxable values of the property within the development and prevent the common open space from becoming a public nuisance.
 - (f) Prior to entering upon the property, the Board of Supervisors shall give written notice of the condition complained of to the property owner or homeowners' association and afford the latter a period of not less than 30 days to remedy and correct the same.
 - (g) The cost of such maintenance by the Township shall be assessed ratably against the properties within the development which have a right of enjoyment of the common open

space and shall become a lien upon said properties upon filing thereof as required by law.

E. Application for development.

- (1) Applications for development of a lot under this section shall be accompanied by a plan containing the information required by this section and Chapter 400, Subdivision and Land Development. The appropriate application fee and/or escrow prescribed by resolution of the Board of Supervisors from time to time shall be paid in advance, and the applicant shall agree to reimburse the Township for all costs incurred by it in connection with and in direct relation to the review and processing of the application. **[Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]**
- (2) In addition, the following information shall be submitted to the Township:
 - (a) The nature of the landowner's interest in the land to be developed.
 - (b) The density of land use to be allocated to the site to be developed.
 - (c) Location and size of common open space and the form of the organization proposed to own and maintain the common open space.
 - (d) The use and the approximate height, bulk and location of dwellings and other structures and their proposed construction materials.
 - (e) The feasibility of proposals for the disposition of sanitary waste and stormwater and provision of public water supply.
 - (f) The substance of covenants, grants and easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures, including proposed easements or grants for public utilities.
 - (g) A provision for parking of vehicles and the location and width of proposed streets and public ways.
 - (h) A statement which will show the ecological and economic impact of the development on the Township and especially as to the surrounding areas.
 - (i) A traffic impact study documenting all improvements, which may be needed to avoid off-site congestion or hazard which might arise as a result of the construction of the project, for which application is made.
 - (j) Such other data as will indicate compliance with the development standards of this article.
- (3) All applications for development under this section shall be approved by conditional use as per Article XIV of this chapter.

§ 455-33.1. DC-Devon Center Overlay District. [Added 12-13-2016 by Ord. No. 427-16]

- A. Purpose and application of regulations. The Devon Center Overlay District is intended to provide for the development of a variety of compatible commercial uses in a manner which employs unified design and architectural principals while creating a sense of place in close proximity to public transportation that promotes walkability while employing parking, circulation and mobility strategies that maximize efficiency and safety. When it is proposed that a tract or tracts be developed in accordance with the underlying zoning, the provisions of this section shall not apply.

B. Use regulations. A building or a unified group of buildings may be erected and used and a lot may be used or occupied for any of the following purposes and no other, when approved as a conditional use under Article XIV:

- (1) Conditional use. The following use shall be permitted as a conditional use when authorized by the Board of Supervisors subject to the procedures and requirements of Article XIV, compliance with the area and bulk regulations of this § 455-33.1 and the other applicable provisions of this Zoning Ordinance:
 - (a) Unified development.
- (2) Accessory uses. Accessory uses, accessory structures, and accessory buildings on the same lot with and customarily incidental to the foregoing permitted uses including a parking garage for a unified development and in accordance with § 455-48.

C. Area and bulk regulations.

- (1) For a unified development.
 - (a) Minimum net tract area: five acres.
 - (b) Minimum tract width at the street line: 100 feet.
 - (c) Minimum building and structure setbacks from ultimate rights-of-way:
 - [1] From arterial street right-of-way: 20 feet.
 - [2] From collector and local street right-of-way outside of the DC Overlay District: 40 feet.
 - (d) Minimum building and structure setbacks from local street cartway within the DC Overlay District or on-street parking: twelve-foot minimum.
 - (e) Minimum building or structure setback from any existing residential use or lot zoned residential not located in the DC Overlay District: 20 feet.
 - (f) Minimum building or structure setback from any lot not part of the unified development but located in the DC Overlay District: 10 feet.
 - (g) Minimum building or structure setback from any lot located outside the DC Overlay District which is not zoned residential and which does not contain a residential use: 10 feet.
 - (h) Maximum building coverage (percentage of net tract area): 40%.
 - (i) Maximum imperious coverage (percentage of net tract area): 85%.
 - (j) Minimum green area (percentage of net tract area): 15%.
 - (k) Maximum building height:
 - [1] Thirty-five feet except as set forth in § 455-33.1D(4)(a)[4][c](vi).
 - [2] Structured parking: Maximum of 30 feet to the top of the parapet.

D. Devon Center design standards.

- (1) Off-street parking. Each building, structure, or use constructed, established, erected, enlarged, modified or altered in the Devon Center Overlay District shall provide and satisfactorily maintain off-street parking spaces in accordance with the requirements of Article X, except as otherwise provided in this article.
 - (a) Perpendicular spaces shall have minimum dimensions of nine feet wide by 18 feet long.
 - (b) Minimum surface parking lot setbacks from ultimate right-of-way:
 - [1] From local street right-of-way not located in the DC Overlay District: 10 feet.
 - [2] From all other street rights-of-way: five feet.
 - [3] A landscaped area shall be provided, consisting of an area at least six feet wide located behind the adjacent sidewalk.
 - (c) Surface parking lots shall be set back from side and rear lot lines a minimum of five feet.
- (2) Landscaping. Surface parking areas shall be landscaped in accordance with § 274-43A through J and L(1) through (3).
- (3) Screening and buffering. Screening and buffering shall be consistent with the provisions of Article X of Chapter 274, Natural Resources Protection, applicable to the PBO Planned Business Office District, except that the buffer widths shall not be required to exceed the depth of the setbacks specified in this § 455-33.1.
 - (a) When a unified development is located adjacent to an exterior local street outside of the DC Overlay District a screen buffer shall be provided.
- (4) Site and building design/development guidelines within a unified development.
 - (a) The applicant shall adhere to the following development design standards:
 - [1] Purpose. The purpose of this subsection is to establish requirements that promote communal gathering spaces and pedestrian scaled design within the unified development. Adherence to these standards will carry out the purposes of the District as set forth in § 455-33.1. Principles guiding the administration of these standards are as follows:
 - [a] Buildings shall be pedestrian-focused, with windows and doors on the street facing facades that are well-placed and in scale with the street zone.
 - [b] Emphasis shall be on creating a pedestrian-friendly walkable town center including:
 - [i] Shared public courtyards, plazas and greens;
 - [ii] Sidewalk and pedestrian walkways shall be required to foster pedestrian connectivity to the train station, transit stops and from adjacent districts.
 - [c] In multitenant buildings, each tenant or use shall have its own separate entrance to ensure secure, proper and easy access for pedestrians at street level.
 - [d] Architectural expression shall be provided in windows, doors, walls and roofs.

- [e] Pedestrian pathways and sidewalks that are safe and attractive shall be provided.
 - [f] Street trees, shade trees, and landscape features shall be employed to enhance development and the pedestrian experience.
- [2] Facade composition. Facade composition is the arrangement of materials and details to distinguish the components of the building. All development shall comply with the following design standards:
- [a] Primary facades are those which face streets, public courtyards, plazas and greens and shall be most prominent.
 - [b] Except for mechanical louvers, fans and utility meters, no wall-mounted mechanical louvers, electrical cabinet or service equipment shall be placed on building facades. Mechanical equipment shall be located on the building rooftop or areas that are screened from view to the greatest extent feasible. Utility meters, mechanical louvers, electrical cabinets and fans that are visible from the street shall be screened to the greatest extent feasible.
 - [c] Building mass should be de-emphasized through the use of shade structures, windows, projecting and recessing of building elements, change in building materials, colors, and texture, change in building height and roof lines, and the creation of intimate pedestrian environments to reduce the overall bulk and volume, enhance the visual aesthetic, and promote a human-scale development pattern.
- [3] Ground floor facade. The ground floor is the primary zone of interaction for pedestrians on the street or public courtyard. All development shall comply with the following design standards:
- [a] Main building entrances shall face the street, public courtyards, plazas and greens.
 - [b] Building lobbies and retail spaces shall be clearly connected to the outdoor public space and visible from the street.
 - [c] Windows must be at street level and allow pedestrians to see activity within the building from the street, public courtyards, plazas, greens and primary pedestrian ways.
- [4] Architectural elements. Architectural elements are the unique details and component parts that, together, form the architectural style of buildings and structures.
- [a] Windows and doors on the ground floor of a building which faces a street shall comply with the criteria set forth below. A building which faces a street that is set back a minimum of 40 feet from the ultimate right-of-way shall not be required to comply with the following standards, when there is a minimum landscape area of five feet in width abutting the building.
 - [i] The facade shall contain a minimum of 50% clear glass windows and doors.

- [ii] Highly reflective glass, bronze glass, tinted glass, black glass, or smoked glass is prohibited.
 - [iii] Windows and door openings shall be pedestrian-oriented and should be arranged in such a way as to enhance the pedestrian experience.
 - [iv] The maximum sill height above the adjacent sidewalk should be four feet or lower.
 - [v] Window heads should be eight feet to 14 feet above adjacent sidewalk elevation.
 - [vi] The top of display window(s) shall be at least as high as the door height.
- [b] Exterior wall materials.
- [i] There shall be one dominant material. Dominant materials shall include stone, wood, brick, stucco, plaster, parge, fiber cement siding, or other approved materials.
 - [ii] Secondary material may include stucco or any of the dominant materials.
- [c] Roofs.
- [i] Tops of buildings must express the roofline and have either pitched roofs with overhanging eaves or flat roofs with a parapet.
 - [ii] Fasciae, dormers, and gables or similar architectural features can be employed to provide visual interest.
 - [iii] Primary pitched roofs should have minimum slope of 4:12.
 - [iv] Pitched roof material may include:
 - [A] Slate, either natural or man-made.
 - [B] Shingle, either wood or asphalt composition.
 - [C] Metal formed to resemble standing seams, corrugated, or other similar materials.
 - [D] Polycarbonate materials may be used in lieu of safety glass on greenhouses and greenhouse-like structures.
 - [v] All rooftop mechanical equipment should be screened visually and acoustically, consistent with the noise regulations in this chapter. Such screening shall be integrated into the architectural design of the building.
 - [vi] For buildings and structures that are set back a minimum of 100 feet from the right-of-way of a local road which abuts residential uses or lots zoned residential outside of the DC Overlay District, 10% of the footprint of the roof may be increased to 45 feet in height provided that the roof is a gable roof and the slope of that heightened roof is at least 8:12 but not more than 14:12.

[5] Structured parking facilities in the unified development should abide by the following standards:

- [a] The primary building facade of parking structures should contain elements of architectural design that emulate pedestrian-scaled commercial buildings within the district. This appearance may be achieved by integrating structured parking within or behind actual commercial or structures, or by the construction of building facades on parking structures that employ the same dominant and secondary building materials included herein for such buildings.
- [b] Vehicle headlights in structured parking facilities shall not be visible from the street or adjacent residential structures.
- [c] Vehicle access to parking structures must be gained from either an interior driveway or local street within the unified development. Vehicular access to parking structures is not permitted from an arterial road within the unified development or a local, collector or arterial street which abuts the DC Overlay District.
- [d] Vehicles in parking garages shall not be visible from any local street adjacent to the DC Overlay District to the greatest extent feasible.

[6] Parking lot screening and greening standards. All parking and loading areas fronting public streets or sidewalks and all parking and loading areas abutting residential districts or uses in the unified development should abide by the standards contained in § 274-43L.

- (b) Sidewalks along arterial roads within or adjacent to the DC Overlay District shall consist of a minimum of 12 feet of hardscape and be constructed to include two bands. A minimum six-foot brick paver area shall be located at the curbside with adjacent concrete pedestrian walkways of a minimum width of six feet.
- (c) Sidewalks along local roads within and collector roads adjacent to and within the DC Overlay District shall consist of a minimum of seven feet of hardscape and be constructed to include two bands. A minimum three-foot brick paver area shall be located at the curbside with adjacent pedestrian walkways of a minimum width of four feet.
- (d) Street lights, site furniture and other obstructions shall be placed in this paver band. Sidewalk design shall conform with PennDOT standards.
- (e) Sidewalks along local roads adjacent to the DC Overlay District shall be a minimum of four feet in width with a four-foot-wide green strip along the street edge.
- (f) Walkways and pedestrian areas shall include streetlights, coordinated site furniture including benches and trash receptacles, bicycle racks or similar features throughout the district.
- (g) The applicant shall provide interconnecting walkways and crosswalks throughout the DC Overlay District. Crosswalk connections shall be provided from the DC Overlay District to adjacent districts in appropriate locations to allow pedestrian connectivity to the DC Overlay District.
- (h) The Board of Supervisors may approve the use of architectural standards and designs that

differ from those set forth in this § 455-33.1D(4) if the applicant demonstrates to the satisfaction of the Board that such standards and designs are consistent with the legislative intent of the DC Overlay District.

- (5) Outdoor cafes. Notwithstanding anything to the contrary in this chapter, an outdoor cafe in the DC Overlay District which is located a minimum of 200 feet from a lot outside of the DC Overlay District which is used for a residential use or zoned residential shall stop serving customers by 9:00 p.m. and clear all tables of food, beverages (both alcoholic and nonalcoholic) and customers on or before 10:00 p.m. Sunday through Thursday. On Friday and Saturday, customer service shall stop at 11:00 p.m. and all tables shall be cleared of food, beverage (both alcoholic and nonalcoholic) and customers on or before 12:00 midnight.
- (6) Zero lot line unit development. Individual units, buildings, or parcels of land within the development tract may be subdivided, leased, purchased, sold, mortgaged, and developed as individual zero lot line units without meeting the tract width, tract size, impervious coverage, building coverage, green area, and setbacks from internal parking and building lines for each individual zero lot line unit; provided, however, that the tract shall comply with the applicable area and bulk standards for the proposed unified development.
- (7) Signs in DC Overlay District.
 - (a) The following types of signs shall be permitted in the DC Overlay District:
 - [1] Any sign permitted in residential districts which relates to a use permitted in the district.
 - [2] Real estate and development signs advertising the sale, rental, or development of premises, provided that:
 - [a] The sign area shall not exceed eight square feet and, if freestanding, shall not exceed a sign height of eight feet above mean grade.
 - [b] No more than one sign shall be erected for each 500 feet of street frontage.
 - [c] Signs shall not be illuminated.
 - [d] Off-premises signs advertising the sale, rental or development of premises shall be prohibited within these districts.
 - [3] Business or related signs in accordance with the following regulations:
 - [a] Sign area. The total sign area of all signs placed on a lot or on any one premises shall not exceed 1.5 square feet for each one linear foot of the front building facade. Where a building fronts on more than one street, only one street frontage may be used to calculate the total allowable sign area. The total sign area for any one sign in the DC Overlay District shall not exceed 75 square feet, unless otherwise specified in this section. Permanent window signs shall not be included in the computation of total permitted sign area. The total area of all window signs, including both temporary and permanent window signs, shall be limited to 25% of the glass area and such signs shall not obscure views from the outside to the interior of retail establishments.
 - [b] Wall signs. A total of three wall signs shall be permitted per premises in a

building, with one such sign on any building facade that fronts on a street. The total sign area for any one wall sign shall not exceed 75 square feet. No wall sign shall exceed a sign height of 25 feet above existing grade or project above any cornice, parapet wall, roofline, or building facade.

[4] Freestanding ground signs.

- [a] For a unified development identification sign, one freestanding ground sign shall be permitted. Where the unified development fronts a tract exterior arterial or collector street, one freestanding ground sign shall be permitted for each arterial or collector street frontage, provided that a minimum street frontage of 150 feet is maintained between signs. Unified development identification signs are not permitted on a tract's exterior local street.
 - [i] Freestanding ground signs shall not exceed a sign area of six square feet or a sign height of six feet above mean grade.
 - [ii] A unified development identification freestanding ground sign shall contain only the name, address, logo, and/or telephone number of the unified development.
 - [b] For a tenant identification sign, a maximum of four freestanding ground signs, identifying tenants within a unified development shall be permitted.
 - [i] One sign shall be permitted to be a maximum area of 75 square feet along a tract's exterior arterial street. The other three signs shall not exceed a maximum area of 45 square feet each and shall only be permitted within the tract or along a tract's exterior collector street. Tenant identification signs are not permitted on a tract's exterior local street.
 - [ii] Tenant identification signs shall be a maximum of eight feet in height above mean grade.
 - [iii] A tenant identification freestanding ground sign shall contain only the name and logo of the tenant and may identify the location of parking.
 - [c] A freestanding ground sign shall not be located within the right-of-way and shall be set back a minimum distance of 10 feet from the street cartway. No sign shall be so located as to present a hazard to motorists or pedestrians.
- [5] Sidewalk signs. A limit of one portable sidewalk sign per business shall be permitted and may be placed within the sidewalk, so long as each portable sign shall not exceed nine square feet, and a minimum clear walking width of four feet shall be maintained on the sidewalk. Sidewalk signs shall be constructed of weather-resistant materials, such as wood, plastic or metal. No sidewalk sign shall contain foil, mirrors, bare metal, or other materials that could create hazardous conditions to motorists, bicyclists, or pedestrians. No sidewalk sign may contain lights of any kind. Sidewalk signs must be sufficiently weighted or constructed to keep the sign in the approved location. All sidewalk signs shall be taken indoors at the close of each business day. The area of sidewalk signs shall not be included in the computation of total permitted sign area.
- [6] Temporary advertising signs for special events, including banners or displays on

private property within the DC Overlay District constructed of cloth, light fabric, or similar materials when approved by the Zoning Officer for a period of not more than 30 cumulative days in any one calendar year. Such signs, when added to the sign area of any other signs on the premises, shall not accumulate in size to exceed 30% of the sign area permitted for permanent signs within the district where located or be in a position, or of a color, that presents a hazard to pedestrians or motorists.

- [7] Parking garage signs. One parking garage wall sign not facing the tract's external street shall be permitted per side on a parking garage serving a unified development. The sign shall be a maximum area of 30 square feet and may identify tenants served by the parking garage. No parking garage wall sign shall exceed a sign height of 17 feet above existing grade or project above the parapet wall.
- [8] Projecting signs. One projecting sign shall be permitted per premises on a building facade facing an interior courtyard. The total sign area for any one projecting sign shall not exceed five square feet. No part of the sign shall be less than eight nor more than 12 feet above ground or walkway level. Projecting signs may not be internally illuminated, but may be indirectly illuminated in accordance with the provisions of Article XI.

ARTICLE VIII
General Regulations

§ 455-34. Applicability.

The provisions of this article present certain additional regulations and standards that are common to all zoning districts, unless stated as pertaining to a specific district or use herein. These regulations shall apply in addition to those established by the applicable district. In the event that the provisions of this article conflict with other provisions of this chapter, the more restrictive provision shall apply.

§ 455-35. Buildings and lots.

All lots and buildings shall, in addition to the applicable district regulations, comply with the following regulations, as applicable:

A. Principal buildings.

- (1) No more than one principal building shall be permitted on any lot in the AA, R-1, R-2, R-3, R-4, R-5 and VR Districts. One or more accessory structures may be located on a lot in the AA, R-1, R-2, R-3, R-4, R-5 and VR Districts, subject to the district regulations and as per §§ 455-47 and 455-48. **[Amended 12-15-2014 by Ord. No. 424-14]**
- (2) One or more principal buildings may be located on a lot in the PBO, VB and VT Districts and the DC-Devon Center Overlay District. Unless otherwise specified in the applicable district regulations, each such principal building shall conform to all requirements of the respective district in which located as if each building were on a separate lot and with all of the requirements applicable to land developments specified in Chapter 400, Subdivision and Land Development. **[Amended 8-19-2013 by Ord. No. 417-13; 12-13-2016 by Ord. No. 427-16]**
- (3) In the case of a building such as a shopping center, an office center or other similar building where there are a row of individual uses, the side yard requirement applies to the building rather than to the individual uses.

B. Lots.

- (1) No lot shall be so reduced that the dimensional requirements shall be smaller than prescribed in the district regulations in which the lot is located.
- (2) Every principal building shall be built upon a lot with frontage upon a public or private street improved to meet Township standards or for which such improvements have been ensured by the posting of a performance guarantee pursuant to Chapter 400, Subdivision and Land Development.
- (3) Where a minimum lot area (net lot area) is specified, no principal building or use shall be erected or established on any lot of lesser area, except as may be permitted in Subsection B(5) below. **[Amended 12-15-2014 by Ord. No. 424-14]**
- (4) Where a minimum lot width is specified, no principal building shall be erected on any part of a lot which has a width of less than is specified in the appropriate district.
- (5) 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 single and separate ownership duly recorded by deed, provided the yard requirements are observed.

C. Yards. Where a minimum depth of a yard setback is specified in a district, an open space of at least the specified depth shall be provided between the street line(s) or lot line(s) and the nearest point of any building or structure, except when permitted elsewhere in this chapter.

- (1) Unless clear sight distance is affected at intersections, the district's yard requirements shall not apply to an arbor, open trellis, flagpole, unroofed steps, awning or movable canopy which projects no more than 10 feet, or an open fire escape or unroofed porch at grade which extends no more than six feet into any yard.¹⁹⁹
- (2) In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages.

§ 455-36. Fences and walls.

A. Fence and wall regulations.²⁰⁰

- (1) No fence or wall over six feet in height shall be erected in any of the side or rear yard setbacks required in § 455-35C above. [Amended 1-15-2018 by Ord. No. 433-18]
- (2) Unless otherwise restricted by this chapter, a fence or wall of not more than four feet in height or fences up to five feet in height with the top one foot being at least 50% open may be erected, installed, or constructed within the required front yard setback, except as follows: [Amended 1-15-2018 by Ord. No. 433-18]
 - (a) Fences or walls up to five feet in height or fences up to six feet in height with the top one foot being at least 50% open are permitted within the required front yard setback when set back a minimum of five feet from the right-of-way line.
 - (b) Fences or walls up to six feet in height are permitted within the required front yard setback when set back a minimum of 10 feet from the right-of-way line.
 - (c) Fences or walls shall not be erected, installed, or constructed between the street right-of-way line and the cartway surface of the street on which the lot fronts.
- (3) Unless otherwise restricted by this chapter, in all districts, a fence or wall of not more than six feet in height may be erected, installed, or constructed within the required side yards or rear yard of the lot.
- (4) No fence or wall shall be erected, installed or constructed which:
 - (a) Violates § 400-39 of Chapter 400, Subdivision and Land Development.
 - (b) Obstructs sight distance at street intersections, whether public or private, or at the point where any driveway intersects a public or private street.
 - (c) Obstructs or impedes water flow in any drainage easement, perennial or intermittent stream, or other drainage course. [Amended 12-15-2014 by Ord. No. 424-14]

B. No fence or wall shall be erected, installed, or constructed prior to the issuance of the permits required

¹⁹⁹Editor's Note: Former Subsection C(1), Definitions, was repealed 12-15-2014 by Ord. No. 424-14. This ordinance also redesignated former Subsection C(2) and C(3) as Subsection C(1) and C(2), respectively.

²⁰⁰Editor's Note: Former Subsection A, Definitions, was repealed 12-15-2014 by Ord. No. 424-14. This ordinance also redesignated former Subsections B and C as Subsections A and B, respectively.

by § 455-95 of this chapter.

- C. Fences shall be erected with the finished side of the fence facing adjacent properties and rights-of-way. The finished side shall be considered the side without the structural supporting members. **[Added 1-15-2018 by Ord. No. 433-18]**
- D. All fences or walls erected within the front yard setback shall provide an operable gate with a minimum width of 36 inches, where thirty-six-inch or greater openings or breaks in the fence line do not exist to provide access to the area between any fence or wall and the cartway of the abutting street, and the property owner is responsible for maintaining this area. There shall be a minimum of one operable gate or opening for each street frontage. **[Added 1-15-2018 by Ord. No. 433-18²⁰¹]**
- E. Exemption. Required open fences for tennis courts and paddle tennis courts, when an integral part of such structures, and for baseball and softball field backstops, shall not be subject to the height limitations of Subsection B(2) above. If a fence is over six feet in height, it must be located at the immediate edge of the paved playing surface.

§ 455-37. Flag lots.

Individual flag (rear) lots are permitted, subject to the following regulations:

- A. Flag lots, as defined within this chapter, shall be permitted only within a residential district and shall be subject to all regulations of this section and the applicable district regulations. Flag lots shall be permitted within a layout of residential lots when no other alternative can be achieved. When a flag lot or flag lots are proposed as a part of a residential subdivision, only one tier or row of flag lot(s) shall be permitted behind or to the rear of typical residential lots having full lot widths at the street and the building setback line.
- B. Only one flag lot access strip shall be permitted adjacent to a lot having full lot width and frontage on a public street.
- C. If more than one flag lot is permitted and is proposed for a residential subdivision, each individual flag lot access strip connecting the main body of the lot to a public street, highway, or public right-of-way shall be separated horizontally along the said road frontage by a minimum of two full standard residential lots, each of which have the minimum required lot width at the street line.
- D. The flag lot access strip shall be owned in fee simple and shall constitute a part of the lot, but its area shall be excluded from the required minimum lot area (net lot area) calculation imposed by the district regulations. No flag lot may be served by an easement. **[Amended 12-15-2014 by Ord. No. 424-14]**
- E. The flag lot access strip shall have a minimum width of 35 feet extending from the interior portion of the lot (coextensive with its front lot line) to the nearest point of access to a public right-of-way and shall not exceed 400 feet in length measured from the street right-of-way.
- F. The front lot line for a flag lot shall be measured from the interior end of the access strip and shall not be measured where the access strip intersects with a street, highway, or public right-of-way. The width of the front lot line and the lot width at the building setback line shall each be the distance specified for the minimum lot width at the building setback line for the applicable district. The principal building on a flag lot shall be located within an area of sufficient size to hold a circle with a minimum diameter equal to the required lot width at the building setback line. The building setback

201.Editor's Note: This ordinance also redesignated former Subsection C as Subsection E.

line shall be measured from the interior rear lot line which the flag lot front yard faces. Applicable side and rear yards for the district shall be required for flag lots.

- G. No more than one flag lot may be created from a through lot.
- H. The Board of Supervisors may require an additional width for the flag lot access strip (extending up to 100 feet) if required for public safety, or sight distance or for other reasons of traffic safety.
- I. Subject to the other requirements of this section and the limitation imposed by Subsection B above, no more than one flag lot shall be created by resubdivision from a lot that existed in single and separate ownership on the effective date of this chapter, unless such lot is capable of and proposed for subdivision into more than 10 lots in compliance with the district regulations at the time of the creation of the flag lot.
- J. Creation of the access strip to serve the flag lot shall not create a nonconforming front lot by reducing such lot's required road frontage below the minimum or, if the front lot is already nonconforming with respect to road frontage, reduce its road frontage further.

§ 455-38. Buffering standards.

- A. General applicability. Buffering standards are located in Article X of Chapter 274, Natural Resources Protection. Buffering standards for this chapter shall be in compliance with the standards set forth in Chapter 274, Natural Resources Protection, as incorporated by reference in Subsection B below.
- B. Incorporation by reference. The establishment and administration of the provisions governing buffering shall be governed by the provisions of the following articles of Chapter 274, Natural Resources Protection, which are incorporated by reference as if set forth fully herein, as may be amended from time to time in accordance with the procedures set forth in Article XVII of this chapter and the Municipalities Planning Code²⁰².
 - (1) Article X, Landscaped Buffers, of Chapter 274.

§ 455-39. Outdoor lighting.

- A. Applicability.
 - (1) Outdoor lighting facilities shall be required for off-street parking, off-street loading, and ingress and egress thereto for all residential developments and for all business, commercial, personal service, industrial, recreational, institutional, public, and other uses. All proposed intersections with an arterial or collector road, as defined by functional classification within the Easttown Comprehensive Plan, as may be amended or readopted, shall have streetlights. The Board of Supervisors shall have the authority to require outdoor lighting to be incorporated for other uses or locations where warranted. All outdoor lighting facilities shall have underground wiring.
[Amended 11-21-2022 by Ord. No. 453-22]
 - (2) Proposed lighting regulated by this chapter shall be reviewed and approved by the Zoning Officer prior to its installation.
- B. Plan submission.
 - (1) Lighting plans shall be submitted to the Zoning Officer for review and approval with all

²⁰²Editor's Note: See 53 P.S. § 10101 et seq.

applications for conditional uses, special exceptions, variances, and subdivision and land development plans. Additionally, the Zoning Officer may require the submission of a lighting plan with any building permit application. Lighting plans shall be approved in conjunction with the corresponding application (conditional use, special exception, subdivision or land development, building permit, etc.). The required lighting plan shall include the following information:

- (a) A site plan containing a layout of the proposed fixture locations and type, including, at minimum, a plan displaying a ten-foot by ten-foot grid of all areas on the lot to be affected by lighting if such site plan for lighting does not display the entire parcel; an additional site plan that displays the parcel, structures, and streets shall be included, with the area(s) to be affected by lighting displayed on the site plan. The site plan should display approximate distances but does not need to be a professional architectural drawing or rendering.
- (b) Catalogue cuts and photometrics for each light fixture, the method of energizing each light fixture, a listing of the hours of operation and a plan showing the photometrics for the entire site, based upon the proposed placement of the light fixtures. A description of glare-reduction devices, lamps, wattage, control devices, mounting heights, pole foundation details, and mounting methods, as appropriate for each fixture, should also be included.
- (2) Post-approval alterations to lighting plans shall be submitted to the Township for review and approval.
- (3) The Township reserves the right to conduct a post-installation nighttime inspection to verify compliance with the requirements of this chapter and, if appropriate, to require remedial action at no expense to the Township.

C. Design standards.

- (1) Lighting, where required by this chapter, shall have intensities and uniformity ratios in accordance with the current recommended practices of the Illuminating Engineering Society of North America (IESNA) contained in the most current edition of the IESNA Lighting Handbook, as may be amended, including but not limited to the following:

**Figure 8-1
Outdoor Lighting Requirements**

| Outdoor Lighted Area | Maintained Illumination Level (footcandles) |
|---|--|
| Streets, local residential | 0.4 average |
| Streets, local commercial | 0.9 average |
| Parking, residential, multifamily: | |
| Low vehicular/pedestrian activity | 0.5 average |
| Medium vehicular/pedestrian activity | 0.8 average |
| Parking, nonresidential: | |
| High activity (regional shop center) | 2.0 average |
| Medium activity (community shop center) | 1.0 average |

Figure 8-1
Outdoor Lighting Requirements

| Outdoor Lighted Area | Maintained Illumination Level (footcandles) |
|--------------------------------------|--|
| Low activity (neighborhood shopping) | 1.0 average |
| Walkways and bikeways | 0.5 average |
| Building entrances | 0.5 average |

Horizontal on task, e.g., roadway, parking, walkway or area surface

Source: IESNA Lighting Handbook, 8th Edition.

- (2) Outdoor lighting standards in parking areas shall not be located farther than 100 feet apart.
- (3) No outdoor lighting shall be permitted which shines directly into residential units or results in glare beyond an angle of 35° from a vertical plane.
- (4) All outdoor lighting shall be effectively shielded and shall be arranged so as to protect street and neighboring properties from direct glare or light radiation which may cause a safety problem or nuisance. Authority for determination shall rest with the Township Engineer.
- (5) For lighting horizontal tasks such as roadways, pathways and parking areas, fixtures shall meet IESNA full cutoff criteria (no light output emitted above 90° at any lateral angle around the fixture and no more than 10% light output above 80°).²⁰³
- (6) Floodlights and spotlights shall be so installed and aimed so that they do not project their output into the windows of neighboring residences, adjacent uses, directly skyward or onto a roadway.
- (7) Illuminated signs shall have an indirect lighting source or use directional lighting fixtures that shall be top-mounted so they are aimed downward.
- (8) The maximum height of a freestanding outdoor light standard which illuminates any portion of a lot in a residential district which is improved with a dwelling shall be eight feet, except lights which illuminate a tennis court, which may be a maximum of 20 feet in height. The maximum height of a freestanding outdoor light standard in all other districts and for all other uses other than dwellings shall be 16 feet. The height of an outdoor lighting fixture shall be defined as the vertical distance from the grade elevation of the surface being illuminated to the top of the lighting fixture. **[Amended 9-21-2009 by Ord. No. 391-09]**
- (9) Unless otherwise permitted by the Township (e.g., for safety, security, or all-night operations), lighting shall be controlled by the automatic switching devices, such as time clocks or combination motion detectors and photocells, to permit extinguishing offending sources between 11:00 p.m. and dawn to mitigate nuisance glare and skylighting consequences.
- (10) All nonessential lighting, including display, aesthetic, parking, and sign lighting, shall be required to be turned off or reduced by 75% after business hours or 11:00 p.m., whichever is earlier, leaving only the necessary lighting for site security. Lighting proposed to remain on after

²⁰³.Editor's Note: Original § 805.C.6, regarding shielding of outdoor lighting, which immediately followed this subsection, was deleted 9-21-2009 by Ord. No. 391-09.

11:00 p.m. for a specific safety purpose shall be approved by the Township.

- (11) Directional fixtures used for architectural lighting (e.g., facade, fountain, feature and landscape lighting) shall be aimed so as not to project their output beyond the objects intended to be illuminated and shall be extinguished between the hours of 11:00 p.m. and dawn.
 - (12) When an outdoor lighting installation is being modified, extended, expanded, or added to, the entire lighting installation shall be subject to the requirements of this section.
 - (13) Township approval of an outdoor lighting plan does not relieve the landowner of responsibility should lights, after construction, not conform to the provisions of this section.
- D. Installation responsibilities. The landowner shall install or cause to be installed all lighting fixtures and facilities at their expense. Fixtures and poles shall be in accordance with a utility plan prepared by the applicant and approved by the Supervisors upon recommendation of the Planning Commission. The landowner shall be responsible for all costs involved in the lighting of parking lots, streets, and street intersections.
- E. Residential outdoor lighting requirements. Outdoor lighting facilities on individual single-family and other residential lots to illuminate private walkways, driveways, parking areas, patios, tennis courts, swimming pools, and similar areas shall not exceed 1/10 footcandle at the property lines and shall be shielded from any public right-of-way and from abutting properties. **[Amended 12-15-2014 by Ord. No. 424-14]**

§ 455-40. Environmental controls.

Where requested by the Township, an applicant for a proposed use shall demonstrate as a condition of approval that adequate provisions will be made to reduce and minimize any objectionable elements to the degree necessary to insure that the proposed use will not be noxious, hazardous or offensive as defined within this chapter. If required, the applicant shall submit supplemental information, plans and impartial expert judgments, and the Township may require the expert advice of official agencies or private consultants and such reasonable tests as are deemed necessary, the costs of which shall be borne by the applicant. The burden of proof shall be upon the applicant.

- A. Noise control. No person shall operate or cause to operate a use or proposed use which creates noise in violation of, or in excess of that permitted by, Chapter 278. **[Amended 11-21-2022 by Ord. No. 453-22]**
- (1) The following are maximum permissible sound levels by receiving land use as specified in Figure 8-2 below. No person shall operate or cause to be operated on private or public property any source of continuous sound (any sound which is static, fluctuating, or intermittent with a recurrence greater than one time in any fifteen-second interval) in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in the following figure when measured at or beyond the property boundary of the receiving land use.
 - (a) Maximum continuous sound levels permitted by receiving land use.

Figure 8-2
Maximum Continuous Sound Levels

| Receiving Land Use Category | Time | Sound-Level Limit (dBA) |
|---|--|--------------------------------|
| Residential, public space, open space, agricultural, or institutional | 7:00 a.m. to 7:00 p.m., Monday to Friday | 55 |
| | 8:00 a.m. to 5:00 p.m., Saturday to Sunday | |
| Commercial or business | All other times and legal holidays | 50 |
| | 7:00 a.m. to 7:00 p.m., Monday to Friday | 65 |
| Industrial | 8:00 a.m. to 5:00 p.m., Saturday to Sunday | |
| | All other times and legal holidays | 60 |
| Industrial | At all times | 70 |

- (b) For any source of sound which emits a pure tone, the maximum sound-level limits set forth in the above figure shall be reduced by 10 dBA. For any source of sound which emits an impulsive sound (a sound of short duration, with an abrupt onset and rapid decay and an occurrence of not more than one time in any fifteen-second interval), the excursions of sound-pressure level shall not exceed 10 dBA over the ambient sound-pressure level. Sound levels shall be measured at the property lines from which the sound emanates, by a sound level, which conforms to specifications published by the American Standards Association.
- (2) The maximum permissible sound levels by the receiving land use category as listed in the previous figure shall not apply to any of the following noise sources:
 - (a) The emission of sound for purpose of alerting persons to the existence of an emergency.
 - (b) Emergency work to provide electricity, water or other public utilities when public health or safety are involved.
 - (c) Explosives and construction operations.
 - (d) Motor vehicle operations.
 - (e) Public celebrations, specifically authorized by the Township.
 - (f) Surface carriers engaged in commerce by railroad.
 - (g) The unamplified human voice.
- (3) Excepted from the foregoing restrictions are customary and usual agricultural operations, maintenance and repair operations performed on outdoor recreational facilities, such as parks, playing fields, playground facilities, and golf and tennis facilities. In no event shall the foregoing excepted actions commence prior to 6:00 a.m., prevailing time.

- B. Vibration control. Operating or permitting the operation of any device that creates vibration, which is transmitted through the ground and is discernible without the aid of instruments, or is measured in excesses of 0.002g peak using either seismic or electronic vibration measuring equipment, at or at any point beyond the lot lines, shall be prohibited.
- C. Control of dust, dirt, smoke, vapors, gases, and odors.
- (1) There shall be no emission of dust, dirt, smoke, ash, fumes, vapors, or gases or other hazardous or noxious materials to the air in such quantities that does not comply with Pennsylvania air pollution control laws, including regulations promulgated by the Pennsylvania Air Pollution Control Act of January 8, 1960, Public Law 2119, as amended,²⁰⁴ including the standards set forth in the Department of Environmental Protection's Article III, Title 25, Rules and Regulations, Chapter 123 (Standards for Contaminants) and Chapter 131 (Ambient Air Quality Standards), and the National Emission Standards for Hazardous Air Pollutants of the United States Environmental Protection Agency.
 - (2) Visible air contaminants shall not be emitted in such a manner that the opacity of the emissions is equal to or greater than 20% for a period or periods aggregating more than three minutes in any one hour or equal to or greater than 60% in any one time and shall comply with Pennsylvania Code Title 25, Chapter 127, or its most recent update.
 - (3) No user shall operate or maintain or be permitted to operate or maintain any equipment, installation or device which, by reason of its operation or maintenance, will discharge contaminants to the air in excess of the limits prescribed herein, unless he shall install and maintain in conjunction therewith such control as will prevent the emission into the open air of any air contaminant in a quantity that will violate any provision of this chapter.
 - (4) No uses, except agricultural operations, shall emit odorous gases, or other odorous matter, in such quantities to be offensive at any point on or beyond its lot lines.
 - (5) The guide for determining such quantities of offensive odors shall be the fifty-percent response level of Table 1 (Odor Thresholds in Air), "Research or Chemical Odors Part I — Odor Thresholds for 53 Commercial Chemicals," October 1968, Manufacturing Chemists Association, Inc., Washington, D.C.
- D. Electric, diesel, gas, or other power. Every use requiring power shall be so operated that any service lines, substation, etc., shall conform to the highest applicable safety requirements and shall be constructed, installed, etc., so that they will be an integral part of the architectural features of the plant or, if visible from abutting residential properties, shall be concealed by evergreen planting in accordance with § 274-44C, Article XI, of Chapter 274, Natural Resources Protection.
- E. Control of radioactivity or electrical emissions or electrical disturbances.
- (1) There shall be no activities which emit dangerous levels of radioactivity at any point. Activities which may emit radioactivity beyond enclosed areas shall comply with Chapters 221, 223, 224, 225, and 227, Title 25, Article V, Pennsylvania Department of Environmental Protection, Division of Radiology, Rules and Regulations. No operation involving radiation hazards shall be conducted which violates the regulations and standards established in Title 10, Part 20, Code of Federal Regulations, "Standards for Protection Against Radiation," in its latest revised form.

²⁰⁴Editor's Note: See 35 P.S. § 4001 et seq.

(2) No radio or electrical disturbances, except from domestic household appliances, shall be permitted to adversely affect any equipment, such as, but not limited to, radios and televisions, at any time other than the equipment creating the disturbance.

(3) Emergency medical services (EMS), fire departments, and the Township police shall be exempt from provisions that would hinder the regular functioning of necessary radio communications.

F. Fire and explosive hazards. All activities and all storage of flammable and explosive material shall be provided with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire-suppression equipment and devices as detailed and specified by the requirements of Chapter 211, Title 25, Rules and Regulations, Pennsylvania Department of Environmental Protection, for storing, handling and use of explosives.

G. Hazardous and special materials.

(1) There shall be no disposal or release to the environment of any hazardous, special, or radioactive wastes.

(2) All federal and state hazardous and special waste laws and regulations shall be complied with.

(3) All hazardous and special wastes shall be disposed of at a properly licensed disposal facility having adequate capacity to accept the wastes. Evidence of a contractual arrangement with the facility shall be submitted.

(4) No vehicle carrying pesticides, fertilizers, or other toxic, hazardous, or special chemicals or wastes shall pump water directly from a surface water source.

H. Heat.

(1) No direct or sky-reflected glare from high temperature processes, such as combustion, welding, or otherwise, shall be permitted so as to be visible at the lot line. These regulations shall not apply to signs or floodlighting of parking areas otherwise in compliance with this chapter.

(2) There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line.

§ 455-41. Outdoor storage.

A. General requirements.

(1) Outdoor storage of man-made products shall be screened from view of public rights-of-way and adjacent residential uses. Screening shall be in accordance with § 274-44C, Article XI, of Chapter 274, Natural Resources Protection.

(2) Outdoor storage facilities for fuel, raw materials, and products shall be enclosed with an approved safety fence compatible with the architectural and landscaping style employed on the lot. In addition to a fence, bulk storage tanks shall be enclosed by a moat or berm to contain potential spillage and shall comply with all applicable EPA and Pennsylvania DEP regulations.

(3) All organic refuse or garbage shall be stored in watertight, verminproof containers in multifamily, commercial, and industrial developments; garbage storage shall be centralized to expedite collection and enclosed on three sides by an architectural screen or plantings in accordance with § 274-44C, Article XI, of Chapter 274, Natural Resources Protection.

- (4) No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, except the following, which shall meet the National Fire Code:
- (a) Tanks or drums of fuel connected directly with and located and operated on the same lot as the energy devices or heating appliances they serve.
 - (b) Tanks or drums for storage of not more than 300 gallons of fuel oil (other than that used for home heating) or gasoline or diesel fuel, provided such tanks are located no closer than 25 feet to any building or lot line or 50 feet from any street line.
 - (c) No such tanks for heating, storage, or any other purpose shall be located within the front yard of any property.
 - (d) No outdoor storage may be permitted in floodplain areas in accordance with § 274-12E(4) in Article III of Chapter 274, Natural Resources Protection, as incorporated by reference in Article VII of this chapter.

B. Residential outdoor storage.

- (1) Major recreational equipment.
 - (a) For purposes of this chapter, major recreational equipment shall include boats and boat trailers, travel trailers, recreation vehicles (RVs), pickup campers or coaches (designed to be mounted on automotive vehicles), tent trailers, snowmobiles, and the like, and apparatus used for transporting recreational equipment, whether or not currently being used for the purpose.
 - (b) Major recreational equipment shall not be parked or stored on any lot in any residential district except in an enclosed building or to the rear of the rearmost wall of the dwelling on all-weather surface material per § 455-74D(5); provided, however, that such equipment may be parked anywhere on residential premises for a period not to exceed 24 hours during loading and unloading. For the purposes of this subsection, if the rear yard of the premises is adjoining the side yard of an adjacent residential lot, it shall be considered to be the side yard, rather than the rear yard. **[Amended 11-5-2012 by Ord. No. 411-12; 1-15-2018 by Ord. No. 433-18]**
 - (c) Major recreational equipment that is stored outdoors in the side or rear yard shall be no closer to a property line than the setback lines created by the various yard requirements for the applicable zoning district. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (d) Major recreational equipment stored outdoors shall be screened from adjacent properties from which the equipment is visible so that no part of the equipment may be seen from ground level on all adjacent properties. The screening shall be in the form of either fencing in conformance with the provisions within this chapter or a vegetative buffer, with or without fencing, in accordance with § 274-44B, Article XI, of Chapter 274, Natural Resources Protection. **[Amended 11-5-2012 by Ord. No. 411-12; 12-15-2014 by Ord. No. 424-14]**
 - (e) No such equipment shall be used for dwelling purposes on a residential lot.
- (2) Storage of trailers when left in place and used as an extension to the building is not permitted in residential districts.

- (3) No storage shall be permitted within the front yard of any lot.
- (4) Commercial vehicles in residential districts. No commercial motor vehicle or part thereof which has a gross weight in excess of 8,000 pounds, or which is in excess of 20 feet in length, and no construction, excavating, earthmoving, or similar equipment shall be parked, stored or maintained on any road, right-of-way or lot or within any structure in any residential district (AA, R-1, R-2, R-3, R-4, R-5, and VR), except during the actual performance of work on the premises where said vehicle or equipment is or is intended to be parked, stored or maintained. The proper maintenance and storage of farm equipment, horse vans, and recreational vehicles on a lot owned or occupied by the owner of said equipment, van, or vehicle shall not be prohibited by the above provisions. [Amended 8-19-2013 by Ord. No. 417-13; 12-15-2014 by Ord. No. 424-14]
- C. Industrial and commercial outdoor storage. In all industrial and commercial districts or uses, storage of materials, equipment or vehicles, but not including the outdoor merchandising of vehicles, parking, and similar activities, shall be carried on within a building, except that outdoor storage for a permitted industrial or commercial use may be permitted by special exception from the Zoning Hearing Board where all of the following conditions are met:
- (1) The industrial or commercial use involved traditionally employs outdoor storage.
 - (2) Such storage is needed for the successful operation of the use, and the proposed site is suitable for outdoor storage.
 - (3) It can be shown that indoor storage is not practical.
 - (4) The storage shall comply with all setback requirements applicable to the lot and shall cover only that percentage of total lot area which is proven practical and feasible to the Zoning Hearing Board. Wherever feasible, outdoor storage shall be located to the side or rear of the property.
 - (5) The storage area shall be screened from view from any public right-of-way, residential district, or residential use by buildings, walls, or an effective screen as defined within this chapter.
 - (6) Any establishment which furnishes shopping carts or mobile baskets as an adjunct to shopping shall provide definite areas within the building and parking space area for storage of said carts. In no case shall any such cart be allowed to be removed from the property. Each designated storage area shall be enclosed by a barrier at least six inches higher than the parking area surface and shall be clearly marked for storage of shopping carts. All shopping carts shall be stored indoors or otherwise properly secured during nonoperating hours.
- D. Parking of commercial vehicles in the Planned Business – Office (PBO) District, Village Business (VB) District and Village Transition (VT) District. No commercial motor vehicle or part thereof which has a gross weight in excess of 8,000 pounds, or which is in excess of 20 feet in length, and no construction, excavating, earthmoving or similar equipment shall be parked, stored or maintained on any road or right-of-way in the PBO, VB and VT Districts, except during deliveries, for purposes of moving in and out, and when construction work is actually being performed on an adjacent lot. [Added 9-21-2009 by Ord. No. 391-09; 8-19-2013 by Ord. No. 417-13]

§ 455-42. Removal of topsoil.

The continuation of adequate topsoil on the land within the Township is considered necessary for the general welfare of the Township. The permanent removal of topsoil from the land within the Township

shall, therefore, be prohibited. This prohibition shall not be construed to render unlawful the temporary removal of topsoil for the purpose of construction of a building or buildings and the regrading of the land following construction.

§ 455-43. Temporary structure or use.

A temporary structure or use shall be permitted when in accordance with the following standards:

A. Permitted uses:

- (1) Bloodmobile, mobile medical testing facility and similar activities related to the promotion of public health.
- (2) Headquarters for political campaigns, for a period not to exceed three months.
- (3) Offices for contractors on the site and during the period of construction only, after which the office shall move into one of the permanent units.
- (4) Mobile office of the armed forces of the United States for public education or recruitment.
- (5) Temporary housing for residents displaced from the principal residence due to damage which has made the structure uninhabitable while the principal dwelling is being constructed, renovated, or repaired.
- (6) Temporary shelter for business operations that have been displaced from the principal building due to damage which has made the principal structure unusable while the principal structure is being repaired.
- (7) Temporary nonpermanent shelter for business operations involving the sale of merchandise, including, but not limited to, tents used by the automotive industry for special events or sales.
 - (a) The location, size, purpose and duration of such shelter must be approved by the Township Zoning Officer two weeks prior to its placement on a property.
 - (b) A temporary structure may not remain standing longer than 30 days, unless an extension of time is approved, in writing, by the Township at the time of application, or within seven days before the time the approved application expires.
 - (c) The applicant, being either the property owner or business owner, shall submit a written letter notifying the address, size and type of structure, purpose of structure, and time the structure is proposed to remain standing. Such letter shall be submitted to the Township Zoning Officer for approval. The Zoning Officer reserves the right to obtain additional information before rendering a decision and may decline approval by supplying a written letter to the applicant stating why the proposed placement of such structure is not acceptable. Factors that may lead to disapproval include, but are not limited to, size, location, or type of structure.²⁰⁵

B. Standards.

- (1) Except as noted, a temporary use and occupancy permit shall not exceed six months in length. Said permits may be renewed once when approved by the Zoning Officer. A temporary use and occupancy permit shall not be required for those uses listed under Subsection A(1) above, unless

²⁰⁵Editor's Note: Original § 809.A.7.d, which immediately followed this subsection, was repealed 6-2-2014 by Ord. No. 422-14.

such uses remain in the same location for more than two consecutive days.

- (2) In the case of the temporary structures in Subsection A(3), (5) and (6) above, the temporary structure shall only remain in place until the principal structure(s) has been repaired or constructed. The initial permit may be renewed for one three-month period, provided that the applicant can demonstrate reasonable progress towards the completion of the project necessitating the temporary structure.
- (3) It shall be the responsibility of the applicant to demonstrate the need for a temporary use and occupancy permit.
- (4) All setbacks and lot coverage requirements of this chapter shall be met to the greatest extent possible.
- (5) The owner must reside in one of the structures during construction or renovations.
- (6) Prior to the issuance of a land use permit for the construction and renovation on a lot where a temporary residential structure will be located, the owner shall sign a binding agreement with the Township that the provisions of this subsection shall be complied with.
- (7) All temporary structures shall be removed completely within 30 days of the expiration of the permit without cost to the Township.

§ 455-44. Exterior renovation of or demolition of historic resources. [Amended 2-4-2019 by Ord. No. 437-19; 9-21-2009 by Ord. No. 391-09; 11-21-2022 by Ord. No. 453-22]

- A. Purposes. In addition to the purposes and community development objectives in § 455-2 of this chapter, this section is enacted to protect significant historic resources from degradation, destruction, and demolition in order to preserve and protect the cultural and historical roots of the Township, in accordance with the Pennsylvania Municipalities Planning Code (PA MPC), Act 247, Section 603(b)(5), (c)(7), and (g)(2).²⁰⁶ This section is established to:
- (1) Promote retention of the character of the Township through recognition and protection of historic resources.
 - (2) Establish a clear process by which proposed changes affecting historic resources are reviewed to mitigate the negative effects.
 - (3) Encourage the continued use and protection of historic resources and to facilitate their appropriate reuse.
 - (4) Encourage the preservation and protection of historic settings and landscapes.
 - (5) Discourage the demolition of historic resources.
 - (6) Protect and preserve historic resources, per Section 603(b)(5) of the PA MPC.
 - (7) Promote and preserve areas of historic significance, per Section 603(c)(7) of the PA MPC.
 - (8) Provide for protection of historic features and resources per Section 603(g)(2) of the PA MPC.
 - (9) Implement the goals of the Pennsylvania Constitution within Article I, Section 27, which

²⁰⁶Editor's Note: See 53 P.S. § 10603(b)(5), (c)(7) and (g)(2).

establishes the state policy of encouraging the preservation of historic and aesthetic values of the environment.

- (10) Utilize the "Design Standards for Historic Resources Protection," consisting of six 11 inches by 17 inches sheets, dated September 12, 2022, and any updates thereto.²⁰⁷

B. Identification of historic resources.

- (1) There shall be two Classes of historic resources in Easttown Township:
- (a) Class 1: a structure that is designated in the Easttown Township Historic Resources Map, as may be amended, a resource listed on the National Register of Historic Places, or a resource eligible for National Register of Historic Places designation.
 - (b) Class 2: the applicant can document to the satisfaction of the Zoning Officer that the structure is more than 50 years old.
- (2) Easttown Township Historic Resources Map.²⁰⁸ The Historic Resources Map, as may be amended, contains properties with significant architectural, historical or archeological sites of the Township and are designated as historic resources.
- (3) Criteria for Easttown historic resource designation. A property containing a building, site or structure is determined by the Township to be of historical, cultural, agricultural, and/or architectural significance by meeting three or more of the following criteria:
- (a) Is 50 years or older and contains 50% or more of the original historic resource.
 - (b) Is relevant to or associated with the significant development, heritage, or culture of the Township.
 - (c) Is associated with a person of historic significance in the Township or elsewhere.
 - (d) Is the site or location of a notable local event considered to have had a significant effect on the Township.
 - (e) Is representative of a distinctive architectural style, vernacular building type, or craftsmanship, or is the work of a notable architect or builder.
 - (f) Possesses a notable location and physical characteristics visual feature as an established and familiar visual feature to a neighborhood or to the Township overall.
 - (g) Contains structures that may have collapsed but leave behind significant materials such as ruins or aging walls that have yielded, or may be likely to yield, information in prehistory or history, such as an archeological site.
- (4) Adding a property to the Historic Resources Map. A property may be added to the Historic Resources Map, if found to meet three or more of the criteria for Easttown historic resource designation above and approved by the Board of Supervisors, in accordance with the below process.

207.Editor's Note: See Ch. 274, Attachment 1.

208.The Easttown Resources Map, at the time of this amendment, consists of the Historic Resources Map (Map 3-4) incorporated into, and made a part of, the 2018 Easttown Township Comprehensive Plan. The Historic Resources Map may be later enacted, re-enacted, or amended in a subsequent form or manner by ordinance or resolution.

- (a) The Historical Commission shall determine whether a property meets three or more criteria for Easttown historic resource designation. The Historical Commission shall evaluate the property against the criteria for Easttown historic resource designation at a public meeting to receive public comments.
 - (b) The Planning Commission may also make a recommendation to the Board of Supervisors for consideration.
 - (c) The Board of Supervisors shall consider the recommendations of the Historical Commission and the Planning Commission when deciding on whether or not to amend, or further amend, the Historic Resources Map.
 - (d) The Township staff shall mail written notice to the property owner of record at least 14 days prior to the first public meeting of the Historical Commission or Planning Commission (whichever comes first) to formally consider adding the owner's property to the Historic Resources Map, and at least 14 days prior to the first meeting of the Board of Supervisors to formally consider or act upon a recommendation to add the owner's property to the Historical Resources Map. However, failure to give notice as stated by this subsection shall not invalidate any recommendation or action taken by the Historical Commission, the Planning Commission, or the Board of Supervisors.
- (5) Removing a property from the Easttown Township Historic Resources Map. In the unusual circumstances that a property owner seeks to have the historic resource considered for removal from the Historic Resources Map, the following procedure is required:
- (a) The property owner shall show by a preponderance of evidence in a public meeting of the Easttown Historical Commission that the historic resource in question does not or no longer meets at least three of the criteria for Historic Resource Designation. The Historical Commission shall consider the evidence provided before making a recommendation to the Board of Supervisors to retain or remove the property from the Easttown Historic Resources Map.
 - (b) The Planning Commission may also make a recommendation to the Board of Supervisors for consideration.
 - (c) The Board of Supervisors shall consider the recommendations of the Historical Commission and the Planning Commission when deciding whether or not to amend, or further amend, the Historic Resources Map.
 - (d) The Township staff shall mail written notice to the property owner of record at least 14 days prior to the first public meeting of the Historical Commission or Planning Commission (whichever comes first) to formally consider removing the owner's property to the Historic Resources Map, and at least 14 days prior to the first meeting of the Board of Supervisors to formally consider or act upon a recommendation to remove the owner's property to the Historical Resources Map. However, failure to give notice as stated herein shall not invalidate any recommendation or action taken by the Historical Commission, the Planning Commission, or the Board of Supervisors.

C. Exterior renovation of Class 1 and Class 2 historic resources.

- (1) Required review process for exterior renovation.
 - (a) The Zoning Officer or Building Code Official, based on application filed, shall notify the

Historical Commission of the application for exterior renovation subject to public view, upon acceptance of a properly completed application, including the necessary filing fee.

- (b) Within 30 days of receipt of a complete application for exterior renovation subject to public view, at its next regular meeting or a special meeting, the Historical Commission shall review the application for exterior renovation. The applicant will be notified of the meeting by the Zoning Officer or Building Code Official, based on the application filed, and encouraged to present the exterior renovation. In reviewing the application, the Historical Commission shall take into account the following:
- [1] The effect of the renovation on the historical significance and architectural integrity of the historic resource in question, and neighboring historic resources, and on the historic character of the neighborhood or district in which the historic resource is located.
- (2) Applications to change the exterior appearance of any contributing building by addition, reconstruction, alteration, maintenance, or repair, shall be reviewed one time by the Historical Commission. Exterior changes for all principal and accessory buildings shall include all matters which require a permit where subject to public view. These shall include but are not limited to additions and changes subject to public view such as the repair or replacement of windows; doors; balustrades; columns; cornices; moldings; trim; porches, siding and exterior surfaces; roofing; awnings; fences; signs; murals; and solar panels.
- (3) Special consideration for Class 1 and Class 2 historic resources in the Village of Berwyn Districts. The primary design aesthetic of the Village of Berwyn Districts is Victorian Vernacular. Other designs that fit in within a specific historic streetscape shall be considered. Front entrance garages on frontage streets in the Village of Berwyn Districts are not seen as fitting in with the historic environment.
- (4) The Historical Commission shall utilize the "Design Standards for Historic Resources Protection," dated September 12, 2022, and any updates thereto, in their review, analysis, and evaluation of exterior renovation subject to public view.
- (5) A recommendation from the Historical Commission shall not be required before a permit is issued by the Building Code Official for changes to the interior of structures.
- (6) The Historical Commission shall review one time any historic resources brought to, moved within, or disassembled and re-assembled on-site in Easttown Township. The review shall include appropriate siting of the relocated structure within the context of the property.
- (7) The Easttown Township staff and the Historical Commission may perform a visual inspection from the street for properties depicted on the Historic Resources Map, as may be amended, to detect maintenance issues affecting the exterior of structures, and alert the Zoning Officer of any historic structures deemed in need of maintenance.
- (8) This review process shall be required for exterior renovation of Class 1 and Class 2 historic resources where such renovation is subject to public view. Where an applicant agrees, in writing, with the Historical Commission's recommendation, then renovation permits shall be issued if otherwise ripe for issuance. Where an applicant disagrees with the Historical Commission's recommendation, or in the absence of timely Historical Commission action, the applicant shall, within seven days of the date of the written recommendation of the Historical Commission, or within seven days of expiration of the Historical Commission's time for action,

make a written request for review by the Board of Supervisors, for final Board of Supervisors review and action within 45 days of the date of the written recommendation of the Historical Commission, or within 45 days of expiration of the Historical Commission's time for action. Failure of the Historical Commission to act and provide recommendations within the time periods set forth in this section shall not result in a deemed approval of the application, but shall be grounds for the Board of Supervisors to take final review and action without reference to the Historical Commission recommendation. All time periods may be extended, and its length established, by mutual consent.

D. Exterior renovation subject to public view in the Village of Berwyn Districts (that are not Class 1 and Class 2 historic resources).

(1) Simplified review process for exterior renovation.

- (a) The same process set for the under § 455-44C above shall be followed for all exterior renovations requiring a permit and subject to public view in all Village of Berwyn Districts. However, the applicant shall consider the recommendations of the Historical Commission, but need not follow the recommendations, and is not subject to any additional review or action referenced in § 455-44C(8).
- (b) The Historical Commission shall utilize the Design Standards for Historic Resource Protection, dated September 12, 2022, and any updates thereto, in their review, analysis, and evaluation of the exterior renovation.

E. New construction in the Village of Berwyn Districts.

(1) Simplified review process for new construction (non-SLDO) in the Village of Berwyn Districts.

- (a) The same process set forth under § 455-44C above shall be followed for new construction subject to public view in the Village of Berwyn Districts and which does not require subdivision or land development approval. However, for such new construction not requiring subdivision or land development approval, the applicant shall consider the recommendations of the Historical Commission, but need not follow the recommendations, and is not subject to any additional review or action referenced in § 455-44C(8).

(2) Review process for new construction (SLDO) in the Village of Berwyn Districts.

- (a) The same process set forth under § 455-44C above shall be followed in its entirety where the proposed new construction requires subdivision or land development.
- (3) The Historical Commission shall utilize the Design Standards for Historic Resource Protection, dated September 12, 2022, and any updates thereto, in their review, analysis, and evaluation of new construction.

F. Demolition of Class 1 and Class 2 historic resources.

- (1) No Class 1 or Class 2 historic resource shall be demolished, in whole or in part, whether deliberately or by neglect, including removal or stripping of any historically or architecturally significant exterior features, unless a permit is obtained from the Zoning Officer in accordance with the requirements of this section and other applicable standards and procedures of the Township Building and Fire Codes.

(2) Demolition by neglect.

- (a) No Class 1 or Class 2 historic resource shall be demolished by neglect. "Demolition by neglect" shall be defined as the leaving open or vulnerable to vandalism or the improper maintenance of a Class 1 or Class 2 historic resource resulting in a detrimental effect on the character, stability, or structural integrity of the resource, thereby negating its ability for reuse, whether by ordinary negligence or willful neglect, by the owner or any party in possession thereof, which results in deterioration of exterior features as to create a hazardous or unsafe condition, deterioration of exterior walls, roofs, chimneys, or windows, the lack of adequate waterproofing, or deterioration of foundations which could result in permanent damage.
- (b) Demolition by neglect shall not be used as an automatic excuse by the applicant as justification for an active demolition application. Demolition by neglect shall also apply to ruins where 60% or more of the structure remains, such as roof structures, walls, foundations, or other structures which are clearly in ruins and missing up to 40% of the structural mass.
- (c) These regulations are meant to protect historic resources from parties who, by ordinary negligence or willful neglect, allow those resources, which are in usable condition on a property at the time of adoption of this chapter or at the time a new owner purchase a property, to deteriorate or become unusable and a liability to the point of needing to be demolished for safety reasons. An example of this would be a party purchasing a property containing an historic resource displayed on the Township Historic Resource Map in usable condition and/or previously being used prior to the sale of the property, and, in order to avoid having to undergo the historic review process, as outlined in this section, said party allows that historic resource to become so deteriorated that the resource would qualify immediately for a demolition permit due to the unsafe or hazardous condition of the resource.
- (d) The following apply for historic resources:
 - [1] Unoccupied buildings or structures should be properly sealed, fenced off, and the utilities turned off for safety at the owner's expense.
 - [2] The structural integrity of both occupied and unoccupied Class 1 or Class 2 historic resources should be achieved through proper maintenance of all structural, architectural and other critical elements to ensure against damage by the elements.

(3) Application requirements for demolition of historic resources.

- (a) The applicant shall submit to the Township an application for a demolition permit. All applications for demolition shall be reviewed against the Historic Resource Inventory and Map. If the application concerns the demolition of a Class 1 or Class 2 historic resource, the Zoning Officer shall be directed not to issue the permit and shall inform the applicant to comply with the following procedures and requirements of this section, as applicable.
- (b) In addition to the applicable requirements under the Township Building and Fire Codes, any applicant seeking a permit to demolish an historic resource shall submit the following information regarding that resource:
 - [1] Owner of record.

- [2] Classification of historic resource on the Historic Resource Inventory and Map.
 - [3] Recent photographs of the resource proposed for demolition.
 - [4] A site plan showing all buildings and structures on the property.
 - [5] Reasons for demolition.
 - [6] Method of demolition.
 - [7] Proposed use for the site, timeline for implementation of proposed use for the site, and proposed disposition of materials from the demolished site, including the reuse and recycling of materials.
 - [8] Alternatives which the applicant has considered prior to demolition, in the form of a concept plan or sketch plan.
- (4) Review process for demolition permits.
- (a) The Zoning Officer shall notify the Historical Commission of the application for demolition upon acceptance of a properly completed application, including the necessary filing fee.
 - (b) Within 30 days of receipt of a complete application for demolition from the Zoning Officer, at its next regular meeting or a special meeting, the Historical Commission shall review the application for demolition. The applicant will be notified of the meeting and encouraged to present evidence or testimony pertaining to the demolition. In reviewing the application, the Historical Commission shall take into account the following:
 - [1] The effect of demolition on the historical significance and architectural integrity of the historic resource in question and neighboring historic resources, and on the historic character of the neighborhood or district in which the historic resource is located. In the instance of a requested/proposed demolition, the applicant shall provide a historic report produced by a certified architectural historian that document the former occupants' history and architectural features of the buildings and structures. A copy of the historic report, including photographs, architectural drawings, etc., shall be provided to the Historical Commission at least one week prior to the public meeting to review the application.
 - [2] Economic feasibility of continuing the existing use or of adaptively reusing the resource proposed for demolition.
 - [3] Alternatives to demolition of the resource, in the form of a concept plan or sketch plan.
 - [4] Whether the applicant has demonstrated that they have considered alternatives to demolition.
 - [5] Whether the resource has been intentionally neglected.
 - (c) Recommendation of the Historical Commission. The Historical Commission shall make its written recommendation to the Board of Supervisors either recommending approval of the demolition application as submitted, or recommending approval of the application with conditions. The Historical Commission may recommend to use the following time periods

to provide adequate opportunity for documentation of the resources as set forth below, for the applicant to prepare a financial analysis as set forth below, and/or to engage in discussion about alternatives to demolition with the applicant. The Historical Commission shall make every effort to communicate to the applicant the historical significance of the historic resource, its significance to the Township, and alternatives to its demolition, with the direct public input from the Historical Commission.

- [1] Class 1 historic resources: a period not to exceed 90 days.
- [2] Class 2 historic resources: a period not to exceed 60 days.
- (d) Recommendation of the board of supervisors. Within 30 days of receiving the recommendation from the Historical Commission, the Board of Supervisors shall consider the application at a public meeting, together with the recommendation from the Historical Commission, and vote either to approve the application as submitted, approve the application with changes, or defer their decision affording a delay of demolition for up to the periods specified above. The applicant shall be notified at least 10 days prior to the date of the public meeting and shall have the opportunity to present reasons for filing the application. Within five days of making its decision, the Board of Supervisors shall provide written communication of its decision to the applicant, the Historical Commission, and the Zoning Officer.
- (e) Issuance of a demolition permit. Where the Board of Supervisors acts to approve the application, it shall authorize the Zoning Officer to issue the permit. Where the approval is authorized to be granted with conditions, the Zoning Officer shall be authorized to issue a permit upon receipt from the applicant of written acceptance of those conditions.
- (f) Documentation. Prior to the issuance of a demolition permit, the applicant may be required at the discretion of the Board of Supervisors to provide documentation of the Class 1 historic resource proposed for demolition. Such documentation shall include:
 - [1] Historical data, survey information, and other data provided by local, state, and federal historic preservation organizations and other agencies.
 - [2] Photographs.
 - [3] Floor plans.
 - [4] Measured drawings.
 - [5] Archeological survey by a certified archaeological historian, if recommended by the Historical Commission as appropriate.
 - [6] Other available comparable forms of documentation.
- (g) Financial analysis. In cases where there is claim that demolition of a Class 1 historic resource is necessary due to financial hardship or the lack of an economically reasonable alternative for reuse, the applicant shall be required at the discretion of the Board of Supervisors, during the period of the delay of demolition, to prepare a financial analysis, which shall include any or all of the following information:
 - [1] Amount paid for the property, date of purchase, and party from whom purchased.
 - [2] Assessed value of the land and improvements thereon, according to the most recent

assessment.

- [3] For depreciable properties, a pro forma financial statement prepared by an accountant or broker of record.
 - [4] All appraisals obtained by the owner in connection with the purchase or financing of the property, or during the ownership of the property, prepared by an MAI Appraiser.
 - [5] Bona fide offers of the property for sale or rent, price asked, and offers received, if any.
 - [6] Any consideration by the owner as to profitable, adaptive uses for the property, and any other practical uses, as well as incentives which could be offered by the Township to preserve and protect the historic resource and any input from preservation organizations.
 - [7] Written estimates of the cost of rehabilitation from a professional restoration contractor. The Historical Commission may recommend an independent evaluation of the soundness of the structure and costs of renovation, paid by the Township and the Township reimbursed by the applicant.
- (h) Final recommendation on demolition by the Historical Commission. Prior to or at the end of the expiration of the 90 (for Class I) or 60 (for Class II) day review period, the Historical Commission may recommend approval of the demolition permit or, where the Historical Commission does not believe that the applicant has proven hardship, may recommend denial of the application. In such cases, the Historical Commission shall make a written report to the Board of Supervisors setting forth reasons for its recommendation and the evidence considered.
- (i) Final decision on demolition by the Board of Supervisors. The Board of Supervisors shall act upon the application for demolition within or at the 90 (for Class I) or 60 (for Class II) day review period, whether or not it receives a recommendation from the Historical Commission, and shall vote either to approve the application, to approve the application with changes, or to deny the application. Within 14 days of making its decision, the Board of Supervisors shall provide written communication to the applicant, the Zoning Officer, and the Historical Commission.
- (j) Any costs incurred by the Historical Commission, as agreed to by the applicant, to review plans or studies submitted by the Historical Commission's consultant specifically retained for this purpose shall be reimbursed to the Township by the applicant.

§ 455-45. Historic resource preservation incentives.

- A. Purposes. In addition to the purposes and community development objectives in § 455-2 of this chapter, this section is enacted to protect valuable historic resources from degradation or destruction in order to preserve the cultural heritage of the Township. In accordance with the Pennsylvania Municipalities Planning Code, Act 247, Section 603(b)(5), (c)(7) and (g)(2),²⁰⁹ this section is established to:
- (1) Increase the opportunity for uses in historic structures within the Township to assist in their

²⁰⁹Editor's Note: See 53 P.S. § 10603(b)(5), (c)(7) and (g)(2).

continued viability.

- (2) Promote retention of the character of the Township through recognition and protection of historic and cultural resources.
 - (3) Establish a clear process by which proposed changes affecting historic resources are reviewed to mitigate the negative effects.
 - (4) Encourage the continued use of historic resources and to facilitate their appropriate reuse.
 - (5) Encourage the preservation of historic settings and landscapes.
 - (6) Discourage the demolition of historic resources.
 - (7) Implement the goals of the Pennsylvania Constitution within Article I, Section 27, which establishes the state policy of encouraging the preservation of historic and aesthetic resources.
- B. Applicability. The provisions of this section shall apply to all properties containing Class 1 historic resources as identified in § 455-44B(1).
- C. Permitted uses:
- (1) Any use permitted in the zoning district in which the property is located.
 - (2) Where approved by the Board of Supervisors as a conditional use in accordance with Article XIV of this chapter, as well as the specific requirements for conditional use approval set forth in Subsection C(2)(a) to (d) below, additional use opportunities from those permitted in Subsection C(1) above may be permitted on properties containing Class 1 historic resource(s). Such use opportunities may be permitted in place of any existing use being made of the property, as a second principal use and/or an accessory use. It is intended that such uses not otherwise permitted in the underlying zoning district be principally contained within structures designated as Class 1 historic resources. Additional use opportunities shall, when permitted by conditional use, include the following:
 - (a) Adaptive reuse. The regulations specified in § 455-49 of this chapter shall apply to a Class 1 historic resource if approved as a conditional use, except that multifamily building or development shall not be permitted.
 - (b) Cultural facility, such as a nonprofit historic, educational, or like organization available to the general public in the form of a museum, historic resource, botanical garden, or like facility.
 - (c) Combination of uses. More than one principle use, either as permitted in the zoning district that the historic structure is located or permitted by conditional use, may be permitted in a structure if approved by conditional use.
 - (d) Similar uses. Similar uses, such as those listed above, may be permitted if the applicant for a conditional use proves to the satisfaction of the Board of Supervisors that such use will not jeopardize the integrity of the historic resource and will accomplish the goals stated in this section. **[Amended 6-2-2014 by Ord. No. 422-14]**
- D. Area and bulk regulations.
- (1) The area and bulk regulations related to the zoning district in which the historic resource is

located shall apply, unless modifications are approved by Subsection D(2) below.

- (2) The Board of Supervisors, through the granting of a conditional use, may approve requested modifications to the applicable net lot area, lot width, or yard requirements for plans affecting Class 1 historic resources, in accordance with the criteria set forth under Article XIV, Conditional Uses, and provided the criteria in Subsection E below are met. **[Amended 12-15-2014 by Ord. No. 424-14]**
- E. General conditional use criteria. The Board of Supervisors, through the granting of a conditional use, may approve additional use opportunities and/or modifications to area and bulk standards for Class 1 historic resources, in accordance with the criteria set forth under Article XIV, Conditional Uses, and provided the following additional criteria are met:
- (1) The approval of the conditional use is deemed by the Board of Supervisors to be necessary to the preservation of the historic resource.
 - (2) Every reasonable effort shall be made to provide a compatible use for a property, which requires minimal alteration of the building, structure or site and its environment, or to use a property for its originally intended purpose.
 - (3) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
 - (4) Deteriorated architectural features shall be repaired rather than replaced wherever possible. In the event replacement is necessary, every attempt should be made to match the original material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than conjectural designs or the availability of different architectural elements from other buildings or structures.
 - (5) The approval of the conditional use will be deemed by the Board of Supervisors to have no adverse effect on adjoining properties.
 - (6) In granting conditional use approval, the Board of Supervisors may require as a condition of approval the establishment of a conservation easement or other means to guarantee permanent protection of the historical integrity of the resource.
 - (7) In granting conditional use approval, the Board of Supervisors shall be satisfied that adequate water supply and sewage disposal can be provided for all permitted uses.
 - (8) Where plans for historic resources result in all or portions of any such resources remaining unoccupied, such unoccupied resources shall be tightly sealed and barred off in a manner not compromising historical integrity, and the utilities are turned off for safety.
 - (9) Any plans for the rehabilitation, alteration, or replacement of an historic resource proposed to be a part of the conditional use application must be in substantial compliance with the Secretary of the Interior's Standards for Rehabilitation of Historic Structures.
 - (10) The Planning Commission shall review all requests for conditional use approval and evaluate whether requested modifications are necessary for the preservation of the historic resource. The Commission shall review any construction plans for their compliance with the standards. Recommendations shall be transmitted in a written report to the Board of Supervisors prior to

the rendering of a decision by the Board of Supervisors.

- (11) The Board of Supervisors may deny the request for conditional use, upon the review of the Planning Commission, if it deems the proposal to be unacceptably destructive to the integrity of the historic resource and/or where the Board finds the proposal to be inappropriate in the context of the immediate neighborhood.

ARTICLE IX
Supplemental Regulations

§ 455-46. Purpose.

The purpose of this article is to establish standards for specific uses that require special design considerations. These regulations are set forth to achieve compatibility with the principal uses permitted in a zoning district. These regulations shall apply to all zoning districts in which the particular use being regulated is permitted. It is the intent of the Township that where these uses are permitted, they comply strictly with the standards that have been created to address their particular impacts and characteristics. The provisions for this article shall apply in addition to any other applicable zoning regulations. In the case of an inconsistency between the provisions of this article and any other article of this chapter, the strictest provision shall apply. Uses specifically regulated in this article include the following:

- § 455-47 Accessory buildings or structures
- § 455-48 Accessory uses
- § 455-49 Adaptive reuse
- § 455-50 Apartments accessory to nonresidential uses
- § 455-51 Automobile gasoline service stations
- § 455-52 Bed-and-breakfasts
- § 455-53 Commercial day-care centers
- § 455-54 Continuing care retirement communities
- § 455-55 Convenience stores
- § 455-56 Drive-through service
- § 455-57 Educational uses
- § 455-58 Forestry
- § 455-59 Funeral homes
- § 455-60 Golf clubs
- § 455-61 Home occupations (home-based business)
- § 455-62 Hospitals
- § 455-63 Hotels, motels or inns
- § 455-64 Multifamily buildings
- § 455-65 Multifamily developments
- § 455-66 Outdoor cafes
- § 455-67 Places of worship
- § 455-68 Planned commercial shopping centers
- § 455-69 Riding academies or stables
- § 455-70 Sale of agricultural products
- § 455-71 Veterinary clinics

§ 455-72 Accessory dwelling units

§ 455-47. Accessory buildings or structures.

Accessory buildings or structures shall be permitted when in accordance with the standards set forth below.

- A. Accessory buildings and structures must comply with all minimum yard setbacks for the district in which the lot is located. [Amended 9-21-2009 by Ord. No. 391-09; 1-15-2018 by Ord. No. 433-18]
- B. Accessory buildings and structures which are used for active recreational uses, such as swimming pools, tennis courts, basketball courts, riding rinks and other similar uses, shall not be located in the front yard of the principal building on a lot. [Amended 9-21-2009 by Ord. No. 391-09; 6-2-2014 by Ord. No. 422-14; 1-15-2018 by Ord. No. 433-18]
- C. Except in the case of unenclosed tennis courts and unenclosed swimming pools, the gross floor area of accessory buildings and structures shall not exceed 40% of the footprint of the principal building. [Amended 9-21-2009 by Ord. No. 391-09; 12-15-2014 by Ord. No. 424-14; 1-15-2018 by Ord. No. 433-18]
- D. The following structures shall be permitted when incidental and subordinate to an existing residential use, and when located on the same lot as the principal use: [Amended 12-15-2014 by Ord. No. 424-14]
 - (1) Flagpole.
 - (2) Private antenna or microwave dish, in accordance with the radio or television antenna provisions of this chapter.
 - (3) Signs associated with the occupants of a residence and home occupation.²¹⁰

§ 455-48. Accessory uses. [Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]

Accessory uses shall be permitted when in accordance with the standards set forth below.

- A. Uses accessory to residential use. The following uses shall be permitted when incidental and subordinate to an existing residential use, and when located on the same lot as the principal use:
 - (1) Off-street parking.
 - (2) Home occupation, as permitted in § 455-61.
 - (3) Bed-and-breakfast, as permitted by § 455-52.
 - (4) Keeping of farm animals and poultry as pets, subject to the following provisions:
 - (a) The lot housing large animals of 600 pounds or more shall have not more than one large animal per two net lot acres.
 - (b) Lots housing small farm animals or poultry shall have a minimum net lot area of two acres; such lots shall not have more than eight small animals.

210. Editor's Note: Former Subsections E and F, which immediately followed this subsection, were repealed 12-15-2014 by Ord. No. 424-14.

- (c) Lots housing beehives have a minimum of two acres based on net lot area; such lots shall not have more than two beehives.
 - (d) Stables, hives, and shelters shall be set back at least 100 feet from any property line. Uncovered manure storage shall be located at least 100 feet from any lot line or stream. No manure may be stored within a swale or drainageway, nor located so as to drain onto adjacent land.
- (5) Garage or yard sales. Garage or yard sales shall be subject to the following provisions:
- (a) Such uses shall be limited to occurrences of not more than four times within one calendar year. There shall be at least a thirty-day period between such occurrences, and each occurrence shall last no more than three consecutive days.
 - (b) Signs advertising garage or yard sales shall be posted no more than two days prior to the first day of the sale and shall be removed on the final day of the sale. No more than two off-premises signs shall be permitted to advertise the sale. Such signs shall only be placed with the permission of the applicable property owners.
- (6) Parking or storage of commercial vehicles. See 455-41B(4).
- (7) Swimming pools shall be considered a permissible accessory use, subject to the following standards:
- (a) A swimming pool constructed either above or below ground level, designed to hold more than 10,000 gallons of water and installed after the effective date of this chapter shall require a permit issued by the Zoning Officer.
 - (b) The swimming pool shall meet accessory structure setback requirements in § 455-47. All mechanical equipment for the purposes of filtering, heating, pumping, cleaning, filling, draining, or any other maintenance-related activity shall meet the required side yard setbacks for the applicable district and in no case shall be less than 10 feet from any property line.
 - (c) All swimming pools shall be completely enclosed by a permanent fence or wall at least four feet in height with no openings larger than four inches in width. Any building or structure meeting the height and opening requirement may be included as part of the required enclosure. All gates and door openings through the enclosure shall be equipped with a self-closing and self-latching device for keeping the gate/door securely latched at all times when not in use.
 - (d) The provisions regulating fencing in Subsection A(7)(c) above shall not apply to a fence having sides extending four or more feet above grade on all sides or being four or more feet above grade, provided that the stairs or other means of access to the pool are removed when the pool is not in use.
 - (e) The pool is intended to be used solely for the enjoyment of the occupants of a principal use of the property on which it is located.
 - (f) The Zoning Officer shall issue the permit upon determining from plans or specifications presented by the applicant that the pool meets all requirements.
- (8) Other uses of similar character to those listed above.

B. Uses accessory to commercial and industrial uses. The following uses shall be permitted when incidental and subordinate to an existing commercial use and when located on the same lot as the principal use:

- (1) Off-street parking facilities, in accordance with Article X, Off-Street Parking and Loading.
- (2) Storage of materials, in accordance with § 455-41, Outdoor storage.
- (3) Signs in accordance with Article XI, Signs.
- (4) Day care may be permitted in conjunction with a commercial, office, or industrial use in accordance with the commercial day-care center provisions in § 455-53.

§ 455-49. Adaptive reuse. [Amended 8-19-2013 by Ord. No. 417-13]

The adaptive reuse of an existing structure shall be permitted as a by-right use in the PBO, VB, VT and VR Districts and shall be in accordance with the standards set forth below:

A. General standards.

- (1) The reuse of an existing structure shall comply with the use requirements of the applicable zoning district. Area and bulk requirements may be modified through the conditional use process, as applicable, where the applicant has demonstrated sensitive restoration, including preservation of facades, rehabilitation using materials and design authentic and appropriate to the architecture and preservation of the building mass as it appears from all public rights-of-way.
- (2) Every effort shall be made to maintain or restore the building or structure to its original architectural style and bulk. Additions shall compliment the existing architectural style and bulk of the structure and require approval by the Board of Supervisors.
- (3) Additional entrances, when required, shall be placed on the side or rear of the building to avoid disruption of the facade.
- (4) Every effort shall be made so that the proposed use is compatible with the adjacent properties and surrounding neighborhood.
- (5) Removal or alteration of distinctive stylistic and architectural features of the structure, which contribute to the character of the surrounding neighborhood, shall be avoided.
- (6) Deteriorated architectural features, which contribute to the character of the neighborhood, should be repaired rather than replaced. Where replacement of such features is necessary, the new material should match the material being replaced in composition, color, design, texture, and other visual qualities.
- (7) An application for adaptive reuse shall be accompanied by a floor plan including the following information:
 - (a) Revisions and modifications to the interior and exterior of the existing structure(s).
 - (b) Applicable information required for a conditional use.
 - (c) Site and architectural plans for the adaptive reuse of said building shall be submitted, as applicable, together with an application for a conditional use, in accordance with the

requirements of this chapter.

- (8) Unless clearly impractical or inappropriate, additional parking needed for adaptive reuse projects shall be located to the rear of the structure or where such parking is least visible from public streets and rights-of-way.
- B. Adaptive reuse for professional offices or commercial convenience uses. The following standards and criteria shall govern the design and review procedures for the adaptive reuse of buildings for professional office and commercial convenience uses for which conditional use approval is sought in accordance with the base zone of this chapter:
- (1) Use opportunities:
- (a) Professional or business office uses limited to architects, physicians, engineers, lawyers, realtors, tax consultants, and similar professional businesses.
 - (b) Neighborhood commercial uses, not to exceed 5,000 square feet of gross usable floor area and limited to the following:
 - [1] Retail commercial use for the sale of food, drugs, flowers, household goods, newspapers, stationary, art supplies, fine art, tobacco, and similar businesses.
 - [2] Personal service commercial use, limited to barber or beauty shops, tailor shops, photographic studios, shoe repair, and similar types of businesses.
 - (c) Public use, including a library, museum, or park facility.
 - (d) Bed-and-breakfast, subject to the provisions of § 455-52.
 - (e) Religious use, including church and parish house.
 - (f) Multifamily building or development, subject to the provisions of §§ 455-64 and 455-65.

§ 455-50. Apartments accessory to nonresidential uses.

An apartment accessory to a nonresidential use is an upper-floor dwelling unit within a nonresidential building, constituting a separate living area containing independent cooking and sleeping facilities for one family, physically separated from any other dwelling unit, and located on the second floor or higher above a separate nonresidential use located in the same structure. The following standards apply to apartments accessory to nonresidential uses:

- A. Parking requirements in accordance with Article X shall be calculated for each use, but may be designated within a common parking lot.²¹¹
- B. An apartment accessory to a nonresidential use shall have independent access, and no access to a residential dwelling unit shall be from the nonresidential space below.
- C. The nonresidential use of the building should not be a nuisance to the dwelling unit(s).

§ 455-51. Automobile gasoline service stations.

Gasoline and service stations shall be subject to the following regulations:

²¹¹Editor's Note: Original Subsection A, which immediately preceded this subsection, was repealed 8-19-2013 by Ord. No. 417-13.

- A. The minimum net lot area shall be 30,000 square feet. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. Gasoline pumps or other service appliance installed in connection with any service station may be placed within the required front yard, but in no case closer than 25 feet to any street right-of-way.
- C. Each gasoline pump shall be provided with a stacking area that can accommodate a minimum of two cars. Islands that contain more than one pump shall provide a minimum of two spaces per each dispensing nozzle. For the purposes of this chapter, one pump serves two fueling positions.
- D. A service station must have adequate fire extinguishers, ample no-smoking signs posted, and any other safeguards deemed necessary for the public safety in accordance with the Pennsylvania State Fire Code and any other applicable state or federal regulations.
- E. Underground storage tanks shall comply with all applicable regulations of the EPA and the PaDEP, including notification and registration requirements. If warranted, as determined by the Township, the applicant may be required to place tanks in a concrete vault, install other impervious lines, and/or install monitoring devices.
- F. All automotive parts, refuse, and similar articles shall be stored within a building or enclosed area screened from adjacent uses in accordance with § 274-44C, Article XI, of Chapter 274, Natural Resources Protection.
- G. All automotive repair or service activities, except those performed at fuel pumps, shall take place within a completely enclosed building.
- H. Vehicles waiting for repairs shall not be stored outside for more than 10 days. Junk vehicles may not be stored in the open at any time.
- I. Trash receptacles shall be provided outside for patron use, but shall be located next to the principal structure or at gasoline pump dispensers.
- J. A trash storage area shall be provided which is screened from the street and adjacent properties in accordance with § 274-44C, Article XI, of Chapter 274, Natural Resources Protection, to prevent trash from blowing from the area and to permit safe and easy trash removal.
- K. All gasoline pump dispensers shall be covered by a canopy and shall be illuminated only during nondaylight operating hours. Canopy lighting shall be located on the undersurface of the canopy and shall be limited to flush lens fixtures mounted on the canopy ceiling. Drop lens fixtures are prohibited. Up-lens lighting fixtures mounted on the canopy structure above the level of gas pumps are permitted if they have the effect of reducing glare from the lighting fixtures mounted on the canopy ceiling. Canopy height shall be limited to 14 feet, unless otherwise approved by conditional use. Such canopies shall be limited to fuel island canopies associated with an automotive gasoline or service station or in association with a convenience store.
- L. Screening and landscaping shall be in accordance with the applicable provisions within this chapter.

§ 455-52. Bed-and-breakfasts.

A bed-and-breakfast, permitted as a conditional use in all zoning districts, is an owner-occupied building designed, used and occupied as a single-family residence, having, as an accessory use therein, public lodging rooms and facilities for and serving breakfast and afternoon tea prepared within the building to preregistered transient guests, which meets the minimum requirement of this chapter and shall be subject to the following regulations:

- A. The bed-and-breakfast shall be considered an accessory use and remain incidental and secondary to the principal use of the building as a dwelling.
- B. A bed-and-breakfast shall be located only within a building that meets one of the following qualifications:
 - (1) A dwelling that is designated by the Easttown Township Open Space, Recreation and Environmental Resources Plan (see Map 5) or the Easttown Township Comprehensive Plan (see Map 6) as either a National Register site or national historic landmark or considered a significant historic resource by the Township as listed on Map 6 of the Easttown Township Comprehensive Plan.
 - (2) The applicant can document to the satisfaction of the Zoning Officer that the dwelling is more than 100 years old.
- C. The appearance of the building shall not be altered as to detract from its principal purpose as a residential structure, except for purposes of safety in meeting state and Township regulations. Fire escapes, external stairways, or additional external doors shall be located either to the side or rear of the residence.
- D. The number of guest rooms and baths for transient accommodation shall not exceed three each in any building having a habitable floor area, as defined in this section, of 3,000 square feet or less. One additional guest room may be added for each additional 600 square feet of habitable floor area, up to a maximum total number of six guest rooms. No guest rooms shall contain any cooking facilities. Food served to guests on the premises shall be limited to breakfast and afternoon tea, and eating facilities shall be open only to guests registered at the bed-and-breakfast use.
- E. The minimum lot size based upon net lot area shall be the minimum lot size for single-family detached dwellings in the respective districts. All area and bulk regulations and general regulations, except as provided otherwise in this section, shall be those that apply to a single-family detached dwelling in the applicable zoning district. **[Amended 12-15-2014 by Ord. No. 424-14]**
- F. At a minimum, parking shall be provided as required by the minimum parking regulations of the applicable district; provided, however, that one additional parking space shall be required for each guest room and for one employee, if any. The minimum parking setback from an adjacent property line shall be 20 feet, and, when four or more guests and employee parking spaces are provided, the parking area shall be screened from direct view of any adjacent residential use by a completely planted visual barrier consisting of a double row of evergreen plantings with a minimum height of six feet after the planting and placed no more than eight feet apart. The required plantings shall be staggered so as to provide as complete a visual barrier as is possible.
- G. No more than one employee shall be permitted to work on the premises at any time, and none shall be present between the hours of 11:00 p.m. and 6:00 a.m. Members of the owner's immediate family who are residents on the premises shall not be considered employees, whether or not paid.
- H. Notwithstanding anything contained in any of the applicable district regulations, any bed-and-breakfast containing four or more guest rooms shall be served by public sewer. The adequacy of an on-site sewage system to handle increased flows resulting from the use of the property as a bed-and-breakfast containing three or less guest rooms and the availability and adequacy of sufficient backup area on the lot to accommodate the proposed use shall be certified by the Chester County Health Department or other regulatory authority having jurisdiction on the basis of an on-site inspection or required improvements to the sewage system have been completed or are guaranteed.

- I. The requirements of all other applicable ordinances of the Township, including but not limited to building, electrical, fire, and plumbing codes, shall be met.
- J. No guest may be registered for a maximum continuous period in excess of seven consecutive nights. The owner shall maintain a guest register and shall preserve registration records for a minimum of three years. The register and all records shall be made available for inspection by the Zoning Officer or Codes Enforcement Officer at any time.
- K. Any meals provided and any amenities connected with the guest rooms, such as a swimming pool or tennis court, shall be solely for the use of the owner's family and the owner's registered guest.
- L. One sign shall be permitted identifying the property as a bed-and-breakfast. The sign shall not exceed three square feet in area, shall be set back a minimum of three feet from the road right-of-way and shall contain no information other than identification of the premises as the named bed-and-breakfast.
- M. Upon compliance with all of the requirements of this section and other applicable codes and regulations, the Zoning Officer shall be authorized to issue a zoning permit which shall be valid for a period of one year, unless sooner revoked for violation of any condition imposed by the Board of Supervisors, any misrepresentation of fact made to the Board of Supervisors, Zoning Officer or Codes Enforcement Officer in conjunction with the application, permit, and review process, or violation of this section or any provision of this chapter. Within 30 days prior to the expiration of any such permit, the property owner shall make application for renewal of the permit to the Zoning Officer, who shall, as a condition of issuance of such renewal, make an inspection of the premises for which the permit is sought to determine continued compliance with this chapter. In the event that the Zoning Officer determines that a violation exists, the permit shall not be renewed until the violation is cured.
- N. Upon nonrenewal or revocation of the zoning permit for cause shown, the use of the premises as a bed-and-breakfast shall immediately cease, and continuation thereof shall subject the owner to the penalty provisions of this chapter and/or such other legal action as the Township shall determine necessary.²¹²

§ 455-53. Commercial day-care centers.

Commercial day-care centers are commercial facilities where daytime supervision is provided for the care of children or adults, not related to the caregiver or operator, and where the child or adult care area is not part of a family residence. Commercial day-care centers must be licensed or approved to provide services as required by the Commonwealth of Pennsylvania and shall be subject to the following regulations:

- A. A commercial child day-care center shall be permitted when in accordance with the following standards:
 - (1) Prior to issuing of a permit by the Zoning Officer, the applicant shall have received and hold all pertinent approvals and licenses from appropriate federal, state, or county agencies as a condition of permit approval and continuation.
 - (2) Minimum indoor areas and outdoor play area requirements per child shall meet the most current Pennsylvania Department of Public Welfare requirements, and the applicant shall submit proof to the Township, prior to the Township's issuing of permits, that these requirements have been met. In addition, an outdoor play area shall be provided according to the following:

²¹².Editor's Note: Former Subsection O, regarding definitions, which immediately followed this subsection, was repealed 12-15-2014 by Ord. No. 424-14.

- (a) The outdoor recreation area shall be located to the rear or side of the building.
 - (b) The outdoor recreation area shall be enclosed by a fence suitable to restrict children to the play area, and fencing shall be a minimum of five feet in height.
 - (c) The outdoor recreation area shall not include driveways, parking areas, or any other area unsuited to active recreation.
 - (d) The outdoor recreation shall be on the same site as the principal structure.
 - (e) Outdoor recreation areas shall be sufficiently screened as to protect residential areas from disturbance.
 - (f) Outdoor recreation areas shall be limited to daylight hours.
- (3) Off-street parking and passenger loading and unloading spaces shall be provided in accordance with this chapter and shall be so designed to prevent interference with traffic flow on any adjacent street or road.
 - (4) Child dropoff areas shall be designed to eliminate the need for pedestrians to cross traffic lanes within or adjacent to the site.
- B. A commercial adult day-care center shall be permitted when in accordance with the following standards:
- (1) Prior to issuing of a zoning permit by the Zoning Officer, the applicant shall have received and hold all pertinent approvals and licenses from appropriate federal, state, or county agencies as a condition of permit approval and continuation.
 - (2) A minimum indoor recreation area of 500 total square feet or 75 square feet per adult, whichever is greater, shall be provided.
 - (3) Off-street parking and passenger loading and unloading spaces shall be provided in accordance with this chapter and shall be so designed to prevent interference with traffic flow on any adjacent street or road.

§ 455-54. Continuing care retirement communities. [Amended 6-2-2014 by Ord. No. 422-14]

A continuing care retirement community (CCRC) is a residential complex design permitted as a conditional use in the PBO District that offers several levels of assistance, including independent living, assisted living and nursing home care. It is different from other housing and care facilities for seniors because it usually provides a written agreement or long-term contract between the resident (frequently lasting the term of the resident's lifetime) and the community which offers a continuum of housing services and health care system, commonly all on one campus or site. Such facilities shall be operated for adults, generally 55 years old or older, that may include one or any combination of an independent living facility, assisted living facility or nursing home, as follows:

- A. The lot on which the use is conducted shall, in its entirety, be owned and operated under single or common management. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. The minimum lot size shall be two acres based upon net lot area. **[Amended 12-15-2014 by Ord. No. 424-14]**
- C. All continuing care retirement communities shall have a maximum gross density of eight units per

acre.

- D. The CCRC shall be limited to residents who are at least 55 years of age and older in accordance with the exemption to the prohibition against discrimination based on familial status found in Section 3607(b)(1) of the United States Fair Housing Act. 42 U.S.C. § 3607(b)(1), and the Housing for Older Persons Act of 1995 and the regulations promulgated thereunder, as the same may be amended.
[Amended 9-21-2009 by Ord. No. 391-09]
- E. Location, design and layout of buildings containing dwelling units shall be so designed to ensure open space and privacy between units.
- F. Wheelchair access to all dwelling units and community facilities, in accordance with the Americans with Disabilities Act, shall be provided in the design of structures, pedestrian walkways, and parking lots. Where practical and desirable, buildings shall be interconnected by means of covered or enclosed walkways.
- G. The following accessory support uses shall be permitted for any CCRC, only when specifically for the use of the members or residents of the facility:
 - (1) Indoor and outdoor recreational facilities, including auditoriums, activity rooms, craft rooms, libraries, lounges, and similar recreational facilities, for members of the continuing care retirement community.
 - (2) Dining facilities.
 - (3) Office and retail service facilities designed and adequate to serve only the members of the community, including but not limited to a pharmacy, gift shop, coffee shop, bank, beauty shop, and barbershop.
 - (4) Accessory medical offices, nursing, and convalescent facilities limited to residents of the facility for temporary care and not operating as the principal office of any medical practice serving the general public.
 - (5) Commercial day-care center.
- H. A continuing care retirement community shall follow the requirements for multifamily development, § 455-64, herein, in addition to the requirements of this section; however, the requirements of § 455-64 shall prevail when there is conflict between the requirements.
- I. Outdoor sitting areas shall be provided within the required open space, which shall be landscaped and shall not be located adjacent to parking lots, detention basins, or collector or arterial streets unless adequate screening is provided. Sitting areas shall not be located on slopes of over five-percent grade.
- J. A minimum of 20% of the land reserved for recreational area. Maintenance of these areas shall be the responsibility of the common management.
- K. The proposed use shall obtain all applicable state and federal permits, licenses, and certificates of need, as applicable to the proposed use, as well as conditional use approval, prior to the issuance of a zoning permit.
- L. Continuing care retirement communities are explicitly prohibited within floodplain areas in accordance with § 274-12E(8)(b), Article III, of Chapter 274, Natural Resources Protection, as incorporated by reference in Article VII of this chapter.

§ 455-55. Convenience stores.

Convenience stores shall be subject to the following regulations:

- A. Trash receptacles shall be provided immediately outside of the convenience store for patron use, but shall not be located near any adjacent residential properties.
- B. A trash storage area shall be provided which shall be screened from the street and adjacent properties in accordance with § 274-44C, Article XI, of Chapter 274, Natural Resources Protection, to prevent trash from blowing from the area and to permit safe and easy trash removal.
- C. Where applicable, the sale of gasoline in conjunction with a convenience store shall conform to the applicable regulations of § 455-51.

§ 455-56. Drive-through service.

An establishment where, by design, physical facilities, services, or packaging procedures encourage or permit customers to receive services or obtain goods while remaining in their vehicles. Such use shall include any establishment for the sale and consumption of food and beverages, any establishment providing banking services or other services in which there is a drive-through window, and shall comply with the following provisions:

- A. Drive-through service shall be permitted in the PBO and VB Zoning Districts. In such cases, there shall only be one point of ingress and one point of egress to a collector or arterial street as defined by the Township Comprehensive Plan, as may be amended or readopted. **[Amended 11-21-2022 by Ord. No. 453-22]**
- B. The minimum lot size shall be 1/2 acre based upon net lot area. **[Amended 12-15-2014 by Ord. No. 424-14]**
- C. Communication devices shall not be audible on adjacent residential properties.
- D. Drive-through service windows shall have a cartway that has a dedicated area for conducting business, a vehicle stacking lane that can accommodate a minimum of four cars for those waiting to conduct business, and an area for departing vehicles. The stacking lane shall not be used for parking lot circulation aisles or in any way conflict with parking or circulation. The stacking lane shall be clearly marked to distinguish it from other traffic.
- E. When a use with drive-through service is adjacent to or on the same lot as other commercial establishments, it shall use a common access with the other establishments and not have a separate entrance to the street.

§ 455-57. Educational uses.

Educational uses shall be permitted in the AA Zoning District, when in accordance with the following standards:

- A. A nonprofit public or private school (one which is not conducted as a private gainful business) that is licensed under the proper governmental authority shall be subject to the following provisions:
 - (1) Access shall be taken from a major or minor collector or a minor arterial as defined by the Township Comprehensive Plan, as amended.
 - (2) The minimum required lot size shall be two acres based upon net lot area. **[Amended**

12-15-2014 by Ord. No. 424-14]

- (3) Outdoor play or recreation areas adjacent to a residential use or district shall be a minimum of 50 feet from side and rear property lines and shall be sufficiently screened to minimize disturbance of residential areas. Outdoor play or recreation areas adjacent to a nonresidential use or district shall be a minimum of 25 feet from side and rear property lines.
- B. A commercial (for-profit) school, including trade or professional schools and art, music or dancing schools, shall not be permitted in residential zoning districts. The minimum required lot size based upon net lot area shall be that of the underlying district. **[Amended 12-15-2014 by Ord. No. 424-14]**
- C. Educational uses shall be served by public sewage facilities.
- D. Where such facilities abut a residential property or residential zoning district, the hours of outside activities shall be limited to 7:00 a.m. to sunset in order to not interfere with residential uses. **[Amended 11-21-2022 by Ord. No. 453-22]**

§ 455-58. Forestry.

Requirements for forestry are located in Chapter 274, Natural Resources Protection.

§ 455-59. Funeral homes.

A funeral home is a building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation and shall comply with the following:

- A. The minimum lot area shall be one acre based upon net lot area.
- B. The hours of operation and the parking shall not interfere with the use of neighboring properties.

§ 455-60. Golf clubs.

A golf club is permitted as a special exception in the AA District, in accordance with the following:

- A. The minimal lot size for a golf club or similar use shall be 150 acres based upon net lot area. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. A golf club is permitted only as a nonprofit club.

§ 455-61. Home occupations.

- A. Determination of classification. There shall be two categories of home occupations: minor (no-impact home-based business) and major. Such uses shall be permitted when in accordance with the following standards. The Zoning Officer shall determine whether a proposed home occupation is major, minor, or prohibited.
- (1) Issuing of permit. All home occupations, whether minor or major, shall be required to obtain a zoning permit for a home occupation from the Township office and submit the application to the Zoning Officer to obtain approval before such use may be permitted to operate. The applicant shall be responsible for supplying such information as deemed necessary by the Zoning Officer to make this determination. Upon receipt, the Zoning Officer shall determine whether the permit is a minor, major, or prohibited home occupation within 14 working days and shall inform the applicant of the determination in writing as follows: **[Amended 6-2-2014**

by Ord. No. 422-14]

- (a) Upon determination that the proposed use is a minor home occupation and is in conformance with the requirements of this chapter, the Zoning Officer shall issue a zoning permit for a home occupation.
 - (b) Where the Zoning Officer determines that the proposed use is a major home occupation, the use shall require review and approval by the Zoning Hearing Board in accordance with the provisions of a special exception in Article XV and the criteria of this section. The Zoning Hearing Board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of this chapter. Following approval, the Zoning Officer shall issue a zoning permit.
 - (c) When the application for a zoning permit for a home occupation is found to be a prohibited home occupation as per Subsection E below, the Zoning Officer shall inform the applicant of the reasons why the application does not comply with this chapter.
- (2) Permit limitation.
- (a) A zoning permit for a home occupation shall not be transferable to another property or to another type of home occupation. The permit issued shall only be valid for the use and on the property for which it was originally issued.
 - (b) An approved zoning permit for a home occupation shall be valid for a period of one year unless sooner revoked for violation of any condition imposed by the Zoning Hearing Board, any misrepresentation of fact made to the Zoning Hearing Board, Zoning Officer or Codes Enforcement Officer in conjunction with the application, permit, and review process, or violation of this section or any provision of this chapter. Within 30 days prior to the expiration of any such permit, the property owner shall make application for renewal of the permit to the Zoning Officer, who shall, as a condition of issuance of such renewal, make an inspection of the premises for which the permit is sought to determine continued compliance with this chapter. In the event that the Zoning Officer determines that a violation exists, the permit shall not be renewed until the violation is cured.
 - (c) Upon nonrenewal or revocation of the zoning permit for cause shown, the use of the premises as a home occupation shall immediately cease, and continuation thereof shall subject the owner to the penalty provisions of this chapter and/or such other legal action as the Township shall determine necessary.
- B. General standards applicable to all home occupations. The following standards shall apply to all home occupations, whether minor or major:
- (1) A home occupation shall be conducted within the principal structure on a lot that is the residence of and under the ownership of the principal practitioner. The home occupation shall be carried on wholly indoors.
 - (2) All applicants shall be required to obtain a zoning permit, in accordance with the requirements of Subsection A above, at least 30 days prior to beginning operation of the use.
 - (3) The appearance of the residential structure shall not be altered or the occupation be conducted in such a manner which would cause the premises to differ from its residential character by the use of materials, construction, lighting, show windows, signs, or advertising visible outside the premises to attract customers or clients, other than those signs permitted by this chapter. No

interior display of goods shall be visible from the outside.

- (4) The storage of commercial vehicles shall comply with the provisions of § 455-41B(4).
- (5) There shall be no exterior storage of materials or refuse resulting from the operation of the home occupation.
- (6) No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, dust, or electrical interference detectable to normal senses beyond the property line in excess of levels customarily generated by a residential use.
- (7) There shall be no storage or use upon the premises of toxic, explosive, polluting, dangerous, or other substances defined as hazardous by the Pennsylvania Department of Environmental Protection.

C. Minor home occupation standards (no-impact home-based business). A minor home occupation is 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. Minor home occupations shall comply with the following additional standards and shall be permitted by right in all residential districts. All other home occupations shall be defined as "major."

- (1) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- (2) The use shall employ no employees other than the inhabitants of the dwelling.
- (3) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- (4) There shall be no exterior indication of a business use, including, but not limited to, parking, signs, or lights.
- (5) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors, or electrical interference, including interference with radio or television reception, which is detectable in the neighborhood.
- (6) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- (7) The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- (8) The business may not involve any illegal activity.
- (9) Commercial delivery and pickup of goods and supplies is limited to no more than once a week, exclusive of normal postal and parcel service typically serving a residential district.

D. Major home occupation standards. A home occupation that cannot meet one or more of the criteria listed in Subsection C above shall be defined as a "major home occupation." Major home occupations shall be permitted by special exception in the AA, R-1, R-2, R-3, and R-4 Residential Districts when other applicable criteria of this chapter can be met and shall meet the following regulations:

- (1) The total area used for a major home occupation shall not exceed 800 square feet or 25% of the floor area of the principal residential structure existing as of the effective date of this chapter, whichever is less.
- (2) No more than one person, other than resident members of the immediate family, may be employed or subcontracted at the residence.
- (3) No more than two clients at any given time are permitted to be visiting the premises to conduct business on the premises related to the major home occupation.
- (4) No articles shall be sold or offered for sale on site, except those produced on the premises. Such sales shall be approved by the Zoning Hearing Board at the time of special exception application. **[Amended 6-2-2014 by Ord. No. 422-14]**
- (5) Where employees or customer visits are anticipated, off-street parking shall be provided in sufficient capacity to prevent interference with normal residential parking in the neighborhood. Off-street parking, inclusive of required residential parking, shall not exceed five spaces and shall be lighted to provide safe passage.
- (6) Beauty parlors and barbershops may be permitted as a major home occupation, provided that no more than two stylist or barber chairs are provided and all applicable provisions of state law and licensing and this chapter are met.
- (7) Instructional services may be permitted as a major home occupation, provided that a maximum of two musical students may be instructed at any given time. Nonmusic instruction shall be limited to no more four students at any given time and no more than two trips per hour.
- (8) No more than one sign shall be permitted per property, providing that it is no larger than two square feet. It shall not be illuminated, animated, or placed in a window. See § 455-81A.
- (9) Home day care. Home day care is a major home occupation in which a private residence is used for the care and supervision of between four and six children or adults, not related to the caregiver. (Day care provided for more than six children is considered a commercial day-care center for the purposes of this chapter and is not permitted in residential districts. Care provided to three or fewer children is considered baby-sitting and is not formally regulated.) When in compliance with the provisions outlined below and all applicable requirements of state law and licensing and this chapter, home day care shall be permitted as a major home occupation:
 - (a) The minimum lot area for this use shall be one acre based upon net lot area. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (b) Home day-care uses shall only be permitted as an accessory use in a single-family detached dwelling.
 - (c) There shall be no alterations to exterior facades of residential structures to accommodate accessory day-care facilities in a residential district, except for safety purposes, which shall be confined to rear or side walls not visible from any public right-of-way.
 - (d) For home day care intended for children, a minimum outdoor play area of 100 square feet of contiguous play area shall be provided for each child. The outdoor play area shall be located to the side or rear of the property.
 - (e) The outdoor play area shall be enclosed by a suitable fence with a minimum height of four

feet or other barrier suitable to prevent children from crossing. This requirement shall also apply to adult home day care where outdoor sitting areas are provided for the use of clients.

- (f) In addition to the off-street parking required for a single-family home, at least one additional space is required for each nonresident employee. There shall be sufficient area on the lot to accommodate the pickup and dropoff of children without interference with local traffic.
 - (10) Prior to approval of the use and issuing of a zoning permit by the Zoning Officer, the applicant shall secure all pertinent approvals and registration certificates from appropriate state or county agencies as a condition of permit approval and continuation.
- E. Prohibited home occupation. The following uses shall not be permitted as a home occupation under any conditions:
- (1) Those home occupations which cannot meet the criteria of Subsections C and D above.
 - (2) The following uses are prohibited as home occupations and shall be classified as commercial uses:
 - (a) Animal hospital, animal shelter, or veterinary office.
 - (b) Kennel, commercial kennel, or commercial stable.
 - (c) Funeral parlor or undertaking establishment.
 - (d) Restaurant.
 - (e) Professional office (two or more practitioners). **[Amended 11-21-2022 by Ord. No. 453-22]**
 - (f) Gift or antique shop.
 - (g) Rental business.
 - (h) Furniture stripping.
 - (i) Auto or small engine repair.
 - (j) Painting of vehicles, trailers, or boats.
 - (k) Private school with organized classes.
 - (l) Welding shop.
 - (m) Other uses of similar character to those listed above.

§ 455-62. Hospitals.

A hospital shall be permitted when in accordance with the following standards:

- A. The minimum lot area for a hospital shall be 10 acres based upon net lot area. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. The principal access to a hospital shall be directly from an arterial or major collector road as designated by the Township Comprehensive Plan. Access to roads shall be a minimum of 40 feet

from the intersection of any street.

- C. All buildings and structures shall be set back a minimum of 100 feet from any property line. Where the use adjoins existing residential uses, care shall be taken to locate emergency and service entrances where they are not objectionable to adjoining neighbors.
- D. The following uses are permitted within a hospital complex when designed as an integral part of the hospital:
 - (1) Medical treatment facility.
 - (2) Rehabilitation facility.
 - (3) Hospital administrative offices.
 - (4) Accessory maintenance facility.
 - (5) Pharmacy or laboratory.
 - (6) Snack and restaurant facilities.
 - (7) Gift shop.
- E. Hospitals are explicitly prohibited within floodplain areas in accordance with § 274-12E(8)(a), Article III, of Chapter 274, Natural Resources Protection, as incorporated by reference in Article VII of this chapter.

§ 455-63. Hotels, motels or inns.

Hotel, motel, or inn facilities shall be permitted when in accordance with the following standards:

- A. The minimum lot area shall be two acres based upon net lot area, provided there is a minimum of 4,000 square feet of net lot area per rental unit. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. A minimum of 20% of the net lot area shall be permanently retained in landscaping. **[Amended 12-15-2014 by Ord. No. 424-14]**
- C. The principal access to a hotel, motel, or inn shall be directly from an arterial road as designated in the Township Comprehensive Plan.
- D. Access points shall be limited to two.
- E. Each unit shall include private bathroom facilities.
- F. On each lot, one apartment may be provided for a resident owner, manager, or other responsible staff person.
- G. No building shall be closer than 25 feet to a property line.
- H. The following accessory uses are permitted within an application when designed as an integral part of a hotel, motel, or inn:
 - (1) Lodging facilities.
 - (2) Dining facilities.

- (3) Conference and meeting facilities.
- (4) Recreation facilities.
- (5) Gift shop.
- (6) Accessory maintenance facilities.

§ 455-64. Multifamily buildings. [Amended 8-19-2013 by Ord. No. 417-13]

Multifamily uses shall be divided into two categories: multifamily building that involves one single structure, and multifamily development that involves a complex of structures. The following standards shall apply to multifamily buildings, except in the Village of Berwyn Districts, where the zoning standards contained in Article V shall apply:

- A. Use regulations. A multifamily use may consist of a building on a lot to be used or occupied for any of the following purposes, as a use by right and no other:
 - (1) Apartment house.
 - (2) Quadruplex.
 - (3) Garden apartments.
 - (4) Accessory use on the same lot with and customarily incidental to any of the foregoing permitted uses. The term "accessory use" shall not include a business, but may include:
 - (a) A parking garage or off-street parking lot or area.
 - (b) Recreational facilities available for use only by residents of the building and their guests.
- B. Site development standards. The following site development standards shall apply to multifamily buildings:
 - (1) Minimum lot area. A lot to be developed pursuant to this section shall be not less than 22,000 square feet based upon net lot area. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (2) Density. There shall be a density of not more than eight dwelling units per acre.
 - (3) Building coverage and maximum impervious surface. Coverage of the tract by principal and accessory buildings shall not exceed 35% of the net lot area, and combined building coverage when combined with other impervious surfaces shall not exceed a maximum impervious surface of 65%. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (4) Open space. All multifamily buildings shall have a minimum of 20% of the land reserved for open space areas, and the following provisions shall apply:
 - (a) Open space areas shall be free of obstructions, including watercourses, floodplains, steep slopes, and wetlands or their associated buffers as required by Chapter 274, Natural Resources Protection.
 - (b) Open space areas shall be unpaved and primarily consist of an open grassed area including appropriate trees, bushes, and other vegetation. Such an area shall be contiguous and shall be set back a minimum of 10 feet from any residential uses or residential accessory uses and shall be a minimum of 25 feet in width.

- (c) Open space areas shall not be located within or be included in calculating any required buffer area or setback areas.
- (d) Open space areas shall be substantially free of structures, except those designed for recreational purposes, and shall be usable as such.
- (e) Open space areas shall not contain any required aboveground stormwater facilities, required parking islands, or required parking buffer areas.
- (f) Open space areas shall be located and designed so as to be easily accessible by all residents of the multifamily building and shall not be part of any private outdoor living area.
- (g) When an open space area is designed for active recreation and abuts a public street, it shall be fenced, provided with an earthen berm, or combination thereof, that physically separates it from the street. Appropriate landscaping should be considered in conjunction with such fence, earthen berm, or combination thereof.
- (h) Maintenance of open space areas shall be the responsibility of the landowners', homeowners' or condominium owners' association.
- (i) Failure to maintain any open space areas shall constitute a violation of this chapter and shall be actionable by the Township, as per the applicable requirements of § 455-65H.

C. Setback requirements.

- (1) No building containing or constructed to contain a multifamily use shall be located closer than 25 feet to any adjoining single-family residence district.
- (2) No parking area shall be located closer than 25 feet to any adjoining single-family residence district.
- (3) No interior street, whether public or private, shall be located so as to have a pavement edge closer than 25 feet to any adjoining single-family residence district.

D. General development standards. The following site development standards shall apply in all multifamily uses under this section:

- (1) Height. No building shall exceed 35 feet in height.
- (2) Building length. No building shall exceed 160 feet as its greatest dimension in length or depth.

E. Off-street parking and vehicular circulation standards. Streets and parking lots should be planned to minimize their adverse impacts on adjoining properties. Buffers should be provided in accordance with Subsection H of this section.

- (1) Minimum distances between streets, parking lots, and residential buildings.
 - (a) Streets and residential buildings (measured from pavement to exterior building walls): 10 feet.
 - (b) Parking lots and residential buildings: 10 feet.
- (2) Design of streets and parking lots.
 - (a) The sizes of parking lots should be harmonious with residential living environments. Large

parking areas should be avoided.

- (b) Parking lots for more than 20 cars shall include planted areas within such parking lots. A minimum of 100 square feet of planting area shall be provided for the first 20 parking spaces, plus 100 square feet of planting area for each 10 additional parking spaces, on a pro rata basis.
- (c) Parking lots shall be designed so that not more than 10 parking spaces are placed in a continuous row without intervening planting area of at least 100 square feet.
- (d) All planting areas proposed for street rights-of-way and parking lots shall be in conformance with Article XI of Chapter 274, Natural Resources Protection, as incorporated by reference in § 455-38 of this chapter.
- (e) Streets and parking areas shall be designed to permit safe movement of automobiles, emergency vehicles, moving vans and trash trucks.
- (f) Streets and parking areas shall be designed with consideration given to plowing and piling of snow.

F. Pedestrian circulation. Pedestrian circulation shall be addressed by all applications for multifamily use. The application shall indicate the locations, dimensions, and materials to be used in providing for adequate pedestrian circulation in the proposed use for the following:

- (1) Provision of safe and adequate pedestrian movement in crossing of streets and parking areas.
- (2) Provision of safe and adequate pedestrian routes to individual residences, with consideration given to privacy requirements of all residences.
- (3) Specific provisions for schoolchildren and safe locations for school bus stops.
- (4) Provisions for safe and adequate access between public transportation facilities and the proposed use, if appropriate.
- (5) Multiple uses of pedestrian routes for recreation purposes, including, when appropriate, provisions for leisure-time walking, jogging and bicycling.
- (6) Aesthetic considerations to the alignments and materials used in construction of pedestrian routes.
- (7) Maintenance considerations of the alignments and materials used in construction of pedestrian routes.
- (8) Compliance with other regulations:
 - (a) With all applicable provisions of Chapter 400, Subdivision and Land Development, pertaining to curbing, walkway dimensions and related matters.
 - (b) See Article XI, Landscaping, in Chapter 274, Natural Resources Protection.

G. Solid waste storage and collection.

- (1) A plan for the storage and collection of trash, garbage and rubbish shall be submitted as part of the application for a multifamily use, indicating methods and proposed locations for the storage and collection of all solid wastes.

- (2) The plan shall be prepared with full consideration given to health, safety and welfare of individual residents of the proposed use, as well as adjoining property owners.
- (3) If common solid waste storage and collection points are proposed, a roofed structure with walls on at least two sides must be provided. Such structures must be architecturally harmonious with other buildings in the proposed use and shall be considered as necessary buildings that shall meet all requirements for such structures as set forth in this chapter and Chapter 400, Subdivision and Land Development.
- H. Landscape architecture regulations. A landscape plan prepared by a registered landscape architect shall be required. See Article XI, Landscaping, of Chapter 274, Natural Resources Protection. **[Amended 6-2-2014 by Ord. No. 422-14]**

§ 455-65. Multifamily developments. [Amended 8-19-2013 by Ord. No. 417-13]

Multifamily uses shall be divided into two categories: multifamily building that involves one single structure, and multifamily development that involves a complex of structures. The following standards shall apply to multifamily developments, except in the Village of Berwyn Districts, where the zoning standards contained in Article V shall apply:

- A. Use regulations. A multifamily development may consist of a unified group of two or more buildings on a lot to be used or occupied for any of the following purposes and no other:
- (1) Apartment house or apartment development.
- (2) Townhouse development, except in the PBO District. **[Amended 1-15-2018 by Ord. No. 433-18]**
- (3) Quadruplex or quadruplex cluster.
- (4) Accessory use on the same lot with and customarily incidental to the foregoing permitted use. The term "accessory use" shall not include a business, except as permitted below where such use is located within an multifamily development, and may include:
- (a) A parking garage or off-street parking lot or area.
- (b) In conjunction with a permitted multifamily development, an accessory office or commercial use such as a restaurant, personal service shop, drugstore, or similar retail store or a public garage operation may be permitted, provided:
- [1] Each such accessory use is conducted entirely within a building constructed as a part of a multifamily development primarily housing residential uses and is located on the ground floor.
- [2] The total area devoted to business use shall not exceed 10% of the total floor area of the building in which located, excluding basement and garage.
- [3] The net floor area of any one store, shop or similar use, except in the case of an office or restaurant, shall not exceed 1,500 square feet.
- (c) Recreational facilities available for use only by residents of the development and their guests. Permitted accessory structures within designated open space areas shall be limited to perimeter fences and decks, patios, and swimming pools.

- [1] Such accessory uses shall be located no closer to the street or street right-of-way line on which the associated building fronts than a line parallel to and coincident with the rear facade of the building, extended to its points of intersection with the side boundaries of the lot or open space area.
 - [2] Such accessory uses shall not be less than 20 feet from any other building or accessory structure located on any other lot or open space area.
- B. Site development standards. The following site development standards shall apply to multifamily developments:
- (1) Minimum lot area. A lot to be developed pursuant to this section shall be not less than one acre in size based upon net lot area. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (2) Density. There shall be a density of not more than eight dwelling units per acre.
 - (3) Building coverage and maximum impervious surface. Coverage of the lot by principal and accessory buildings shall not exceed 35% of the net acreage, and building coverage when combined with other impervious surfaces shall not exceed a maximum impervious surface of 65%. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (4) Open space. All multifamily developments shall have a minimum of 20% of the land reserved for open space areas, and the following provisions shall apply:
 - (a) Open space areas shall be free of obstructions, including watercourses, floodplains, steep slopes, and wetlands or their associated buffers as required by Chapter 274, Natural Resources Protection.
 - (b) Open space areas shall be unpaved and primarily consist of an open grassed area including appropriate trees, bushes, and other vegetation. Such an area shall be contiguous and shall be set back a minimum of 10 feet from any residential uses or residential accessory uses and shall be a minimum of 25 feet in width.
 - (c) Open space areas shall not be located within or be included in calculating any required buffer area or setback areas.
 - (d) Open space areas shall be substantially free of structures, except those designed for recreational purposes, and shall be usable as such.
 - (e) Open space areas shall not contain any required aboveground stormwater facilities, required parking islands, or required parking buffer areas.
 - (f) Open space areas shall be located and designed so as to be easily accessible by all residents of the multifamily dwelling development and shall not be part of any private outdoor living area.
 - (g) When an open space area is designed for active recreation and abuts a public street, it shall be fenced, provided with an earthen berm, or combination thereof, that physically separates it from the street. Appropriate landscaping should be considered in conjunction with such fence, earthen berm, or combination thereof.
 - (h) Maintenance of open space areas shall be the responsibility of the landowners', homeowners', or condominium owners' association.

- (i) Failure to maintain any open space areas shall constitute a violation of this chapter and shall be actionable by the Township, as per the applicable requirements of Subsection H below.

C. Setback requirements.

- (1) No principal building or group of townhouses or other multifamily structure shall be located closer than 50 feet to any adjoining single-family residence district.
- (2) No accessory structure or parking area shall be located closer than 25 feet to any adjoining single-family residence district.
- (3) No interior street, whether public or private, shall be located so as to have a pavement edge closer than 25 feet to any adjoining single-family residence district.

D. General development standards. The following site development standards shall apply in all multifamily developments under this section:

- (1) Building separation. The minimum distance between separate buildings shall be as follows:
 - (a) Between front or facing walls (long walls): 45 feet if both walls provide windows.
 - (b) Where walls do not face each other for any of the distance of either wall or for endwalls (short walls): 25 feet.
- (2) Building dimensions.
 - (a) Height. No building shall exceed 35 feet in height. No accessory building shall exceed 20 feet in height.
 - (b) Building length. No building or building group, such as a townhouse group, shall exceed 160 feet as its greatest dimension in length or depth. No townhouse group shall consist of more than eight dwelling units.
 - (c) Offsets. No more than eight townhouse dwelling units shall be attached in a single group. No more than two contiguous units in any group may be constructed in line, and each unit shall have at least one plan element on any floor which projects or recedes within the wall plane of the facade a minimum dimension of two feet.

E. Off-street parking and vehicular circulation standards.

- (1) General guidelines.
 - (a) A street and parking lot circulation plan shall be prepared indicating vehicular movement patterns and expected peak-hour traffic volumes. Proposed streets shall be classified according to classifications indicated in this chapter and Chapter 400, Subdivision and Land Development.
 - (b) Streets and parking lots shall be planned to minimize traffic movement in the immediate vicinity of residential buildings and yards, with particular attention given to controlling noise and daytime and nighttime visual impacts of vehicles.
 - (c) Streets and parking lots shall be planned to minimize their adverse impacts on adjoining properties. Buffers shall be provided in accordance with § 455-76 and Subsection G, below.

- [1] Minimum distances between streets, internal streets, parking lots, and residential buildings.
 - [a] Streets and/or internal street and residential buildings (measured from pavement to exterior building walls): 20 feet.
 - [b] Parking lots and residential buildings: 20 feet.
- [2] Design of streets and parking lots.
 - [a] The sizes of parking lots should be harmonious with residential living environments. Large parking areas should be avoided.
 - [b] All planting areas proposed for street rights-of-way and parking lots shall be in conformance with Article XI of Chapter 274, Natural Resources Protection.
 - [c] Streets, internal streets, and parking areas shall be designed to permit safe movement of automobiles, emergency vehicles, moving vans and trash trucks.
 - [d] Streets, internal streets, and parking areas shall be designed with consideration given to plowing and piling of snow.
- (d) Pedestrian circulation plan. A pedestrian circulation plan shall be required as a part of all applications for multifamily development. The plan shall indicate the locations, dimensions, and materials to be used in providing for adequate pedestrian circulation in the proposed development. The pedestrian circulation plan shall reflect the following considerations:
 - [1] Provision of safe and adequate pedestrian movement in crossing of streets and parking areas.
 - [2] Provision of safe and adequate pedestrian routes to individual residences, with consideration given to privacy requirements of all residences.
 - [3] Specific provisions for schoolchildren and safe locations for school bus stops.
 - [4] Provisions for safe and adequate access between public transportation facilities and the proposed development, if appropriate.
 - [5] Multiple uses of pedestrian routes for recreation purposes, including, when appropriate, provisions for leisure-time walking, jogging and bicycling.
 - [6] Aesthetic considerations to the alignments and materials used in construction of pedestrian routes.
 - [7] Maintenance considerations of the alignments and materials used in construction of pedestrian routes.
- (2) Compliance with other regulations:
 - (a) With all applicable provisions of Chapter 400, Subdivision and Land Development, pertaining to curbing, walkway dimensions and related matters.
 - (b) See Article XI, Landscaping, in Chapter 274, Natural Resources Protection.

F. Solid waste storage and collection.

- (1) A plan for the storage and collection of trash, garbage and rubbish must be submitted as part of the application for a multifamily development indicating methods and proposed locations for the storage and collection of all solid wastes.
- (2) The plan shall be prepared with full consideration given to health, safety and welfare of individual residents of the proposed development, as well as adjoining property owners.
- (3) If common solid waste storage and collection points are proposed, a roofed structure with walls on at least two sides must be provided. Such structures must be architecturally harmonious with other buildings in the proposed development and shall be considered as accessory buildings, which shall meet all requirements for such structures as set forth in this chapter and Chapter 400, Subdivision and Land Development.

G. Architecture and landscape architecture regulations.

- (1) Architecture. Architectural schematic drawings prepared by an architect registered in the Commonwealth of Pennsylvania shall be required of plans of typical residences and elevations of typical front and rear building facades of residences and accessory buildings.
- (2) Architectural schematic drawings shall reflect the following considerations:
 - (a) The presentation of an overall architectural theme, as well as architectural recognition of individual residences.
 - (b) Compatibility of the proposed project with adjoining properties, particularly residential neighborhoods.
 - (c) Long-term durability and maintenance requirements of building materials.
- (3) Landscape architecture. A landscape plan prepared by a registered landscape architect shall be required in accordance with § 274-38, Article XI, of Chapter 274, Natural Resources Protection, along with the following:
 - (a) The provision of landscaped visual buffer zones that shall be in conformance with Article X of Chapter 274, Natural Resources Protection, as incorporated by reference in § 455-38 of this chapter. The minimum width of such buffer zones shall be 10 feet, except where a multifamily development is adjacent to a single-family residential district, in which case the buffer shall be 25 feet.

H. Ownership and maintenance of open space.

- (1) Application plans shall describe the plan for ownership and maintenance of open space.
- (2) The plan may provide for one of the following:
 - (a) Dedication to and maintenance by the Township if acceptable to the Board of Supervisors.
 - (b) Private ownership and maintenance. The governing documents of a multifamily development shall provide, in perpetuity, for the common and uniform maintenance of all landscaped areas, including open space and buffers.
- (3) The Board of Supervisors may require dedication, easements and/or deed restrictions covering all or portions of the open space and may require the applicant to provide for and establish an

organization for the maintenance of the common open space, organized under or similar to that required by the Uniform Condominium Act, 68 Pa.C.S.A. § 3101 et seq., as amended, and agree that such organization or owners holding undivided interest in the open space shall not dispose of the open space by sale or otherwise (except to a similar organization or group conceived and established to own and maintain open space). In determining whether the organization described in the plan is adequate, the Board of Supervisors shall consider the type and structure of the organization from the standpoint of its capacity to raise revenue, meet obligations and properly maintain facilities. [Amended 6-2-2014 by Ord. No. 422-14]

- (4) In the event the open space is, in the judgment of the Board of Supervisors, permitted to deteriorate or not maintained in reasonable condition in accordance with the plan, the Township shall have the option of taking whatever steps are afforded by law to require compliance with the plan.
- (5) In addition to any other remedies afforded by law, the Township shall have the right, which shall be made part of the agreement with the applicant, to enter upon the common open space and maintain the same for a period not to exceed one year. The purpose of such action by the Township shall be to preserve the taxable values of the property within the development and prevent the common open space from becoming a public nuisance.
- (6) Prior to entering upon the property, the Board of Supervisors shall give written notice of the condition complained of to the property owner and afford the latter a period of not less than 30 days to remedy and correct the same.
- (7) The cost of such maintenance by the Township shall be assessed ratably against the properties within the development which have a right of enjoyment of the open space and shall become a lien upon said properties upon filing thereof as required by law.

I. Application for development.

- (1) Applications for development of multifamily development under this section shall be accompanied by a plan containing the information required by this section and Chapter 400, Subdivision and Land Development. The appropriate application fee and/or escrow prescribed by resolution of the Board of Supervisors from time to time shall be paid in advance, and the applicant shall agree to reimburse the Township for all costs incurred by it in connection with and in direct relation to the review and processing of the application. [Amended 6-2-2014 by Ord. No. 422-14]
- (2) In addition, the following information shall be submitted to the Township:
 - (a) The nature of the landowner's interest in the land to be developed.
 - (b) The density of land use to be allocated to the site to be developed.
 - (c) Location and size of common open space and the form of the organization proposed to own and maintain the common open space.
 - (d) The use and the approximate height, bulk, and location of dwellings and other structures and their proposed construction materials.
 - (e) The feasibility of proposals for the disposition of sanitary waste and stormwater and provision of public water supply.

- (f) The substance of covenants, grants and easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures, including proposed easements or grants for public utilities.
 - (g) A provision for parking of vehicles and the location and width of proposed streets and public ways.
 - (h) A statement which will show the ecological and economic impact of the development on the Township and especially as to the surrounding areas.
 - (i) A traffic impact study, as per § 400-25E of Chapter 400, Subdivision and Land Development, documenting all improvements which may be needed to avoid off-site congestion or hazard which might arise as a result of the construction of the project for which application is made.
 - (j) Such other data as will indicate compliance with the development standards of this section and Chapter 400, Subdivision and Land Development.
- J. Where a multifamily development application involves land development and/or subdivision approval, any approval of the application shall be valid for a time period consistent with MPC Sections 508 and/or 917,²¹³ as the case may be. Where an application does not result in land development and/or subdivision, any approval of an application shall expire if the applicant fails to apply for a building permit or, if no building permit is required, a use and occupancy permit within six months from the date of the decision on the application. [Amended 6-2-2014 by Ord. No. 422-14]

§ 455-66. Outdoor cafes. [Amended 9-21-2009 by Ord. No. 391-09; 6-2-2014 by Ord. No. 422-14; 1-15-2018 by Ord. No. 433-18]

An outdoor cafe shall adhere to the following standards:

- A. Outdoor cafes located on the public sidewalk or right-of-way and outdoor cafes located outside of the public sidewalk or right-of-way shall be permitted as set forth in Figure 3-1.
- B. Prior to constructing or maintaining an outdoor cafe, an applicant shall first apply for and secure a permit from the Township in accordance with the following:
 - (1) An applicant shall submit in writing to the Zoning Officer, along with the required fee, an application including the following:
 - (a) Name and address of the applicant.
 - (b) A scaled plan specifying the location of the outdoor cafe, including a calculation of proposed occupant amount, seating capacity and location, and where applicable, the location of any adjacent parking spaces.
 - (c) Written consent of the property owner, if other than the applicant.
 - (d) Indoor seating capacity.
 - (e) Statement of indemnity as per Subsection B(3) below.

²¹³Editor's Note: See 53 P.S. § 10508 and 53 P.S. § 10917.

- (f) Other similar information as may be required.
 - (g) Information sufficient to demonstrate compliance with Subsections C through H below.
- (2) No action shall be taken on any application for a permit under this section until the application has been completed fully and the application fee, as required by the schedule of fees established and amended by the Township, is paid in full.
 - (3) The applicant shall indemnify and hold harmless the Township, its officers, consultants, employees, and agents from and against any and all actions, suits, demands, payments, costs, and charges for and by reason of the existence of an outdoor cafe, and all damages to persons or property resulting from or in a manner caused by the presence, location, use, operation, installation, maintenance, replacement, or removal of such use, or by the acts or omissions of the employees for agents of the applicant for such use.
- C. The associated restaurant or tavern shall have a minimum indoor seating capacity of 15 persons.
 - D. Outdoor cafe uses shall stop serving customers on or before 9:00 p.m., prevailing time, on Sunday through Thursday and clear all tables of food, beverages, and customers on or before 10:00 p.m. On Friday and Saturday, customer service shall stop at 10:00 p.m., prevailing time, and all tables shall be cleared of food, beverages, and customers on or before 11:00 p.m.
 - E. Where the outdoor cafe is proposed to occur on a public sidewalk or right-of-way, the following additional regulations shall apply:
 - (1) A minimum pedestrian walkway of 48 inches clear is to be maintained in front of the outdoor cafe. The pedestrian walkway shall be kept clean and free of trash and other debris.
 - (2) The minimum height of umbrellas which project into the required minimum pedestrian walkway shall be 80 inches.
 - (3) If on-street parking exists in front of the outdoor cafe, tables on the curbline are prohibited. If on-street parking does not exist, tables are permitted on the curbline, provided that a barrier acceptable to the Township is provided.
 - (4) Trash receptacles acceptable to the Township shall be provided in the outdoor cafe area.
 - (5) Disposable plates, napkins or glasses shall not be utilized in the outdoor cafe.
 - (6) In the event the outdoor cafe is located in an area that the Township or a public utility is performing maintenance or installation, the outdoor cafe shall be closed for the duration of the maintenance or installation.
 - F. This use shall be associated with a principal use of a restaurant or tavern and shall be located abutting that building in which the principal use is located and shall be located on the same lot as that principal use or on the public sidewalk or right-of-way abutting the lot the principal use is located on.
 - G. Where the outdoor cafe is not proposed to occupy the public sidewalk or right-of-way, the outdoor cafe shall be separated from parking areas or traffic flow areas by fencing or buffering. However, in any location where the outdoor cafe is not separated from the flow of traffic or parking areas, no table shall be located within six feet of the curb or the boundary of that area, whichever is closer.
 - H. The outdoor cafe shall provide table service.

- I. The applicant shall maintain the outdoor cafe in accordance with all Township ordinances and federal, state and county laws, as well as rules and regulations promulgated and adopted by the Township which pertain to this use.
- J. The applicant shall remove the outdoor cafe within 30 days after written notice of the Township determines that the use is detrimental to the health, safety and general welfare of the Township or its residents as follows:
 - (1) The outdoor cafe is no longer being used as such.
 - (2) The use has been temporarily or permanently closed for violation of any Township, federal, state, or county law and/or regulation.
 - (3) The use is operated in violation of any ordinance or regulations of the Township.
 - (4) Due to pedestrian traffic changes, the use narrows the sidewalk to the extent that pedestrian traffic is impeded.
- K. In the event that the applicant fails to remove the outdoor cafe within seven days after the thirty-day period after written notice, the Township may proceed to remove and restore the area and charge the applicant for the cost thereof. In this instance, the applicant is entitled to the return of furnishings or equipment so removed, only after the payment for all costs for the removal due to the Township, and requesting the return in writing. The responsibility for removal under the provisions of this section shall be the sole responsibility of the applicant without any obligation or cost assessed against the Township.

§ 455-67. Places of worship.

Places of worship shall be subject to the following regulations:

- A. Minimum lot area shall be 20,000 square feet based upon net lot area. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. The uses permitted under this use shall include:
 - (1) Church, synagogue, or other place of worship.
 - (2) Accessory uses, including the following:
 - (a) Educational use as per § 455-57.
 - (b) Gymnasium/recreational facility.
 - (c) Commercial day-care center as per § 455-53.
 - (d) Rectory or other lodging for minister, priest, rabbi, or similarly qualified individual.
 - (e) Cemetery, when permitted as a special exception.
- C. Accessory uses to a place of worship and on the same lot as the primary use shall meet the following:
 - (1) Accessory uses shall meet area and bulk requirements of the zoning district in which they are located.
 - (2) Accessory uses shall be set back a minimum of 25 feet from a residential use or district and shall

be sufficiently screened to minimize disturbance of residential areas in accordance with § 274-44C, Article XI, of Chapter 274, Natural Resources Protection.

§ 455-68. Planned commercial shopping centers.

A planned commercial shopping center may be permitted in the PBO District after being reviewed and approved as a conditional use and when in accordance with the following standards. These standards shall also apply to any single commercial use in the PBO District when the gross floor area of the use is 20,000 square feet or greater.

- A. Uses permitted in a planned commercial shopping center include retail or services stores, restaurants, banks or other financial institutions, and professional offices.
- B. Primary access shall be from a collector or arterial street as defined in the Township Comprehensive Plan.
- C. When located adjacent to a residentially zoned district or existing residential use, parking, loading, and service areas shall be located at least 50 feet from the adjacent property line.
- D. Establishments storing shopping carts out-of-doors shall provide defined areas on the site for storage of such carts, which shall be clearly marked and designed for their storage.
- E. Trash receptacles shall be provided outside any establishment with takeout food service or convenience shopping.
- F. Sidewalks shall be provided along all street frontage, and pedestrian access to sidewalks on or adjacent to the property shall be provided.

§ 455-69. Riding academies or stables.

- A. Standards. Except for the temporary keeping of horses at the Devon Horse Show grounds, the keeping of horses or ponies shall be subject to the following restrictions and limitations:
 - (1) The minimum lot size on which one horse or pony may be kept shall be two acres of fenced open area, exclusive of those areas occupied by dwellings (not intended to include outbuildings) for temporary or permanent human occupancy.
 - (2) One additional horse or pony may be kept on each additional 1/2 acre of such land, to a limit of four horses or ponies.
 - (3) No portion of the area which the horse or pony may occupy shall be closer than 40 feet from the nearest point of any dwelling for temporary or permanent human occupancy on any adjacent lot.
 - (4) No manure shall be retained on any area within 300 feet of the normal high-water line of a pond, flowing or intermittent stream, or wells used to supply water for human consumption.
 - (5) No facility including rings, jumping, or show areas shall be closer than 50 feet to the street line and residential uses or districts, and 30 feet to other property lines.
 - (6) In the event a bridle path crosses a road, the property owner shall be responsible for posting signage indicating such use, in compliance with standard procedures and regulations for road signs and signage.
 - (7) The perimeter of the lot on which the horse or pony is kept shall be enclosed by a fence

sufficiently substantial to contain the horse or pony at all times. The fence may be constructed of wooden poles or boards, posts and rails, or runners, or the like, or two-strand electrified wires, designed and marked with signs so that they will present no hazard.

- (8) All grains shall be kept in rodentproof containers.
- B. Application required. Prior to keeping or maintaining a horse or pony, application shall be made to the Zoning Officer for a permit. Said applicant shall demonstrate full compliance with the requirements and limitations contained in this section.

§ 455-70. Sale of agricultural products.

The display and sale of agricultural products shall be permitted from a permanent building or from a temporary stand dismantled and removed at the end of the growing season, provided that:

- A. At least 50% of agricultural products displayed for sale shall be produced on the agricultural land contiguous to said building. Agricultural sales shall clearly be subordinate to the principal uses.
- B. Such stand or building shall be located a minimum of 30 feet from any street right-of-way line.
- C. A minimum of three parking spaces or one space for each 300 square feet of building floor area, whichever shall be greater, shall be provided behind the street right-of-way line.
- D. Any sales, display, or parking area shall be at least 75 feet from a side or rear yard lot line.
- E. Signs associated with the sale of farm products shall conform to the sign regulations within this chapter.

§ 455-71. Veterinary clinics.

A veterinary clinic shall be permitted when in accordance with the following standards:

- A. All animal boarding buildings that are not completely enclosed and any outdoor animal pens, stalls, or runways shall be located within the rear yard.
- B. All animal boarding buildings that are not completely enclosed and any outdoor animal pens, stalls or runways shall be a minimum of 50 feet from all lot lines.
- C. All outdoor pasture/recreation areas shall be enclosed to prevent the escape of the animals, and all such enclosures must be set back a minimum of 10 feet from all lot lines.
- D. The sale of related products shall remain accessory to the veterinary clinic and shall occupy no more than 25% of the floor area of the principal building.
- E. The operator of the veterinary clinic shall provide proof of all requisite permits, licenses, and certification to perform medical procedures and for the care and keeping of animals. Sanitary conditions in conformance with appropriate health authorities shall be maintained at all times.

§ 455-72. Accessory dwelling units.

- A. Accessory dwelling units shall be permitted on lots of five acres and greater in the AA and R-1 Zoning Districts.
- B. Accessory dwelling units shall be self-contained, providing customary kitchen and bathroom

facilities.

- C. Accessory dwelling units shall not be attached to the principal dwelling unit.
- D. Accessory dwelling units shall comply with all applicable setbacks for the district in which the dwelling unit is located. [Amended 6-2-2014 by Ord. No. 422-14]
- E. Accessory dwelling units shall have a footprint not to exceed 25% of the principal dwelling unit footprint on the lot. [Amended 12-15-2014 by Ord. No. 424-14]
- F. A maximum of one accessory dwelling unit shall be permitted per lot.
- G. Accessory dwelling units shall be adequately served by sewer and water facilities approved by the Chester County Health Department.
- H. The parking requirements for the additional residential accessory dwelling unit shall be met on the lot on which it is located.
- I. The applicant shall demonstrate how safe and efficient access shall be provided to each dwelling from an existing public road by emergency services equipment.

§ 455-72.1. Floodplains. [Added 5-15-2017 by Ord. No. 428-17]

It shall be unlawful to undertake, or cause to be undertaken, any construction or development within an identified floodplain area, except in accordance with Chapter 220, Floodplains.

§ 455-72.2. Liquid propane tanks. [Added 1-15-2018 by Ord. No. 433-18]

The installation of liquid propane tanks shall be subject to federal, state and county law and regulation.

§ 455-72.3. Sidewalks. [Added 1-15-2018 by Ord. No. 433-18]

- A. Sidewalks shall be required for all subdivision or land development plans and shall comply with § 400-41.
- B. Sidewalks shall be installed along the street frontage of any lot abutting a public or private street where sidewalks do not exist, when new construction of a principal building for the lot occurs or when the principal building for the lot is removed or demolished and replaced. Sidewalks shall comply with the terms of § 400-41.
- C. Notwithstanding the requirements of § 455-72.3B hereinabove and except as provided in § 455-72.3D herein below, in developed areas where adjacent and surrounding properties on the same street as the property of the proposed principal building construction do not have sidewalks, sidewalks shall not be constructed and the applicant shall pay to the Township a fee-in-lieu of the construction of sidewalks in an amount based on the gross area of the sidewalk otherwise required, and as established by resolution of the Board of Supervisors in effect at the time of application. The fee shall be used by the Township for sidewalk construction, repair, and/or maintenance within the Township. [Added 7-17-2023 by Ord. No. 457-23]
- D. Subsection 455-72.3C shall not apply to i) the Village of Berwyn Districts, ii) properties fronting on Lancaster Avenue and iii) in Future Sidewalk Priority Locations and areas designated to Improve Pedestrian Mobility by the Township Comprehensive Plan of April 2018, Map 4-1, Pedestrian and Bicycle Mobility, or successor comprehensive plan or map; where the installation of sidewalk shall

be required in compliance with the terms of § 400-41. In the event an applicant is granted relief from the requirements of this § 455-72.3D, the applicant shall pay to the Township a fee-in-lieu of the construction of sidewalks in an amount based on the gross area of the sidewalk otherwise required, and as established by resolution of the Board of Supervisors in effect at the time of application. The fee shall be used by the Township for sidewalk construction, repair, and/or maintenance within the Township. [Added 7-17-2023 by Ord. No. 457-23]

§ 455-72.4. Short-term rentals. [Added 2-4-2019 by Ord. No. 437-19; amended 11-21-2022 by Ord. No. 453-22]

An owner-occupied short-term dwelling rental unit shall be permitted by conditional use in all zoning districts. A short-term rental of a dwelling unit where the owner does not reside in the dwelling shall be considered as a type of short-term lodging, and shall be permitted by conditional use only in the PBO and VB zoning districts. Both owner-occupied short-term dwelling rental units, and short-term rentals of a dwelling unit where the owner does not reside in the dwelling (considered as a type of short-term lodging), shall be subject to the following regulations:

- A. The short-term rental shall be considered an accessory use and remain incidental and secondary to the principal use of the building as a single-family residence.
- B. The appearance of the building shall not be altered as to detract from its principal purpose as a residential structure, except for purposes of safety in meeting state and Township regulations. A separate guest entrance shall not be created for the short-term rental.
- C. No guest rooms shall contain any cooking facilities. No food shall be served to guests.
- D. The minimum lot size based upon net lot area shall be the minimum lot size for single-family detached dwellings in the respective districts. All area and bulk regulations and general regulations, except as provided otherwise in this section, shall be those that apply to a single-family detached dwelling in the applicable zoning district.
- E. Outdoor parking for guests shall be limited to the available parking areas on the property. In no event shall parking for the short-term rental include space in any street right-of-way or on any lawns or vegetated areas.
- F. Notwithstanding anything contained in any of the applicable district regulations, any short-term rental containing four or more bedrooms shall be served by public sewer. The adequacy of an on-site sewage system for a short-term rental containing three or less bedrooms and the availability and adequacy of sufficient backup area on the lot to accommodate the proposed use shall be certified by the Chester County Health Department or other regulatory authority having jurisdiction on the basis of an on-site inspection or required improvements to the sewage system have been completed or are guaranteed.
- G. The requirements of all other applicable ordinances of the Township, including but not limited to building, electrical, fire, and plumbing codes, shall be met.
- H. No identifying signage shall be permitted on the property.
- I. No guest may be registered for a maximum continuous period in excess of seven consecutive nights. The property shall not be rented for more than 90 days in a calendar year. The owner shall maintain a guest register and shall preserve registration records for a minimum of three years. The register and all records shall be made available for inspection by the Zoning Officer or Code Enforcement Officer at any time.

J. The short-term rental shall have a clearly visible and legible notice posted within the dwelling unit on or adjacent to the front door containing the following information:

- (1) The name of the owner of the unit or the managing agency, agent, property manager, or local contact authorized, in writing, to accept service of the owner of the unit and a telephone number at which that party can be reached on a twenty-four-hour basis.
- (2) The 911 address of the property.
- (3) The maximum number of occupants permitted to stay in the dwelling unit at any one time.
- (4) The maximum number of vehicles allowed to be on the property and the requirement that all guest parking must be in the available parking areas on the property and not in or along any right-of-way or on any lawn or vegetated area.
- (5) The trash pickup day and notification that trash and refuse shall not be left or stored on the exterior of the property.
- (6) Notification that the guests may be cited or fined for creating a disturbance or for violating any other provision of the Township Code, or state or federal law.

K. The short-term rental shall be equipped with the following:

- (1) Smoke detectors in each bedroom.
- (2) Smoke detectors outside each bedroom in the common hallways.
- (3) Smoke detectors on each floor.
- (4) Carbon monoxide detectors if the garage is attached.
- (5) Carbon monoxide detectors if open flame (oil or gas) furnace, gas or wood fireplace, or wood-burning stove.
- (6) Fire extinguisher in kitchen.

L. Upon compliance with all of the requirements of this section and other applicable codes and regulations, the Zoning Officer shall be authorized to issue a zoning permit which shall be valid for a period of one year, unless sooner revoked for violation of any condition imposed by the Board of Supervisors, any misrepresentation of fact made to the Board of Supervisors, Zoning Officer or Code Enforcement Officer in conjunction with the application, permit, and review process, or violation of this section or any provision of this chapter. Within 30 days prior to the expiration of any such permit, the property owner shall make application for renewal of the permit to the Zoning Officer who shall, as a condition of issuance of such renewal, make an inspection of the premises for which the permit is sought to determine continued compliance with this chapter. In the event that the Zoning Officer determines that a violation exists, the permit shall not be renewed until the violation is cured.

M. Upon nonrenewal or revocation of the zoning permit for cause shown, the use of the premises as a short-term rental shall immediately cease, and continuation thereof shall subject the owner to the penalty provisions of this chapter and/or such other legal action as the Township shall determine necessary.

§ 455-72.5. Road widening and curbs. [Added 7-17-2023 by Ord. No. 457-23]

- A. Road widening and curbs shall be required for all subdivision or land development plans and shall comply with §§ 400-34 and 400-41.
- B. Except as provided in § 455-72.5C herein below, road widening and curbs shall be constructed for the length of the street frontage of any lot or parcel when new construction of a principal building occurs or when the principal building on the lot or parcel is removed or demolished and replaced. Road widening and curbs shall comply with §§ 400-34 and 400-41. In the event an applicant is granted relief from the requirements of this § 455-72.5B, the applicant shall pay to the Township a fee-in-lieu of the construction of road widening and/or curbs in an amount based on the gross area of the road widening and/or the lineal footage of the curb otherwise required, and as established by resolution of the Board of Supervisors in effect at the time of application. The fee shall be used by the Township for road and curb construction, maintenance, and/or repair within the Township.
- C. Notwithstanding the requirements of § 455-72.5B hereinabove, in developed areas where the street on which the lot or parcel is located does not comply with the street width requirements of § 400-34 and/or the street does not have curbs, the applicant shall pay to the Township a fee-in-lieu of the construction of street widening and/or curbs in an amount based on the gross area of the street widening and/or lineal footage of the curbs otherwise required, and as established by resolution of the Board of Supervisors in effect at the time of application. The fee shall be used by the Township for road and curb construction, maintenance, and/or repair within the Township.

ARTICLE X
Off-Street Parking and Loading

§ 455-73. Purpose; applicability.

- A. Purpose. The purpose of this article is to:
- (1) Provide adequate parking and loading facilities for all permitted structures and uses.
 - (2) Reduce traffic congestion and promote the allocation of parking and loading spaces to increase public safety and convenience.
- B. Applicability. Each building, structure or use constructed, established, erected, enlarged, modified or altered in any district shall provide and satisfactorily maintain off-street parking spaces and loading facilities in accordance with the requirements of this article, with the exception of more specific provisions established within Article V, Village of Berwyn Districts (VB, VT and VR), and § 455-33.1, DC-Devon Center Overlay District, that pertain specifically to those districts. Throughout this article, the terms "parking lot" and "parking area" are synonymous. The following regulations shall apply to all uses unless otherwise specified. **[Amended 12-13-2016 by Ord. No. 427-16]**

§ 455-74. Off-street parking.

- A. General standards.
- (1) Required off-street parking facilities as accessory to uses listed herein shall be solely for the parking of motor vehicles of residents, patrons, occupants, and/or employees. No motor vehicle repair work of any kind, except emergency service, shall be permitted in parking lots.
 - (2) In no case shall any portion of a public or private street be utilized in complying with the parking requirements of this article, unless as specified in Article V of this chapter.
 - (3) Uses not specifically listed in Subsection I of this section shall comply with the requirements for the most similar use listed in Subsection I of this section as determined by the Zoning Officer.
 - (4) Where the computation of required parking spaces results in a fractional number, the fraction of 1/4 or more shall be counted as one.
 - (5) Whenever a structure is altered or extended or a use is changed, added, or extended, either within an existing structure or on a lot, which increases the parking requirements of Subsection I of this section, then the total parking required for all structures and uses on the lot shall be in accordance with the requirements of Subsection I of this section. **[Amended 1-15-2018 by Ord. No. 433-18]**
 - (6) Where a proposed building or use contains or includes more than one type of use, regardless of whether each use is listed in Subsection I of this section or is unlisted, the number of parking spaces required shall be the sum of the parking requirements for each separate use. If a related or accessory use, such as a restaurant or auditorium, is maintained or operated in connection with a principal use, the off-street parking requirements for the related use shall be in addition to those for the principal use.
 - (7) No parking space shall be used for any use that interferes with its availability as a parking space, including but not limited to vehicle inventory storage, and in no event shall loading areas be

placed or located within required parking spaces or parking aisles which provide access to such spaces. [Amended 2-4-2019 by Ord. No. 437-19]

- (8) All required parking spaces and similar facilities shall be provided and maintained so long as the use exists which such parking spaces and facilities are designed to serve.

B. Off-street parking location.

- (1) All accessory buildings or structures designed or intended to accommodate the parking of vehicles and all off-street parking spaces shall be erected, maintained, or permitted only on the lot on which the principal building and/or use is located. Where adjoining lots are held in the same ownership, and not in single and separate ownership, the owner of the lot on which the principal use is located may establish required off-street parking on the adjoining lot if:
- (a) No principal use exists on the adjoining lot.
 - (b) The separate lots are consolidated by deed into a single lot under one metes and bounds description.
 - (c) A final land development plan is approved consolidating the lots. Resubdivision shall be prohibited unless each proposed lot is capable of providing required parking without creating any nonconformity or the need for a variance.
- (2) Except for required spaces for single-family detached, two-family and semidetached dwellings, which may be located in the driveway of the lot on which the dwelling is constructed, parking spaces shall not be located within any front yard, except in the Planned Business – Office District (PBO), where parking in the front yard may be permitted as a conditional use. [Amended 8-19-2013 by Ord. No. 417-13]
- (3) No parking area, except for permitted access to the site, shall directly abut a public street. Each parking area shall be separated from any street by a curbed and planted strip in accordance with § 274-43, Article XI, of Chapter 274, Natural Resources Protection.
- (4) Except in the VB, VT and VR Districts, and for common driveways, all parking spaces, parking facilities, and access driveways shall be separated and set back from any lot line by a minimum of 10 feet. In the VB, VT and VR Districts, parking spaces, parking facilities, and access driveways shall be separated and set back from any side and rear lot line by a minimum of five feet, except for common driveways where no setback is required. [Amended 8-19-2013 by Ord. No. 417-13]
- (5) Any number of the required parking spaces may be provided within an enclosed structure or garage where permitted by this chapter, which shall meet all the area and bulk building requirements of the district in which it is located.
- (6) Nothing herein shall preclude the location of required off-street parking spaces for multifamily dwelling units (townhouses, apartments, and similar housing types) in common parking areas designed and constructed for this purpose. Parking spaces shall be within 200 feet of the dwelling they serve.
- (7) Nothing herein shall preclude the marking of a separate area for compact cars within a parking lot having more than 50 spaces of 1/10 of such parking area.
- (8) A garage may be located wholly or partly inside the walls of the principal building or may be

attached to the outer walls. If separated from the principal building, the garage shall conform to all accessory building requirements.

C. Off-street parking access.

- (1) Access to and from all off-street parking, loading, and vehicle service areas along any public right-of-way shall consist of well-defined separate or common entrances and exits.
- (2) Access drives or streets crossing the lot line along a public right-of-way shall be limited to two in number along the frontage of each right-of-way, and their center lines shall be placed at least 80 feet apart. On all corner properties, such accesses shall be spaced a minimum of 60 feet, measured at the curbline, between the center line of any such access and the right-of-way line parallel thereto. The separation distance shall not apply to single-family detached, semidetached, and two-family residential lots in a development.
- (3) The minimum width of an aisle providing access to parking spaces shall be as required by Subsection F(1) of this section and shall be provided with adequate radius to accommodate anticipated vehicle types.
- (4) The required sight distance for accessways and streets which open upon any public right-of-way shall comply with the following:

| Posted or Regulated Speed (mph) | Required Sight Distance (feet) |
|--|---|
| 20 | 210 |
| 25 | 290 |
| 30 | 360 |
| 35 | 470 |
| 40 | 570 |
| 45 | 700 |
| 50 | 840 |
| 55 | 980 |

- (5) Parking lots shall be designed so that each and every motor vehicle may proceed to and from a parking space without requiring any other motor vehicle to be moved.
- (6) Parking spaces shall not be designed, constructed, or maintained to permit parked vehicles to be backed into a public or private accessway used or intended for traffic circulation in order to egress such space. In the case of multifamily dwelling developments exceeding 100 units, such off-street parking spaces shall be provided in paved parking compounds located within 200 feet of the dwellings they serve. Parking aisle widths shall be as required by Subsection F(1) of this section.
- (7) Parking shall not be permitted on any public or private streets or accessways which serve as the parking access to buildings or parking spaces, areas or compounds serving such buildings.
- (8) Every development of whatever type shall provide adequate access to all buildings, units, and accessory facilities for firefighting and other emergency equipment. No development accessway shall constitute adequate access if, by virtue of parking design or location, roadway design or

width, limited access from public roads or building layout, the Supervisors determine that adequate access is lacking. Criteria to be considered shall be: [Amended 6-2-2014 by Ord. No. 422-14]

- (a) Access for firefighting equipment and vehicles shall have a minimum unobstructed right-of-way width of 24 feet and a clear, unobstructed and defined paved cartway surface with a minimum width of 20 feet. The extension of fire lane easements shall begin from one or more existing and improved public streets contiguous to the development.
 - (b) Access for firefighting equipment and vehicles which curves, turns or changes directions shall have a minimum center-line radius of 55 feet of pavement. Fire lane easements containing reverse curves shall have a minimum center-line tangent length of 100 feet between curves.
 - (c) Access for firefighting equipment and vehicles which dead-ends shall be terminated with an unobstructed vehicular turnaround or cul-de-sac with a minimum right-of-way radius of 60 feet and shall have a minimum surface radius of 50 feet. Dead-end fire lane easements shall have a maximum length of 400 feet. The location of fire lane easements shall conform to plans for extension of street, sanitary sewers, water mains, storm sewers, and other drainage facilities and public utilities as required by this chapter and other ordinances of the Township and shall provide adequate access to buildings by firemen or other emergency services.
- (9) In the event development access as proposed by the landowner is inadequate for fire and other emergency equipment access in accordance with the criteria established in Subsection C(8) above, fire lanes shall be required in addition to the development streets and accessways proposed by the landowner.
- D. Parking space size and design requirements. The standards of this subsection shall apply to all uses served by off-street parking areas:
- (1) Parking spaces shall be reasonably level, sloping not more than 5% in any direction. A rectangular block of the dimensions specified in Subsection D(2) below shall be provided for all off-street parking spaces, regardless of pull-in angle, and shall not be occupied nor intruded upon by light standards or their foundations, landscape elements, pedestrian walkways, driveways, passageways, or any other feature which results in a reduced area available for occupation by a vehicle.
 - (2) Except as otherwise provided, perpendicular spaces shall have minimum dimensions of nine feet wide by 20 feet long. Parallel parking spaces shall have minimum dimensions of nine feet wide by 24 feet long.
 - (a) Except as otherwise provided, perpendicular spaces for compact cars shall have minimum dimensions of eight feet wide by 18 feet long. Parallel parking spaces for compact cars shall have minimum dimensions of eight feet wide by 22 feet long.
 - (3) All parking spaces shall be marked by white durable painted lines at least four inches wide and extending the length of the space or by curbs or other means to indicate individual spaces. Signs or markers located on the surface within a parking lot shall be used as necessary to ensure efficient and safe traffic operation of the lot. [Amended 12-15-2014 by Ord. No. 424-14]
 - (4) Parking areas shall be constructed to comply with stormwater management requirements

provided for in this chapter and § 400-55 of Chapter 400, Subdivision of Land Development. Concrete curbing shall be provided along the perimeter of all parking lots for any use except parking on single-family or two-family residential lots.

- (5) Parking areas shall be paved with an all-weather surface material, such as asphalt, bituminous concrete, concrete, brick or other similar unit paver, and shall be as approved by the Township Engineer.
- (6) A program of parking area maintenance, including regular sweeping operations, shall be conducted on all parking areas and facilities.
- (7) Except as otherwise provided, in residential garages, perpendicular spaces shall have minimum dimensions of 10 feet wide by 20 feet long. Parallel parking spaces shall have minimum dimensions of 10 feet wide by 24 feet long. [Added 1-15-2018 by Ord. No. 433-18]

E. Handicapped parking.

- (1) Accessible parking spaces and routes for use by handicapped drivers shall be provided in accordance with the requirements specified in Appendix I, "Handicapped Parking and Access Route Regulations Mandated by the Americans with Disabilities Act of 1990."
- (2) Parking spaces for use by handicapped drivers shall be located to minimize the distance between such spaces and the buildings or a wheelchair-accessible entrance to the facility served. Curb ramps shall be provided to permit access from the parking lot to the sidewalk or building entrance.
- (3) Handicapped spaces shall be located so that users are not required to wheel or walk behind parked vehicles.

F. Traffic lane and driveway dimensions.

- (1) Traffic aisles and other vehicular accessways designed for circulation of motor vehicles within parking lots shall have the following minimum widths:

| Angle of Parking (degrees) | Accessway (aisle) Width | |
|-------------------------------|-------------------------|-------------------|
| | One-Way (feet) | Two-Way (feet) |
| 90° | 22 | 24 |
| 60° | 18 | 24 |
| 45° | 18 | 24 |
| 30° | 18 | 24 |

- (2) Accessways providing access to parking areas from a public or private street shall be of adequate length to accommodate off-street stacking of vehicles waiting to enter the parking area. The stacking area shall accommodate at least one vehicle, plus one vehicle for every 25 spaces provided in the parking area, up to 20 stacking spaces, and shall be designed and located so as not to block the free flow of vehicles in the parking area.
- (3) Traffic channelization shall be planned in such a way that a main driving aisle from which vehicles can flow into parking areas is remote from the primary building(s) to avoid traffic

conflict in front of the primary building(s).

- (4) Parking areas shall be designed so that a vehicle within the parking area will not have to enter a public street to move from one location to another location within the parking area.
- G. Minimum number of required off-street parking spaces per land use. All owners and developers shall provide, for each land use, as a minimum, sufficient off-street parking spaces to conform with Subsections H and I below. Proposed parking areas, which are greatly in excess of those required hereunder, shall be discouraged.
- H. Employee off-street parking. Except for office buildings and business services, one off-street parking space shall be provided for each employee. "Employee" includes principals, officers, executives, owners, staff members, and similar classifications. In the case of shifts, adequate allowance shall be made for overlapping of arrivals and departures. [Amended 8-19-2013 by Ord. No. 417-13]
- I. Minimum off-street parking spaces. In addition to the number of spaces that must be provided for employees pursuant to Subsection H, additional spaces shall be provided by the application of the appropriate formula for each use as listed in this subsection. If a related or accessory use, such as a restaurant or auditorium, in connection with the principal use is open to the public, the off-street parking requirements for the related use shall be in addition to that for the principal use. [Amended 8-19-2013 by Ord. No. 417-13; 1-15-2018 by Ord. No. 433-18; 11-21-2022 by Ord. No. 453-22]

| Type of Use | Number of Parking Spaces |
|---|--|
| Residential Uses | |
| In the Village of Berwyn Districts: | |
| Single-family detached, single-family attached dwellings, semidetached dwellings and townhouses | 2.0 spaces per dwelling unit |
| Multifamily dwellings (multifamily building, multifamily development, apartments) | 1.75 spaces per dwelling unit |
| In all other districts: | |
| Single-family detached, single-family attached dwellings, semidetached dwellings, mobile homes used as permanent residences | 2.0 spaces per dwelling unit |
| Multifamily dwellings (multifamily building, multifamily development, apartments) | 2.0 spaces per dwelling unit, plus 1.0 space per 5.0 units for visitor parking where 10.0 or more units are proposed |
| Townhouses | 2.0 spaces per dwelling unit, plus 1.0 space per 5.0 dwelling units for visitor parking where 10.0 or more dwelling units are proposed |
| Continued care retirement community | 1.0 space per 3.0 beds, or 1.0 space per dwelling unit, plus 1 space per employee on the largest shift |
| Office and Professional Uses | |

| Type of Use | Number of Parking Spaces |
|---|--|
| Office buildings and business services | 4.0 spaces per 1,000 square feet of gross usable floor area |
| Research and development facilities and laboratories | 3.0 spaces per 1,000 square feet of gross usable floor area |
| Commercial Uses and Services | |
| Automobile sales (in addition to service requirements, if applicable) | 1.0 space for each 400 square feet of gross usable floor area (Outdoor display areas for auto sales shall not be included in required parking spaces.) |
| Bank or other financial institution | 4.0 spaces per 1,000 square feet of gross usable floor area |
| Bed-and-breakfast | 1 space per guest room, plus 1 space per employee, plus 2 spaces for the resident owner(s) |
| Car wash | 3.0 stacking spaces per bay, plus 2.0 drying spaces per bay |
| Convenience store | 5.0 spaces per 1,000 square feet of gross usable floor area |
| Personal services (e.g., dry cleaners, beauty shop, shoe repair, photo shop, copy center) | 4.0 spaces per 1,000 square feet of gross usable floor area |
| Funeral home | 20.0 spaces per 1,000 square feet occupied by viewing rooms or 1.0 space per 4.0 seats, whichever is greater |
| Gas station (in addition to service station requirement and convenience store requirements, where applicable) | 1.0 space per pump, plus 2.0 stacking spaces for each pump island |
| Home occupation, major | Minimum number required for residence, plus no more than 5.0 spaces for employees or visitors as specified in § 455-61 |
| Hotel, motel | 1.0 space per rental unit, plus 6.0 spaces per 50 units, plus spaces for each accessory use |
| Laundromat | 10.0 spaces per 1,000 square feet of gross usable floor area |
| Lumberyard | 3.0 spaces per 1,000 square feet of gross usable floor area in sales or display area, plus 1.0 space per 1,000 square feet of gross usable floor area of warehouse |
| Veterinary clinic | 4.0 spaces per veterinarian |
| Commercial nursery | 1.0 space per 200 square feet of sales area |

| Type of Use | Number of Parking Spaces |
|---|--|
| Restaurant or tavern | 1.0 space per 3 seats provided for patrons, customers, or guests (Where establishments have benches, 3 linear feet of bench shall equal 1 seat. In areas within establishments that have no fixed seats, 150 square feet of gross floor area shall equal 1 seat.) |
| Retail use, perishable items | 3.0 spaces per 1,000 square feet of sales area |
| Retail use, nonperishable items | 4.0 spaces per 1,000 square feet of sales area |
| Service station, repair facility, auto body repair service (in addition to gas station requirements, if applicable) | 3.0 spaces per garage bay |
| Supermarket/grocery store | 1.0 space per 150 square feet of sales area |
| Industrial Uses | |
| Manufacturing/industrial uses less than 100,000 square feet of gross usable floor area | 2.5 spaces per 1,000 square feet of gross usable floor area |
| Manufacturing/industrial uses equal to or greater than 100,000 square feet of gross usable floor area | 2.5 spaces per 1,000 square feet of gross usable floor area for first 100,000 square feet of gross usable floor area and 2.0 spaces per each additional 1,000 square feet of gross usable floor area above 100,000 |
| Quarrying, mining | 1.0 space per employee |
| Warehouse, wholesale sales, freight terminal | 1.0 space per 1,000 square feet of gross usable floor area |
| Institutional and Public Uses | |
| Community college or any college without on-campus housing | 10.0 spaces per 1,000 square feet of gross usable floor area in classroom buildings |
| College or university with on-campus housing | 1.0 space per on-campus residential unit, plus 2.0 spaces per 1,000 square feet of gross usable floor area in classroom buildings |
| Commercial, trade, professional, music or dance school | 1.0 space per instructor or employee, plus 1.0 space per student at capacity |
| Community center, conference center | 12.0 spaces per 1,000 square feet of gross usable floor area in main assembly hall |
| Day-care center | 3.0 spaces per 1,000 square feet of gross usable floor area, plus 1.0 unloading space per 10 children or persons the center is licensed to accommodate |
| Elementary school and middle school | 1.0 space per employee, whether full- or part-time, plus 1.0 space per 20 students |

| Type of Use | Number of Parking Spaces |
|-------------------------------------|--|
| High school | 1.0 space per classroom, plus 1.0 space per 10 students in grades 11 and 12, plus 1.0 space per 10 fixed seats in the auditorium |
| Hospital | 1.0 space per bed |
| Library | 3.0 spaces per 1,000 square feet of gross usable floor area |
| Place of worship | 1.0 space per every 3 seats |
| Public service/utility facility | 2.0 spaces per facility |
| Public transit station | Varies based on facility and service area; required spaces to be determined by the Board of Supervisors |
| Recreational Uses | |
| Bowling alley | 4.0 spaces per lane |
| Theater | 1.0 space per 3 seats |
| Country club/golf club | 5.0 spaces per tee, plus requirements for ancillary uses, if applicable |
| Health club/spa | 5.0 spaces per 1,000 square feet of gross usable floor area |
| Indoor amusement arcade | 5.0 spaces per 1,000 square feet of gross usable floor area |
| Public park | 1.0 space per 4 visitors estimated peak service |
| Stadium, outdoor theater, gymnasium | 1.0 space per 3 seats |
| Swim club, public pool | 10.0 spaces per 1,000 square feet of swimming pool floor |

J. Off-street parking regulations and design standards in the Village Business District (VB) and Village Transition District (VT). See § 455-25 of this chapter. [Amended 8-19-2013 by Ord. No. 417-13]

§ 455-75. Off-street loading.

- A. General regulations for nonresidential uses. Each building, structure or use constructed, established, erected, enlarged, modified or altered in any district shall provide and satisfactorily maintain off-street loading spaces in accordance with the requirements of this section.
 - (1) Location.
 - (a) All required loading areas shall be located on the same lot as the use to be served, and no portion of the vehicle shall project into any traffic lane. No loading area for vehicles of more than two tons' capacity shall be located less than 100 feet from any residential use or district, unless expressly permitted by the Supervisors for a commercial use in the VB District. No permitted or required loading area shall be located within the accessory structure setback.

- (b) Loading areas shall not occupy parking spaces, traffic aisles within a parking lot, driveways, accessways, or any public or private cartway.
 - (c) Loading areas shall be located in rear or side yard areas. No loading facilities shall be constructed between the building setback line and a street right-of-way line or within any required yard setback areas.
- (2) Access. Each required off-street loading area shall be designed with appropriate means of vehicular access to an interior drive in a manner which will least interfere with traffic movements and shall be subject to the approval of the Township Engineer.
- (3) Repair and service. No storage of any kind nor motor vehicle repair work of any kind, except emergency work, shall be permitted within any required loading area.
- (4) Landscaping. Loading areas shall have perimeter landscaping in accordance with § 274-43, Article XI, of Chapter 274, Natural Resources Protection.
- (5) Interior circulation. Interior accessways shall be designed so as to prevent blockage of vehicles entering or leaving the site. Areas designed for loading and unloading, refuse collection, fuel delivery, and other service vehicles shall be so arranged as to prevent blocking or interfering with accessways, the use of vehicular parking facilities or pedestrianways and to prevent backing out into a street.
- (6) Paving. All loading areas and access to loading areas shall have a dust-free surface over the entire area customarily used by delivery vehicles for parking and maneuvering. The surface may be asphalt, concrete, nonpolluting oil-sealed gravel, compacted gravel, or any other dust-free surfacing material which meets the approval of the Board of Supervisors.
- (7) Failure to utilize the authorized off-street loading spaces and areas which results in blocking or interfering with any public traffic lane, public street or right-of-way is strictly prohibited. Two or more instances of such blocking or interference in any trailing twelve-month period shall be considered a continuing violation subject to zoning enforcement. **[Added 11-6-2017 by Ord. No. 431-17]**
- B. Required minimum number and dimensions of off-street loading berths. Requirements of this subsection shall apply to all business, personal service, industrial and commercial uses and to all uses that include business, personal service, industrial and commercial uses and other nonresidential uses as herein specified and to all expansions of such existing uses resulting in a gross floor area gain of 10% or more.
- (1) Size. Loading berths shall be sized according to the type of facility served, as indicated below:
- (a) Large loading berth:
- [1] Required for factories, warehouses, distribution centers, shopping centers, supermarkets, retail stores offering large products (e.g., major home appliances, furniture), automobile and farm implement dealers.
- [2] Minimum of 14 feet by 60 feet with 15 feet of overhead clearance.
- (b) Small loading berth:
- [1] Required for all uses not specified in Subsection B(1)(a)[1] above.

- [2] Minimum of 12 feet by 30 feet with 15 feet of overhead clearance.
- (2) Loading berths calculated on gross floor area shall be provided as follows:

| Aggregate Gross Floor Area Devoted to | Each Use (square feet) | Minimum Required Number of Berths |
|--|-----------------------------------|--|
| | 6,000 to 19,000 | 1 |
| | 20,000 to 39,999 | 2 |
| | 40,000 to 79,999 | 3 |
| | 80,000 to 139,999 | 4 |
| For each additional 80,000 | | 1 additional berth |

- C. General regulations for residential uses. The requirements of this subsection shall apply to all residential uses of more than five units, except single-family detached, two-family, and semidetached dwellings.
- (1) Each building, structure, or use constructed, established, erected, enlarged, modified, or altered in any district shall provide and satisfactorily maintain off-street space for loading and unloading.
 - (2) The minimum size of a loading space shall be 50 feet in length and 12 feet in width, with an overhead clearance of 15 feet, exclusive of drives and maneuvering space, and shall be located entirely on the lot being served.
 - (3) For each 24 dwelling units or fraction thereof, one loading space shall be provided, which shall be located not more than 100 feet from the building or unit being served.
 - (4) No loading space shall be located within a street, whether public or private, or in an accessway, driveway, or in any required parking aisle or spaces. All loading spaces shall be line-striped with white or yellow paint and clearly marked and maintained with the words "Loading/ Unloading Only."
 - (5) All loading spaces shall be served by streets, public or private, or accessways of the same specifications applicable to parking spaces.

§ 455-76. Landscaping, screening and buffering.

Landscaping standards are located in Article XI of Chapter 274, Natural Resources Protection. Screening and buffering standards for this chapter shall be in compliance with the standards set forth in Chapter 274, Natural Resource Protection, as incorporated by reference in § 455-38 of this chapter.

ARTICLE XI Signs

[Amended 7-18-2011 by Ord. No. 403-11; 6-4-2012 by Ord. No. 408-12; 6-3-2013 by Ord. No. 414-13; 8-19-2013 by Ord. No. 417-13; 6-22-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14; 12-13-2016 by Ord. No. 427-16; 1-15-2018 by Ord. No. 433-18; 2-4-2019 by Ord. No. 437-19]

§ 455-77. Purpose; intent.

It is the purpose of this article to regulate all signs within the Township, to ensure that they are appropriate and in keeping with the appearance of the affected property and surrounding environment and to protect the public health, safety, morals and general welfare. In addition, the intent of this article is to:

- A. Encourage good design in the context of the overall image and visual environment of the Township.
- B. Enhance the appearance of the zoning district, taking into account the nature of the uses permitted within the zoning district, and thus stimulate as well as protect the economic viability of the Township.
- C. Provide for signage which is adequate, but not excessive, and which displays a message through use of pictures, symbols, and logos for rapid comprehension by the public.
- D. Prohibit the erection of signs in such numbers, sizes, designs and locations as may create a hazard to pedestrians and motorists.
- E. Avoid excessive competition for large multiple signs, so that permitted signs provide adequate identification and direction while minimizing clutter, unsightliness and confusion.
- F. Allow for the coordination of signs to reflect the character of the architecture, landscape and visual themes that the Township is supporting.
- G. Promote signs which are designed utilizing clear, crisp lettering and bold, uncomplicated symbols which will identify a business or activity efficiently and also enhance the area where located as well as the general appearance of the street or town.
- H. Prevent sign overload and excessively large signs that create a visually chaotic and competitive situation within the business community.

§ 455-78. Conformance.

Any sign hereafter erected or maintained after the effective date of this article shall conform to the provisions of this article and any other ordinance or regulations of the Township relating thereto.

§ 455-79. Prohibited signs.

- A. Signs are prohibited in all zoning districts unless:
 - (1) Constructed pursuant to a valid sign permit, when required under this article; and
 - (2) Authorized under this article.
- B. The following signs or lighting features are prohibited in all zoning districts:

- (1) Any sign by color, shape, location, or manner of illuminations which may be confused with or construed as a traffic control device or which hides from view any traffic or street sign or signal.
- (2) Any sign attached to a utility pole, parking meter, traffic signpost, traffic signal or control device, street sign, historical marker, tree or rock.
- (3) Signs erected without the permission of the property owner or authorized agent.
- (4) Signs that create a hazard by obstructing the clear view of vehicles and pedestrian traffic.
- (5) Signs permitted in accordance with §§ 455-81, 455-82 and 455-83 that are not designed, assembled and installed by a licensed sign company.
- (6) Illuminated tubing or strings of lights, excluding temporary signs for traditional seasonal decorations, which outline rooflines, doors, windows, or wall edges.
- (7) Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exitway.
- (8) Vehicular signs.
- (9) Abandoned or dilapidated signs.
- (10) Revolving signs.
- (11) Festoon signs.
- (12) Beacon lights.
- (13) Roof signs.
- (14) Bench signs.
- (15) Flashing signs.
- (16) Any sign inconsistent with provisions of this article.

§ 455-80. Authorized signs.

- A. The following signs are authorized in every zoning district, shall not require a sign permit, and shall not be included in the determination of type, number or area of permanent signs allowed on a property within a zoning district:
 - (1) Government signs, which include, but are not limited to:
 - (a) Traffic control devices and signs on private or public property that are erected and maintained to comply with the Federal Highway Administration, the Pennsylvania Department of Transportation or other federal, state or local law or regulation.
 - (b) Identification signs. Each property owner shall mark their property using numerals that identify the address of the property so that public safety departments can easily identify the address from the public street. The size and location of the identifying numerals and letters, if any, shall be proportional to the size of the building and the distance from the street to the building. In cases where the building is not located within view of the public street, the identifier shall be located on the mailbox or other suitable device such that it is

visible from the street. An address sign shall not contain any number, symbol, picture, logo, or marking other than the address of the property.

- (c) Where a federal, state or local law requires a property owner to post a sign on the owner's property to warn of a danger, set forth safety regulations, to prohibit access to the property, either generally or specifically, or to otherwise comply with federal, state or local law, the owner shall comply with the federal, state or local law by posting such sign(s) on the property under the terms of the federal, state or local law.
 - (d) A flag that has been adopted by the federal government, this commonwealth or the local government may be displayed as provided under the law that adopts or regulates its use.
- (2) Temporary signs.
- (a) One temporary sign per 1/4 acre of net lot area of property may be located on the owner's property for a period of 30 days prior to an election involving a voter referendum or candidates for a federal, state or local office that represents the district in which the property is located.
 - (b) One temporary sign may be located on the property when:
 - [1] That property is being offered for sale through a licensed real estate agent;
 - [2] If not offered for sale through a real estate agent, when the property is offered for sale through advertising; and
 - [3] For a period of 15 days following the date on which a contract of sale has been executed by a person purchasing the property.
 - (c) One temporary sign may be located on the owner's property on a day when the property owner is opening the property to the public; provided, however, the owner may not use this type of sign in the AA, R-1, R-2, R-3, R-4, R-5 and VR Residential Zoning Districts on more than two days in a calendar year and may not use this type of sign in the PBO, VB or VT Zoning Districts for more than 30 cumulative days in a calendar year.
 - (d) A property owner may place a sign no larger than 8.5 inches by 11 inches in one window on the property at any time.
 - (e) A property owner may place one sign on the property at any time.
 - (f) A property owner exercising the right to place temporary signs on a property as described in this subsection shall limit the total number of signs on the property per 1/4 acre of net lot area at any one time to two temporary signs plus the one temporary sign permitted in Subsection A(2)(d).
 - (g) The sign face of any temporary sign, unless otherwise limited in Subsection A(2), shall not exceed three square feet.
 - (h) Temporary signs shall not be located within any dedicated right-of-way.
 - (i) Temporary signs shall not illuminated.
- B. For purposes of this section, the lessor of a property is considered the property owner. If there are multiple lessors of a property, then each lessor shall have the same rights and duties as the property

owner, and the size of the property shall be deemed to be the property that the lessor has the sole right to occupy under the lease.

§ 455-81. Specific sign regulations.

The following sign regulations shall apply to all zoning districts as indicated. All signs in this section are permanent signs and require a sign permit, unless otherwise specified.

A. Residential districts.

- (1) Scope. This subsection sets forth the permitted signs in the AA, R-1, R-2, R-3, R-4, R-5 and VR Residential Zoning Districts.
- (2) Number and size.
 - (a) For a major home occupation accessory use, one sign is permitted per the approved accessory use. Each sign shall have a total sign area of not more than two square feet.
 - (b) For residential developments, one sign is permitted at each entrance to the development. Each sign shall have a total sign area of no more than 15 square feet. A leasing office on the property is permitted one wall sign not to exceed six square feet in sign area.
 - (c) For permitted nonresidential uses, one sign is permitted per property held in single and separate ownership. Where the property fronts on more than one street, one sign may be located on each street frontage, provided a minimum street frontage of 150 feet is maintained between signs. Each sign shall have a total sign area of not more than 15 square feet.
- (3) Location. Permitted signs may be anywhere on the property, except within a street right-of-way.
- (4) Height. The following maximum heights shall apply to signs:
 - (a) Freestanding signs shall not exceed a sign height of eight feet above mean grade.
 - (b) Wall signs shall be flush mounted and shall not project above the roofline.
- (5) Illumination. Signs shall not be illuminated.

B. PBO Zoning District.

- (1) Scope. This subsection sets forth the permitted signs in the PBO Zoning District.
- (2) Residential uses. Where a use permitted in the AA, R-1, R-2, R-3, R-4, R-5 or VR Residential Zoning Districts is also permitted in the PBO Zoning District, the signs shall be compliant with the requirements of § 455-81A.
- (3) Commercial uses.
 - (a) Sign area. The total sign area of all signs placed on a lot or on any one premises shall not exceed 1.5 square feet for each one linear foot of the front building facade. Where a building fronts on more than one street, only one street frontage may be used to calculate the total allowable sign area. The total sign area for any one sign, regardless of type, shall not exceed 60 square feet, unless otherwise specified in this section.
 - [1] Permanent window signs shall not be included in the computation of total permitted

sign area. The total area of all window signs, including both temporary and permanent window signs, shall be limited to 25% of the glass area and shall not obscure views from the outside to the interior of the commercial use.

- (b) Wall signs. Up to two wall signs shall be permitted per use in a building per street frontage. The total sign area for any one wall sign shall not exceed 60 square feet.
- (c) Awning signs.
 - [1] Markings shall not exceed a height of eight inches and shall be located only on the front and side vertical faces of the awning, except as provided for in this section. The minimum clearance between the vertical face and the walkway shall not be less than 10 feet. Awnings shall not project more than five feet from the face of the building, except where located above an entrance to a building, in which case the maximum projection shall not exceed 10 feet. All awnings must be a minimum of three feet from the curbline.
 - [2] Markings shall be permitted on the sloped surface of an awning, provided that the commercial use served by the awning sign does not use a wall sign, and provided further that the markings on the sloped surface of an awning shall not exceed a height of 40 inches and shall not exceed more than 25% of the area of the sloped surface.
 - [3] Awning signs shall not be internally illuminated, but may be illuminated by lights installed above the awning, in conformance with the illumination standards of § 455-82D of this article.
 - [4] Awning signs may be fixed or equipped with a mechanism for raising and holding an awning sign in a retracted position against the building.
- (d) Marquee signs. One marquee sign containing changeable markings shall be permitted in addition to the otherwise permitted sign area under § 455-81B(3)(a), provided that the total sign area shall not exceed 200 square feet. Such sign shall be required at all times to maintain a minimum vertical clearance of 10 feet. Marquee signs shall be exempt from the lighting requirements as set forth in § 455-82D.
- (e) Freestanding signs. For each building, mixed-use development, or group of contiguous buildings under single ownership or control, one freestanding sign shall be permitted. Where the premises has more than one street frontage, one freestanding sign shall be permitted for each street frontage, provided both are ground signs and that a minimum street frontage of 150 feet is maintained between signs.
 - [1] Area and height regulation.
 - [a] Pole signs. Pole signs shall not exceed a sign area of either 25 square feet or a sign height of 15 feet above mean grade.
 - [b] Ground signs. Ground signs shall not exceed a sign area of either 30 square feet or a sign height of eight feet above mean grade. Ground signs shall be constructed so that the maximum height from mean grade to the lowest area of the sign face does not exceed four feet.
 - [2] Location. Freestanding signs shall not be located within the right-of-way and shall be set back a minimum distance of 10 feet from the street cartway. No sign shall be so

located as to present a hazard to motorists or pedestrians.

- (f) Projecting signs. One projecting sign shall be permitted per ground-floor commercial use, plus one for any building entrance for access by the public not serving a ground-floor establishment. Projecting signs shall not project more than four feet from the face of the building. The total sign area for any one projecting sign shall not exceed 16 square feet. No part of the sign shall be less than eight nor more than 12 feet above ground or walkway level. Not more than one projecting sign per establishment per street frontage shall be permitted, and no projecting signs shall be permitted within 25 feet of another. Projecting signs shall not be internally illuminated, but may be indirectly illuminated in accordance with the provisions of this article.
- (g) Portable signs. A limit of one portable sign per commercial use shall be permitted and may be placed within the sidewalk, so long as each portable sign shall not exceed nine square feet, and a minimum clear walking width of four feet shall be maintained on the sidewalk. Portable signs shall be constructed of weather-resistant materials, such as wood, plastic or metal. No portable sign shall contain foil, mirrors, bare metal, or other materials that could create hazardous conditions to motorists, bicyclists, or pedestrians. No portable sign may contain lights of any kind. Portable signs must be sufficiently weighted or constructed to keep the sign in the approved location. All portable sign shall be taken indoors at the close of each business day. The area of portable signs shall not be included in the computation of total permitted sign area.
- (h) Permanent banner signs. Permanent banner signs shall be subject to the following standards:
 - [1] Only one banner sign is permitted per commercial use in a building.
 - [2] The maximum area of a banner shall be 25 square feet.
 - [3] Mounting height. Bottom of banners shall be mounted at least 14 feet above grade or sidewalk to avoid intrusion into a projecting sign or awning sign zone and shall not extend beyond the third story of the structure.
 - [4] Projection. Banners shall not project more than three feet into the public right-of-way.
 - [5] Banner signs shall be spaced no closer than 20 feet apart.
- (4) Off-premises signs shall be permitted when authorized as a conditional use, subject to the following provisions:
 - (a) Signage shall be not more than 25 feet in height.
 - (b) Sign area.
 - [1] On a lot fronting on a street with a speed limit of 40 miles per hour or less, no off-premises sign shall be permitted to exceed a maximum area of 50 square feet, including the border and trim of the sign, but excluding supports.
 - [2] On a lot fronting on a street with a speed limit of more than 40 miles per hour, no off-premises sign shall be permitted to exceed a maximum area of 75 square feet, including border and trim, but excluding supports.

- [3] A sign having two sides back-to-back or a V-shaped sign with a horizontal angle not greater than 90° is permitted one per side for a total maximum combined area of twice that permitted in this section, except that no sign shall exceed a maximum combined sign area in excess of 150 square feet.
- (c) No more than one off-premises sign shall be placed on a lot.
- (d) No off-premises sign shall be erected within 200 feet of any other freestanding or off-premises sign.
- (e) Off-premises signs shall be set back not more than 35 feet nor less than 10 feet from the property's boundary with the public right-of-way or street, whichever is closer to the center point of the property, and not less than 15 feet from any neighboring property boundary.
- (f) If the sign is to have exterior lighting, a lighting plan must be submitted and shall include the following information:
- [1] A site plan containing a layout of the proposed fixture locations and type.
- [2] Catalog cuts and photometrics for each light fixture, the method of energizing each light fixture, a listing of the hours of operation and a plan showing the photometrics for the entire site based upon the proposed placement of the light fixtures. A description of glare-reduction devices, lamps, wattage, control devices, mounting heights, pole and mounting methods, as appropriate for each fixture, should also be included.
- [3] Setting forth of the production of glare that is perceptual beyond the property line of the lot on which the sign lighting is located will be minimized with the use of shielding, luminaire reflectors or other suitable measures, minimizing the intensity of lighting so that no more than 0.5 footcandle of light from signs shall fall upon any residential lot between the hours of 9:00 p.m. and 6:00 a.m., prevailing time.
- (5) Animated signs shall be permitted when authorized as a conditional use, subject to the following provisions:
- (a) Signs shall be no more than eight feet in height.
- (b) Sign area shall not be permitted to exceed 10 square feet.
- (c) No more than one animated sign shall be placed on an individual lot.
- (d) No animated sign shall be erected within 200 feet of any other animated sign.
- (e) Animated signs shall be set back not more than 35 feet nor less than 10 feet from the property's boundary with the public right-of-way or street, whichever is closer to the center point of the property, and not less than 15 feet from any neighboring property boundary.
- (f) Operational limits.
- [1] The duration of each message shall be a minimum of five seconds.
- [2] The transition time between changes in the sign face or messages shall be less than one second.
- [3] The sign must be equipped with brightness controls so that the brightness of the sign

has the ability to respond to changes in the outside light levels.

- [4] Except for traffic control signals, animated signs are prohibited within 100 feet of a traffic control device.
- (6) Transportation use signs.
 - (a) Automobile gasoline/service stations. Automobile gasoline/service stations shall be permitted signage, subject to the following regulations:
 - [1] Wall signs. There shall be no more than two wall signs for each principal building. A wall sign shall not exceed 25 square feet in sign area. Where a building fronts on more than one street, one additional wall sign may be erected along each side street frontage. Additional wall signs identifying service provided on the premises shall be permitted, provided such signs shall not exceed 10 square feet in sign area and are located directly above the area where service is performed. In no case shall a wall sign be higher than 15 feet above existing grade or project above any cornice, roofline, parapet wall, or building facade.
 - [2] Freestanding signs. Gasoline service stations shall be permitted a maximum of one freestanding ground sign for each location.
 - [a] Area and height regulations. Freestanding signs shall not exceed a sign height of 10 feet above mean grade or a sign area of 30 square feet, except that, where gasoline is offered for sale, an additional 20 square feet of sign area shall be permitted for pricing information.
 - [b] Location. Freestanding signs shall be located in accordance with Subsection B(3)(e)[2] of this section.
 - [3] Gasoline pump island canopies. Gasoline pump island canopies may be painted with colors that are consistent with brand recognition. No markings of any kind shall be permitted on gasoline pump island canopy structures.
 - [4] Exempt signs. The following signs shall be allowed without a sign permit and shall not be included in the determination of type, number or area of permanent signs permitted for gasoline and motor vehicle service stations:
 - [a] Signs on pump islands. Individual signs shall not exceed three square feet in size.
 - [b] Any sign required by fire and safety regulations.
 - (b) Automobile dealership signs. Automobile dealership signs shall be subject to the following:
 - [1] Wall signs.
 - [a] Number. There shall be no more than two wall signs for each principal building.
 - [b] Area. The gross surface area of a wall sign shall not exceed 10% of the area of the building wall, including doors and windows, to which the sign is to be affixed or 64 square feet, whichever is smaller, if such wall sign source is visible or exposed on the face or sides of the characters.

[c] Location. A wall sign may be located on the outermost wall of any principal building, but shall not project more than 16 inches from the wall to which the sign is to be affixed. The location and arrangement of all wall signs shall be subject to the reviews and approval of the Zoning Officer.

[d] Height. A wall sign shall not project higher than the parapet line of the wall to which the sign is affixed or 20 feet, as measured from the base of the building wall to which the sign is to be affixed, whichever is lower.

[2] Ground signs.

[a] Number.

[i] Primary ground signs. There shall not be more than one principal ground sign for each automobile dealership.

[ii] Secondary ground signs. Secondary ground signs shall be permitted only if used for preowned automobiles and/or if two or more automotive product lines (automobile makes) are offered for sale on the premises. No more than two secondary ground signs shall be permitted, one denoting the sale of used or preowned automobiles and one denoting the sale of the second and additional automotive product lines (automotive makes).

[b] Area.

[i] Primary ground signs. The gross surface area of a primary ground sign shall not exceed 32 square feet for each exposed face, nor exceed an aggregate gross surface area of 64 square feet.

[ii] Secondary ground signs. The gross surface area of a secondary ground sign shall not exceed 24 square feet for each exposed face, nor exceed an aggregate gross surface area of 48 square feet.

[c] Location. Primary and secondary ground signs may be located in any required yard, but shall not extend over any lot line or within 15 feet of any point of vehicular access from a lot to a public roadway.

[d] Height.

[i] Primary ground signs. A primary ground sign shall not project higher than 20 feet as measured from the base of the sign or grade of the nearest adjacent roadway, whichever is lower.

[ii] Secondary ground signs. A secondary ground sign shall not project higher than 15 feet as measured from the base of the sign or grade of the nearest adjacent roadway, whichever is lower.

[3] Awning, canopy, and marquee signs.

[a] Number. There shall not be more than one awning, canopy, or marquee sign exceeding an aggregate gross surface area of four square feet for each principal building.

[b] Area. The gross surface area of an awning, canopy, or marquee sign shall not

exceed 24 square feet, but is limited to not more than 50% of the gross surface area of the smallest face of the awning, canopy, or marquee to which such sign is to be affixed.

- [c] Height. An awning, canopy, or marquee sign shall not project higher than the top of the awning, canopy, or marquee to which such sign is to be affixed.
- [4] Service bay identification signs. Service bay identification signs providing direction or instruction to persons using the facility and containing no advertising material of any kind shall be subject to the following:
 - [a] Type. All service bay identification signs shall be wall signs.
 - [b] Number. There shall be not more than one service bay identification sign for each service bay located on the premises.
 - [c] Area. The gross surface area of a service bay identification sign shall not exceed 10 square feet.
 - [d] Location. A service bay identification sign may be located on the outermost wall of any principal building adjacent to a service bay entrance, but shall not project more than 16 inches from the wall to which the sign is to be affixed.
 - [e] Height. A service bay identification sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or 20 feet, as measured from the base of the building to which the sign is to be affixed, whichever is lower.

C. VB and VT Zoning Districts.

- (1) Scope. This subsection shall set forth the permitted signs in the VB and VT Zoning Districts.
- (2) Residential uses. Where a use permitted in the AA, R-1, R-2, R-3, R-4, R-5 or VR Residential Zoning Districts is also permitted in the PBO Zoning District, the signage shall be compliant with the requirements of § 455-81A.
- (3) Business (commercial), retail, or related signs in accordance with the following regulations:
 - (a) Sign area. The total sign area of all signs placed on a lot or on any one premises shall not exceed one square foot for each one linear foot of the front building facade. Where a building fronts on more than one street, only one street frontage may be used to calculate the total allowable sign area. The total sign area for any one sign shall not exceed 40 square feet, unless otherwise specified in this section.
 - [1] Permanent window signs shall not be included in the computation of total permitted sign area. The total area of all window signs, including both temporary and permanent window signs, shall be limited to 25% of the glass area and shall not obscure views from the outside to the interior of a commercial establishment.
 - (b) Wall signs. Up to two wall signs shall be permitted per use in a building per street frontage. The total sign area for any one wall sign shall not exceed 40 square feet. No wall sign shall project above the highest story, excluding any cornice or parapet wall.
 - (c) Awning signs.

- [1] Awning signs. Markings shall not exceed a height of eight inches and shall be located only on the front and side vertical faces of the awning, except as provided for in this section. The minimum clearance between the vertical face and the walkway shall not be less than 10 feet. Awnings shall not project more than five feet from the face of the building, except where located above an entrance to a building, in which case the maximum projection shall not exceed 10 feet. All awnings must be a minimum of three feet from the curbline.
 - [2] Markings shall be permitted on the sloped surface of an awning, provided that the business use served by the awning sign does not have a wall sign(s), and provided further that the markings on the sloped surface of an awning shall not exceed a height of 40 inches and shall not exceed more than 25% of the area of the sloped surface.
 - [3] Awning signs shall not be internally illuminated, but may be illuminated by lights installed above the awning, in conformance with the illumination standards of § 455-82D of this article.
 - [4] Awning signs may be fixed or equipped with a mechanism for raising and holding an awning sign in a retracted position against the building.
- (d) Marquee signs. One marquee sign containing markings shall be permitted in addition to the otherwise permitted sign area under § 455-81C(3)(a), provided that the total sign area shall not exceed 200 square feet. Such sign shall be required at all times to maintain a minimum vertical clearance of 10 feet. Marquee signs shall be exempt from the lighting requirements as set forth in § 455-82D.
- (e) Freestanding signs. For each building, shopping center, mixed-use development, or group of contiguous buildings under single ownership or control, one freestanding sign shall be permitted. Where the premises has more than one street frontage, one freestanding sign shall be permitted for each street frontage, provided both are ground signs and that a minimum street frontage of 150 feet is maintained between signs.
- [1] Area and height regulation.
 - [a] Pole signs. Pole signs shall not exceed a sign area of either 25 square feet or a sign height of 15 feet above mean grade.
 - [b] Ground signs. Ground signs shall not exceed a sign area of either 30 square feet or a sign height of eight feet above mean grade. Ground signs shall be constructed so that the maximum height from mean grade to the lowest area of the sign face does not exceed four feet.
 - [2] Location. Freestanding signs shall not be located within the right-of-way and shall be set back a minimum distance of 10 feet from the street cartway. No sign shall be so located as to present a hazard to motorists or pedestrians.
- (f) Projecting signs. One projecting sign shall be permitted per ground-floor use, plus one for any building entrance for access by the public not serving a ground-floor establishment. Projecting signs shall not project more than four feet from the face of the building. The total sign area for any one projecting sign shall not exceed nine square feet. No part of the sign shall be less than eight nor more than 12 feet above ground or walkway level. No more than one projecting sign per establishment per street frontage shall be permitted, and

no projecting sign shall be permitted within 25 feet of another. Projecting signs may not be internally illuminated, but may be indirectly illuminated in accordance with the provisions of this article.

- (g) Portable signs. A limit of one sidewalk sign per use shall be permitted and may be placed within the sidewalk so long as each portable sign shall not exceed nine square feet, and a minimum clear walking width of four feet shall be maintained on the sidewalk. Portable signs shall be constructed of weather-resistant materials, such as wood, plastic or metal. No portable sign shall contain foil, mirrors, bare metal, or other materials that could create hazardous conditions to motorists, bicyclists or pedestrians. No portable sign may contain lights of any kind. Portable signs must be sufficiently weighted or constructed to keep the sign in the approved location. All portable signs shall be taken indoors at the close of each business day. The area of portable signs shall not be included in the computation of total permitted sign area.
- (h) Permanent banner signs. Permanent banner signs shall be subject to the following standards:
 - [1] Only one banner sign is permitted per use in a building.
 - [2] The maximum area of a banner shall be 25 square feet.
 - [3] Mounting height. Bottom of banners shall be mounted at least 14 feet above grade or sidewalk to avoid intrusion into a projecting sign or awning sign zone and shall not extend beyond the third story of the structure.
 - [4] Projection. Banners shall not project more than three feet from the face of the building.
 - [5] Banner signs shall be spaced no closer than 20 feet apart.

§ 455-82. Supplemental criteria.

The following criteria apply to all permanent signs or all signs requiring a sign permit:

A. Materials. Signs shall be constructed only from wood, metal, stone, or other appropriate material, including plastic, which has the general appearance of structures composed primarily of wood, metal, or stone, with painted, engraved, or raised markings. Sign materials should be consistent with and complement the original construction materials and architectural style of the building facade on which they are to be displayed. For this reason, natural materials such as wood, stone, and metal are most appropriate. If plywood is used, medium-density overlay (MDO) shall be used as a minimum grade.

- (1) To encourage design excellence, when approved by the Planning Commission at a public meeting following presentation by the applicant, the maximum sign areas may be increased by the percentages as provided herein. A separate bonus is granted for compliance with each of the criteria, and the area is cumulative, but the percentage increase is based upon the original sign area limitation.
- (2) Freestanding signs may be increased as follows:
 - (a) 20% when the sign is constructed of natural wood, in natural finish with only the markings in other than natural finish.

- (b) 10% when a directory sign utilizes uniform coloring and lettering for all establishments listed in the directory.
 - (c) 10% when the sign is installed in a landscaped planter having an area four times the area of the resultant sign.
 - (d) 10% if the sign is designated to contain only the identification of the establishment.
- B. Lettering. Lettering styles should complement the style and architecture of the building on which they appear. Traditional block and curvilinear styles, which are easy to read, are preferred.
- C. Color. Each sign so erected shall contain a maximum of four colors, including black and white. In selecting the principal colors for a sign, colors which complement the general tone of the building should be used. Business logos shall not be included in determining the maximum number of colors.
- D. Illumination. Where permitted, signs shall be illuminated only as authorized in an appropriate sign permit by a steady, stationary light of reasonably minimal intensity. Light sources shall be shielded from all adjacent properties and streets and shall not be of such intensity as to cause glare hazardous to pedestrians or motorists. Signs using internal illumination shall be designed so that when illuminated at night, only the markings of the sign are visible. No light shall emanate through the background, the borders, sides, or any other surface of the sign or its supporting structure. Individual, solid letters with internal lighting tubes, which backlight a wall in a halo effect, shall be permitted.
- E. Electrical connections. The electrical supply to all exterior signs, whether to the sign itself or to lighting fixtures positioned to illuminate the sign, shall be provided by means of concealed electrical cables. Electrical supply to freestanding signs shall be provided by means of underground cables. All signs shall include an inspection certificate from an electrical underwriter.
- F. Nuisance. No sign shall create a public nuisance by emitting smoke, sound, vapor, particle emission or odors.
- G. Sign removal. Any sign which no longer advertises an existing use conducted on the premises shall be removed by owner of the property within 30 days. The Zoning Officer, upon determining that such use has ceased while a sign remains, shall notify the owner of the premises, in writing, to remove said sign within 30 days from the date of such notice. Upon failure to comply with such notice within the prescribed period, the Zoning Officer is hereby authorized to remove or cause removal of such sign and to collect the cost of such removal, together with any penalties, from the owner in a manner provided by law.

§ 455-83. Nonconforming signs.

- A. A sign which is nonconforming at the effective date of this article may be continued although such sign does not conform to the provisions of this article, but the size of any such nonconforming sign shall not be enlarged.
- B. A nonconforming sign shall not be changed to or replaced by another nonconforming sign. Nonconforming signs, once removed, shall be replaced only with conforming signs.
- C. No nonconforming sign which has been involuntarily damaged or otherwise destroyed to the extent of more than 50% of its value shall be repaired or rebuilt, except as a conforming sign.
- D. Signs which are conforming at the effective date of this article and which identify and advertise nonconforming uses shall be maintained as conforming in accordance with this article.

- E. Whenever any nonconforming use of a building, structure, or land, or of a combination of buildings, structures, and land, ceases as prescribed in § 455-122D, all signs accessory to such use and all of its support hardware shall be deemed to become nonconforming and shall be removed within 30 days from the date such use terminates.

§ 455-84. Sign permits.

It shall be unlawful for any person, firm or corporation to erect, alter, repair, or relocate any sign within the Township of Easttown without first obtaining a sign permit in accordance with Article XIII, unless such sign is specifically exempt from the permit requirements.

§ 455-85. Structural requirements; maintenance.

- A. No sign or sign structure shall be erected unless it complies with all applicable requirements of the current Building Code used by the Township.
- B. All signs and sign structures shall be kept in good repair and in a presentable condition, such that all sign information is clearly legible. Any sign found to show deterioration, including rust, faded colors, discoloration, holes, and missing parts or information items, shall constitute a violation of this article.
- C. Permits are not required for changeable copy, repainting, cleaning, and other normal maintenance and repair of a sign, unless the sign structure, design, color, or lighting is altered.

§ 455-86. through § 455-87. (Reserved)

ARTICLE XII
(Reserved)²¹⁴

§ 455-88. (Reserved)

§ 455-89. (Reserved)

§ 455-90. (Reserved)

214.Editor's Note: Former Article XII, Commercial Wireless Communications Facilities, as amended, was repealed 12-15-2014 by Ord. No. 424-14. See now Ch. 447, Wireless Communications Facilities.

ARTICLE XIII
Administration and Enforcement

§ 455-91. Purpose.

This article outlines the procedures and regulations by which this chapter shall be administered and includes responsibilities of the Zoning Officer and procedures for obtaining and regulating permits, fees, and violations.

§ 455-92. Applicability.

- A. Hereafter, no land shall be used or occupied, and no building or structure shall be erected, altered, used or occupied, except in conformity with the regulations herein established for the districts in which such land, building or structure is located, as well as all other applicable statutes.
- B. In case of mixed occupancy within the same building or on the same lot, the regulations for each use shall apply to that portion of the building or land so used.

§ 455-93. Designation of enforcement officer.

There shall be a Zoning Officer who shall be appointed by the Board of Supervisors and whose duty it shall be to enforce the provisions of this chapter.

§ 455-94. Zoning Officer.

- A. Zoning Officer. The Supervisors shall annually appoint a Zoning Officer to serve for a term of one year or until their successor is appointed and may appoint such Deputy Zoning Officers as it determines necessary from time to time. No person so appointed shall hold any elective office in the Township, and the Zoning Officer shall be able to demonstrate to the satisfaction of the Supervisors a working knowledge of municipal zoning. The Zoning Officer and their deputies shall administer this chapter in accordance with its literal terms and shall not have the power to permit any construction or any use or change of use or occupancy which does not conform to this chapter. The Zoning Officer and any such Deputy are hereby given the power and authority to enforce this chapter, to institute enforcement proceedings and to prosecute violations, including, upon approval of the Supervisors, actions in equity as a means of enforcement.
- B. Duties. The duties of the Zoning Officer and the Deputies shall be:
 - (1) To examine all applications for permits.
 - (2) To receive applications for appeals, special exceptions, conditional uses and variances and forward these applications to the Zoning Hearing Board or the Board of Supervisors, as the case may be, for action thereon. **[Amended 1-15-2018 by Ord. No. 433-18]**
 - (3) To issue permits for uses which comply with the regulations of this chapter. **[Amended 9-21-2009 by Ord. No. 391-09]**
 - (4) To conduct inspections and surveys to determine compliance or noncompliance with the terms of this chapter.
 - (5) To record and file all applications for permits and accompanying plans and documents and retain them as required by the Township's record retention procedures and federal and state law and regulation. **[Amended 9-21-2009 by Ord. No. 391-09; 1-15-2018 by Ord. No. 433-18]**

- (6) To 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.
- (7) To issue permits for uses approved by special exception, variance, or conditional use only after such uses or buildings and structures permitted in conjunction therewith are ordered and approved by the Zoning Hearing Board or the Supervisors, as applicable, in accordance with the regulations of this chapter, or as directed by a competent court of appellate jurisdiction, subject to such conditions or stipulations contained in any such order.
- (8) To issue a cease and desist order and order, in writing, corrections to 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 any such order shall be guilty of a violation of this chapter. [Amended 6-2-2014 by Ord. No. 422-14]
- (9) Upon request of the Zoning Hearing Board or the Supervisors, to present to such bodies facts, records, and any similar information on specific applications to assist them in reaching decisions.
- (10) To receive and examine all applications for zoning and other permits, referring applications to the appropriate reviewing authority, and issue building and other permits only when there is compliance with the provisions of this chapter and with other Township ordinances.
- (11) To be responsible for keeping up-to-date this chapter and the Easttown Zoning Map, including all amendments thereto.²¹⁵
- (12) To be responsible for the administration of the National Flood Insurance Program in the Township as it relates to zoning regulation.
- (13) To notify, in riverine situations, adjacent communities and the State Department of Environmental Protection prior to any alteration or relocation of a watercourse and submit copies of such notifications to the Township Manager.
- (14) To issue preliminary opinions in accordance with the procedure established in Section 916.2 of the Municipalities Planning Code.²¹⁶
- (15) Enforcement of this chapter and amendments thereto.

§ 455-95. Permit requirements.

A. Zoning permits.

- (1) It shall be unlawful to commence any site work or other work requiring a zoning permit until a permit has been properly issued. A zoning permit shall be required:
 - (a) Prior to the erection, alteration, extension, enlargement, or demolition of any building, structure, sign, or portion thereof. It shall be unlawful for any person to commence work in connection with the erection, alteration, extension, enlargement or demolition of any

²¹⁵Editor's Note: The Zoning Map is included as an attachment to this chapter.

²¹⁶Editor's Note: Original § 1303.B.15, regarding nonconforming uses, buildings and lots, which immediately followed this subsection, was deleted 9-21-2009 by Ord. No. 391-09.

building, structure or sign or portion thereof until a zoning permit has been duly issued by the Zoning Officer. Issuance of a zoning permit shall authorize the issuance of a building permit, subject to compliance with any Township or state building or other codes applicable thereto.

- (b) When a change in use of land or buildings, a change in the principal use or expansion of a nonconforming use, or development within the areas restricted by natural resources protected in accordance with Article VII of this chapter.
 - (c) Before a home occupation, as per § 455-61, is added as an accessory use to an existing residential principal use or conducted as a part of a new residential use. In the latter case, the zoning permit shall specifically identify the principal and accessory use.
- (2) The placing of vacant land under cultivation shall not require a zoning permit.
- (3) A zoning permit is not required for repair to a structure other than a nonconforming structure when such repair does not change the nature or intensity of the existing uses.
- (4) A zoning permit shall not be required for alterations to the interior of an existing building, provided that the use of such building is not changed. [Amended 12-15-2014 by Ord. No. 424-14]
- B. Applications. Application for a zoning permit shall be made in writing to the Zoning Officer on a form furnished by the Township and shall contain all information necessary for such officer to ascertain whether the proposed use of land, buildings, or other improvements which are the subject of the application complies with the provisions of this chapter, all other applicable Township ordinances and regulations, and all statutes and regulations of other governmental authorities having jurisdiction. No application is complete, nor shall it be accepted for filing, until all required documents, including but not limited to homeowner association approvals if applicable, have been filed and all fees have been paid. [Amended 12-15-2014 by Ord. No. 424-14]
- C. Building permits. Upon the issuance of a zoning permit, the applicant may file a written application on a Township-approved form for a building permit with the Building Code Official. No building permit shall be issued until the Zoning Officer has certified the proposed use by issuance of a zoning permit. It shall be unlawful for any person to commence work on the erection, alteration, enlargement, extension, or demolition of any building until a building permit has been issued. [Amended 9-21-2009 by Ord. No. 391-09]

§ 455-96. Permit application procedure.

- A. Application for permits under this section, along with accompanying plans and data, may be submitted by the Zoning Officer to any appropriate governmental agency, authority, or representative for review and comment relative to compliance with existing statutes, and the Zoning Officer shall consider those comments in action on the application.
- B. Applications for zoning permits shall specifically identify by name and date of approval the subdivision or land development plan creating the lot for which the permit is sought or shall supply sufficient information to identify the lot and verify its compliance with applicable zoning regulations. Applicants are encouraged to file with the application a copy of such plan for the purpose of expediting the Zoning Officer's processing of the application. At a minimum, the application shall be accompanied by three copies of the plan(s) drawn to scale and contain the following to verify conformity with this chapter: [Amended 12-15-2014 by Ord. No. 424-14]

- (1) Identification by lot number and address of the lot, including a sketch of the actual dimensions and shape of the lot.
 - (2) Wherein the disturbance or movement of earth is contemplated, a soil erosion and sedimentation control plan in compliance with § 400-56 of Chapter 400, Subdivision and Land Development, with an accompanying narrative prepared by a qualified person for review and approval by the Township Engineer, or, when applicable, a copy of the permit issued by the Pennsylvania Department of Environmental Protection approving earthmoving operations.
 - (3) The exact dimension and location on the lot of all existing buildings, structures and signs, open space, if any, and all proposed buildings, structures and signs, and proposed extensions or alterations thereof.
 - (4) Existing and proposed uses, giving the number of existing and proposed separate units or uses the building or structure is designed to accommodate.
 - (5) The exact type, materials and specifications of a proposed sign, and whether attached or freestanding.
 - (6) A narrative description of the provision for water and sanitary sewerage and, in the instance of a proposed on-site sanitary sewer system and/or water well, a true and correct copy of the permit issued by the Chester County Health Department or other regulatory authority having jurisdiction.
 - (7) A description of any proposed industrial or commercial operations in sufficient detail to indicate effects of those operations in producing noise, heat, vibration, glare, air pollution, water pollution, fire hazards, traffic congestion, or other safety hazards.
 - (8) A description of methods to be employed in controlling any excess noise, air pollution, smoke, fumes, water pollution, fire hazards or other safety hazards.
 - (9) The location, dimensions, arrangement and capacity of all open spaces and yards and buffer areas, including proposed landscaping and plant materials and screening methods.
 - (10) All applicable Pennsylvania Department of Transportation permits and any other appropriate, lawful permits as may be required by statute.
 - (11) Any additional information that may be required by the Zoning Officer or as may otherwise be required by this chapter.
- C. Applications for permits required under this chapter shall be submitted by the landowner, or a designated representative proven to have authority to act for the landowner; provided, however, that responsibility for obtaining any required permit in compliance with this chapter shall be the responsibility of the property owner in title. No zoning permit application is complete unless it is accompanied by the requisite fee. Applications found to be incomplete will not be accepted or processed. **[Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]**
- D. No permit shall be issued by the Zoning Officer except in conformity with the provisions of this chapter and other applicable Township ordinances and regulations, except upon written order of the Zoning Hearing Board, or, where it has jurisdiction, the Board of Supervisors, or a court of competent jurisdiction, as applicable; provided, however, permits issued pursuant to such written orders shall be subject to any conditions and stipulations imposed by such authorities.

- E. In all instances in which the Zoning Officer has or expresses a reasonable doubt as to the ability of the proposed use, building or land to meet all of the requirements of this chapter or any other applicable Township ordinance or regulation, or those of any state agency or other regulatory authority having jurisdiction, it shall be incumbent upon the applicant to furnish to the Zoning Officer adequate evidence of compliance or ability to comply in support of his application. If the Zoning Officer determines that such adequate evidence has not been furnished, the zoning permit shall be denied. In the case that a permit is denied, the Zoning Officer shall send written notice to the applicant citing the reasons why the permit was denied within 30 days of when the Zoning Officer made the determination.
- F. The parcel or parcels of land, building or structure, or parts thereof, for which an application is submitted shall be in full ownership of the applicant, or proof of equitable ownership satisfactory to the Zoning Officer shall be furnished at the time the application is filed.
- G. Permits shall be granted or refused within 30 days from the date the application is filed with the Zoning Officer and shall be valid for a period not to exceed one year from the date of issuance. If construction is commenced under any such issued permit within such period, the Zoning Officer is authorized to extend the permit for a period not to exceed one additional year from the date of expiration of the initial one-year period. The Zoning Officer is authorized to revoke any zoning permit where there has been no substantial start to construction or when a cessation of construction work of more than six months has occurred.
- H. A temporary zoning permit may be authorized by the Zoning Officer for a nonconforming structure or use which it deems beneficial to the public health or general welfare or which it deems necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit without cost to the Township. Such a permit shall be issued for a specified period of time, not exceeding one year.

§ 455-97. (Reserved)²¹⁷**§ 455-98. Schedule of fees, charges and expenses.**

- A. The Board of Supervisors shall establish by resolution a schedule of fees, charges, and expenses and collection procedures for zoning permits, certificates of use and occupancy, special exceptions, variances, conditional uses, appeals, and other matters pertaining to this chapter. The schedule of fees shall be available for inspection in the office of the Township Secretary during normal business hours and may be amended by the Board by resolution. Such alterations shall not be considered an amendment to this chapter and may be adopted at any public meeting of the Board of Supervisors by resolution.
- B. Fees so established for any application or appeal, pursuant to this chapter and paid to the Zoning Officer, shall accompany the application or appeal upon submission. The Zoning Officer shall have the sole discretion to determine the total amount due for an application or appeal.
- C. Until all application fees, charges, and expenses have been paid in full, no appeal or application shall be accepted for filing, nor shall any action be taken thereon, nor shall any permit be issued.
- D. If, at any time, the charges then made against the applicant's deposit shall render the balance insufficient to ensure payment of all expenses that may accrue in the disposition of the ending appeal

²¹⁷Editor's Note: Former § 455-97, Certificates of use and occupancy, was repealed 12-15-2014 by Ord. No. 424-14.

or application, the Zoning Officer shall obtain from the applicant additional deposits to assure adequate funds to pay such expenses as they may accrue. Prior to final disposition of the matter, the amount of the deposit shall not be less than 15% of the initial deposit amount. The failure of the Zoning Officer to require and obtain additional deposits from time to time shall not relieve the applicant from any liability for expenses in excess of deposits.

§ 455-99. Enforcement remedies.

- A. In the event any building, structure, landscaping, or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this chapter, the Board of Supervisors, the Zoning Officer, or any other enforcement officer of the Township, with the Supervisors' approval, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct, or abate such a building, structure, landscaping, or land or to prevent, in or about such premises, any such action, conduct, business, or use constituting a violation of this chapter by giving written notice of such action prior to the time the action is begun in accordance with this article. Written notice shall be given to the owner of the property served by the Zoning Officer or other enforcement officer of the Township, or by certified mail, at least 30 days prior to such action being taken. No such action may be maintained until such notice is given.
[Amended 1-15-2018 by Ord. No. 433-18]
- B. Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning Officer, who shall record such complaint, investigate, take action thereon as provided by this article and report to the Supervisors regarding the complaint and the action thereon.

§ 455-100. Enforcement notice.

- A. Failure to secure a permit prior to the construction, alteration, extension, or demolition of any building or structure; failure to secure a permit prior to a change in use or occupancy of land, buildings, or structures; failure to secure a certificate of use and occupancy permit prior to the use or occupancy of any land, building, or structure; failure to obey or comply with any order or condition of approval of any special exception, variance, conditional use, or other zoning relief ordered by the Zoning Hearing Board or the Board of Supervisors, as applicable; failure to comply with an enforcement notice duly issued by the Zoning Officer or any authorized Township enforcement officer in relation to the provisions of this chapter; failure to take any action required as a condition of any use provisions of this chapter; failure to comply with a lawful directive of the Zoning Officer or any authorized Township enforcement officer issued under the provisions of this chapter; and the undertaking of any deliberate action which is contrary to the terms of this chapter shall constitute a violation of this chapter, and the Zoning Officer shall initiate enforcement proceedings by sending notice thereof as provided in this chapter. Enforcement proceedings shall commence when it appears that a violation of any provisions of this chapter occurs. By means of the enforcement notice, the Zoning Officer may order the discontinuance of illegal use of the land or structure(s), removal of illegal structure(s) thereto, or discontinuance of any illegal work being done. Upon receipt of such notice, discontinuance of the violation shall occur immediately.
- 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 such a notice regarding that parcel, and to any other person requested in writing by the owner of record of the parcel.
- C. The enforcement notice shall state at least 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 provisions 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 the 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.
- D. In any appeal of an enforcement notice to the Zoning Hearing Board, the Township shall have the responsibility of presenting its evidence first.
- E. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Township, if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.

§ 455-101. Violations and penalties.

- A. The Magisterial District Judge shall have initial jurisdiction for all proceedings brought under this section.
- B. Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this chapter shall, upon being found liable in a civil enforcement proceeding commenced hereunder, pay a judgment of \$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. In the event that any such person against whom the Magisterial District Judge has rendered a judgment neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Pennsylvania 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 such person violating this chapter to have believed that there was no such violation. In that latter event, there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the Magisterial District Judge, and thereafter, each day that a violation continues shall constitute a separate violation. All judgments, costs, and reasonable attorneys' fees collected for the violation of this chapter shall be paid over to the Township.
- C. 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.
- D. Nothing contained in this section shall be construed or interpreted to grant any person or entity, other than the Township, the right to commence any action for enforcement pursuant to this section.

ARTICLE XIV
Conditional Uses

§ 455-102. Purpose.

This chapter provides for certain uses, which are permitted within the Township as conditional uses. Such uses have been designated as conditional based upon the Supervisors recognition that they may or may not be appropriate at every location within any specific district where they are generally allowed; therefore, procedures, standards and criteria have been established in this article by which the Township can evaluate and decide upon applications for these uses. Conditional uses are so classified because they have the potential for substantial impact upon Easttown Township, as it has developed. As a consequence, these uses must comply with the minimum standards for conditional uses herein described, in addition to the area and bulk regulations, design standards, and general regulations stipulated as controlling within the district in which the proposed conditional use is authorized. Failure of any proposed conditional use to comply with any of these standards and criteria shall be grounds for denial of a conditional use application. If there is a conflict between the standards set forth in this article and other applicable criteria and standards elsewhere established in this or other applicable ordinances, the more stringent standards shall always apply. It is not the intent of this article to abrogate or impair any other such standards or requirements. It is recommended that at the time the application is obtained, the applicant arrange a meeting with the Zoning Officer to review the application materials and procedures.

§ 455-103. Application procedure.

- A. Eighteen hard copies and one electronic copy in PDF format of an application for conditional use approval shall be submitted to the Zoning Officer on a form provided by the Township and shall be accompanied by the application fee, the amount of which shall be established by resolution of the Supervisors. **[Amended 12-15-2014 by Ord. No. 424-14]**
- B. Whenever a conditional use permit is required by this chapter for any use proposed or inherent in any proposed subdivision and/or land development, all applications for conditional use shall be filed and all plans, documents, and other submissions required to accompany the application shall be filed with the Township Zoning Officer contemporaneously with the filing of a preliminary plan for subdivision and/or land development, as applicable, complying with Chapter 400, Subdivision and Land Development.
- C. Where a preliminary subdivision or land development plan is not required because the conditional use does not occur within the context of a development requiring subdivision and/or land development approval, the application for conditional use, including all documents and other submissions, shall be filed with the Township Zoning Officer along with the appropriate fees and shall include a plan prepared by a Pennsylvania-registered professional engineer drawn to sketch plan specifications established in § 400-12 of Chapter 400, Subdivision and Land Development, which shall contain, at a minimum, the following:
 - (1) General information:
 - (a) The name, signature, and address of the applicant.
 - (b) The name, signature, and address of the owner of the property to be affected by the proposed conditional use application.
 - (c) A description and location of the property on which the conditional use is proposed.

- (d) A statement of the present use, zoning classification, and improvements thereon of the property in question.
 - (e) A statement of the section of this chapter, or amendment thereof, which authorizes the conditional use.
- (2) Site plan. A site plan shall contain, at a minimum, the following:
- (a) A location map showing the location of the proposed use within the Township.
 - (b) A site plan depicting the size and dimension of the lot or lot(s), including the following:
[Amended 12-15-2014 by Ord. No. 424-14]
 - [1] North arrow, scale, and date.
 - [2] Existing and proposed buildings and accessory structures, including location, dimensions, use, coverage, height, and any proposed improvements, where applicable, in relation to property and street lines.
 - [3] The location of surrounding lots and buildings, including the names of property owners.
 - [4] The existing natural features of the site related to steep slopes, identified floodplain areas, wetlands, woodlands, and other critical environmental areas regulated by Article VII of this chapter. **[Amended 5-15-2017 by Ord. No. 428-17]**
 - [5] Streets on, adjacent to, or nearby the lot, properly named or identified.
 - [6] Features that present compliance with all applicable area, width, coverage, yard, and design standards as regulated within this chapter.
 - [7] Proposed general street and lot layout.
 - [8] The location, dimension, and arrangements of proposed facilities, including sidewalks, roads, access drives, off-street loading and unloading, and parking areas.
 - [9] Location, dimension, and arrangement of all areas devoted to ground cover, trees, screen plantings, buffers, open space and recreational facilities, both active and passive.
 - [10] Provisions for handling of stormwater drainage, disposal of wastewater, and supply of water.
 - [11] The location, dimensions and arrangement of proposed signs.

§ 455-104. Standards for review.

- A. The proposed conditional use shall demonstrate conformance to the policies of Township plans and ordinances and compatibility with adjacent land uses by indicating, when applicable, that:
- (1) The plan shall be consistent with § 455-2, Purposes; community development objectives, of this chapter, with the Easttown Comprehensive Plan, as may be amended or readopted, for the orderly development of the Township, and with the goals and objectives of the Easttown Open Space, Recreation, and Environmental Resources Plan, as may be amended or readopted.
[Amended 11-21-2022 by Ord. No. 453-22]

- (2) The proposed use shall be limited to those authorized as conditional uses within the district in which the applicant's land is located and as indicated on Figure 3-1, Land Use Table.²¹⁸
- (3) The use and value of property adjacent to the proposed use will not be adversely affected by the proposed use. Every reasonable attempt shall be made to make the proposed use compatible with the adjacent properties and surrounding neighborhood in terms of parking, lighting, screening, buffering, landscaping, and other design features.
- (4) The capacity of existing streets and thoroughfares is adequate to absorb the additional traffic demand created by the proposed use.
- (5) The proposed use shall consist of a harmonious grouping of buildings or other structures with adequate service, parking, and open spaces.
- (6) Any degradation to the natural features of the proposed site and its surroundings resulting from the proposed use shall, to the satisfaction of the Supervisors, be mitigated, that the management of stormwater and any other alterations to the site's predevelopment condition reflect an environmentally sensitive approach to land planning and design based on thorough site analysis and evaluation related to topography, soils, vegetation, hydrology, geology, visual quality, and related site conditions and characteristics.
- (7) If the use is to be carried out in progressive stages, each stage shall be so planned that the foregoing conditions and intent of this chapter shall be fully complied with at the completion of each stage.
- (8) The level of service at unsignalized and signalized intersections contiguous to the applicant's property necessary to serve the proposed use by providing egress and ingress thereto (intersections through which at least 35% of the use's traffic must flow to gain access to the use) shall not fall below Level of Service "D" as specified in the Transportation Research Board, Special Report 209, Highway Capacity Manual 1985, published by the Transportation Research Board, Washington D.C., 1985, or latest edition, provided the Supervisors may waive these criteria where they find such waiver to be in the interest of the public health, safety, and general welfare. This subsection shall not be construed to preclude improvement of such intersections to retain at least a Level of Service "D."
- (9) Vehicular trip generation resulting from the proposed use will not result in such increased traffic or turning movements as will significantly affect existing congestion on streets and roads within the immediate vicinity of the proposed development or adversely impact the reserve capacity of the public roads and road intersections providing access to the applicant's property.
- (10) Improvements to streets and highways contiguous to the applicant's property as part of the improvements for the proposed conditional use, such as road widening, acceleration/deceleration lanes, traffic control devices, and similar features, shall be sufficient to obviate adverse traffic impacts caused by the use and to protect the safety of the traveling public, and the location and design of facilities for ingress or egress are so located as to provide safe access to adjoining streets and roads and to avoid unnecessary traffic through existing neighborhoods.
- (11) When required, adequate on-site recreational space and facilities sufficient to accommodate the needs of the number of occupants reasonably anticipated to occupy the proposed conditional use are provided consistent with the requirements of Chapter 400, Subdivision and Land

218.Editor's Note: Figure 3-1 is included as an attachment to this chapter.

Development.

- (12) Sufficient land area is provided within the applicant's property to effectively screen the proposed conditional use from adjoining uses, whether similar or dissimilar in type or character. Where, in the opinion of the Supervisors, proposed screening otherwise required by this chapter is insufficient, additional screening shall be required.
 - (13) The proposed use as depicted on the plans for subdivision or land development includes adequate proposal for landscaping in addition to any requirements otherwise imposed by this chapter, Chapter 274, Natural Resources Protection, or Chapter 400, Subdivision and Land Development, in areas such as the entrances, along property boundaries, in areas which are highly visible, such as along roads, walks or trails, and in other places reasonably deemed necessary by the Supervisors, where the use of trees, shrubs, and ground covers would be functional and appropriate.
 - (14) The proposed use is properly sited and is not disruptive to existing topography, streams, ponds, vegetation, and other natural resources existing on the site.
 - (15) Where setbacks from adjoining properties are necessary to remove any potential adverse impact or interference with adjoining uses, whether similar or dissimilar, the Supervisors may require a reasonable increase in setbacks and/or buffer areas otherwise mandated by the district regulations.
 - (16) If public services are planned for the property, the proposed use shall be consistent with the planned extension of public services and utilities, such as public water and public sewer, and will not have a negative effect on the public services and utilities of the surrounding properties.
 - (17) Every development containing conditional uses shall provide adequate access for firefighting and other emergency service equipment. In addition to criteria established in the applicable district regulations, the Supervisors may impose additional requirements to insure adequate access. Such access shall include, but shall not necessarily be limited to, turning radii sufficient to accommodate fire equipment, adequacy of roadway and right-of-way widths to accommodate the free flow of such equipment, paved emergency access roads/ways, provision for adequate access in front of, between and behind buildings and structures, including paved or compacted surfaces sufficient to support the weight of fire equipment.
- B. In approving a conditional use or a development containing conditional uses, the Supervisors may impose reasonable conditions, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of this chapter and the Pennsylvania Municipalities Planning Code.²¹⁹ [Amended 1-15-2018 by Ord. No. 433-18]

§ 455-105. Administrative review procedure.

- A. The Zoning Officer shall review the application to determine if it is complete and act on such determination within five days of receipt of the application. If the application is determined to be complete, the Zoning Officer shall submit the application to the Board of Supervisors and the Planning Commission. If the application is deficient in any required component, the Zoning Officer shall notify the applicant in writing of the deficiencies. If such identified deficiencies are not remedied by the applicant within 30 days in the form of a resubmitted application rectifying said identified deficiencies, this shall constitute sufficient grounds for denial by the Supervisors of the application at

²¹⁹Editor's Note: See 53 P.S. § 10101 et seq.

the subsequent public hearing, should the Board deem such deficiencies to be substantially at variance with the requirements of this chapter or other applicable Township ordinances.

- B. If a plan or application is resubmitted after a prior submission due to substantial changes or denial as per Subsection A above, then the resubmission shall be considered as a new submission in accordance with Subsection A above and the timing requirements of § 455-106C below.

§ 455-106. Review and decision process. [Amended 9-21-2009 by Ord. No. 391-09]

- A. At least 30 days prior to the date of the conditional use hearing, the Board of Supervisors shall forward a copy of the application and any supporting material to the Planning Commission with a request that such Commission review the application and submit recommendations and comments regarding the proposed conditional use. The Township may, at its discretion, forward a copy of the application to other consulting agencies, committees or consultants that the Supervisors deem appropriate, with a request that such agency, committee or consultant review the application and submit recommendations and comments regarding the proposed conditional use. **[Amended 6-2-2014 by Ord. No. 422-14]**
- B. Prior to the public hearing which is held by the Board of Supervisors on the conditional use application, the Township may send a copy of the public notice to the owner of record of every lot on the same street within 500 feet, measured along the street frontage of the lot or building in question, and of every lot not on the same street but within a five-hundred-foot radius of said lot or building by regular mail, and mailed a minimum of two weeks prior to the first scheduled public hearing on the application. The Township shall also mail the notice of the hearing by regular mail to the applicant, the Zoning Officer, the Township Secretary, the Planning Commission and the Board of Supervisors and any person who has made timely request for such notice, as well as to any Township residents or associations of residents who shall have registered their names and addresses for the purpose of receiving such hearing notices. Failure to give notice as required by this subsection shall not invalidate any action taken by the Supervisors. **[Amended 6-2-2014 by Ord. No. 422-14]**
- C. The Supervisors shall schedule and hold a public hearing on the application within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Notice of such meeting shall be provided in compliance with the Pennsylvania Municipalities Planning Code ("MPC").²²⁰
- D. The property, which is the subject of the application, shall be posted in accordance with the MPC.
- E. The conditional use hearing shall be conducted in accordance with all procedural requirements in the MPC.
- F. In granting or denying a conditional use or establishing conditions upon the grant of the use, the Supervisors shall determine compliance with the standards and criteria established in § 455-104, as well as those other standards and criteria specific to the proposed use as set forth in this chapter. In granting a conditional use, the Board may attach such conditions as it deems necessary to implement the purposes of this chapter and the Pennsylvania Municipalities Planning Code.²²¹ **[Amended 1-15-2018 by Ord. No. 433-18]**
- G. The Supervisors shall render a written decision or, when no decision is called for, make written findings on the conditional use application within 45 days after the last hearing before the

²²⁰Editor's Note: See 53 P.S. § 10101 et seq.

²²¹Editor's Note: See 53 P.S. § 10101 et seq.

Supervisors. The date for the Supervisors' decision may be extended by the applicant either on the record or in writing addressed to the Supervisors. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based upon this article, the MPC or any rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. A copy of the decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him no later than the day following its date.

H. (Reserved)²²²

- I. Where a conditional use application involves land development and/or subdivision approval, any approval by the Supervisors shall be valid for a time period consistent with the terms of MPC Sections 508 and/or 917.²²³ Conditional use approvals not resulting in land development and/or subdivision shall expire if the applicant fails to apply for a building permit or, if no building permit is required, a use or occupancy permit within six months from the date of the Supervisors' decision. [Amended 6-2-2014 by Ord. No. 422-14]

222.Editor's Note: Former Subsection H, regarding applications amended or revised after the conclusion of public hearings, was repealed 1-15-2018 by Ord. No. 433-18.

223.Editor's Note: See 53 P.S. § 10508 and 53 P.S. § 10917.

ARTICLE XV
Zoning Hearing Board

§ 455-107. Creation.

A Zoning Hearing Board is hereby created in accordance with the provisions of Article IX of the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, No 247 (53 P.S. § 10101), as reenacted and amended. Hereinafter, as used in this article, the term "Board" shall refer to the Zoning Hearing Board, and the "Municipalities Planning Code" shall refer to the Pennsylvania Municipalities Planning Code, cited above.

§ 455-108. Membership. [Amended 1-15-2018 by Ord. No. 433-18]

The membership of the Board shall consist of three residents of the Township who shall be appointed by the Supervisors and serve three-year terms as provided by law and not more than three residents of the Township to serve as alternate members of the Board for three-year terms. Alternate members shall be entitled to participate in all proceedings and discussions of the Board as provided by law and in § 455-109. Members and alternate members of the Board shall hold no other office in the Township or be an employee of the Township. The provisions of the laws of the commonwealth shall govern removal of Board members.

§ 455-109. Organization; procedures.

- A. The Zoning Hearing Board shall elect from its own membership its officers (Chairman, Vice Chairman and Secretary), who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall not be less than a majority of all members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf, and the appellant or the applicant, as the case may be, in addition to the Township, may, prior to the decision of the hearing officer, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final, as provided in Section 908(2) of the Municipalities Planning Code.²²⁴ **[Amended 12-15-2014 by Ord. No. 424-14; 1-15-2018 by Ord. No. 433-18]**
- B. If, by reason of absence or disqualification of a Board 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.
- C. Within the limits of funds appropriated by the Supervisors, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Supervisors, but in no case shall such compensation exceed the rate of compensation authorized to be paid to the Supervisors. Alternate members of the Zoning Hearing Board may receive compensation, as may be fixed by the Supervisors for the performance of their duties when designated as alternate members pursuant to Subsection B above, but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members by the Supervisors.

²²⁴Editor's Note: See 53 P.S. § 10908(2).

D. The Board may make, alter and rescind rules and forms for its procedure, consistent with the Township's ordinances and the laws of the Commonwealth of Pennsylvania. The Board shall keep full public records of its business, which records shall be property of the Township, and shall submit a report of its activities to the Supervisors as requested.

§ 455-110. Powers.

- A. The Zoning Hearing Board shall hear and decide applications in accordance with and pursuant to the Municipalities Planning Code and shall have all powers set forth therein, including but not limited to the following:
- (1) Substantive challenges to the validity of any land use ordinance, except those brought before the Supervisors pursuant to Section 609.1 and 916.1(a)(2) of the Municipalities Planning Code.^{225, 226}
 - (2) Appeals from the determination of the Zoning Officer, including but not limited to the granting or denial of any permit or failure to act on the application therefor, the issuance of any cease and desist order or enforcement notice or the registration or refusal to register any nonconforming use, structure or lot.
 - (3) Appeals from determinations by the Township Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard regulations of this chapter or such provisions within the Township's land use ordinances. **[Amended 5-15-2017 by Ord. No. 428-17; 1-15-2018 by Ord. No. 433-18]**
 - (4) Applications for variances from the terms of this chapter and flood hazard ordinance or such provisions within the Township's land use ordinances, pursuant to Section 910.2 of the Municipalities Planning Code.²²⁷ **[Amended 1-15-2018 by Ord. No. 433-18]**
 - (5) Applications for special exceptions under this chapter, or floodplain or flood hazard ordinance or such provisions within the Township's land use ordinance, pursuant to Section 912.1 of the Municipalities Planning Code.²²⁸ **[Amended 1-15-2018 by Ord. No. 433-18]**
 - (6) Appeals from the Zoning Officer's determinations under Section 916.2 of the Municipalities Planning Code.²²⁹
 - (7) Appeals from the determination of the Zoning Officer or the Township Engineer in the administration of this or any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management, insofar as the same relates to development not involving subdivision and/or land development applications under Chapter 400, Subdivision and Land Development.
 - (8) Any other application authorized by law to be taken to the Zoning Hearing Board.
- B. In granting any relief hereunder, the Board may impose conditions, safeguards, restrictions and

²²⁵.Editor's Note: See 53 P.S. § 10609.1 and 53 P.S. § 10916.1(a)(2).

²²⁶.Editor's Note: Original § 1503.B, regarding challenges to land use ordinances, which immediately followed this subsection, was deleted 9-21-2009 by Ord. No. 391-09.

²²⁷.Editor's Note: See 53 P.S. § 10910.2.

²²⁸.Editor's Note: See 53 P.S. § 10912.1.

²²⁹.Editor's Note: See 53 P.S. § 10916.2.

limitations upon the property that the Board deems necessary to implement the purposes of this chapter, the grant of relief and the Municipalities Planning Code.

§ 455-111. Appeals to Board; representation.

- A. Appeals to the Zoning Hearing Board under § 455-110, other than applications for special exceptions and variances, may be filed in writing with the Board by the landowner affected, any officer or agency of the Township or any person aggrieved. Requests for variances and for special exceptions under § 455-110 may be filed with the Board by the landowner or any tenant with the permission of such landowner.
- B. Applicants may appear on their own behalf or may be represented by an attorney at law admitted to practice before the courts of the Commonwealth of Pennsylvania. No persons not admitted to practice before the courts of the Commonwealth of Pennsylvania as an attorney at law shall represent any person before the Board; provided, however, that representation of a corporate applicant by its responsible officers or a partnership by its partners shall be permitted. The Board shall have the power in its discretion to waive this rule upon cause shown.

§ 455-112. Applications for relief.

- A. Time limitations.
 - (1) No person shall be allowed to file any proceeding with the Board later than 30 days after an application for development, preliminary or final, has been approved by an appropriate Township officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner, unless such person alleges and proves that he 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. The failure of anyone other than the landowner to appeal from an adverse decision by the Zoning Officer on a challenge to the validity of this chapter or the Zoning Map pursuant to Section 916.2 of the Municipalities Planning Code²³⁰ shall preclude an appeal from a final approval, except in the case where the final submission substantially deviates from the approved preliminary approval.
 - (2) All appeals from determinations adverse to the landowner shall be filed by the landowner within 30 days after notice of the determination is issued.
- B. Application fees.
 - (1) Upon submission of any application to the Zoning Hearing Board, the applicant shall deposit as part of the application with the Zoning Officer the application fee and/or escrow designated by resolution of the Supervisors then in effect. No application shall be accepted as complete and no hearing shall be scheduled without payment of the application fee. The application fee shall be expended to pay for the administrative costs specified in the Supervisors' resolution. [Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]
 - (2) If at any time the charges then made against the applicant's deposit shall render the balance insufficient to ensure the payment of all costs, expenses, charges and fees that may accrue in the disposition of the pending application, the Zoning Hearing Board may require additional deposits to be made from time to time to assure adequate funds to pay such charges, costs,

²³⁰Editor's Note: See 53 P.S. § 10916.2.

expenses and fees as they may accrue. The failure of the Board to demand additional deposits shall not relieve the applicant of liability for costs, charges, fees and expenses in excess of deposits.

- C. Application requirements. Twelve hard copies and one electronic copy in PDF format of an application and all attachments and plans shall be submitted to the Zoning Officer. Appeals, applications or challenges shall be initiated before the Board by filing with the Zoning Officer a completed and executed application in the form adopted by the Board and provided for that purpose, which shall state, at a minimum: [Amended 12-15-2014 by Ord. No. 424-14; 11-21-2022 by Ord. No. 453-22]
- (1) The name, address and standing of the applicant.
 - (2) The name and address of the owner of the real estate to be affected by the proposed relief.
 - (3) A brief description and location of the real estate to be affected by such proposed relief, including its tax parcel number.
 - (4) A statement of the present zoning classification of the real estate in question, the date of acquisition thereof and the present use thereof.
 - (5) A statement of the section of this chapter under which an exception is requested or variance or other relief is sought or to which challenge as to the validity is made, and a statement of the specific relief sought and the chapter provisions applicable thereto.
 - (6) A discussion of applicable provisions of this chapter and the evidence that will be offered at the hearing in support of the applicant's right to the relief requested.
 - (7) A reasonably accurate description of the present improvements and the additions intended to be made under the application, indicating the size of such proposed improvements, materials and general construction thereof and sufficient information to display compliance with the area, bulk and setback requirements and design standards of this chapter. Unless specifically excused by general order or special rule of the Board, there shall be attached a plot plan of the real estate to be affected, prepared by a Pennsylvania-registered engineer or registered land surveyor, indicating the location and size of the lot and size of the improvements now erected and proposed to be erected, showing all dimensions, computations, areas, percentages and measurements necessary to demonstrate compliance with all the terms and requirements of this chapter. Also attached to the application shall be a true and correct copy of the application for building permit, showing the Zoning Officer's action with respect thereto.
- D. No application hereunder shall be considered filed until such time as the Zoning Officer shall have reviewed the application, determined that the application is complete based upon the requirements herein and under the rules of the Board, and notified the applicant of the acceptance of the application.

§ 455-113. Stay of proceedings.

Upon filing an appeal under this section and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court having jurisdiction of zoning appeals,

on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.

§ 455-114. Notice of public hearing.

The Board shall give notice of its hearings as follows:

- A. By public notice as defined in Section 107 of the Municipalities Planning Code,²³¹ which shall state the location of the lot or building in question and the general nature of the relief sought.
- B. By conspicuously posting the Board's written notice of the hearing on the affected lot of land so that it is visible to passersby at least one week prior to the hearing. [Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]
- C. By mailing the Board's notice of the hearing by regular mail to the applicant, the Zoning Officer, the Township Secretary, the Planning Commission and the Board of Supervisors and any person who has made timely request for such notice. [Amended 6-2-2014 by Ord. No. 422-14]
- D. By mailing notice to any Township residents or associations of residents who shall have registered their names and addresses for the purpose of receiving Zoning Board hearing notices.
- E. By mailing written notice thereof by regular mail to the owner of record of every lot on the same street within 500 feet, measured along the street frontage, of the lot or building in question and of every lot not on the same street but within a five-hundred-foot radius of said lot or building. The public notice shall be sent a minimum of two weeks prior to the hearing. Failure to give notice as required by this subsection shall not invalidate any action taken by the Board. [Amended 6-2-2014 by Ord. No. 422-14]

§ 455-115. Hearing procedure.

- A. The hearing shall be conducted by the Board, or the Board may appoint any member or an independent attorney 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 decision or findings of the hearing officer as final.
- B. The parties to the hearing shall be the applicant, Easttown Township, any person affected by the application that has made timely appearance of record before the Board, and any other person or civic or community organization permitted by the Board to appear. The Board may require all persons wishing to become parties to enter their appearances in writing on forms provided by the Board for that purpose.
- C. The Chairman or Acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and for the production of 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 argument and to cross-examine adverse witnesses on all relevant issues.

²³¹Editor's Note: See 53 P.S. § 10107.

- D. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded by the Board.
- E. The burden of proof shall always be on the applicant before the Zoning Hearing Board to sustain the appeal before the Board. The applicant's burden of proof shall include the duty of presenting credible evidence sufficient to persuade the Board that the applicant has satisfied the criteria set forth in the applicable sections of this chapter.
- F. A stenographic record of the proceedings shall be made by a court reporter. The applicant and the Board shall share the appearance fee for the court reporter equally. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.
- G. Neither the Board nor the hearing officer shall communicate directly or indirectly with any party or his representatives in connection with any issue involved, except upon notice and an opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda or other materials, except advice from the Board's Solicitor, unless the parties are afforded an opportunity to contest the material so noticed, and shall not inspect the site or its surroundings after the commencement of the hearings with any party or his representative unless all parties are given an opportunity to be present.
- H. The initial hearing and any subsequent hearing shall be scheduled in accordance with the requirements of Section 908(1.2) of the Municipalities Planning Code.²³²
- I. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is required, make written findings on the application within 45 days of the close of the last hearing, unless extended by the applicant. Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of this chapter, or any ordinance, rule or regulation shall contain a reference to the provision relied upon and the reasons why the conclusion is deemed appropriate under the facts as found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make the report and recommendations available to the parties within 45 days, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the hearing officer.
[Amended 1-15-2018 by Ord. No. 433-18]
- J. Except for challenges filed under Municipalities Planning Code Section 916.1,²³³ in the event the Board fails to hold a public hearing or render a decision within the times required by this section, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as required by this section, the Board shall give public notice of the decision within 10 days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of this section. If the Board shall fail to provide such notice, the applicant may do so. **[Amended 1-15-2018 by Ord. No. 433-18]**

232. Editor's Note: See 53 P.S. § 10908(1.2).

233. Editor's Note: See 53 P.S. § 10916.1.

K. 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 by first-class United States Mail to the applicant 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. [Amended 1-15-2018 by Ord. No. 433-18]

§ 455-116. Applications for special exceptions and variances.

- A. In addition to the requirements specified in the provisions of this chapter permitting the requested special exception, the Board shall consider, where relevant, the following standards and criteria in reviewing any application for approval of a special exception under this chapter, and the applicant shall have the burden to prove compliance with each such standard and criteria: [Amended 6-2-2014 by Ord. No. 422-14; 1-15-2018 by Ord. No. 433-18]
- (1) That the use of the property adjacent to the area included in the special exception is adequately safeguarded. This provision shall require noise abatement, landscaping, buffering, additional setbacks, if necessary, and similar restrictions in order to protect adjacent property.
 - (2) That vehicular trip generation resulting from the proposed use will not result in such increased traffic or turning movements as will significantly affect existing congestion on streets and roads within the immediate vicinity of the proposed development or adversely impact the reserve capacity of the public roads and road intersections providing access to and in the area of the proposed use.
 - (3) Improvements to the streets contiguous to the applicant's property, such as road widening, acceleration and deceleration lanes, traffic control devices and similar features, shall be sufficient to obviate any adverse traffic impacts caused by the use and to protect the traveling public, and the location and design of the proposed facilities for ingress or egress shall be so located as to provide safe access to adjoining streets and roads and to avoid unnecessary traffic through existing neighborhoods.
 - (4) The proposed use shall make adequate provision for access for firefighting and other emergency service equipment. Such access must include, but is not necessarily limited to, turning radii sufficient to accommodate fire equipment, adequacy of roadway and right-of-way widths to accommodate the free flow of such equipment, paved emergency access roads/ways, provision for adequate access in front of, between and behind buildings and structures, including paved or compacted surfaces sufficient to support the weight of fire equipment, and permanently and publicly marked as such.
 - (5) Require submission of a certificate of adequacy of sewage and water facilities from the Chester County Health Department, the Pennsylvania Department of Environmental Protection, the Easttown Municipal Authority or other regulatory agency having jurisdiction, or evidence of compliance with such requirements determined sufficient by the Board.
 - (6) Except where otherwise required by this chapter or Chapter 400, Subdivision and Land Development, or the safety of the public otherwise dictates, the total number of access points on major streets and highways shall be limited. The Board shall have the power to require the frontage of buildings on parallel marginal roads or on roads perpendicular to existing public streets and highways.
 - (7) The proposed use shall specifically comply with all area and bulk regulations, design standards

- or other general regulations applicable to the proposed use.
- (8) The proposed use shall not be contrary or harmful to the health, safety, morals and general welfare.
 - (9) Any recommendations of the Planning Commission shall be provided to the applicant, and the applicant shall produce evidence to ameliorate any negative concerns raised by the Planning Commission. The Board shall not be bound by such recommendations.
 - (10) Be assured that the natural features and processes characterizing the proposed site and its surroundings shall not suffer unmitigated degradation, that the management of storm waste, the provision of water or sewer service, and any other alterations to the site's predevelopment condition shall be consistent with the Township goals, practices, and plans in these regards, and that demand for water and energy by the proposed use shall be minimized to the optimal extent.²³⁴
- B. In addition to giving consideration to the criteria identified in Subsection A above, the Board may grant a variance, provided that the applicant has met its burden to prove that all of the following criteria, where relevant in a given case, are met:
- (1) 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 the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located.
 - (2) 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 the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 - (3) Such unnecessary hardship has not been created by the applicant.
 - (4) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.
 - (5) (Reserved)²³⁵
 - (6) 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.

§ 455-117. Conditions of approval for special exceptions and variances. [Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14; 1-15-2018 by Ord. No. 433-18]

- A. In granting any special exception or variance, the Board shall consider and impose reasonable conditions as it deems necessary to implement the purposes of this chapter, the grant of relief and the Municipalities Planning Code.²³⁶

234. Editor's Note: Former Subsection A(11), regarding the imposition of additional conditions, was repealed 1-15-2018 by Ord. No. 433-18.

235. Editor's Note: Former Subsection B(5), which stated that a property with a variance will not have an increased base flood elevation, was repealed 5-15-2017 by Ord. No. 428-17.

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

§ 455-118. Expiration of special exceptions and variances; extensions.

- A. Unless otherwise specified by the Board, a special exception or variance shall expire if the applicant fails to apply for a building permit or, if no building permit is required, a use and occupancy permit within six months from the date of the Board's decision. [Amended 6-2-2014 by Ord. No. 422-14]
- B. The applicant may apply to the Zoning Officer for a single extension not to exceed 180 days from the date the special exception or variance would have otherwise expired, provided that the application is made within the six-month period after the grant by the Board of the original variance or special exception, and not thereafter. If the Zoning Officer determines that there has been no change in the applicable ordinances or the conditions existing at the time of the grant of the original special exception or variance, he may grant such extension to a date certain. Upon taking any such action, the Zoning Officer shall send written notice thereof to the applicant, the Township Engineer, the Township Solicitor and any person who appeared in the original proceedings as a party of record. [Amended 12-15-2014 by Ord. No. 424-14]
- C. Any person to whom such notice is required to be sent may appeal to the Board from the Zoning Officer's action, provided that such appeal is duly filed with the Board within 30 days of the Zoning Officer's determination.

§ 455-119. Substantive challenges.

- A. A landowner who, on substantive grounds, desires to challenge the validity of this chapter, the Zoning Map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest may submit the challenge to the Zoning Hearing Board in accordance with § 455-110A.
- B. Persons aggrieved by a use or development permitted on the land of another by this chapter or the Zoning Map or any provision hereof who desire to challenge its validity on substantive grounds shall first submit their challenge to the Zoning Hearing Board for a decision thereon pursuant to § 455-110A.
- C. The challenging party shall make a written request to the Board that it hold a hearing on its challenge.
- D. The request shall specify the reasons for the challenge and shall be in the form required by § 455-112. This section shall not be construed to preclude a landowner from first seeking a final approval before submitting his challenge. Based upon the testimony presented at the hearing, the Zoning Hearing Board shall determine whether the challenged ordinance or map is defective, as alleged. If the Board finds the challenge to have merit, the Board's decision shall include recommended amendments to the challenged ordinance, which will cure the defects found. In reaching its decision, the Board shall consider the amendments, plans, and explanatory material submitted by the landowner and shall also consider the following:
 - (1) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
 - (2) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map.
 - (3) The suitability of the site for the intensity of the use proposed by the site's soils, slopes,

woodlands, wetlands, floodplains, aquifers, natural resources and other natural features.

- (4) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.
 - (5) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
- E. The Board shall commence its hearings within 60 days after the request is filed, unless the landowner requests or consents in writing to an extension of time. Public notice of the hearing shall include notice that the validity of the ordinance or map is in question and shall give the place where and the times when a copy of the request, including any plans or explanatory material, may be examined by the public. **[Amended 1-15-2018 by Ord. No. 433-18]**
- F. The challenge shall be deemed denied when:
- (1) The Zoning Hearing Board fails to commence the hearing within the time limits specified in Subsection E above; or
 - (2) The Board fails to act on the request 45 days after the close of the last hearing on the request, unless the time is extended by mutual consent of the landowner and the Township. **[Amended 12-15-2014 by Ord. No. 424-14]**
- G. Where a validity challenge is sustained by the Board or a court of competent jurisdiction acts finally on an appeal from the denial by the Board of a validity challenge and the challenge so approved requires a further application for subdivision or land development, the developer shall have two years from the date of such approval to file an application for preliminary subdivision or land development approval. Within the two-year period, no subsequent change or amendment in this chapter or Chapter 400, Subdivision and Land Development, shall be applied in any manner which adversely affects the rights of the applicant as sustained in the validity challenge. If the validity challenge is sustained but does not require further application under Chapter 400, Subdivision and Land Development, the developer shall have one year within which to file for a building permit. During that one-year period, no subsequent change or amendment in this chapter or Chapter 400, Subdivision and Land Development, shall be applied to adversely affect the rights of the applicant as sustained in the validity challenge.

ARTICLE XVI
Nonconforming Uses, Structures, Lots and Signs

§ 455-120. (Reserved)²³⁷

§ 455-121. Continuation; transfer of ownership.

- A. Any lawful building or other structure or any lawful use of a building, land, or sign legally existing at the time of adoption of this chapter, or authorized by a building permit issued prior thereto, may be continued in the form evident at the time of adoption of this chapter.
- B. A nonconforming use, nonconforming structure and nonconforming lot may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this chapter.

§ 455-122. Nonconforming uses.

- A. Expansion. The nonconforming use of a building or of a lot shall not be expanded so as to use other portions of the building or lot, unless the Zoning Hearing Board shall, by special exception as hereinafter provided, authorize the expansion of such use. The Zoning Hearing Board, upon proper application, may grant such special exception, provided that:
 - (1) It is clear that such expansion is not materially detrimental to the character of the surrounding area or to the interest of the Township. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (2) The area devoted to the nonconforming use shall not be increased more than once during the life of the use. In addition, the area devoted to the nonconforming use shall not be increased more than 25% of the area of that portion of the lot or structure actually occupied by the use.
 - (3) Any expansion of the building or of a lot having a nonconforming use shall conform to all applicable area and bulk regulations of the district in which it is situated and to all regulations applicable to such a use in the district which it is located, unless an expansion is granted as per § 455-123A(3) below.
 - (4) Any expansion of a nonconforming use shall meet the off-street parking requirements of this chapter and landscaping and buffering requirements in Article X and Article XI of Chapter 274, Natural Resources Protection, as incorporated by reference in § 455-38 of this chapter.
- B. Change of use.
 - (1) A nonconforming use may be changed to another nonconforming use by the grant of a special exception, only upon determination by the Zoning Hearing Board, after a public hearing, that the proposed new use will be similar to or less detrimental to its neighborhood and abutting properties than is the use it is to replace. In evaluating relative detriment, the Zoning Hearing Board shall take into consideration, among other things, potential traffic generation, nuisance characteristics, such as emission of noise, dust, odor, glare, and smoke, fire hazards, and hours and manner of operation.
 - (2) Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

237.Editor's Note: Former § 455-120, Applicability; definitions, was repealed 12-15-2014 by Ord. No. 424-14.

C. Restoration. A structure containing a nonconforming use involuntarily destroyed or substantially damaged by fire, explosion, flood, or other phenomena, or legally condemned, may be reconstructed and used for the same nonconforming use, provided that:

- (1) Reconstruction of the structure shall commence within one year from the date the structure was destroyed or condemned and shall be completed within one year of the date commenced.
- (2) The reconstructed structure shall not exceed the area and bulk of the damaged or destroyed structure, except as provided by § 455-123A(3) below.

D. Discontinuance or abandonment. If a nonconforming use of a structure or land is razed, removed, discontinued, or abandoned for 12 consecutive months, subsequent use of such structure or land shall conform to the regulations of the district in which it is located. However, the same nonconforming use shall be allowed, provided the request for the nonconforming use is filed within the twelve-month period and thereafter approved by the Zoning Hearing Board and the permit application for such approved nonconforming use is filed within 30 days after the decision of the Zoning Hearing Board.

§ 455-123. Nonconforming structures.

A. Alteration, renovation, or enlargement.

- (1) Nonconforming structures may be altered, renovated, or enlarged, provided that such alteration, renovation or enlargement does not increase the floor area of the structure as it existed on the date when the structure became nonconforming, and such alteration, renovation, or enlargement shall not increase any existing nonconformity, except as provided in Subsection A(3) below. In the case of a nonconforming structure which is occupied by a nonconforming use, such alteration, renovation, or enlargement shall also meet the requirements of § 455-122A above. In the case of a nonconforming structure which is located on a nonconforming lot, such alteration, renovation, or enlargement shall also meet the requirements of § 455-124 below.
- (2) Any structural alteration of or addition to existing structures shall conform with all area and bulk regulations, including minimum area, height, width, yard and coverage requirements for the district in which it is located, as well as Building Code regulations currently in effect, except insofar as is permitted by law to assure the structural safety of the building.
- (3) The Zoning Hearing Board may, by special exception, authorize the alteration, renovation, or expansion of a nonconforming structure to increase the structure's size by not more than 25% of the footprint of the existing structure, provided that it is clear that such expansion is not materially detrimental to the character of the surrounding area or to the interest of the Township. Any incremental expansions granted to permit for expansion of the nonconforming structure shall be cumulative, so in no event shall the original nonconforming structure be increased by more than 25% of the original footprint of the structure. [Amended 12-15-2014 by Ord. No. 424-14]

B. Restoration. Any lawful nonconforming building or other structure which has been involuntarily damaged or destroyed or substantially damaged by fire, explosion, windstorm, or other active cause may be reconstructed in the same location, provided that:

- (1) The reconstructed building or structure shall not exceed the height, area, or bulk permitted by § 455-122C or the original building, whichever shall be the more limited.
- (2) Reconstruction shall begin within one year from the date of damage or destruction and shall be

completed without interruption.

§ 455-124. Nonconforming lots.

- A. A building may be constructed on a nonconforming lot in existence at the effective date of this chapter under the following circumstances:
 - (1) An owner of two or more contiguous nonconforming lots which, if combined, would create a lot of conforming size shall be required to combine such lots prior to the issuance of a building permit.
 - (2) A building may be constructed on a lot which is nonconforming solely in respect to lot area requirements when authorized by the Zoning Officer.
 - (3) Where the side, rear, or front yard setbacks cannot be met, a special exception to construct a building on a nonconforming lot may be authorized by the Zoning Hearing Board.
- B. No lot area shall be reduced so that the area or width of the lot or the applicable setback dimensions shall be smaller than herein prescribed.
- C. An existing structure located on a lot nonconforming as to area may be used for the use permitted in the district in which it is located, provided the structure complies with all bulk requirements of that district. If a nonconforming structure is located on a nonconforming lot, such structure may be used for a use permitted in the district in which it is located when it is determined by the Zoning Officer, or by the Zoning Hearing Board on appeal, that the proposed use is not injurious to health, safety, morals, and general welfare of the Township in general and the surrounding property owners in particular.

§ 455-125. Nonconforming signs.

Nonconforming signs are regulated by § 455-85.

ARTICLE XVII Amendments

§ 455-126. Power of amendment. [Amended 1-15-2018 by Ord. No. 433-18]

The Board of Supervisors may from time to time amend, supplement, change, modify or repeal this chapter or any provision thereof, including the Zoning Map, by proceeding in the manner prescribed in this article and in accordance with the applicable provisions of the Municipalities Planning Code.

§ 455-127. Initiation of amendment proposals.

- A. Proposals for amendment of this chapter may be initiated by the Board of Supervisors on its motion, by the Township Planning Commission, or by petition of one or more owners of property to be affected by the proposed amendment.
- B. A landowner who desires to challenge, on substantive grounds, the validity of this chapter or Zoning Map, or any provision thereof which prohibits or restricts the use or development of land in which they have an interest, may submit a curative amendment to the Board of Supervisors with a written request that their challenge and proposed amendment be heard and decided as provided in Sections 609.1 and 916.1 of the Municipalities Planning Code.²³⁸
- C. If the Board of Supervisors determines that this chapter or any portion thereof or amendment thereto is substantially invalid, it shall have the right to prepare a curative amendment in accordance with the procedure set forth in Section 609.2 of the Municipalities Planning Code.²³⁹

§ 455-128. Procedures for consideration of proposed amendments.

- A. Proposals initiated by the Board of Supervisors. The Board of Supervisors shall refer every proposed amendment originated by the Board or submitted for its formal consideration to the Board, the Township Planning Commission, and the Chester County Planning Commission.
- B. Proposals initiated by the Township Planning Commission. The Township Planning Commission may at any time transmit to the Board of Supervisors any proposal for amendment of this chapter.
- C. Proposals initiated by petition of property owners. Each petition by one or more property owners of property to be affected by a proposal for amendment shall be submitted to the Secretary of the Board of Supervisors, together with a fee in accordance with a fee schedule adopted by resolution of the Board. No part of such fee shall be refundable to the petitioner.

§ 455-129. Referral to Township and County Planning Commissions.

- A. At least 30 days prior to the hearing on such proposed amendment, the Board of Supervisors shall refer proposed amendments, other than ones originated by the Township Planning Commission, to the Township Planning Commission so it may provide recommendations on the proposed amendment. [Amended 1-15-2018 by Ord. No. 433-18]
- B. All proposed amendments shall be submitted by the Township to the Chester County Planning Commission for review and comment at least 30 days prior to the amendment hearing in accordance with the provisions of the Municipalities Planning Code. The Board of Supervisors shall not take

238. Editor's Note: See 53 P.S. § 10609.1 and 53 P.S. § 10916.1.

239. Editor's Note: See 53 P.S. § 10609.2.

action on the amendment until the report from the County Planning Commission is received or the time period for such response has elapsed. However, the Board shall not be bound by recommendations of the county.

§ 455-130. Public hearing and notice.

- A. The Board of Supervisors shall fix the time and place of a public hearing on the proposed amendment, and notice thereof shall be given in accordance with this section. [Amended 6-2-2014 by Ord. No. 422-14]
- B. The Board of Supervisors shall publish notice thereof consistent with the public notice requirements of the Municipalities Planning Code.²⁴⁰ [Amended 1-15-2018 by Ord. No. 433-18]
- C. If the proposed amendment involves a Zoning Map change, notice of the public hearing shall be conspicuously posted by the Township along the perimeter of the lot or areas where such map change is proposed. Such posting shall be in accordance with the provisions of the Municipalities Planning Code to notify interested citizens. The affected lot or area shall be posted at least one week prior to the date of the hearing. In addition, in accordance with the Municipalities Planning Code, the Township shall send notice of the public hearing to affected property owners, by first-class mail, at least 30 days prior to the date of the hearing; however, this provision shall not be required when the rezoning is comprehensive. [Amended 12-15-2014 by Ord. No. 424-14]
- D. (Reserved)²⁴¹
- E. At the public hearing, full opportunity to be heard shall be given to any resident and all parties in interest.
- F. In the event substantial changes are made to the proposed amendment or ordinance, or it is revised to include land previously not affected by it, the Board of Supervisors shall hold another public hearing, pursuant to public notice as provided in the Municipalities Planning Code,²⁴² prior to proceeding to vote on the amendment or ordinance. [Amended 1-15-2018 by Ord. No. 433-18]
- G. An owner of a lot or parcel of land or the owner of the mineral rights in a tract or parcel of land may request that the Township provide written or electronic notice of a public hearing on an ordinance which may affect the lot or parcel of land. Mailed notice shall only be required where the landowner has made a written request and has supplied the Township with stamped, self-addressed envelopes prior to the public hearing. Electronic notice shall only be required if a landowner has made a written request that notice be sent electronically and has supplied the Township with an electronic address prior to the hearing and the Township has the capability of generating an electronic notice. The Township shall deposit a mailed notice in the United States Mail or provide electronic notice not more than 30 and not less than seven days prior to the scheduled date of the hearing as shown on the notice. Failure of the owner to receive a requested mailed notice or electronic notice shall not be deemed to invalidate any action or proceeding. [Added 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14]

§ 455-131. Notice of enactment.

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

241. Editor's Note: Former Subsection D, regarding publishing of public notices, as amended, was repealed 1-15-2018 by Ord. No. 433-18.

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

- A. After enactment, amendments shall be incorporated into the Township's official ordinance books. Chapter amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein, with the same being attached to the official ordinance.
- B. Within 30 days after enactment, a copy of the adopted amendment shall be forwarded to the Chester County Planning Commission.

ARTICLE XVIII

Terminology

§ 455-132. Definitions; word usage.

Unless otherwise expressly stated, the following terms, words and phrases shall be construed throughout this chapter to have the meanings herein stated. Applicable regulations, stated in conjunction with these definitions, shall be complied with. The singular shall include the plural, and the plural shall include the singular. The present tense shall include the future tense. The word "shall" is always mandatory. The words "used for" shall include "designed for."

ACCESSORY BUILDING — See "building, accessory."

ACCESSORY DWELLING UNIT — A self-contained dwelling unit which is accessory and subordinate to the principal dwelling on a lot.**[Added 9-21-2009 by Ord. No. 391-09; amended 1-15-2018 by Ord. No. 433-18]**

ACCESSORY STRUCTURE — See "structure, accessory."

ACCESSORY USE — See "use, accessory."²⁴³

ADAPTIVE REUSE — The development of a new use for an older building or for a building originally designed for a special or specific purpose.**[Amended 8-19-2013 by Ord. No. 417-13; 11-21-2022 by Ord. No. 453-22]**

AESTHETIC DESIGN — The design of a building and a site that is referential to the context of the property that has existed for 50 or more years, and that is aimed at the protection of historic structures.**[Added 11-21-2022 by Ord. No. 453-22]**

ALTERATION — Any change to any portion of a building or structure for the same or different use, or enlargement to or diminution of a building or structure.**[Amended 11-21-2022 by Ord. No. 453-22]**

ANIMATED SIGN — A sign with action or motion, flashing, color changes requiring electrical energy, light-emitting diodes (LED) or other light sources as part of the sign or sign face, electronic or digital sign face, electronic manufactured sources of supply, but not including static LED fuel price signs or wind-actuated elements such as flags, banners, or specialty items.**[Amended 6-4-2012 by Ord. No. 408-12; 6-3-2013 by Ord. No. 414-13]**

APARTMENT —

- A. **APARTMENT** — A dwelling unit constituting a separate living area containing independent cooking and sleeping facilities for one family, physically separated from any other dwelling unit, typically in a multifamily building consisting of three or more apartment units (apartment house or apartment development).
- B. **APARTMENT ACCESSORY TO A NONRESIDENTIAL USE** — An upper-floor dwelling unit within a nonresidential building connected together, constituting a separate living area containing independent cooking and sleeping facilities for one family, physically separated from any other dwelling unit, and located on the second floor or higher above a separate nonresidential use located in the same structure.
- C. **APARTMENT, GARDEN** — One or more two- or three-story, multifamily structures containing separate apartments with individual access typically from a common hall, although

²⁴³**Editor's Note:** The former definition of "accessory use sign," as amended, which immediately followed this definition, was repealed 2-4-2019 by Ord. No. 437-19.

individual entrances can be provided. Dwelling units can be located back-to-back, adjacent, or on top of one another.

- D. APARTMENT, QUADRAPLEX — Four attached apartment units in one building in which each unit has two open space exposures and shares one or two walls with adjoining units.

APPLICANT — A landowner or developer, as hereinafter defined, who has filed an application for development, including his, her or its heirs, personal representatives, successors and assigns.**[Added 9-21-2009 by Ord. No. 391-09]**

APPLICATION FOR DEVELOPMENT — Every application, whether preliminary or final, required to be filed and approved prior to start of construction or development, including but not limited to, an application for a building permit or for the approval of a subdivision plan or plot.²⁴⁴**[Added 9-21-2009 by Ord. No. 391-09]**

AUTOMOBILE GASOLINE SERVICE STATION — A use where the principal and accessory buildings used for sale of gasoline, oil and motor vehicle accessories and/or the servicing of motor vehicles, including washing of cars and minor repairs, but not for body and fender work or painting.

AUTOMOBILE REPAIR — The use of any building or structure where the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

AUTOMOBILE SALES — The use of any building, structure, or lot for the display and sale of new or used automobiles, panel trucks or vans, trailers, or recreational vehicles and including any warranty repair work and other repair service conducted as an accessory use.

AWNING SIGN — Any sign painted on or applied to a structure made of cloth, canvas, metal or similar material which is affixed to a building and projects therefrom.**[Amended 6-3-2013 by Ord. No. 414-13; 1-15-2018 by Ord. No. 433-18]**

BANK or FINANCIAL INSTITUTION — Any building wherein the primary occupation or use is concerned with such businesses as banking, savings-and-loan associations, credit unions, loan companies, mortgage companies, or investment companies.

BANNER — A sign consisting of lightweight, flexible material that is supported by frame, rope, wires or other anchoring devices, which may or may not include copy, logo or graphic symbols.

BASEMENT — Any enclosed space having more than 1/2 of its floor-to-ceiling height below the average level of the adjoining ground.

BAY — A repetitive vertical division of an exterior facade, as well as the vertical division in the architectural arrangement of a building marked by such elements as pilasters, the disposition of piers and pillars, or any other repeated spatial units.**[Added 11-21-2022 by Ord. No. 453-22]**

BEACON LIGHT — Any source of electric light, whether portable or fixed, the primary purpose of which is to cast a concentrated beam of light generally skyward as a means of attracting attention to its location rather than to illuminate any particular sign, structure, or other object.

BED-AND-BREAKFAST INN — An owner-occupied building designed, used and occupied as a single-family residence, having, as an accessory use therein, public lodging rooms and facilities for and serving breakfast and afternoon tea prepared within the building to preregistered transient guests.**[Amended 1-15-2018 by Ord. No. 433-18]**

BEST MANAGEMENT PRACTICES (BMPs) — Measures employed to control stormwater runoff

²⁴⁴.Editor's Note: The former definition of "artisan sign," which immediately followed this definition, was repealed 2-4-2019 by Ord. No. 437-19.

BMPs include structural and nonstructural practices that prevent adverse impacts to streams and other watercourses and protect watersheds from the damaging affects of uncontrolled stormwater runoff. The primary reference for implementation of BMPs in the Township shall be the Pennsylvania Handbook of Best Management Practices for Developing Areas, published by the Pennsylvania Department of Environmental Protection, Pennsylvania Association of Conservation Districts, Inc., Natural Resources Conservation Service, and Keystone Chapter, Soil and Water Conservation Society, Spring 1998, or as amended.

BILLBOARD — A freestanding off-premises sign.

BLOCK — An area bounded by streets.**[Added 9-21-2009 by Ord. No. 391-09]**

BUFFER, PERIMETER — Plantings placed along the boundary of a lot and around stormwater management basins, to diminish and mitigate views of a development from off site.**[Amended 12-15-2014 by Ord. No. 424-14]**

BUFFER, SCREEN — Plantings placed between incompatible land uses or zoning districts to obscure views of the adjacent property or use.

BUILDING — Any structure having a roof supported by enclosing walls or columns and intended for the shelter, housing, or enclosure of any use or occupancy, permanently located on the land.

- A. **DETACHED BUILDING** — A building which has no party wall.
- B. **SEMITDETACHED BUILDING** — A building having one shared or party wall in common with an adjoining building.
- C. **ATTACHED BUILDING** — A building in a group of more than two buildings wherein there are two or more party walls in common with the adjoining buildings, provided that there are no more than eight such buildings in a group.

BUILDING, ACCESSORY — A building that is not a principal building or structure and which is used for purposes that are entirely incidental and subordinate to those of the principal building or structure and located on the same lot. For purposes of this chapter, structures such as but not limited to tennis courts, swimming pools, bathhouses, carports, breezeways and garages shall be considered accessory structures.**[Amended 1-15-2018 by Ord. No. 433-18]**

BUILDING HEIGHT — The vertical distance from the average grade (the average of the grades taken at ten-foot intervals around the building perimeter) to the top of the highest roof beams of a flat roof, or to the mean level of a sloped roof, provided that chimneys and spires shall not be included in measuring the height. Elevator, stair and equipment penthouses, tanks and air-conditioning towers shall not be included. The height shall be measured from finished grade, but such measurement shall not be made from a point higher than four feet above original grade.**[Amended 1-15-2018 by Ord. No. 433-18]**

BUILDING MATERIALS, STORAGE AND SALES — A commercial use involving the storage of and/or sales and display of building materials, such as lumber, masonry, plumbing and electric supplies and HVAC equipment.

BUILDING, PRINCIPAL — The main building on a lot or any building that is not an accessory building. Each single-family dwelling or apartment building and each commercial, industrial or institutional building which houses a separate commercial, industrial or other enterprise, or a group of permitted commercial or industrial uses, shall be construed to be a principal building for the purposes of this chapter.

BUILDING SETBACK LINE — The line, uniformly equidistant from an adjacent street line, established by the required front yard, within a property that defines the minimum required distance between any building to be erected and an adjacent street right-of-way. In the case of an existing interior lot not fronting

a street for its entire width, the building setback line shall be a line parallel to the street right-of-way measured from the property interior line nearest the street, defining the minimum distance in which no building may be constructed.

BUILD-TO LINE — A line which dictates the placement of a building or structure from the street right-of-way on which the building or structure fronts. On a corner lot, there shall be a build-to line on each side of a lot abutting a street. In the case of an interior lot, the build-to line shall be measured as defined for the interior of lots under "building setback line."

BUSINESS SERVICES — A business that supports a business process but does not produce a tangible commodity.²⁴⁵[Added 1-15-2018 by Ord. No. 433-18]

BUSINESS OFFICE — An office for the management, consulting, recordkeeping, and clerical work of a commercial, industrial, mercantile, or service enterprise and not for the sale of goods located on the property or for personal services rendered such as in the definition of "personal service, commercial" below.

BUSINESS SIGN — A sign directing attention to a business, commodity, service or entertainment conducted, sold or offered upon the same premises as those upon which the sign is maintained.

CALIPER — The diameter of a tree trunk measured at a point six inches above the ground for trees up to and including four inches in caliper size. For trees of larger-size caliper, the measurement is taken 12 inches above the ground level.

CARTWAY (ROADWAY) — The portion of a street right-of-way, paved or unpaved, customarily used by vehicles in the regular course of travel over the street.[Added 9-21-2009 by Ord. No. 391-09]

CERTIFICATE OF OCCUPANCY — A statement signed by a duly authorized official (such as the Building Code Officer) setting forth that a building, structure, or use legally complies with the Building Code and this chapter and that the same may be used for the purpose stated therein.

CERTIFIED ARCHEOLOGICAL HISTORIAN — A person with a bachelor's degree in archeology and at least two years of full-time experience in the study of human history and prehistory through the excavation of sites and the analysis of artifacts and other physical remains.[Added 11-21-2022 by Ord. No. 453-22]

CERTIFIED ARCHITECTURAL HISTORIAN — A person with a bachelor's degree in architectural history, art history, historic preservation, or architecture, and at least two years of full-time experience in American architectural history or restoration architecture.[Added 11-21-2022 by Ord. No. 453-22]

CHANGEABLE COPY — Copy containing or displaying letters, numbers or graphics that is designed to be readily changed, as for a theater marquee, gas station or similar use.²⁴⁶

CLEAR-CUTTING/CLEAR-CUT OPENING — The complete removal of all trees on a site, or any portion thereof, greater than 1/2 acre in contiguous area, during a single timber harvesting operation or within a three-year period.

CLEAR SIGHT TRIANGLE — An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of the street center lines.²⁴⁷[Added 9-21-2009 by Ord. No. 391-09]

245.Editor's Note: The former definition of "bulletin board," which immediately followed this definition, was repealed 2-4-2019 by Ord. No. 437-19.

246.Editor's Note: The former definition of "civic event sign," which immediately followed this definition, was repealed 2-4-2019 by Ord. No. 437-19.

247.Editor's Note: The former definitions of "commercial communications antenna," "commercial communications antenna support structure," and "commercial communications antenna support structure height," which immediately followed this definition, were repealed 12-15-2014 by Ord. No. 424-14.

COMMERCIAL DAY-CARE CENTER —

- A. **ADULT DAY-CARE CENTER** — A commercial or nonprofit facility where daytime supervision is provided for adults not related to the caregiver, where tuition, fees, or other forms of compensation may be charged, and where the facility is not being used as a family residence.
- B. **CHILD DAY-CARE CENTER** — A commercial or nonprofit facility which exclusively provides supplemental parental care and/or instruction to children not related to the caregiver or operator, where tuition, fees, or other forms of compensation may be charged, where the facility is not being used as a family residence, and which is licensed or approved to provide child care by the Commonwealth of Pennsylvania.

COMMERCIAL RECREATION — A place designed and equipped for the conduct of sports, leisure-time activities and other customary and usual recreational activities, that is operated as a business where the use of such place or facility is available for a fee.

COMMON OPEN SPACE — A parcel or parcels of land or an area of water, or a combination of land and water, within a development site and designed and intended for the use or enjoyment of residents of the development, but not including streets, off-street parking areas, and areas set aside for public facilities. Common open space shall be substantially free of structures but may contain such improvements as are in the subdivision or development plan as finally approved and as are appropriate for the recreation of residents.**[Added 9-21-2009 by Ord. No. 391-09]**

COMMUNITY CENTER — A building used for recreational, social, educational, and cultural activities, usually owned and operated by a public or nonprofit group or agency.

CONDITIONAL USE — See "use, conditional."

CONSERVATION — The planned management of a natural resource to prevent its exploitation, destruction or neglect.

CONSTRUCTION, NEW — Structures for which the start of construction commenced on or after the effective date of this chapter.

CONTINUING CARE RETIREMENT COMMUNITY (CCRC) — A community that offers several levels of assistance, including independent living, assisted living and nursing home care. It is different from other housing and care facilities for seniors because it usually provides a written agreement or long-term contract between the resident (frequently lasting the term of the resident's lifetime) and the community which offers a continuum of housing, services and health care system, commonly all on one campus or site [from Assisted Living Federation of America (ALFA)]. Such facilities shall be operated for mature adults, generally 55 years old or older, that may include one or any combination of an independent living facility, assisted living facility, or nursing home, as follows:

- A. **INDEPENDENT LIVING** — A residential living setting for elderly or senior adults that may or may not provide hospitality or supportive services. Under this living arrangement, the senior adult leads an independent lifestyle that requires minimal or no extra assistance. Generally referred to as "elderly housing" in the government-subsidized environment, "independent living" also includes rental-assisted or market-rate apartments or cottages where residents usually have complete choice in whether to participate in a facility's services or programs (from ALFA).
- B. **ASSISTED LIVING** — A special combination of housing, personalized supportive services and health care designed to meet the needs, both scheduled and unscheduled, of those who need help with activities of daily living. Services provided in assisted living residences usually include:

- (1) Three meals a day served in a common dining area.
 - (2) Housekeeping services.
 - (3) Transportation.
 - (4) Assistance with eating, bathing, dressing, toileting and walking.
 - (5) Access to health and medical services.
 - (6) Twenty-four-hour security and staff availability.
 - (7) Emergency call systems for each resident's unit.
 - (8) Health promotion and exercise programs.
 - (9) Medication management.
 - (10) Personal laundry services.
 - (11) Social and recreational activities (from ALFA).
- C. NURSING HOME — Provides twenty-four-hour skilled care for the more acute patients. Patients generally rely on assistance for most or all daily living activities (such as bathing, dressing and toileting) (from ALFA). One step below hospital acute care. Regular medical supervision and rehabilitation therapy are mandated to be available, and nursing homes are eligible to participate in the Medicaid program. These facilities are state licensed. Also referred to as "nursing facility" or "convalescent home" (from ALFA).

CONTRIBUTING BUILDING — A building that is part of a group of buildings in a neighborhood that has existed for 50 or more years.**[Added 11-21-2022 by Ord. No. 453-22]**

CONVENIENCE STORE — A retail activity designed to serve a local market, which involves a delicatessen, small food, and sundries market. These uses may also be accompanied by the sale of automotive fuels, subject to the applicable zoning district ordinance provisions.

CROSSWALK (INTERIOR WALK) — A publicly or privately owned right-of-way for pedestrian use extending from a street into a block or across a block to another street.**[Added 9-21-2009 by Ord. No. 391-09]**

CULTURAL — The customary material traits of Easttown Township, manifest through the built environment.**[Added 11-21-2022 by Ord. No. 453-22]**

DECK — A structure that is an unroofed platform supported by pillars or posts, either freestanding or attached to the principal structure. Decks under 30 inches in height may encroach into the rear and side yard setbacks, but shall not be located closer than 10 feet to the property line. Decks 30 inches or more in height shall meet all applicable setbacks for the zoning district in which the structure is located. The structure shall be considered a pervious surface so long as the deck surface is open (allowing for water to pass between gaps in the deck surface) and the ground surface below the deck allows for the infiltration of water.**[Amended 9-21-2009 by Ord. No. 391-09; 1-15-2018 by Ord. No. 433-18]**

DEMOLITION — The dismantling, razing, destroying, or wrecking of any building or structure.**[Added 11-21-2022 by Ord. No. 453-22]**

DESIGN AESTHETIC — The exercise of design principles pertaining to historic structures to address the form, composition, scale, proportion, massing, and volume of a building on a property in a neighborhood that has existed for 50 or more years.**[Added 11-21-2022 by Ord. No. 453-22]**

DEVELOPER — Any landowner, agent of such landowner or tenant with the permission of such landowner who files an application for subdivision or land development approval or for zoning approval. [Added 9-21-2009 by Ord. No. 391-09]

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, and excavation, mining, dredging, drilling operations, storage of equipment or materials, and the subdivision of land.²⁴⁸

DOUBLE-FACED SIGN — A freestanding sign with two identical faces of equal sign area which are back-to-back and no more than two feet apart.

DRAINAGE — The flow of water or liquid waste and the method of directing flow, whether natural or artificial. [Amended 9-21-2009 by Ord. No. 391-09]

DRIVE-THROUGH SERVICE — An establishment where, by design, physical facilities, services, or packaging procedures encourage or permit customers to receive services or obtain goods while remaining in their vehicles.

DWELLING —

- A. **SINGLE-FAMILY** — A building, on a lot, designed and occupied exclusively as a residence for one family.
- B. **TWO-FAMILY** — A building, on a lot, designed and occupied exclusively as a residence for two families, living independently of one another, in one of the following configurations:
 - (1) **DUPLEX** — A building designed for and occupied exclusively as a residence, containing two dwelling units, in an "over and under" arrangement, separated by a horizontal common or party wall and having yards on all sides.
 - (2) **TWIN** — A building designed for and occupied exclusively as a residence, containing two dwelling units separated by a vertical common or party wall and having yards on all but one side.
- C. **TOWNHOUSE** — A single-family attached dwelling unit in a row of at least three, but not more than six, such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls. [Added 1-15-2018 by Ord. No. 433-18]
- D. **MULTIFAMILY** — A building on a lot designed for and occupied by more than two families. [Amended 12-15-2014 by Ord. No. 424-14; 1-15-2018 by Ord. No. 433-18]
 - (1) **APARTMENT** — As defined in this article.

DWELLING UNIT — A single residential unit providing complete independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking and sanitation. [Amended 9-21-2009 by Ord. No. 391-09]

EASEMENT — A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public purpose, and within which the owner of the property shall not erect any permanent structures, but shall have the right to make any other use of the land which is not inconsistent with the rights of the

248. Editor's Note: The former definitions of "development sign" and "directional sign," as amended, which immediately followed this definition, were repealed 2-4-2019 by Ord. No. 437-19.

grantee.

EDUCATIONAL USE — Use of land or building(s) for the establishment and maintenance of a public or private college, secondary or elementary school, or other educational institution for the primary purpose of instruction and learning during daytime hours; a use requiring certification, licensing, or review by the Pennsylvania Department of Education.

ELECTRONIC NOTICE — Notice given by the Township through the Internet of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing.**[Added 6-2-2014 by Ord. No. 422-14; amended 12-15-2014 by Ord. No. 424-14]**

ENGINEER — A licensed professional engineer registered by the Commonwealth of Pennsylvania.**[Added 9-21-2009 by Ord. No. 391-09]**

ERECT — To build, construct, attach, hang, place, suspend or affix; shall also include the painting of wall signs or other graphics.

EXTERIOR RENOVATION — The change to the siding, roof, or fenestration of the outside of a building or structure.**[Added 11-21-2022 by Ord. No. 453-22]**

FACADE — The front or face of a building up to the roofline that looks onto a street (or streets in the case of a corner lot).**[Amended 11-21-2022 by Ord. No. 453-22]**

FAMILY —

- A. A single person; or
- B. Any number of persons related by blood, marriage or adoption, including foster children and including not more than two other persons, for example, boarders, lodgers or domestic help; or
- C. Unrelated persons living together as a single cooperative household unit, however, excluding occupants of a rooming/boardinghouse or dormitory; or
- D. A group of individuals with disabilities living together as a single cooperative household unit and entitled to a reasonable accommodation to allow them adequate housing choices pursuant to the Federal Fair Housing Amendments (42 U.S.C. § 3601 et seq., as amended) and the Pennsylvania Human Relations Act (43 P.S. §§ 951 through 963, as amended). **[Amended 6-2-2014 by Ord. No. 422-14; 1-15-2018 by Ord. No. 433-18]**

FARM — A parcel of land used for agricultural purposes such as growing crops, grazing of livestock, growing fruit trees, or similar uses.

FENCE — A structure serving as an enclosure, barrier or boundary made of posts, gates, stakes, boards, wire or rails or similar materials.**[Amended 12-15-2014 by Ord. No. 424-14]**

FENCE, OPEN — A fence with the ratio of the open portion to the solid portion of not less than four to one.

FENCE/WALL HEIGHT — The vertical distance of such structure measured from the ground's existing undisturbed contour to the top of the highest component, including ornamental caps and sculptures, of the fence or wall.**[Amended 12-15-2014 by Ord. No. 424-14]**

FENESTRATION — The arrangement of windows and doors on the facade of a building.**[Added 11-21-2022 by Ord. No. 453-22]**

FESTOON SIGN — An electrically lighted sign comprised of either:

- A. A group of incandescent light bulbs hung or strung overhead or on a building or other

structure(s).

- B. Light bulbs not shaded or hooded or otherwise screened to prevent direct rays of light from shining on adjacent properties or rights-of-way.

FLAG — A piece of fabric or other material of distinctive design that is used as a symbol of a nation, state, city, agency or corporation and which is usually displayed hanging free from a staff or halyard.

FLASHING SIGN — A sign whose illumination is not kept constant in intensity at all times when in use and which exhibits changes in light, color, direction, or animation. Illuminated signs that indicate the date, time, and temperature will not be considered flashing signs.

FLOOD — A temporary inundation of normally dry land areas.**[Amended 5-15-2017 by Ord. No. 428-17]**

FLOOD, BASE — A flood which has a one-percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent-annual chance flood).²⁴⁹**[Amended 5-15-2017 by Ord. No. 428-17]**

FLOODPLAIN AREA — A relatively flat or low land which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation or runoff of surface waters from any source.**[Amended 5-15-2017 by Ord. No. 428-17]**

FLOODWAY — A 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 5-15-2017 by Ord. No. 428-17]**

FLOOR — The horizontal part of a building, that forms its lower enclosing surface and upon which one walks.**[Added 1-15-2018 by Ord. No. 433-18]**

FLOOR AREA, GROSS — The total area of all floors measured to the outside finished surfaces of permanent outer building walls, without any deductions. All enclosed floors of the building, including basements, attic, garages, mechanical equipment floors, penthouses, and the like, shall be calculated as a part of gross floor area.

FLOOR AREA, GROSS USABLE — The total area of all floors within a building which is available and suitable for the business or use conducted within the building, including all lavatory areas, corridors, storage areas and other areas used to keep stock and inventory. This term shall be exclusive of the floor area included in party and outside walls, stairwells, overhangs, loading docks, elevator shafts, common hallways, storage areas in basements, and any room or area dedicated to the heating equipment, air-conditioning equipment, or other utility areas necessary for the operation of the building.**[Added 9-21-2009 by Ord. No. 391-09]**

FLOOR AREA, HABITABLE — The total area of the floors of a residential use, measured from the face of the interior walls and excluding the following: unfinished basement space, elevator shafts, stairwells, attic space, roof, terraces, exterior balconies, breezeways or porches, enclosed space devoted to heating, air-conditioning or other mechanical equipment, and any space located in an accessory building or structure. For the purposes of a bed-and-breakfast facility, the sum of the area of the several floors of the residence measured from the face of the interior walls, excluding basement space, elevator shafts, stairwells, attic space, roof, terraces, exterior balconies, breezeways or porches, space devoted to heating, air-conditioning or other mechanical equipment and any space located in an accessory building or structure.**[Added 9-21-2009 by Ord. No. 391-09; amended 1-15-2018 by Ord. No. 433-18]**

FLOOR, LOWEST — The lowest floor of the lowest enclosed area (including basement). An unfinished or

²⁴⁹**Editor's Note:** The former definitions of "flood hazard area" and "flood hazard map," as amended, were repealed 5-15-2017 by Ord. No. 428-17.

flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

- A. For the purposes of a bed-and-breakfast facility, the sum of the area of the several floors of the residence measured from the face of the interior walls, excluding basement space, elevator shafts, stairwells, attic space, roof, terraces, exterior balconies, breezeways or porches, space devoted to heating, air conditioning or other mechanical equipment and any space located in an accessory building or structure. [Added 12-15-2014 by Ord. No. 424-14]

FORESTRY (TIMBER HARVESTING OPERATION) — The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling of trees for profit, which does not involve any land development, specifically the uprooting or removal of more than four trees of greater than six inches dbh per acre from any lot which has a gross area prior to any subdivision or land development of more than three acres, and, when required, is undertaken in compliance with an approved timber harvesting plan. Forestry, as defined by the Municipalities Planning Code, shall be considered timber harvesting. Timber harvesting does not include the clearing of land for approved construction or the creation or maintenance of approved roads. [Amended 1-15-2018 by Ord. No. 433-18]

FREESTANDING SIGN — A sign and supporting structure which is secured in the ground and independent of any building, fence or other support. For the purpose of this definition, freestanding signs may consist of the following:

- A. **GROUND SIGN** — A sign designed to be viewed at eye level or below within the immediate vicinity and which is intended to be designed and viewed as an architecturally unified and proportional element. [Amended 1-15-2018 by Ord. No. 433-18]
- B. **POLE SIGN** — A sign which is detached from a building and supported by no more than two poles or other structural supports which are architecturally dissimilar to the design of the sign.

FUNCTIONAL CLASSIFICATION — A classification of roadways based on traffic volumes, access, and other factors as denoted in the Easttown Township Comprehensive Plan. [Amended 1-15-2018 by Ord. No. 433-18]

FUNERAL HOME — A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

GARAGE, RESIDENTIAL — A residential accessory structure designed, built or used by the owner or tenant of the principal structure on a lot in which no business, service, or industry connected directly, or indirectly, with motor vehicles is conducted.

GARAGE, SERVICE — A structure, not a residential garage, used for the repair, servicing, or storage of motor vehicles. [Amended 1-15-2018 by Ord. No. 433-18]

GOLF CLUB — An organized, unlighted playing area containing a minimum of nine holes, constructed according to PGA and USGA standards and excluding miniature golf courses and driving ranges.²⁵⁰

GRADE PLANE — A reference plane representing the average finished ground level adjoining the building at all exterior walls. [Added 1-15-2018 by Ord. No. 433-18]

GREEN AREA — The required open area on a lot consisting of an unpaved natural surface such as a

²⁵⁰Editor's Note: The former definition of "governmental sign," as amended, which immediately followed this definition, was repealed 2-4-2019 by Ord. No. 437-19.

grassed area.

GROCERY STORE — A store at which the primary activity is the selling of perishable goods for profit.

GYMNASIUM or RECREATIONAL FACILITY — A place designed and equipped for the conduct of sports and leisure-time activities such as an enclosed gymnasium for court sports such as basketball or an open field for outdoor field sports such as softball or soccer.²⁵¹

HEDGEROW — A linear plant community dominated by trees and/or shrubs. Hedgerows often occur along roads, fence lines, property lines, or between fields and may occur naturally or be specially planted (e.g., as a windbreak). For the purposes of this chapter, hedgerows are considered woodlands and regulated as such, regardless of area or tree size.

HISTORIC ENVIRONMENT — The neighborhood setting for a group of historic buildings or structures.[**Added 11-21-2022 by Ord. No. 453-22**]

HISTORIC RESOURCES — Any historic structure.[**Added 11-21-2022 by Ord. No. 453-22**]

HISTORIC STRUCTURE — Any structure that is:[**Amended 11-21-2022 by Ord. No. 453-22**]

- A. A dwelling, other building, or other structure that is designated as either a National Register site or national historic landmark or considered a significant historic resource by the Township as listed on Map 3-4 of the Easttown Township Comprehensive Plan; or
- B. The applicant can document to the satisfaction of the Zoning Officer that the dwelling, other building, or other structure is more than 50 years old.

HOME DAY CARE — A major home occupation in which a private residence is used for the care and supervision of between four and six children or adults not related to the caregiver. For day care provided for more than six children see "commercial day-care center." [**Amended 1-15-2018 by Ord. No. 433-18**]

HOME OCCUPATION, MAJOR — A home occupation that does not meet one or more of the criteria listed under § 455-61C and otherwise complies with the applicable criteria of the chapter shall be defined as a "major home occupation/major home-based business." [**Amended 1-15-2018 by Ord. No. 433-18**]

HOME OCCUPATION, MINOR (NO-IMPACT HOME-BASED BUSINESS) — A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves neither customer, client, nor patient traffic, and no pickup, delivery, or removal functions, in excess of those normally associated with residential use.[**Amended 1-15-2018 by Ord. No. 433-18**]

HOSPITAL — An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, and other physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, and medical offices.

HOTEL, MOTEL or INN — A building offering short-term accommodations to the general public for compensation and in some circumstances providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.[**Amended 11-21-2022 by Ord. No. 453-22**]

IDENTIFICATION SIGN — A wall sign indicating the name or address of a building or the name of the management thereof.

IDENTIFIED FLOODPLAIN AREA — All of the areas within which Easttown Township has selected to

²⁵¹**Editor's Note:** The original definition of "habitable floor area," which immediately followed this definition, was repealed 6-22-2014 by Ord. No. 422-14.

enforce floodplain regulations. It will always include the area identified as the special flood hazard area on the Flood Insurance Rate Maps and the Flood Insurance Study, but may include additional areas identified by the Township. See Chapter 220, Floodplains, for additional information about what areas the Township has included in the identified floodplain area.**[Added 5-15-2017 by Ord. No. 428-17]**

ILLUMINATED SIGN — A nonflashing or nontwinkling sign which has letters, figures, designs or outlines illuminated by a lighting source as a part of the sign.

IMPERVIOUS SURFACE — Land that is occupied by principal and accessory structures, buildings, streets, overhangs greater than two feet, asphalt, concrete, driveways, parking areas, pools (excluding the water surface area), grass pavers, pervious paving, gravel and/or crushed stone, and other man-made cover that prohibits or slows the percolation and infiltration of water into the soils. A generator of 12 square feet or less when proposed on residential property shall not be considered an impervious surface.**[Amended 6-2-2014 by Ord. No. 422-14; 12-15-2014 by Ord. No. 424-14; 11-21-2022 by Ord. No. 453-22]**

- A. **IMPERVIOUS SURFACE, MAXIMUM** — The percentage of allowable impervious surface calculated by using the lot area exclusive of any street or railroad rights-of-way, utility easements and flag lot access strips, easements for fuel or communications transmissions, whether below- or aboveground, that do not exclusively serve the lot traversed, aboveground stormwater management basins greater than 18 inches in depth that do not exclusively serve the lot, and below-ground stormwater management basins.

IMPROVEMENTS — Grading, paving, curbing, streetlights, fire hydrants, water mains, sanitary sewers, storm sewers, detention basins, retention basins, culverts, streets, sidewalks, monuments, open space improvements, recreation facilities, buffer and screen plantings, street and replacement trees and similar improvements.²⁵²**[Added 9-21-2009 by Ord. No. 391-09]**

LAKES and PONDS — Natural or artificial bodies of water which retain water year-round. Artificial bodies of water may be created by dams or result from excavation. Lakes are bodies of water two or more acres in area. Ponds are bodies of water less than two acres in area.

LAND DEVELOPMENT — **[Added 9-21-2009 by Ord. No. 391-09]**

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups or other features.

- B. A subdivision of land.

LAND 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.

LANDOWNER — The legal, equitable, or beneficial owner or owners of land, including the holder of

²⁵²**Editor's Note:** The former definitions of "instructional sign" and "interior sign," which immediately followed this definition, were repealed 2-4-2019 by Ord. No. 437-19.

an option or contract to purchase (whether or not such option or contract is subject to any conditions), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in the land.

LANDSCAPE ARCHITECT — A landscape architect registered in the Commonwealth of Pennsylvania or any other state having a reciprocal registration agreement with Pennsylvania.

LAND SITE — A lot or parcel of land that contains a wireless communications facility and associated parking, if any, and may include other uses associated with and ancillary to wireless communication transmission.**[Amended 12-15-2014 by Ord. No. 424-14]**

LAUNDROMAT/DRY CLEANER — An establishment providing washing, drying, or dry-cleaning machines on the premises for rental/use to the general public or as a service for sale to the general public.

LED FUEL PRICE SIGN — A static light-emitting diode numeric sign for the purpose of displaying fuel pricing only.**[Added 6-3-2013 by Ord. No. 414-13]**

LETTER HEIGHT — The height of a letter from its bottom to its top, including any shadow lines and other forms of outlining.

LIGHT MANUFACTURING/INDUSTRY — The assemblage, production, processing, manufacture, storage and distribution of materials and products not involving a retail activity on the lot and not including a junkyard, the slaughtering of animals or any industry involving the assemblage, production, processing, manufacturing, storage and distribution of heavy metals, plastics and similar materials and chemicals.

LOGO — A graphic mark or emblem commonly used by commercial enterprises, organizations and individuals to aid and promote instant public recognition. Logos are either purely graphic (symbols or icons) or are composed of the name of the organization in the form of a logotype or wordmark.**[Added 6-3-2013 by Ord. No. 414-13]**

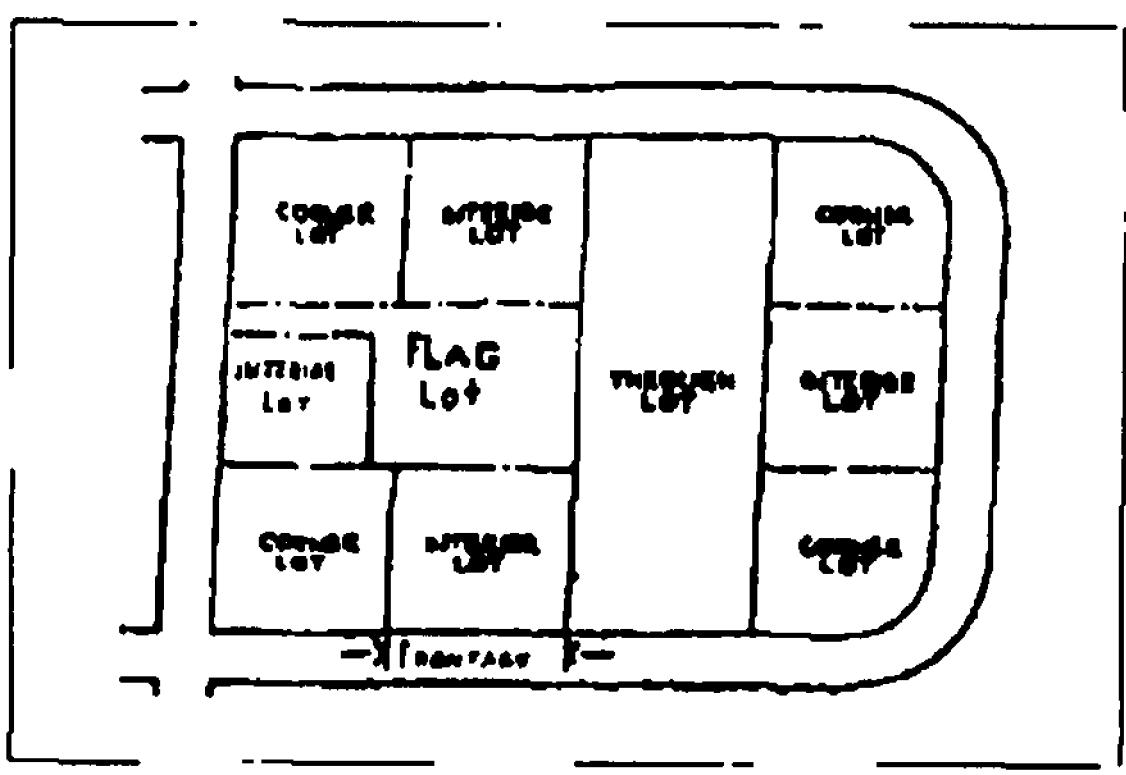
LOT — A designated parcel, lot or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.**[Amended 12-15-2014 by Ord. No. 424-14]**

- A. **LOT AREA, GROSS** — The area of land contained within the limits of the legally described property lines bounding the lot.
- B. **LOT AREA, NET** — The area of land contained within the limits of the legally described property lines bounding the lot, exclusive of any street or railroad rights-of-way, utility easements and flag lot access strips, easements for fuel or communications transmission, whether below or above ground, that do not exclusively serve the lot traversed, very steep slopes and 50% of moderately steep slopes, aboveground stormwater management basins greater than 18 inches in depth that do not exclusively serve the lot, below-ground stormwater management basins that do not exclusively serve the lot, and areas within riparian buffer zones, along with the natural resources that they protect, provided that at least 50% of the required minimum lot area be contiguous land lying outside of these exclusions. **[Amended 1-15-2018 by Ord. No. 433-18]**
- C. **LOT, CORNER** — A lot bounded on at least two sides by streets, whenever the lines of such streets, extended, form an interior angle of 135° or less. See Figure 18-1 below.
- D. **LOT, FLAG** — An irregularly shaped lot characterized by an elongated extension ("pole") of required minimum width that provides access to a street to the principal part of the lot that does not adjoin a street. See Figure 18-1 below.
- E. **LOT, THROUGH** — An interior lot having frontage on two streets, also called a "double-

frontage lot." See Figure 18-1 below.

- F. LOT LINE, FRONT — The lot line separating the lot from the abutting street line.
- G. LOT WIDTH — The horizontal distance between side lot lines and/or street lines measured at the minimum prescribed building line. See Figure 18-1 below.
- H. LOT COVERAGE — The total area of all impervious surfaces on a lot, including coverage by buildings, structures, and extended roofs, eves, overhangs, asphalt, concrete, grass pavers, pervious paving, or other man-made cover. [Amended 1-15-2018 by Ord. No. 433-18]

**Figure 18-1
Lot Diagram**



LOT AVERAGING — A residential development design option that provides flexibility in the layout of individual lots in response to natural features and configuration of a site.

MAILED NOTICE — Notice given by the Township by first-class mail of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing. [Added 6-2-2014 by Ord. No. 422-14; amended 12-15-2014 by Ord. No. 424-14]

MANUFACTURED HOME (MOBILE HOME) — A structure intended for permanent occupancy, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle as herein defined.

MARQUEE — A permanent, roof-like structure, supported by a wall of a building, but having no relationship to the roof structure, generally designed and constructed for protection against weather.

MARQUEE SIGN — Any sign attached to a marquee for the purpose of identifying a movie theater or similar place of entertainment.²⁵³

MEZZANINE, LOFT — An intermediate level or levels between the floor and ceiling of any story, with an aggregate floor area of not more than 1/3 of the area of the room or space in which the level or levers are located.[Added 1-15-2018 by Ord. No. 433-18]

MITIGATION — Any action taken to lessen the specified undesirable impacts of a proposed land use or land disturbance activity, including those which would adversely affect the health or longevity of a natural feature, pose a visual intrusion or conflict or otherwise be deemed incompatible with surrounding properties.²⁵⁴

MULTIFAMILY BUILDING — A building containing two or more dwelling units.[Amended 1-15-2018 by Ord. No. 433-18]

MUNICIPALITIES PLANNING CODE — The "Pennsylvania Municipalities Planning Code," Act 247 of 1968, as amended.²⁵⁵

NATURAL RESOURCE PROTECTION ORDINANCE — Chapter 274, Natural Resource Protection, of the Code of Easttown Township, Chester County, as adopted and amended.[Amended 1-15-2018 by Ord. No. 433-18]

NATURAL RESOURCES — A component of a landscape existing or maintained as a part of the natural environment and having ecological value. Such resources include those which, if disturbed, may cause hazards or stress to life, property and the natural environment. For the purposes of this chapter, natural resources shall include but not be limited to wetlands, floodplain, steep slopes, and woodlands.

NET TRACT AREA — The gross lot area of the lot or lots that are held in single ownership and are proposed for development exclusive of any street or railroad rights-of-way, and flag lot access strips, very steep slopes and 50% of moderately steep slopes, aboveground stormwater management basins greater than 18 inches in depth that do not exclusively serve the lot, and areas within riparian buffer zones, along with the natural resources they protect, provided that at least 50% of the required minimum tract area be contiguous land lying outside of these exclusions.[Added 12-13-2016 by Ord. No. 427-16; amended 11-21-2022 by Ord. No. 453-22]

NEW CONSTRUCTION — In the context of the protection of nearby historic structures, the development of a lot with a new building or buildings that does not involve exterior renovation or restoration.[Added 11-21-2022 by Ord. No. 453-22]

NO-IMPACT HOME-BASED BUSINESS — See "home occupation."

NONCONFORMING LOT — A lot or site which does not comply with the applicable dimensional regulations, including those related to site area, net lot area, and lot width, in this chapter or amendments hereafter enacted where such lot was lawfully in existence prior to enactment of this chapter or amendments.[Amended 12-15-2014 by Ord. No. 424-14]

NONCONFORMING SIGN — Any sign which has a valid permit, was erected prior to the effective date of this chapter or any subsequent amendment hereto and which does not otherwise conform to the provisions of this chapter.[Amended 1-15-2018 by Ord. No. 433-18]

253. Editor's Note: The former definition of "memorial sign," which immediately followed this definition, was repealed 2-4-2019 by Ord. No. 437-19.

254. Editor's Note: The former definition of "moveable sign," which immediately followed this definition, was repealed 2-4-2019 by Ord. No. 437-19.

255. Editor's Note: See 53 P.S. § 10101 et seq. The former definition of "nameplate sign," which immediately followed this definition, was repealed 2-4-2019 by Ord. No. 437-19.

NONCONFORMING STRUCTURE — A structure which does not comply with the applicable dimensional regulations, including those relating to maximum impervious surfaces, building coverage, building height, and setbacks, in this chapter or amendments hereafter enacted where such structure was lawfully in existence prior to enactment of this chapter. Such structures include, but are not limited to, buildings, fences, and swimming pools.**[Amended 12-15-2014 by Ord. No. 424-14]**

NONCONFORMING USE — Use of buildings, structures, premises, land or parts thereof which does not comply with the applicable use provisions in this chapter or amendments hereafter enacted, where such use was lawfully in existence prior to the enactment of this chapter or amendments.

NURSERY/LANDSCAPING SALES/SERVICE — An area of land and associated structures for retailing and servicing plants, shrubbery, and trees with intent to sell, either retail or wholesale, along with other associated retail items such as pavers, timbers, fertilizers, and other landscaping products; may or may not be associated with landscape services offered as part of the establishment.

OFF-PREMISES SIGN — A commercial sign, to include billboards, which is not located on the premises or entity indicated or advertised by said sign, or a commercial sign advertising a commodity, service, or entertainment offered at a location other than the location of the sign.

OPEN FENCE — A fence with the ratio of the open portion to the solid portion of not less than 4:1.**[Added 12-15-2014 by Ord. No. 424-14]**

OPEN SPACE — An area of land and/or water, substantially free of structures and paved areas, permanently restricted for common enjoyment and recreational use by residents of a development and possibly the general public, but not including individually owned private yards.

OUTDOOR CAFE — An outdoor patio area of an associated restaurant or tavern, used for the express purpose of furnishing food and beverages to the public to be consumed on the premises, and directly abutting and on the same lot as the principal building in which the associated restaurant or premises is located.²⁵⁶**[Amended 9-21-2009 by Ord. No. 391-09; 1-15-2018 by Ord. No. 433-18]**

OWNER — For the purposes of a bed-and-breakfast facility, an adult individual, *sui juris*, but not a corporation, partnership or other legal entity, limited as follows:

- A. In the case of a single owner: ownership of 100% of the fee interest in the property;
- B. In the case of a husband and wife: their ownership of 100% of the fee interest in the property, whether actually occupied by one or both; or
- C. In the case of a joint tenancy or tenancy in common: ownership of 100% of the fee interest in the property by no more than two cotenants, each owning an equal and undivided interest therein.

OWNER-OCCUPIED SHORT-TERM DWELLING RENTAL UNIT — A dwelling unit which is currently and actively owner-occupied and primarily utilized as a single-family dwelling, but a portion of which is rented for the purpose of overnight lodging for a period of seven days or less. Such use shall be an accessory use to a dwelling unit.**[Added 11-21-2022 by Ord. No. 453-22]**

PARKING LOT — An off-street, ground-level, open area paved with an all-weather surface for the temporary storage of motor vehicles.

PARKING SPACE — An outdoor space or a garage space used for parking motor vehicles and to which there is access from a street, alley or driveway.**[Amended 12-15-2014 by Ord. No. 424-14]**

²⁵⁶**Editor's Note:** The former definition of "overlay district," which immediately followed this definition, was repealed 1-15-2018 by Ord. No. 433-18.

- A. PARKING LOT, PUBLIC — A parking lot available to the general public, with or without payment of a fee, owned or operated by the Township, private organization or business.
- B. PARKING GARAGE — A structure specifically to provide parking to the general public, with or without payment of a fee, owned and operated by the Township, private organization or business. A parking garage may or may not be an enclosed, roofed, or multilevel structure.
- C. PARKING GARAGE/LOT, PRIVATE — A parking garage or lot for the exclusive use of the owners, tenants, lessees, or occupants of the lot on which it is located or customers, employees, or whomever else is exclusively permitted by the owner.

PERSONAL SERVICE, COMMERCIAL — A building or portion of a building in which the services of a person permitted to practice a specific profession are offered to the general public. Examples of such uses include agents, artists' studios, barbers, beauticians, photographers, tailors, and similar uses.**[Amended 11-21-2022 by Ord. No. 453-22]**

PLACE OF WORSHIP — A building used for public worship by a congregation, excluding buildings used exclusively for residential, educational, burial, recreational or other uses not normally associated with worship.

PLANNING COMMISSION — The Easttown Township Planning Commission.**[Added 9-21-2009 by Ord. No. 391-09]**

POLITICAL SIGN — A temporary sign relating to the election of a person to a public office, or a political party, or a matter to be voted upon at an election by the general public.

PORTRABLE SIGN — Any sign designed to be transported or moved, including, but not limited to, signs designed to be transported by wheels, signs converted to A-frames, or menu and sandwich boards.

PREMISES — Any lot, building, business establishment or combination thereof held under single lease or ownership.

PRINCIPALLY ABOVE GROUND — A minimum of 51% of the actual cash value of the structure, less land value, is above ground.

PRINCIPAL RESIDENCE — The actual and factual place of domicile and abode of the owner.

PROFESSIONAL OFFICE — A business facility housing the practice of those professionals who provide a service requiring academic training, including, but not limited to, accountants, architects, engineers, lawyers, physicians, dentists, and planners.**[Amended 11-21-2022 by Ord. No. 453-22]**

PROJECTING SIGN — A sign which is attached directly to any building wall and which extends more than 12 inches from the face of the wall.

PUBLIC/GOVERNMENT FACILITY — Any building, structure, facility, complex, or area used by the general public or which provides a service to the public, whether constructed by a federal, state, county, or municipal government agency, or any private individual, partnership, association, or corporation.

PUBLIC NOTICE — Notification of a public meeting shall be published in a newspaper(s) of general circulation in the Township indicating the time, place and nature of the public hearing. Such notice shall be published once a week for two successive weeks prior to the date fixed for the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing, in accordance with requirements of Act 247, the Municipalities Planning Code, as amended.²⁵⁷

²⁵⁷.Editor's Note: See 53 P.S. § 10101 et seq. The former definition of "real estate sign," which immediately followed this definition, was repealed 2-4-2019 by Ord. No. 437-19.

PUBLIC VIEW — A view from the public way from the street to the front façade, and from the streets to the front and side facade on corner lots.[**Added 10-16-2023 by Ord. No. 458-23; amended 11-21-2022 by Ord. No. 453-22; 10-16-2023 by Ord. No. 458-23]**

PUBLIC WAY — A street that is owned and maintained as a vehicular thoroughfare by either PennDOT or Easttown Township.[**Added 11-21-2022 by Ord. No. 453-22**]

RECONSTRUCTION — The rebuilding of a structure, or the replacement of materials of a building.[**Added 11-21-2022 by Ord. No. 453-22**]

RECREATIONAL VEHICLE — A vehicular-type unit which is designed to be self-propelled or towable, that is primarily designed as a temporary living accommodation for recreational, camping, travel, or seasonal use, including but not limited to travel trailers, truck campers, camping trailers, self-propelled motor homes, and any combination of a boat and/or boat trailer.

RECTORY — An official residence provided by a place of worship for its parson, minister, vicar, or rector.

REDEVELOPMENT — Reconstruction of an existing improved, developed property, as of the effective date of this chapter.²⁵⁸

RESTAURANT — An establishment furnishing food and beverages to the public for consumption on or off the premises, or both.

RESTAURANT, FAST-FOOD — An eating establishment where customers place their orders at a service area located indoors, but separate from any seating facilities, and where food is either consumed at seating facilities or is taken out for consumption.

RESTORATION — The act of returning a building or structure to its former condition.[**Added 11-21-2022 by Ord. No. 453-22**]

RETAIL COMMERCIAL — A commercial establishment, having its primary function to provide goods and merchandise to the general public, where such goods and merchandise are available for immediate purchase and removal of the product from the premises by the customer. Examples of goods and merchandise include, but are not limited to, the following: dry goods, variety and general merchandise, specialty shop, pharmacy, clothing, flowers, food and beverages, household supplies, hardware store, optical shop, sale and repair of jewelry, watches and clocks, musical instruments, televisions and other electronic entertainment equipment and similar items.

REVERSE FRONTAGE LOT — A lot extending between and having frontage on two generally parallel streets (excluding service streets or alleys) with vehicular access solely from one street.[**Added 9-21-2009 by Ord. No. 391-09**]

REVOLVING SIGN — A sign which revolves in a circular motion rather than remaining stationary on its supporting structure.

RIGHT-OF-WAY — The total width of any land reserved or dedicated as a street, alley, crosswalk, or for other public purposes.

RIPARIAN BUFFER — An area surrounding a watercourse, floodplain or wetland, containing trees and other vegetation, that intercepts surface water runoff, wastewater, subsurface flow, and/or deep groundwater flows from upland sources and functions to remove or buffer the effects of associated nutrients, sediment, organic matter, pesticides, or other pollutants prior to entry into surface waters. This transition area between aquatic and terrestrial environments may also provide wildlife habitat, control water temperature, attenuate flood flow, and provide opportunities for passive recreation.

^{258.}**Editor's Note:** The former definition of "regulatory sign," which immediately followed this definition, was repealed 2-4-2019 by Ord. No. 437-19.

RIPARIAN BUFFER ZONE — The total area encompassing the riparian buffer and the natural resources the buffer protects, which may include watercourses, ponds and lakes, wetlands, and floodplains.

ROOMING HOUSE — A single-family dwelling in which the occupant, for compensation, supplies living accommodations but no meals by the week or longer to other than members of his family, provided that there shall be at least 500 square feet of habitable space for each roomer.

ROUTINE PROPERTY MAINTENANCE — Periodic cutting, killing and/or removal of entire plants or portions of plants, which may include lawn mowing, weed and vine control, the removal of invasive plants and the removal of dead trees or limbs.

SEPTIC TANK — A covered watertight settling tank in which raw sewage is changed into solid, liquid, and gaseous states to facilitate further treatment and final disposal.**[Added 9-21-2009 by Ord. No. 391-09]**

SHED — A single-storied enclosed accessory structure built for storage, but excluding the storage of vehicles.**[Added 12-15-2014 by Ord. No. 424-14]**

SHOPPING CENTER — A discrete use designed and developed as an integrated unit, consisting of multiple retail sales and personal service uses arranged as contiguous but separate stores, shops and establishments in one or more buildings and sharing common vehicular and pedestrian access and parking.

SHORT-TERM LODGING — One or more buildings used, or intended, arranged, or designed to be used, for the accommodation of tourists or transient guests, or a premises used, or intended, arranged or designed to be used, for the accommodation of tourists or transient guests, for compensation. This term shall include motels, hotels, inns, bed-and-breakfasts and short-term rental of a dwelling unit where the owner does not reside in the dwelling. The accessory use of an owner-occupied short-term dwelling rental unit does not constitute short-term lodging.**[Added 11-21-2022 by Ord. No. 453-22]**

SHORT-TERM RENTAL — An owner-occupied building designed, used and occupied as a single-family residence, having, as an accessory use therein, public lodging rooms and facilities for preregistered transient guests, which meets the minimum requirements of this chapter.**[Added 2-4-2019 by Ord. No. 437-19²⁵⁹]**

SIGHT DISTANCE — The required length of street visible to the driver of a passenger vehicle at any given point on the street when the view is unobstructed by traffic. Sight distance measurements shall be made from a point four feet above the center line of the street surface to a point 0.5 foot above the center line of the street surface.

SIGN — Any writing, figure, representation, logo, emblem, flag, lighting, banner, device, letter, word, or street clock and temperature announcement, which shall include any announcement, declaration, display, illustration, name, identification, description, or insignia, which is used to advertise or promote the interest of any person or firm and is placed in the general view of the public.

SIGN AREA —

- A. The area of all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, but excluding any supporting framework and bracing which are solely incidental to the display itself, provided the same do not contain any lettering, wording, designs, or symbols. For the purpose of this chapter, sign area shall be computed as a square or rectangle drawn at the outer limits of the sign face.
- B. Where the sign consists of a double face, only one side shall be considered for the purpose of calculating total sign area. Where both sides are not identical, or where the interior angle formed

259.Editor's Note: The ordinance also repealed the former definition of "sidewalk sign," which immediately followed.

by the faces of a sign is greater than 45°, all faces shall be considered in calculating total sign area.

SIGN FACE — The part of a sign that is, or can be, used to identify, advertise, and communicate information for visual representation that attracts the attention of the public for any purpose. This definition shall include any background material, panel, trim, and color used that differentiate the sign from the building or structure on which it is placed. The sign structure shall not be included, provided no message, display, or symbol is designed and included as a part of the structure.

SIGN HEIGHT — The distance from the highest portion of the sign, including all structural elements to mean grade.

SIGN STRUCTURE — A supporting structure erected and used for the purpose of identification or attracting attention with or without a sign thereon, situated upon any premises where a sign may be located. This definition shall not include a building, fence, wall, or earthen berm.

SINGLE AND SEPARATE OWNERSHIP OF A LOT — The ownership of a lot by one or more persons, partnerships, or corporations, which ownership is separate and distinct from that of any abutting or adjoining lot.

SPECIAL EXCEPTION USE — See "use, special exception."

START OF CONSTRUCTION —

- A. The first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. 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 as part of the main structure. For a structure (other than a mobile home) 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 piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site.
- B. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads and the installation of utilities) is completed.

STEEP SLOPES — Steep slopes shall be divided and delineated into the following two categories:

- A. **MODERATELY STEEP SLOPES** — Those areas of land where the grade is 15% to 25%.
- B. **VERY STEEP SLOPES** — Those areas of land where the grade is 25% or greater.

STORY — The horizontal portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. A story shall have its finished floor surface entirely above the grade plane.**[Added 1-15-2018 by Ord. No. 433-18]**

STREET —

- A. **STREET, PUBLIC** — A strip of land, including the entire right-of-way (i.e., not limited to the cartway), intended for general public use as a means of vehicular and pedestrian circulation to provide access to more than one lot. The term "public street" includes any thoroughfare intended

for public use. Public streets are further classified according to the functions they perform.

- (1) ALLEY — A street right-of-way providing secondary vehicular access to the side or rear of lots, but shall not provide the principal means of access for vehicular traffic to an abutting property.
 - (2) CUL-DE-SAC STREET — A minor street intersecting another street and terminating in a vehicular turnaround at the other end.
 - (3) HALF (PARTIAL) STREET — A street, generally parallel and adjacent to a property line, having a lesser right-of-way width than normally required for improvement and use of the street.
 - (4) MARGINAL ACCESS STREET — A minor street parallel and adjacent to a major street (but separated from it by a reserve strip), which provides access to abutting properties and control of intersections with the major street.
 - (5) INTERNAL STREET — A minor street used for circulation and access within a development involving multifamily developments, commercial and industrial uses.
 - (6) MINOR LOCAL STREET — A street used primarily to provide access to abutting properties.
 - (7) COLLECTOR STREET — A street which, in addition to providing access to abutting properties, intercepts minor streets to provide a route serving 50 or more dwelling units to give access to community facilities and/or other collector and major streets (streets in industrial commercial subdivisions shall generally be considered collector streets), sometimes called a "feeder street," which connects a local street system and a major street or highway system.
 - (8) MAJOR STREET or THROUGH HIGHWAY (ARTERIAL) — A street serving a large volume of comparatively high-speed and long-distance traffic, including all facilities classified as main and secondary highways by the Pennsylvania Department of Transportation; a highway on which preference is given to the through movement of traffic at the expense of cross traffic.
- B. STREET, PRIVATE — A strip of land or roadway intended for use as a means of vehicular and pedestrian circulation to provide access to more than one lot. A private street is intended for use of only the lots served rather than the general public.

STREET CENTER LINE — A line that is an equal distance from both street lines, unless officially designated otherwise.

STREET FRONTAGE — The lot dimension measured along the street line or right-of-way line of any one street or highway abutting a lot.**[Added 6-3-2013 by Ord. No. 414-13]**

STREET LINE — The right-of-way, or the dividing line between a lot and the outside boundary of a public street, road or highway, legally open or officially plotted, or between a lot and outside the boundary of a privately owned street, road or way over which the owners or tenants of two or more lots each held in single and separate ownership have the right-of-way.

STREETSCAPE — The outdoor environment within a street right-of-way, and within a portion of a front yard of a lot that includes such features as sidewalks, street lights, fences, walls, street trees, and related landscaping.**[Added 11-21-2022 by Ord. No. 453-22]**

STREET WALL — The main wall of a structure that is closest to and most nearly parallel with the adjacent street.**[Added 8-19-2013 by Ord. No. 417-13]**

STRUCTURAL ALTERATION — Any change in or addition to the supporting or structural members of a building or other structure, such as, but not limited to, the bearing walls, partitions, columns, beams or girders, or any change which could convert an existing building or other structure into a different structure, or adapt it to a different use, or which, in the case of a nonconforming building or other structure, would prolong the life of such building or other structure.

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

STRUCTURE, ACCESSORY — A structure subordinate to the principal use or structure on the lot and used for purposes customarily incidental to those of the principal use or structure.**[Amended 12-15-2014 by Ord. No. 424-14]**

STRUCTURES TO SERVE ACTIVE OUTDOOR USES — Those structures serving active uses such as swimming, tennis, and riding rings shall not be located within the required minimum yard setbacks for the district the lot is located in.

STRUCTURES TO SERVE ACTIVE RECREATION USES — Those structures serving active uses including but not limited to swimming, sports courts, and riding rings shall not be located within the required minimum yard setbacks for the district the lot is located in.**[Added 11-21-2022 by Ord. No. 453-22]**

STRUCTURES TO SERVE PASSIVE OUTDOOR USES — Those structures serving passive uses such as storage sheds, pet shelters (except as noted below), greenhouses, sidewalks, patios 30 inches in height or less, decks 30 inches in height or less, and playground equipment shall be set back a minimum of 10 feet from a side and rear lot line.**[Amended 12-15-2014 by Ord. No. 424-14]**

SUBDIVISION — The division or redivision of a lot 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, partitioned 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.**[Added 9-21-2009 by Ord. No. 391-09; amended 12-15-2014 by Ord. No. 424-14]**

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE — Chapter 400, Subdivision and Land Development, of the Code of Easttown Township, Chester County, as adopted and amended.

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 repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

TEMPORARY SIGN — Any sign erected for a period of time not to exceed 30 days in any one calendar year.

THEATER — A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.

TIMBER HARVESTING PLAN — A description, by means of text and maps, of proposed actions involving the removal of trees from a lotuch plan shall have been prepared by a Pennsylvania-certified forester with demonstrable expertise in forest management and shall document measures to be taken to control erosion and sedimentation, protect water quality, minimize impacts from skid trails and logging roads land areas, and the tree removal process, and ensure site restoration. The plan shall be consistent with the minimum forest practices of the Pennsylvania Model Forestry Regulations published by the Penn State School of Forest Resources. (Note: A copy of the model regulations can be obtained at the Township office.)²⁶⁰[Amended 12-15-2014 by Ord. No. 424-14]

TOWNSHIP — The Township of Easttown, Chester County, Pennsylvania.

TRACT — The combined lot or lots that are held in single ownership and are proposed for development.[Added 12-13-2016 by Ord. No. 427-16]

UNIFIED DEVELOPMENT — A discrete use designed and developed as a unified development, consisting of multiple uses limited to retail commercial, professional office, personal service commercial, restaurant (with or without alcoholic beverage service), fast food restaurant without drive-through service, outdoor cafe (with or without alcoholic beverage service), nursery/landscaping sales, service and accessory event space, health club/spa, parking garage and accessory uses arranged in one or more buildings utilizing common architectural and design principles, and sharing common vehicular and pedestrian access and parking.[Added 12-13-2016 by Ord. No. 427-16]

UNIFIED GROUP OF BUILDINGS — A cluster of two or more buildings on a lot containing separate but related main uses which is designed as a single or common management and maintenance unit with common open spaces, maintenance, service and other facilities and services.

USE, ACCESSORY — A use of a building, structure or land that is not a principal permitted use, but which is entirely incidental and subordinate to the principal permitted use on the same lot.

USE, ACTIVE OUTDOOR — Those recreational pursuits which require physical alteration to the area in which they are performed. Such areas are intensively used and include but are not limited to playgrounds, ball courts, ball fields, and swimming pools.

USE, BY-RIGHT — A use that is permitted in a zoning district without the need for a special exception, variance, or conditional use permit.

USE, CONDITIONAL — A use which is generally not appropriate to a particular zoning district as a whole but which may be suitable in certain localities within the district only when specific conditions and factors prescribed for such cases within this chapter are present. Conditional uses are allowed or denied by the Board of Supervisors after a public hearing and review and comments from the Planning Commission.

USE, MULTIFAMILY BUILDING — A building containing more than two dwelling units, each with independent kitchen, bathroom and bedroom facilities, which may have independent outside access, including but not limited to apartments, quadraplexes, and garden apartments.[Amended 1-15-2018 by Ord. No. 433-18]

²⁶⁰Editor's Note: The former definition of "time and temperature sign," which immediately followed this definition, was repealed 2-4-2019 by Ord. No. 437-19; the former definition of "townhouse," which followed this definition, was repealed 12-15-2014 by Ord. No. 424-14.

USE, MULTIFAMILY DEVELOPMENT — A development that includes more than one multifamily structure, including but not limited to apartment, quadruplex and garden apartment developments, in an orderly, appropriate manner in areas accessible to public water and sewer service as well as to a road network sufficient to accommodate the increased traffic to be anticipated from such multifamily development and to insure that such development projects are built in the manner and to the specifications shown on approved plans.**[Amended 1-15-2018 by Ord. No. 433-18]**

USE, PASSIVE OUTDOOR — Recreational pursuits which can be carried out with little alteration or disruption of the area in which they are performed. Such uses include but are not limited to hiking, biking, environmental education activity, and picnicking.

USE, SPECIAL EXCEPTION — A use which is not permitted as a right, but which, when provided for in this chapter and deemed suitable, with or without the imposition of conditions or restrictions under applicable standards, may be allowed by the Zoning Hearing Board after public hearing.

VARIANCE — Permission, approval or authorization granted by the Zoning Hearing Board after compliance with the applicable provisions of this chapter constituting a modification of or deviation from the exact provisions of this chapter as applied to a specific parcel of property and not to be construed as a precedent.

VEHICULAR SIGN — Any vehicle to which a sign is affixed in such a manner that the carrying of such sign, or signs, no longer is incidental to the vehicle's primary purpose.

VERNACULAR ARCHITECTURE — The building typology of historic structures in a neighborhood that reflects local tradition.**[Added 11-21-2022 by Ord. No. 453-22]**

VETERINARY CLINIC — A medical facility specializing in the treatment of injury or disease afflicting animals, especially domestic animals and household pets, and the boarding of animals for medical reasons is incidental to the medical facility use.

VICTORIAN VERNACULAR — The building typology of historic structures in a neighborhood dating to the Victorian Era, from 1850 to 1920, with characteristics such as, but not limited to, gabled roofs, hip roofs, dormers, pitched roofs, two- to three-story building heights, porches, porch posts, turrets, rooftop finials, and wood or brick siding, and stone foundations.**[Added 11-21-2022 by Ord. No. 453-22]**

WALL/PILLAR — An upright structure serving as an enclosure, barrier or boundary, made of masonry, stone, brick or similar building materials.**[Added 12-15-2014 by Ord. No. 424-14]**

WALL SIGN — Any sign erected against the wall of a building, or displayed on windows or doors, or displayed with the exposed face thereof in a plane parallel to the face of said wall, window, or door and which sign is mounted at a distance measured perpendicular to said wall not greater than 12 inches.

WAREHOUSE — A building used primarily for the storage of goods and services, but not for direct retail sales.

WATERCOURSE — A stream, creek, run, or other body of running water with a defined bed and banks in which water flows in a definite direction or course, whether natural or artificial, with perennial or intermittent flow, as depicted on the most current USGS Quadrangle Map or more accurate information, as available. Field verification to determine evidence and location of natural channelized flow may be required for specific determinations.

WETLANDS — Those areas that are inundated and 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, and similar areas. Any area meeting the official "wetland" definition of the United States Army Corps of Engineers, the United States Environmental Protection Agency, or the Pennsylvania Department of

Environmental Protection shall be considered a wetland for the purposes of this chapter. In the event the definition of a "wetland" conflicts between any of these agencies, the more restrictive definition shall apply.

WHOLESALE TRADE BUSINESS — Establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers, or to establishments acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.²⁶¹

WINDOW SIGN — Any sign placed upon a window or inside the window and within 12 inches of the surface of the window, facing the outside, which is to be used for advertising purposes. Show window displays are not included within this definition.

WOODED LOT — Any building lot having more than one viable tree, six inches or greater in dbh per 1,500 square feet of gross lot area, exclusive of street right-of-way. [Amended 9-21-2009 by Ord. No. 391-09]

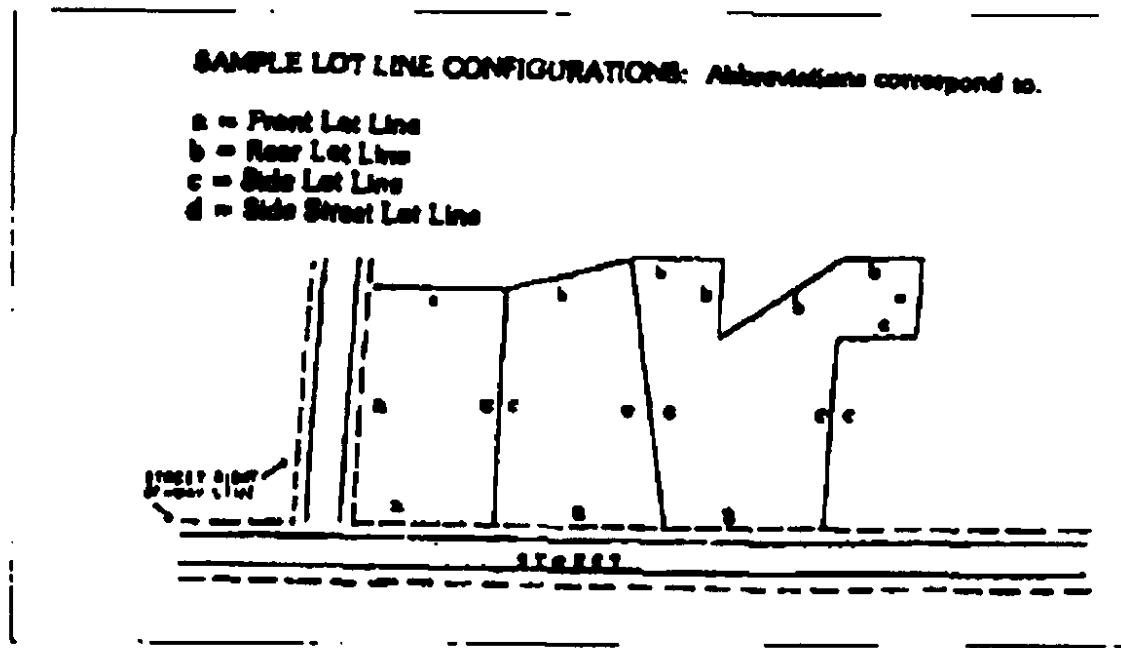
WOODLAND — A plant community, of 0.25 acre or larger in area, well-stocked and comprised predominantly of healthy trees, six inches and greater in dbh, and other woody vegetation, growing more or less closely together, the branches of which form a complete or nearly complete aerial canopy. For the purposes of this chapter, the extent of any woodland shall be measured from the dripline of the outer trees. Woodlands do not include orchards, commercial nurseries, Christmas tree farms, or oldfields, where more than 75% of the trees are smaller than six inches dbh.

YARD — Where a minimum depth of a yard setback is specified in a district, an open space of at least the specified depth shall be provided between the street line(s) or lot line(s) and the nearest point of any building or structure, except when permitted elsewhere in this chapter. See Figure 18-2, below.

- A. **FRONT YARD** — The minimum open space extending the full width of the lot from the right-of-way line to any structure, principal, accessory or other, on a lot, exclusive of cornices, eaves, gutters and chimneys projecting not more than two feet from the building. Front yard lot lines shall be parallel to the front lot line.
- B. **SIDE YARD** — The minimum open space required between each side lot line and any structure, principal, accessory or other, on the lot, exclusive of cornices, eaves, gutters and chimneys projecting not more than two feet from the building. Side yard lines shall be substantially perpendicular to front lot lines. [Amended 12-15-2014 by Ord. No. 424-14]
- C. **REAR YARD** — The minimum open space extending the full width of a lot required between the rear line of the lot and any structure, principal, accessory or other, on the lot, exclusive of cornices, eaves, gutters and chimneys projecting not more than two feet from the building. Rear yard lines shall be parallel to rear lot lines. [Amended 12-15-2014 by Ord. No. 424-14]
- D. **YARD REQUIREMENTS FOR CORNER LOTS** — In the case of a corner lot having frontages on two or more streets, the yard fronting each street shall equal the required front yard for the zoning district in which the lot is located. The yard opposite the principal entrance to the residence shall be a rear yard, and the remaining yard shall be a side yard. [Amended 12-15-2014 by Ord. No. 424-14]

²⁶¹Editor's Note: The former definitions of "wireless communications equipment structure" and "wireless communications facility," which immediately followed this definition, were repealed 12-15-2014 by Ord. No. 424-14.

Figure 18-2
Yard Diagram



ZERO LOT LINE UNIT — An individual unit or building which may be conveyed, sold or transferred absent any required minimum yard or setback, lot or tract width, lot or tract area or green area, or maximum building or impervious coverage. [Added 12-13-2016 by Ord. No. 427-16]

ZONING DISTRICT, BASE — The basic system of zoning, which, under this chapter, as amended, divides all land in the Township into separate, distinct zoning district classes and sets limits and requirements for land use in each of these base zoning districts.

ZONING DISTRICT, OVERLAY — Regulations that apply in addition to the regulations applicable to the base zoning districts. Where conflicts exist between the overlay and base zoning, the most restrictive provision applies.

ZONING HEARING BOARD — The Zoning Hearing Board of Easttown Township.

ZONING MAP — The Zoning Map of Easttown Township, Chester County, Pennsylvania, as adopted and amended.²⁶²

ZONING OFFICER — An individual appointed by the Board of Supervisors on an annual basis to administer the provisions of this chapter who shall not hold any elective office within Easttown Township.

ZONING ORDINANCE — The designation of specified districts within Easttown, Chester County, reserving them for certain uses, together with limitations on lot size, heights of structures and other stipulated requirements within this chapter of the Code of Easttown Township, as amended.

ZONING PERMIT — A permit issued indicating that a proposed use, building or structure is in accordance with the provisions of this chapter, which authorizes an applicant to proceed with said use, building or structure.

²⁶²Editor's Note: The Zoning Map is included as an attachment to this chapter.

Appendix

Chapter A470

CABLE TELEVISION FRANCHISE

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

ARTICLE I
Comcast

[Adopted 7-18-2005 by Res. No. 7-18A-05; amended 3-7-2016 by Ord. No. 426-16]

§ A470-1. Authorization of agreement.

The Municipality hereby authorizes the entering into of a cable franchise agreement with Comcast to construct, install, maintain, extend, and operate a cable system, the specific terms of which, agreeable to both parties, are memorialized in said agreement attached hereto and incorporated herein by reference.²⁶³

263. Editor's Note: Said agreement is on file in the Township offices.

ARTICLE II
Verizon
[Adopted 10-16-2006 by Ord. No. 372-06]

§ A470-2. Authorization of agreement.

Easttown Township hereby authorizes the entering into of a cable franchise agreement with Verizon Pennsylvania, Inc., to construct, install, maintain, extend, and operate a cable communications system, the specific terms of which, agreeable to both parties, shall be memorialized in said agreement.

Township of Easttown, PA

§ A470-2

CABLE TELEVISION FRANCHISE

Chapter A480

INTERGOVERNMENTAL AGREEMENTS

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

ARTICLE I
Drug Task Force
[Adopted 10-4-1993 by Ord. No. 266-93]

§ A480-1. Purpose.²⁶⁴

Whereas, Easttown Township, in accordance with the provisions of the Intergovernmental Cooperation Act (the Act of December 19, 1996, No. 177, 53 Pa.C.S.A. § 2301 et seq., as amended) and the provisions of the Municipal Police Jurisdiction Act (the Act of June 15, 1982, P.L. 512, No. 141, § 4 et seq., 42 Pa.C.S.A. § 8951 et seq., as amended), desires to facilitate enforcement of controlled substances laws, it hereby enacts an ordinance allowing for the formation and implementation of an agreement to be signed by Easttown Township, and other municipalities in Chester County, Pennsylvania, providing for intermunicipal police cooperation in the enforcement of the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-101 et seq., as amended) and related criminal statutes, as well as an agreement to be signed by Easttown Township, the office of the Attorney General of the Commonwealth of Pennsylvania, the Chester County District Attorney's office and other municipalities by which these entities shall cooperate and prevent regional illegal activities related to controlled substances.

§ A480-2. Municipal police cooperative agreement authorized.

- A. In accordance with the provisions of the Intergovernmental Cooperation Act (the Act of December 19, 1996, No. 177, 53 Pa.C.S.A. § 2301 et seq., as amended), Easttown Township is hereby authorized to enter into a municipal police cooperative agreement ("MPCA") with other municipalities in Chester County, Pennsylvania, which will allow, *inter alia*, part-time and full-time police officers of each signatory municipality to pursue their official police duties within the territorial boundaries of all participating municipalities, subject to the terms and procedures of the MPCA.²⁶⁵
- B. Conditions of the MPCA shall conform substantially to those contained within the draft of the MPCA currently on file in the Township office.
- C. After execution of the MPCA by the Township, either the original or a duplicate copy of the executed MPCA shall be kept on file in the Township office. As additional municipalities enter into or withdraw from the MPCA, the documents pertaining to these revisions shall be kept together on file in the Township office.

§ A480-3. Duration of MPCA.

The duration of the MPCA, and the Township's participation therein, shall be without specific term, but shall continue indefinitely, subject to the Township's unqualified right to withdraw from the MPCA at any time following seven days' written notice to all participating municipalities of the Township's intention to withdraw.

§ A480-4. Purposes and objectives of MPCA.

The purposes and objectives of the MPCA include, but are not limited to:

- A. Improving law enforcement in Chester County, Pennsylvania, especially in Easttown Township, and

²⁶⁴Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

²⁶⁵Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

other signatory municipalities to the MPCA by granting police officers of participating municipalities authority to exercise their official duties outside their primary territorial boundaries and within those of the signatory municipalities;

- B. Enhancing the coordination of controlled substance investigations in Chester County, Pennsylvania, and reducing legal issues associated with jurisdictional or municipal boundaries;
- C. Providing mutual police aid across jurisdictional lines to enable police to more effectively enforce the provisions of the controlled substance statutes, thereby enhancing the safety and welfare of persons in Easttown Township and in the other signatory municipalities; and
- D. Specifying the powers and scope of authority delegated by each participating municipality and describing that Easttown Township shall delegate no greater power and authority than it receives or permanently delegate any power or authority.

§ A480-5. Financing of MPCA.

Each signatory municipality shall be responsible for all expenses incurred by reason of actions taken by its police pursuant to the MPCA, no other financing being necessary or required to effectuate its purpose.

§ A480-6. Organizational structure of MPCA; use of property.

No additional formal organizational structure or entity is necessary to implement the provisions of the MPCA, nor will any property, real or personal, be acquired, managed or disposed of in order to effectuate the purposes contained in the MPCA. Each participating municipality shall be represented on a Joint Police Advisory Board, but this Board will not be an entity empowered to enter into group insurance or employee benefit contracts.

§ A480-7. Municipal Drug Task Force agreement.

- A. In accordance with the provisions of the Intergovernmental Cooperation Act (the Act of December 19, 1996, No. 177, 53 Pa.C.S.A. § 2301 et seq., as amended) and the provisions of the Municipal Police Jurisdiction Act (the Act of June 15, 1982, P.L. 512, No. 141, § 4 et seq., 42 Pa.C.S.A. § 8951 et seq., as amended), Easttown Township is hereby authorized to enter into a Municipal Drug Task Force agreement ("MDTFA") with the office of the Attorney General of the Commonwealth of Pennsylvania ("OAG"), the Chester County District Attorney's office, and the signatory municipalities to the MPCA, by and through which these entities shall coordinate investigations, prosecutions, arrests, searches and other activities necessary to enforce the controlled substance and related criminal statutes within Chester County, Pennsylvania.²⁶⁶
- B. This aid and assistance offered by Easttown Township to the OAG is in response to the request for aid and assistance made by the OAG to all municipal police departments as described in the MDTFA and as provided in the Municipal Police Jurisdiction Act, 42 Pa.C.S.A. § 8953(a)(3). As such, Easttown Township and its police officers shall be afforded all rights, benefits and immunities described in the Municipal Police Jurisdiction Act, 42 Pa.C.S.A. § 8953(d), when any Township police officer acts within the scope of the MDTFA.
- C. Easttown Township shall utilize the services of both full-time and part-time officers of its Police Department under the conditions contained in the MDTFA, which shall conform substantially to the draft MDTFA currently on file in the Township office.

²⁶⁶Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- D. After execution of the MDTFA by the Township, either the original or a duplicate copy of the executed MDTFA shall be kept on file at all times in the Township office. As additional municipalities enter into or withdraw from the MDTFA, the documents pertaining to these revisions shall be kept together on file at all times in the Township office.
- E. Pursuant to the MDTFA, Easttown Township shall establish appropriate procedures to comply with the MDTFA and relevant regulations as may be issued from time to time by the OAG and the Chester County District Attorney's office.

§ A480-8. Duration of MDTFA.

- A. The duration of the MDTFA and the Township's participation therein shall be without specific term, but shall continue indefinitely, subject to the Township's unqualified right to withdraw from the MDTFA at any time following 30 days' written notice to all participating entities of the Township's intention to withdraw.
- B. If the OAG terminates the existence of the Drug Task Force created pursuant to the provisions of the MDTFA, the Township's participation in the MDTFA shall automatically terminate without further action of the Township Board of Supervisors, effective the date of such termination by the OAG.

§ A480-9. Purposes and objectives of MDTFA.

- A. The purpose and objectives of the MDTFA include, but are not limited to, regional coordination of police activities in order to facilitate the enforcement of criminal statutes pertaining to illegal possession, use, manufacture, sale and distribution of controlled substances.
- B. The MDTFA shall specify the powers and scope of authority delegated by each participating entity, but in no event shall Easttown Township delegate greater power and authority than it receives or permanently delegate any power or authority.

§ A480-10. Financing of MDTFA.

The MDTFA shall be financed solely by funds supplied by the office of the Attorney General of the Commonwealth of Pennsylvania. The OAG shall agree to reimburse Easttown Township for any overtime incurred by its police in the performance of Task Force duties.

§ A480-11. Organizational structure of MDTFA.

Any organizational structure required to implement the provisions of the MDTFA shall be jointly agreed to and established by the participating entities, but any such structure shall not be an entity empowered to enter into group insurance or employee benefit contracts.

§ A480-12. Use of property by MDTFA.

The acquisition, management or disposal of any and all property, whether real or personal, acquired or to be acquired pursuant to the provisions of the MDTFA shall be in accordance with the terms of the MDTFA, the Controlled Substance Forfeitures Act, and any relevant directives and procedures issued by the OAG and the Chester County District Attorney's office.

§ A480-13. Amendments.

The Board of Supervisors hereby ordains that it may execute such amendments to the MPCA and MDTFA

as may be necessary from time to time to carry out the purposes of this ordinance and the agreements adopted pursuant hereto.

§ A480-14. Repealer.

All existing ordinances of Easttown Township, or parts thereof, inconsistent with this ordinance, or any part hereof, are hereby repealed.

§ A480-15. Severability.

If any section or provision of this ordinance is declared by any court of competent jurisdiction to be invalid or unconstitutional for any reason, such decision shall not effect the validity or constitutionality of this ordinance as a whole nor the validity or constitutionality of any other section or provision of this ordinance other than that or those declared to be invalid.

ARTICLE II
Intergovernmental Board of Appeals
[Adopted 8-16-2004 by Ord. No. 354-04]

§ A480-16. Authorization.

The Chairman of the Board of Supervisors of Easttown Township (the "Township") is hereby authorized to enter into an intergovernmental cooperation agreement with the Borough of Malvern and East Whiteland Township to form an Intergovernmental Board of Appeals pursuant to the terms and conditions authorized by this ordinance and set forth in the agreement, a copy of which is attached hereto as Exhibit A²⁶⁷ and is incorporated herein by reference. Furthermore, the appropriate officers of the Township are hereby authorized to do whatever is necessary and appropriate to carry out the provisions of the agreement and this ordinance and to comply with the purposes and intent of the agreement and this ordinance.

§ A480-17. Conditions of agreement.

The agreement is conditioned upon each member's governing body enacting an ordinance which authorizes such member to participate in the Board of Appeals and to execute the agreement.

§ A480-18. Duration and term of agreement.

The Board of Appeals shall be created for, and the agreement shall have, an initial term of five years, which term shall commence on the effective date of the agreement (as defined in Paragraph 17 of the agreement). At the expiration of the initial five-year term, the agreement and the Board of Appeals shall automatically renew for successive one-year terms unless a majority of the members vote to terminate the agreement.

§ A480-19. Severability.

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

§ A480-20. When effective.

This ordinance shall become effective upon enactment as by law provided.

267.Editor's Note: Exhibit A is on file in the Township offices.

STANDARD CONSTRUCTION AND MATERIAL

Chapter A490

**STANDARD CONSTRUCTION AND MATERIAL SPECIFICATIONS FOR PUBLIC
IMPROVEMENTS**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Easttown 10-12-2011.
Amendments noted where applicable.]**

GENERAL REFERENCES

Uniform construction codes — See Ch. 160.

Streets and sidewalks — See Ch. 395.

Driveways — See Ch. 177.

Subdivision and land development — See Ch. 400.

Stormwater management — See Ch. 388.

ARTICLE I General Conditions

§ A490-1. Scope.

- A. These standard construction and material specifications for public improvements (hereinafter referred to as "public improvements specifications") supplement Chapter 400, Subdivision and Land Development, as amended, Chapter 388, Stormwater Management, as amended, Chapter 177, Driveways, as amended, and Chapter 395, Article II, Street Openings, of the Township's Code and all other ordinances and regulations of Easttown Township that pertain to the construction of the types of improvements regulated by these public improvements specifications.
- B. All work shall be executed in a workmanlike manner by qualified, careful, and experienced professionals and laborers.
- C. For all private construction, the "improver" is the party who is ultimately accountable to the Township for all work and responsible for all work, regardless of whether or not the work is performed by the improver's consultant or contractor. This condition is implied throughout these public improvements specifications.

§ A490-2. Definitions.

The following definitions shall be applicable in this document:

COMMONWEALTH — The Commonwealth of Pennsylvania. This term may also be referred to as "state."

CONSTRUCTION DRAWINGS — Those drawings prepared by or on behalf of the improver or by a Township consultant and approved by the Township to show the detailed design of the specific project, including plan layout and design details.

CONSULTANT — Any individual, partnership, or corporation providing consulting services to the improver.

CONTRACTOR — Any individual, partnership, or corporation performing construction work for the improver in the case of private construction or for the Township in the case of contracts awarded by the Township.

DEVELOPER — Any equitable owner, landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or who causes to make a subdivision of land and/or a land development, or who constructs public improvements or causes public improvements to be constructed.

ENGINEER or TOWNSHIP ENGINEER — The appointed Engineer that represents the Township. The term may also include a construction observer employed by the Engineer.

IMPROVER — The developer, permittee and/or the contractor.

LAND DEVELOPMENT — Activity as defined in Chapter 400, Subdivision and Land Development, of the Township's Code, as amended.

OR EQUAL — Equality of equipment or products versus those specified, as determined by and at the sole discretion of the Engineer. The term may also be referred to as "or approved equal."

PADEP — The Department of Environmental Protection of the Commonwealth of Pennsylvania.

PADOT — The Department of Transportation of the Commonwealth of Pennsylvania.

PERMITTEE — Any individual, partnership, corporation or public utility proposing work requiring a Township road occupancy permit as required by Chapter 395, Article II, Street Openings, of the Township's Code.

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

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

PUBLIC IMPROVEMENTS — Those facilities that are designed for and available to the public, which may be offered for dedication to the Township, including, but not limited to, streets, stormwater management facilities, sidewalks, curbs, trails and public sanitary sewers.

STANDARD DETAILS — Those details included in Appendix 1 of these public improvements specifications to show general and typical construction requirements.

STREET — As defined in Chapter 400, Subdivision and Land Development, of the Township's Code, as amended. The term may also be referred to as "road."

SUBDIVISION — The division or redivision of a lot or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land. [Amended 12-15-2014 by Ord. No. 424-14]

TOWNSHIP — Township of Easttown, Chester County, Pennsylvania.

WORK — Labor, services, materials, and equipment as required for the successful completion of the project.

§ A490-3. Fitting and coordination of work.

The improver shall be responsible for the proper fitting of all work and for the coordination of the operations of all trades, subcontractors, and persons delivering materials engaged upon this project. The improver shall be prepared to guarantee to each of his subcontractors the locations and measurements that may be required for the fitting of their work to all surrounding work.

§ A490-4. Superintendent; emergency maintenance crew.

- A. At all times during which work is being performed under or affecting the project, the improver shall keep a competent superintendent acceptable to the Township on the site from the commencement of work until the completion thereof, who shall be continuously in touch with work and in all interlocking contracts affected thereby. The superintendent shall, in the absence of the improver, see that the instructions of the Engineer are carried out, and all directions given such superintendent shall be as binding as if given to the improver.
- B. The improver shall have available at all times, including nonworking hours, weekends, and holidays, an emergency maintenance crew and a person of authority and responsibility to act in cases of emergency, such as flooding, cave-ins, or other unsafe conditions, resulting from construction activities. The improver shall submit to the Township all the names, addresses and telephone numbers of the emergency crew supervisor(s) prior to beginning construction operations. The improver shall be responsible for costs resulting from such emergency work.
- C. The improver is responsible for all costs incurred for any emergency work performed by the Township or others on the improver's behalf.

§ A490-5. Permits, licenses and taxes.

- A. The improver shall give all notice required by and comply with all applicable laws, ordinances, and codes of the Township. All construction work and/or utility installations shall comply with all applicable ordinances and codes, including all written waivers. Prior to commencing construction, the improver shall examine the public improvements specifications for compliance with applicable ordinances and codes and shall immediately report any discrepancy to the Township. Where the requirements of the public improvements specifications fail to comply with such applicable ordinances or codes, the Township may adjust the public improvements specifications to conform to such ordinances or codes (unless waivers in writing covering the difference have been granted by the Township Board of Supervisors or department). Should the improver fail to observe the foregoing provisions and proceed with construction varying with any applicable ordinance or code, including any written waivers (notwithstanding the fact that such installation is in compliance with the public improvements specifications), the improver shall correct such work without cost to the Township.
- [Amended 12-15-2014 by Ord. No. 424-14]**
- B. The improver shall, at the improver's own expense, secure all required permits, certifications and approvals and pay to the appropriate regulatory agencies the fees or charges for same. Proof of all required permits, certifications and approvals shall be provided to the Township, as well as compliance with the utility notification requirements of Pennsylvania Act No. 287 of 1974, as amended. Construction may not commence until all permits and approvals are obtained. All permit applications shall be made by the improver and shall be under the improver's signature. The developer's engineer shall provide a list, which shall be approved by the Township Engineer, of all required permits prior to the preconstruction conference.
- C. Any and all Township applications and/or permit fees shall be paid at the time of application and shall be in the amount as established by resolution of the Board of Supervisors in effect at the time of application. No Township permit will be waived for the improver.
- D. The developer and/or contractor shall receive written authorization to proceed from the Township Manager prior to the start of construction or any earthmoving activity.
- E. Whenever the proposed construction requires sales, consumer's use, or other similar tax, the improver shall pay for same.

§ A490-6. Protection of work and property.

- A. The improver shall provide adequate protection against injury or loss arising in connection with the project for all his work and the property of the Township. The improver shall make good any such damage, injury or loss. The improver shall adequately protect adjacent property as provided by law. The improver shall provide facilities for protection required by public authority or local conditions such as passageways, guard fences, lights, etc.
- B. The improver shall preserve and protect all trees, shrubs and grass on or adjacent to the site which do not reasonably interfere with the construction as may be determined by the Township or Engineer, and the improver shall be responsible for all unauthorized cutting or damaging of trees and shrubs, including damage due to careless operation of equipment, stockpiling of materials or tracking of grass areas by equipment. The improver shall remove only those trees designated by the Engineer to be removed.

§ A490-7. Traffic control and safety.

- A. Work being performed in/on any Township streets and rights-of-way shall require a road occupancy

permit from the Township and posting of a performance bond, if required by the Board of Supervisors. All traffic control and safety protection methods, devices and procedures for work in Township streets shall be in conformance with PADOT Publications 212 and 213.

- B. The improver shall perform the work in such a manner as to interfere as little as possible with the use of intersecting roads or adjoining properties. No excavation shall be left open or other obstruction allowed to remain longer than is absolutely necessary, and the improver shall provide all safeguards and temporary passageways that may be necessary for the convenience and protection of all persons using said property either day or night.
- C. It shall be the duty of the improver, at all times, to maintain crossings, walks, sidewalks, and streets open to traffic and in a satisfactory condition, and to keep all fire hydrants, valves, fire alarm boxes, and letter boxes accessible. For trenches, a timber bridge at least three feet in width and equipped with side railings shall be provided. When the excavated material will encroach upon sidewalks or private property, planking shall be placed in order to keep the sidewalk or private property clear of excavated material.
- D. No Township street shall be blocked for traffic for longer than one hour in any direction, unless approved in writing by the Township. There shall be no lane restrictions in Township streets or state highways between the hours of 6:00 a.m. and 9:00 a.m., and between the hours of 3:00 p.m. and 6:00 p.m.
- E. Written approval from the Township is required for all proposed road detours within the Township borders.

§ A490-8. Shop drawings.

The improver shall check and verify all field measurements and shall submit with such promptness as to cause no delay in the improver's own work a minimum of three sets, plus however many sets the improver wishes to have returned, checked and approved by the improver, of all shop or setting drawings and schedules required for the work of the various trades. The Engineer shall review, with reasonable promptness, such schedules and drawings for compliance with the information given in the public improvements specifications. The improver shall make all corrections required by the Engineer and shall resubmit shop drawings until deemed approved by the Engineer. The Engineer's approval of such drawings or schedules shall not relieve the improver from responsibility for deviations from the public improvements specifications, unless the improver has in writing called the Engineer's attention to such deviations at the time of submission and secured the Engineer's written approval, nor shall it relieve the improver from responsibility for errors in shop drawings or schedules.

§ A490-9. Use of premises.

- A. The improver shall confine his equipment, storage of materials, and construction operations to the project limits as prescribed by ordinances or permits, or as may be directed by the Township, and shall not unreasonably encumber the site or public rights-of-way with his materials and construction equipment.
- B. The improver shall comply with all reasonable instructions of the Township and the ordinances and codes of the local government regarding signs, advertising, traffic, fires, explosives, danger signals, and barricades. PADOT flagging shall be required for all work on existing roads within the Township without exception.

§ A490-10. Materials and workmanship.

- A. Unless otherwise specifically provided, all workmanship, equipment, materials and articles incorporated in the work shall be new and the best grade of the respective kinds of their purpose. Where equipment, materials, articles, or workmanship are referred to in the public improvements specifications as "or equal" or "or approved equal," the Engineer shall decide the question of equality.
- B. Materials specified by reference to the number or symbols of a specific standard, such as an ASTM specification, a federal specification or other similar standard, shall comply with the requirements in the latest revision thereof and any amendment or supplement thereto except as limited to type, class or grade, or modified in such reference. The standards referred to, except as modified in the public improvements specifications, shall have full force and effect as though printed herein.

§ A490-11. Samples, certificates and tests.

- A. The improver shall submit all material or equipment samples, certificates, affidavits, etc., as required in the public improvements specifications or required by the Engineer, promptly. No such materials or equipment shall be manufactured or delivered to the site, except at the improver's own risk, until the Engineer has approved the required samples or certificates in writing. Each sample submitted by the improver shall carry a label giving the name of the improver, the project for which it is intended, and the name of the producer. The accompanying certificates or letter from the improver shall state that the sample complies with the public improvements specifications, shall give the name and brand of the product, its place of origin, the name and address of the producer and all specifications or other detailed information which will assist the Engineer in passing upon the acceptability of the sample promptly. It shall also include a statement that all materials or equipment furnished for use in the project, will comply with the samples and/or certified statements.
- B. After actual deliveries, the Engineer will have such check tests made as he deems necessary in each instance and may reject materials and equipment and accessories for cause, even though such materials and articles have been given general approval. If materials, equipment or accessories which fail to meet check tests have been incorporated in the work, the Engineer will have the right to cause their removal and replacement by proper materials or to demand and secure such reparation by the improver as is equitable.

§ A490-12. Changes in equipment and/or materials.

In these public improvements specifications and on accompanying drawings, there are specified and shown certain pieces of equipment and/or materials which are deemed most suitable for service anticipated. This is not done to eliminate other equipment and material equally as good and efficient. Should improver desire to use some other make of equipment or material, he shall submit to the Engineer a written request for such change and in same shall state advantage to the Township. Determination as to whether or not such change will be permitted rests solely with the Engineer.

§ A490-13. Warranty of title.

No material, supplies, or equipment for the work shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. The improver shall warrant good title to all materials, supplies, and equipment installed or incorporated in the work and, upon completion of all work, shall deliver the same, together with all improvements and appurtenances constructed or placed thereon by him, to the Township free from any claim, liens, or charges. Neither the improver nor any person, firm or corporation furnishing any material

or labor for any work shall have the right to a lien upon any improvement or appurtenance thereon.

§ A490-14. Township's right to do work.

If the improver should neglect to prosecute the work properly, the Township may, without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from the improver's escrow funds.

§ A490-15. Engineer's status.

The Engineer shall be the Township's representative during the construction period. The Engineer will make visits to the site, at a frequency commensurate with the work being performed, to be generally familiarized with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the public improvements specifications. The Engineer will not be responsible for the improver's failure to carry out the construction work in accordance with the public improvements specifications and construction drawings. During such visits and on the basis of observations while at the site, the Engineer will keep the Township informed of the progress of the work of the improver and may condemn work as failure to adhere to the public improvements specifications and/or construction drawings. The Engineer shall have authority to reject the work whenever such rejection may be necessary in his reasonable opinion to insure the proper completion of the project.

§ A490-16. Safety and health regulations.

The developer and contractor are responsible to and shall comply with the Department of Labor Safety and Health Regulations for construction promulgated under the Occupational Safety and Health Act of 1970 (PL-91-596) and under Section 107 of the Contract Work Hours and Safety Standards Act (PL-91-54).²⁶⁸ All work must be in compliance with state and federal occupational health and safety regulations. Neither the Engineer nor the Township is responsible for enforcement of OSHA regulations.

§ A490-17. Location of utilities.

The improver will be held responsible for locating, in advance of the facilities to be built under this contract, all underground structures, such as water and gas mains; water and gas services; storm sewers and telephone and electric conduits, etc., which may be encountered during the constructing operation. The improver shall either dig test holes to determine the position of the underground structures, or he shall arrange with the owners of such underground structures to assign a representative to mark the locations. The existence and location of underground utilities as indicated on any plans of the Township are presented merely to serve as a notification that such utilities do exist in the general proximity of the work. Any utilities not shown, or not located as shown, shall not be cause of the improver to deny responsibility for their protection and/or repair during construction.

- A. The improver shall notify all utility companies in advance of construction to include requesting the utilities to be located in accordance with Pennsylvania Act 287 of 1974, as amended, and cooperate with agents of these companies during the progress of the work. During the course of his work, if the improver damages any of the aforementioned utilities, the improver shall immediately follow the procedure of emergency action and repair as established at the improver's own expense.
- B. Whenever the improver, during the progress of the excavation, uncovers service pipes or lines, which, because of injury or age, are in poor condition, the improver shall immediately notify the proper

²⁶⁸Editor's Note: See 29 U.S.C. § 651 et seq. and 40 U.S.C. § 3704, respectively.

authority in order that steps may be taken for replacement or repair. Locations of repairs and the procedures of repairs that have been made shall be documented by the improver.

- C. The improver shall sustain in their places and protect from direct or indirect injury all pipes, conduits, tracts, walls, buildings, and other structures or property in the vicinity of his work, whether above or below the ground, or that may appear in the trench.

§ A490-18. Observation of work.

The Township and/or Engineer may appoint such person(s) as they deem necessary to observe, at any time, materials and equipment furnished and work done. The Engineer shall be provided at least three business days' notice of the time and place of all work performed in sufficient time to allow arrangements for the assignment of construction observers. Neither the surveillance of the work, nor the presence or absence of a construction observer shall relieve the improver of any of his obligations of making his work conform to the intent of the public improvements specifications and construction drawings. The Township's construction observers shall be authorized to observe all work done and materials furnished. Such inspection may extend to all or any part of the work and to the preparation or manufacture of the materials to be used. Construction observers will be stationed on the work to report to the Engineer as to the progress of the work and the manner in which it is being performed, to report whenever it appears that the materials furnished and work performed by the improver fail to fulfill the requirements of the public improvements specifications, and to call to the attention of the improver any such failure or other default, but no surveillance or any failure to observe, at any time or place, shall relieve the improver from any obligation to perform all work strictly in accordance with the requirements of the public improvements specifications. In case of any dispute arising between the improver and any construction observer as to materials furnished or the manner of performing the work, the construction observer shall have the authority to reject materials or suspend the work until the question at issue can be referred to and decided on by the Engineer. The construction observers shall not be authorized to revoke, alter, enlarge, relax or release any requirements of the public improvements specifications, nor to approve or accept any portion of work, or to issue instructions contrary to the public improvements specifications. Construction observers shall in no case act as foreman or perform other duties for the improver, nor interfere with the management of the work by the latter. Any instructions that the construction observers may give the improver shall in no way be construed as releasing the improver from fulfilling the terms of the public improvements specifications.

§ A490-19. Use of explosives.

- A. The use of mechanical surface impact equipment or drilling and hydraulic rock-splitting equipment to remove rock shall be employed by the improver to the greatest extent possible. If no other means of rock removal are viable, the improver may employ the use of the explosives method (blasting).
- B. The improver shall take complete responsibility for rock removal by the explosives method, including any and all damages or injuries resulting from blasting operations. Blasting shall not be permitted within a radius of 200 feet from any structure or building, or within a three-hundred-foot radius from any gas pipeline, and in no case closer to any gas pipeline than is permitted by the gas utility company.

§ A490-20. Lines, grades and construction surveying.

- A. The improver shall be responsible for the stakeout for the construction of the project. The improver shall provide all surveying required to lay out the construction work from horizontal and vertical reference points. The improver shall provide all engineering personnel, materials, equipment and

labor required to stakeout the baselines and/or center lines and all offset lines and grades.

- B. On jobs where the improver intends to use a laser, he shall either provide offset stakes at a minimum of one-hundred-foot intervals and use them to spot check his grades, or provide a level, rod and level operator to spot check his grades.

§ A490-21. Standard Details.

The Standard Details located in Appendix 1 of these public improvements specifications are incorporated herein by reference.²⁶⁹

§ A490-22. As-built plans. [Amended 12-15-2014 by Ord. No. 424-14]

Within 90 days from substantial completion of the work, the improver shall furnish the Township with as-built plans in accordance with the As-Built Plan Requirements identified in Appendix 2 of these public improvements specifications.²⁷⁰

§ A490-23. Preconstruction conference.

A preconstruction conference shall be required for all subdivision and/or land development projects where financial security has been posted for improvements and for any other construction or earthmoving activities when deemed necessary by the Township or Engineer. The improver or his representative and the contractor or contractors who will be performing the work shall attend, along with the Township Engineer and Township representatives. A representative of Chester County Conservation District shall be invited, and any other interested reviewing agencies and/or utilities may attend. The developer shall be responsible for arranging the meeting. The improver shall deliver two sets of full-size and three sets of half-size (12 inches by 18 inches) fully executed approved final subdivision and/or land development plans, as recorded at the Chester County Recorder of Deeds, to the Township Engineer at the preconstruction conference for the Township Engineer's use during construction.

§ A490-24. Soil erosion and sedimentation pollution control.

The Township is located in a specially protected high-quality watershed. As such, extreme care should be exercised in all disturbance activities to prevent degradation to the waters of the commonwealth, and, upon completion or temporary cessation of earth disturbance activities, the project site shall be immediately stabilized with the appropriate temporary or permanent stabilization. Slopes greater than 3:1 shall utilize erosion control blanket stabilization.

§ A490-25. Inspections.

- A. Inspections shall be performed by the Township Engineer, unless stated otherwise herein, to verify that proper procedures and methods of installation of all approved structures and approved materials required to be installed are followed. Unless other arrangements are made with the Board of Supervisors, all costs associated with the inspections will be the responsibility of the improver.
- B. Inspections shall be required prior to starting construction, during the installation of materials and structures, and upon the completion of all improvements. All improvements shall be installed in accordance with all required approved regulations and specifications.

269. Editor's Note: Appendix 1 is included as an attachment to this chapter.

270. Editor's Note: Appendix 2 is included as an attachment to this chapter.

- C. Any and all unsatisfactory work, faulty procedures and methods and defective materials that have been installed shall be rejected and noted for the record on the inspection standards punchlist and shall be corrected before final acceptance.
- D. The placement of all required improvements shall be in accordance with the controls set by a professional land surveyor registered in the Commonwealth of Pennsylvania, to ensure installation of improvements to proper location, elevation, alignment and profile.
- E. Improvements requiring inspection include, but are not limited, to the following:
 - (1) Sanitary sewer system. Prior to the start of any sanitary sewer improvements work, the improver shall notify the Township Engineer as previously described.
 - (2) Water distribution system. Inspection of all water distribution system improvements is the responsibility of the water utility company serving and with franchise rights in the subject area. However, all water distribution lines installed in Township streets will be inspected by the Engineer with regard to trenching, backfill, compaction and surface restoration. Prior to the start of any work on the waterline improvements, the improver shall notify the Township Engineer as previously described and shall also contact the water utility company and adhere to the water utility company's policies, procedures and standards.
 - (3) Stormwater management facilities. Stormwater management facilities shall require visual inspection of each section. Prior to the start of any stormwater management improvements, the developer and/or contractor shall notify the Township Engineer as previously described. Inspections shall be made prior to backfilling any section, including pipes, inlets, manholes, headwalls, endwalls, detention and retention basins, stormwater management structural best management practices (BMPs), culverts and bridges, and all items being installed as part of the post-construction stormwater management system. Cast-in-place concrete structures and bridge structures shall require material samples, in compliance with ASTM C39 standards. Samples must be taken in the presence of the Township's authorized representative. **[Amended 12-15-2014 by Ord. No. 424-14]**
 - (4) Street system. Inspection of road subgrade, aggregate subbase, base course, binder course and wearing course, including review of all delivery slips.
 - (5) Curb structure. Inspection of subgrade, general alignment and any forms to be used. String line shall be set prior to any concrete pour to show line and grade, profile and alignment; material inspection, including the submittal of all certified material delivery slips.
 - (6) Sidewalk. Inspection of subbase grade and form grade and alignment prior to any pour; material inspection, including the submittal of all certified material delivery slips.
 - (7) Grading and seeding/sodding. Inspection as required to assure compliance with approved plans, regulations and general acceptable methods and practice.
 - (8) E&S facilities. Inspection of soil erosion and sedimentation pollution control facilities for proper installation, as well as proper maintenance on a time interval approved by the Board of Supervisors.
 - (9) Inspection of any escrowed improvement at the discretion of the Township Engineer.

§ A490-26. Days and hours of operation.

Acceptable working hours are 7:00 a.m. through 6:00 p.m., Monday through Friday, and 9:00 a.m. through 5:00 p.m. on Saturdays. Work is not permitted on Sundays.

ARTICLE II
Street Design and Construction

§ A490-27. General requirements.

- A. All construction materials, means and methods for Township streets shall be in accordance with the applicable requirements of PADOT Publication 408, latest revision thereof, and materials shall be supplied by vendors approved by the PADOT for the supply of such materials. Inspection of materials and construction methods shall be in accordance with the requirements set forth herein, as well as Chapter 400, Subdivision and Land Development, of the Township's Code, as amended.
- B. Street cross sections and construction shall be as shown in the Standard Details.
- C. Paving design is based on overall soil conditions in the Township. The Board of Supervisors may require additional paving, base or subbase materials where soil types are inferior, wet or otherwise unsuitable as indicated by the "Soil Survey of Chester and Delaware Counties, Pennsylvania," prepared by the United States Natural Resources Conservation Service, or where, in the opinion of the Township Engineer, such conditions exist.

§ A490-28. Subgrade.

- A. The area within the limits of the proposed road surface shall be shaped to conform to the line, grade and cross section of the proposed road.
- B. Remove or stabilize all unsuitable subgrade materials.
- C. Wet or swampy areas shall be permanently drained and stabilized, as permitted by the regulatory agency having jurisdiction.
- D. Fills shall be made with suitable materials approved by the Township Engineer and thoroughly compacted for full width in uniform layers of not more than eight inches thick. Subgrade shall be compacted to 100% of the determined dry mass density as per ASTM D1557. No more than two feet of fill shall be laid between inspections by the Township Engineer.
- E. The subgrade shall be thoroughly compacted by rolling with a minimum ten-ton three-wheel roller. Equivalent vibratory sheepfoot or rubber-tired rollers may be used at the discretion of the Township Engineer. Subgrade shall be compacted as specified above, tight and dry, at optimum moisture and shall not be soft and spongy under the roller. Compaction of the subgrade shall extend the full width of the cartway, including the width to be occupied by shoulders. Compaction tests meeting ASTM D1557 standards are required in virgin soil at maximum five-hundred-foot intervals, unless otherwise approved by the Township Engineer, and at any other specific locations designated by the Township Engineer. The developer and/or contractor shall obtain the services of a third-party certified materials testing firm to perform the tests, and the results shall be signed and sealed by a professional engineer registered in the Commonwealth of Pennsylvania and shall be submitted to the Township Engineer. Any location not meeting the compaction requirements shall be removed or re-rolled, and retested, until suitable compaction is achieved.
- F. In fill areas, compaction tests meeting ASTM D1557 standards are required for each three feet of fill thickness. The tests shall be conducted in each eight-inch layer at one-hundred-fifty-foot intervals. The developer and/or contractor shall obtain the services of a third-party certified materials testing firm to perform the tests, and the results shall be signed and sealed by a professional engineer registered in the Commonwealth of Pennsylvania and shall be submitted to the Township Engineer.

All compaction must be 100% compaction at optimum moisture. Any layer not meeting the compaction requirements shall be removed or re-rolled, and retested, until suitable compaction is achieved.

§ A490-29. Subbase.

- A. This work shall consist of constructing a layer or layers of compacted aggregate on a prepared subgrade area.
- B. The subbase material shall be PADOT No. 2A compacted coarse aggregate.
- C. The construction methods for the subbase shall conform to the requirements as specified in Section 350.3 of PADOT Publication 408, latest edition.
- D. If at the time of construction, local unstable subgrade conditions are encountered, the Township Engineer may require that all areas of unstable subgrade be excavated to sufficient depth, replaced with approved material and compacted to a density and stability equal to or greater than the surrounding subgrade.
- E. The subbase course shall be installed and compacted in accordance with PADOT specifications and shall extend 36 inches on all streets beyond the paving line when curbs are not to be installed.

§ A490-30. Paving.

- A. Paving and base thickness and materials shall be as shown in the Standard Details. The equivalent single-axle load (ESAL) and skid resistance level (SRL) shall be submitted for approval by the Township Engineer.
- B. Superpave base, binder and wearing surface courses shall be laid to the specified thickness, measured after compaction. All bituminous courses shall be laid with a mechanical bituminous paver in accordance with specifications of the PADOT Specifications, Publication 408, latest edition thereof.
- C. Crown board and straight edge shall be used for checking street construction. Maximum tolerance shall not exceed 1/4 inch in the finished surface.
- D. Delivery slips for all material deliveries shall be furnished to the Township Engineer.
- E. Failure to adhere to the above specifications shall give the Board of Supervisors cause to refuse to accept streets for dedication.
- F. Prior to application of additional superpave courses, existing base courses shall be inspected by the Township representative for defects such as fracture, racking or other signs of base failure, or potential failure. All areas of failure, or potential failure, shall be removed by saw cutting and replaced, or repaired, to the satisfaction of the Township representative.
- G. Weather limitations. Superpave paving shall not be placed between October 31 and April 1, unless otherwise permitted in writing by the Township Engineer. Bituminous paving shall not be placed when surfaces are wet or when the temperature of either the air or the surface on which the paving is to be placed is 40° F. or lower.
- H. The improver shall provide a superpave asphalt mixture design to the Township Engineer for review and approval. The improver shall provide the necessary data and assumptions to determine the parameters for the design.

- (1) PG 64-22 shall be specified for the asphalt. If heavy truck traffic is anticipated, the improver may specify PG 76-22 with the Township Engineer's approval.
- (2) The ESAL shall be determined from existing truck counts for existing roads and shall be estimated for new roads.
- (3) The SRL shall be based upon the average daily traffic count.

§ A490-31. Grading and shoulders.

Roadways shall be graded for the full width of the right-of-way on each side. Paved shoulders shall be graded at a slope of 3/4 of an inch per foot. Earthen shoulders shall be graded with a minimum slope of 1/2 inch per foot and a maximum slope of one inch per foot. Beyond the limits of this grading, banks shall be sloped to prevent erosion, but this slope shall not be greater than three horizontal to one vertical with tops of slope in cuts rounded. All unpaved areas between the street line and the curb or shoulders (as the case may be) shall be covered with not less than four inches of topsoil, fertilized and seeded in a manner and with materials specified in Section 804 of PADOT Publication 408, latest edition thereof.

§ A490-32. Joints.

Joints formed by binder or wearing course laid adjacent to concrete curbs or other rigid structures shall be sealed with PG 64-22 conforming to PADOT Bulletin 25, or approved equal, minimum twelve-inch width, unless directed otherwise by the Township Engineer.

**ARTICLE III
Street Excavation**

§ A490-33. Permit required.

No hole shall be drilled and no opening or excavation shall be made in any existing Township street without first having obtained a road occupancy permit for such proposed activity from the Township, as required by Chapter 395, Article II, Street Openings, of the Township's Code.

§ A490-34. Construction standards.

- A. During the progress of the work, the holder of the permit shall provide and maintain such fences, barriers, "street closed" and warning signs, yellow lights and other danger signals and watchmen as may be necessary to prevent accidents to the public, pursuant to and in compliance with the standards established by PADOT as set forth in Publications 212 and 213, as may be amended or supplemented from time to time.
- B. The amount of trench opened, and also the amount unfilled at the conclusion of the workday, if any, shall at all times be subject to the decision of the Township Engineer.
- C. Before initiation of the work, the permit holder shall notify the Township Public Works Director to allow for the supervision and inspection of the backfill and restoration.
- D. All openings or excavations of streets, excepting drill holes, shall be cut with a power saw and not with an air jackhammer or similar devices.
- E. Any person opening or excavating any street shall, upon completion of the project and after notification of the Township, immediately and completely backfill such openings or excavations, mechanically tamping the same so as to prevent any settling thereof prior to the expiration of the permit, shall restore the surface to the same condition as it was prior to construction, and shall remove from the site of work all debris, tools and equipment.
- F. All backfilling and restoration shall be done in strict conformance with the Standard Details for backfilling and restoration.
- G. Compaction tests of the street subgrade shall be performed when and where directed by the Engineer in accordance with the procedure and requirements previously described for street subgrade.
- H. Where test holes have been drilled, they shall be filled with asphalt and sealed with hot tar.
- I. Permanent restoration. Backfilling of any opening and/or excavations shall be as follows:
 - (1) Before completing the backfilling of any trench, a saw cut shall extend a minimum of 12 inches beyond the trench opening on all sides of the excavation.
 - (2) Initial backfill shall consist of a bed of 2B clean aggregate (AASHTO No. 57) six inches under the utility conduit extending to 12 inches above the top of the conduit.
 - (3) Final backfill:
 - (a) PADOT 2A (Township street) or 2RC (state road) coarse aggregate mechanically tamped in six-inch intervals to restoration depth; or
 - (b) Suitable excavated material backfilled by hand or by approved mechanical methods (new

Township street only). Backfill shall be excavated material approved by the Engineer and containing no stones larger than four inches in maximum dimension. A maximum of 20% of the backfill volume may be stones if the stones are evenly distributed within the material. Excavated material shall be free of organic material, refuse, and frozen materials, subject to limitations specified, and shall be compacted in four inches loose lifts with mechanical tamper or eight inches loose lifts if vibratory equipment is used.

- (4) Superpave 25.0 mm Base Course, extending a minimum of 12 inches on each side of the trench, shall be placed on top of the backfill. The improver shall be held responsible for any settlement within one year of the final restoration.
 - (5) Superpave binder and wearing courses, properly compacted and graded to the surface of the street, shall be placed on top of the base course and sealed at the saw cut with an approved asphalt sealing material.
- J. Temporary restoration. During winter construction periods, the trench shall be backfilled as in the first three items of the specifications for permanent restoration above. The final step shall be temporary application of bituminous stockpile mix to bring the trench to street grade. Inspection shall be made periodically to maintain the trench in condition satisfactory to the Township. On or before May 31 following the date the street cut was first made, the improver shall permanently restore the cut as in Subsection I(4) and (5) above.
- K. Where street openings or excavations are done on a newly constructed street or a street repaved within three years of the date of issuance of the road occupancy permit, the street shall be resurfaced with paving materials prescribed by the Township as follows:
- (1) Fifteen feet on either side of the opening for lateral and angled street openings.
 - (2) Entire length of street opening plus 15 feet on each side and each end of street opening for longitudinal street openings.
- L. Where street openings or excavations are done on a street that has not been repaved within three years of the date of issuance of the road occupancy permit, the street shall be resurfaced with paving materials prescribed by the Township as follows:
- (1) Five feet on either side of the opening for lateral and angled street openings.
 - (2) Entire length of street opening plus five feet on each side and each end of the street opening for longitudinal street openings.
- M. Curb and/or sidewalk damaged as a result of construction shall be replaced or repaired in accordance with Article V.
- N. Line markings damaged as a result of construction shall be replaced with new line markings meeting the paint requirements of § A490-57.

ARTICLE IV **Driveways**

§ A490-35. General provisions.

- A. This article of the public improvements specifications shall serve as the regulations for driveways identified in Chapter 177, Driveways, of the Township's Code.
- B. Driveway permits shall be required as specified in § 177-4 of the Township's Code. Whenever a driveway permit is required, a zoning permit shall also be required. A drainage permit may also be required if the proposed work triggers Chapter 388, Stormwater Management, of the Township's Code.
- C. A Township road occupancy permit for work within a Township road right-of-way, as required by Chapter 395 of the Township's Code, shall not be required if a driveway permit is obtained, unless the proposed work extends beyond the driveway area within the Township road right-of-way.

§ A490-36. Construction standards.

- A. Driveways shall be constructed in accordance with the Standard Details.
- B. All driveways and related improvements within a Township road right-of-way shall be constructed and located in such a manner so as not to impair drainage or maintenance within said road right-of-way area, alter the stability of a roadway subgrade, materially change the drainage of adjacent areas, interfere with the traveling public, present a hazard to the free movement of normal street traffic or create areas of undue traffic congestion on the Township road. All surface runoff shall be detained on the applicant's property, and in no case shall the applicant direct or allow such surface runoff to exceed the requirements of Chapter 388, Stormwater Management, of the Township's Code.
- C. Sight distance requirements. Driveway entrances shall be located so as to provide reasonable and safe sight distances to the operator of a vehicle departing from a driveway onto a Township road. The location of all driveways is subject to the approval of the Township Engineer or his designee. A clear sight triangle shall be provided at all intersections of a driveway with a Township road. The clear sight triangle shall conform to AASHTO standards based upon approach grades and posted speed limits.²⁷¹
- D. Repairs. Any repairs to an existing driveway within the Township road right-of-way, under this chapter, shall not change the original design and specifications for the driveway, unless the new design and specifications are first submitted to the Township for approval and are approved by the Township Engineer or his designee. The Township Engineer or his designee shall require the payment of the application and inspection fees established by the Board of Supervisors.
 - (1) The Township Engineer or his designee may require the replacement of existing improvements (including but not limited to depressed curb, sidewalk, and storm sewer pipes) located within the area of proposed work that are deemed deficient or defective by the Township Engineer or his designee with new improvements that meet the requirements established elsewhere within these public improvements specifications.
 - (2) In a case where an existing driveway is proposed to be resurfaced with asphalt within the Township road right-of-way, the paving transition of the driveway into the Township road shall

²⁷¹Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

be smooth and even.

- E. Pavement requirements. New (proposed) driveways shall be paved from the edge of the Township road (including roads intended to be dedicated to the Township under the auspices of an approved subdivision and/or land development plan) paving to, at a minimum, the road right-of-way line. The minimum paving cross section shall consist of 1.5 inches 9 mm superpave wearing course over three inches 25.0 mm superpave base course and four inches of PADOT 2A modified aggregate. Where sidewalks cross driveways and reinforced concrete aprons are used, such aprons, as well as the sidewalks adjacent thereto, shall consist of at least six inches of reinforced concrete on four inches of PADOT 2A modified aggregate. Where sidewalks cross driveways and asphalt aprons are used, the asphalt cross section shall be as specified above for proposed driveways, and the sidewalks adjacent to the apron shall be as previously specified.
- F. Dimensional requirements. The minimum driveway width shall be 10 feet, and the minimum driveway radius shall be five feet.
- G. Location and separation. Unless otherwise provided in Chapter 455, Zoning, driveways shall not be located less than 10 feet from a property line (as measured at the Township road right-of-way line).²⁷²
- H. The entire driveway entrance shall be located within the frontage of the property that is to be served by the driveway.
- I. Corner lot driveway requirements.
 - (1) All driveways on corner lots or lots that have frontage on more than one road shall be located on the road that is anticipated to have the least traffic or on the road designed by the Township Engineer or his designee.
 - (2) All driveways on corner lots and on lots facing a T-intersection shall maintain a minimum distance, measured from the center line of the intersecting road to the center line of the driveway, of 100 feet, and in the case of townhouses, 64 feet. Modification of these requirements may be approved by the Township Engineer.
- J. Common access driveways. Common access driveways are not encouraged and shall only be permitted when approved by the Township Engineer. The Township Engineer may require driveway materials of construction and dimensions beyond those specified for typical driveways and may further require an access and maintenance agreement among the involved property owners.
- K. Secondary driveways. No single lot or parcel of land shall have more than one driveway, except where the frontage exceeds 300 feet in length or where the frontage is along a divided highway. In such instances, a second driveway is permissible.
- L. Drainage requirements. Unless curb exists along the Township road, the intersection of all driveways with the paved edge of a Township road shall be constructed by incorporating a drainage gutter across the width of the driveway in accordance with the Standard Details. An HDPE or RCP pipe, 15 inches minimum diameter, may be used in lieu of the drainage gutter if approved by the Township Engineer.
- M. Approach. The angle of a driveway as it intersects a street shall be such that a vehicle entering the driveway may do so in an orderly and safe manner with a minimum of interference to other street traffic and, in the case of driveways on lots of 1/2 acre or more, such that a vehicle leaving the driveway may enter safely into the lane of traffic moving in the desired direction. Driveways shall

²⁷²Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

intersect streets as nearly as possible at right angles, and in no case at an angle of less than 75° or more than 105°.

§ A490-37. Driveways for nonresidential uses.

Driveways for nonresidential uses shall also meet the following requirements, in addition to the previously identified requirements:

- A. Nonresidential driveways shall be designed to meet the requirements set forth in Chapter 441 of Title 67 of the Pennsylvania Code.
- B. Nonresidential driveways shall be paved with 1 1/2 inches of superpave 9.5 mm PG 64-22 wearing course, 4 1/2 inches of superpave 25.0 mm base course and six inches of PADOT No. 2A compacted coarse aggregate subbase.
- C. Nonresidential driveways shall be provided with curb returns of appropriate radius in accordance with PADOT standards, rather than depressed curbs.
- D. Nonresidential driveways shall be constructed with a 2% minimum crown or cross-slope.
- E. Nonresidential driveways shall have minimum radii of 60 feet.

ARTICLE V
Curbs and Sidewalks

§ A490-38. General provisions.

- A. The construction of any new curbs or sidewalks and the replacing or repairing of any existing curbs or sidewalks in the Township shall be in conformance with the following specifications and as shown in the Standard Details.
- B. The grade to which every curb, gutter, or sidewalk shall be hereafter laid, constructed or repaired, other than that established in an approved subdivision and land development plan, shall be that fixed and designated by the Engineer. When required by the Engineer, grade cut sheets for the curb or sidewalk shall be provided for review prior to the installation of the structure.
- C. All new street trees shall be planted on the residence side of the sidewalk at a distance of at least two feet outside of the ultimate right-of-way, unless specified otherwise elsewhere, in which case the greatest distance shall apply.
- D. No open gutters for conducting rainwater or drainage of any kind will be permitted to run over the top of curbs or sidewalks. All underground rain conductors shall be of pipe material such as cast iron, wrought iron, or approved plastics and shall be connected directly to a storm sewer pipe.
- E. No persons or person, firm or corporation shall construct or repair any curb, sidewalk, or gutters within the public right-of-way without first applying for and obtaining a permit for the same from the Township. No permit will be required for new curbing, gutters or sidewalk to be constructed in an approved subdivision and/or land development which is to be installed by the improver.

§ A490-39. Curbs.

- A. All curbs shall be constructed of monolithic concrete. Such concrete shall develop a compressive strength of 3,500 pounds per square inch (psi) in 28 days. Certification of the concrete mix shall be provided to the Township.
- B. Curbs shall have clean-cut joints, a minimum of two inches deep, every 10 linear feet, and expansion joints every 60 linear feet or less, at structures, and at the end of each day's work. Expansion joints shall be 1/2 inch in width with premolded expansion joint filler. Expansion joint material shall also be placed between any curb and concrete driveway apron.
- C. All curbs shall have a depth of not less than 18 inches and shall be eight inches in thickness at the base and seven inches in thickness at the top. Curbs shall be constructed with an eight-inch reveal and shall rest on compacted subgrade.
- D. When a curved curb joins with a tangent curb, at curb returns, on sharp curves, where a curb is jointed to an inlet, and elsewhere as directed by the Township, there shall be embedded in the concrete two No. 4 reinforcing bars 24 inches long. These bars shall extend 12 inches into the curb on each side of the joint. The portion of the bar extending into the tangent curb shall be rendered bondless by a coating of approved material and enclosed in part in approved tubes or caps which will provide a one-half-inch minimum positive clearance pocket. The top surface of the curb shall be finished true to line and grade in a smooth, neat and even manner, and the edge of the faces and back shall be rounded to a radius of one inch.
- E. The depressed curb at driveways shall be no higher than 1 1/2 inches above the street surface. The

length of this depressed curb shall not exceed 35 feet without a safety island that shall not be less than 15 feet in length. Pipes or grates or other constructions shall not be placed in the gutter to form a driveway ramp.

- F. Where it is necessary to replace existing vertical curbs with depressed curbing, at least two ten-foot-long sections of existing curb shall be removed down to the subgrade without disturbing the adjacent cartway paving. Any portions of the cartway disturbed during curbing removal or installation shall be repaired to new condition.
- G. Any depressed curb sections that are unused when a development or phase of a development is completed shall be completely removed and replaced with full section upright curbing to line and grade of adjacent curbing. Forming and pouring vertical curbing on top of an existing curb depression will not be permitted.
- H. Curb cut ramps, for use by the handicapped, shall be provided at all street intersections and shall be installed in accordance with § A490-41.
- I. All joints between curbs and bituminous pavement shall be sealed with PG 64-22 conforming to PADOT Bulletin 25, or approved equal.

§ A490-40. Sidewalks.

- A. Concrete sidewalks, in all new developments or street construction, shall be located entirely within the street right-of-way and shall be located a minimum of three feet seven inches from the curbline, measured from the curbline to the street side edge of the sidewalk. A grass planting strip shall be provided between the curb and sidewalk. All required street trees shall be installed on the residence side of the sidewalk at a distance of at least two feet outside of the ultimate right-of-way, unless otherwise specified elsewhere, in which case the greater distance shall apply. In developed areas of the Township, the existing conditions shall be considered in the application of these location requirements. Curb cut ramps, for use by the handicapped, shall be provided at all street intersections and shall be in accordance with § A490-41.
- B. All sidewalks shall be constructed of monolithic concrete. Said concrete shall develop a compressive strength of 3,500 pounds per square inch (psi) in 28 days. Certification of the concrete mix shall be provided to the Township.
- C. The paved width of sidewalks shall be a minimum of three feet in all new developments or street construction. In no case shall a bike path be combined with a sidewalk. In developed areas of the Township, the existing conditions shall be considered in the application of these requirements.
- D. Where sidewalks abut a building, wall or other permanent structure, a premolded expansion joint filler, 1/2 inch in thickness, shall be placed between the building, wall or other permanent structure and the sidewalk for the full length of such building, wall or other permanent structure.
- E. Sidewalks shall have clean-cut joints, a minimum of one inch deep, every five linear feet, and expansion joints every 30 linear feet or less, at structures, and at the end of each day's work. Expansion joints shall be 1/2 inch wide with premolded expansion joint filler. All sidewalks shall have a broom finish.
- F. Sidewalks shall not be less than four inches in thickness and shall be placed on a minimum four-inch compacted base of AASHTO No. 57 (PADOT 2B) crushed stone. Where driveways cross sidewalks, sidewalks shall be a minimum of six inches thick and shall include six inches by six inches by ten-

gauge welded wire fabric (WWF) and shall be placed on a minimum four-inch compacted base of AASHTO No. 57 (PADOT 2B) crushed stone.

- G. Finished sidewalks shall have a cross-slope of 1/8 inch vertical per foot horizontal, sloping downward toward the street. Finished sidewalks shall also have a grade from the inner edge of the sidewalk to the outer edge of the paved shoulder or curb of 1/8 inch vertical per foot horizontal.
- H. At driveway entrances, where there is no curb, the apron between the sidewalk and edge of road paving shall be bituminous, with the bituminous apron cross section conforming to the requirements of Chapter 177, Driveways, of the Township's Code. A concrete apron may be utilized in lieu of a bituminous apron when approved by the Engineer. In all cases, the sidewalk shall extend across the full driveway width and shall not terminate at the driveway edges.
- I. At driveway entrances, when there is curb, the apron between the curb and sidewalk shall be concrete. Concrete strength for a concrete apron shall be as specified previously for curbs and sidewalks. Concrete aprons shall be six inches thick and shall include six inches by six inches by ten-gauge WWF and shall rest on a compacted bed of four-inch AASHTO No. 57 (PADOT 2B) crushed stone. Premolded expansion joints 1/2 inches shall be provided between concrete aprons and sidewalks and between concrete aprons and curbs. In all cases, the sidewalk shall extend across the full driveway width and shall not terminate at the driveway edges.
- J. All joints between sidewalks and bituminous pavement shall be sealed with PG 64-22, or approved equal.

§ A490-41. Curb ramps.

- A. Curb ramps shall be designed in accordance with the latest PADOT standards.
- B. The physical geometry of the ramps shall comply with the latest edition of the PADOT Standards for Roadway Construction, Series RC-1M to 100M.
- C. The design of the ramps shall further comply with the PADOT Design Manual Part 2, Highway Design Publication 13M, latest edition.
- D. When required by the Township, the improver shall provide an agreement for the maintenance of pedestrian facilities, including curbs, sidewalks and curb ramps, in a form and manner acceptable to the Township. The agreement shall be in accordance with PADOT Publication 13M, Chapter 6.6.A.

§ A490-42. Repair requirements.

- A. For land development projects, prior to the Township's acceptance of dedication and prior to the end of the maintenance period, the improver shall repair areas of cracked, chipped and/or spalled curb and sidewalk, identified by the Township Engineer, with standard construction materials and via standard construction methods as deemed acceptable by the Township Engineer.
- B. For excavations of existing streets performed in accordance with Article III, the improver shall repair all areas of curb and/or sidewalk damaged as a result of construction to preconstruction conditions with standard construction materials and via standard construction methods deemed acceptable by the Township Engineer.

ARTICLE VI
Bicycle and Multipurpose Paths

§ A490-43. Construction standards.

- A. Curb cut ramps, the same width as the path, shall be installed to permit the crossing of intersecting streets. Curb cut ramps shall be as per § A490-41.
- B. The vertical clearance from the path surface to overhead obstructions shall be not less than 10 feet.
- C. The path shall be six inches wide and constructed of a four-inch AASHTO No. 57 (PADOT 2B) compacted aggregate base with a two-inch ID-2 binder course and a one-inch ID-2 wearing course. As may be approved by the Board of Supervisors on a case-by-case basis, the path may be constructed of a compacted five-inch PADOT 2A aggregate base with a compacted one-inch PADOT 1B choked stone surface course. Compaction of aggregate shall be to the satisfaction of the Engineer.
- D. All paths shall be constructed in such a manner to insure adequate and proper drainage and to prevent the path from being inundated by surface drainage.
- E. Unless specified otherwise, all materials and construction procedures shall be in accordance with PADOT Publication 408, latest edition.

ARTICLE VII
Stormwater Management Facilities

§ A490-44. General provisions.

Post-construction stormwater management facilities shall be designed and constructed in accordance with Chapter 388, Stormwater Management, of the Township's Code. The intent of these specifications is to supplement Chapter 388, Stormwater Management; however, if there is a conflict between the requirements of Chapter 388, Stormwater Management, and these specifications, the requirements of the Chapter 388, Stormwater Management, shall prevail.

§ A490-45. Construction standards.

- A. Concrete pipe shall be reinforced concrete, rubber gasketed, and shall conform to AASHTO M170, M198 and M207.
- B. Smooth bore high-density polyethylene pipe shall be product N-12 as manufactured by ADS, or approved equal.
- C. Inlet boxes shall conform to PADOT Standard Drawings and Publication 408, latest edition.
 - (1) PADOT Type C inlet box tops shall be precast with Product No. 00700160 Trout Logo Plate as manufactured by East Jordan Iron Works, Inc., or equal, to assist the Township in satisfying its NPDES Phase II stormwater permit requirements. Plate shall contain the text "dump no waste" and "drains to waterways," in addition to the profile of a trout.
 - (2) PADOT Type M inlet box tops shall be precast with Product No. 00700360 Trout Logo Plate as manufactured by East Jordan Iron Works, Inc., or equal, to assist the Township in satisfying its NPDES Phase II stormwater permit requirements. Plate shall contain the text "dump no waste" and "drains to waterways," in addition to the profile of a trout in a submerged environment.
- D. Inlet frames and grates shall conform to PADOT Standard Drawings and Publication 408, latest edition. Bicycle-safe grates shall be installed where directed by the Engineer.
- E. Stormwater manholes shall conform to PADOT Standard Drawings and Publication 408, latest edition.
 - (1) Stormwater manhole frame shall be Product No. 00104510 as manufactured by East Jordan Iron Works, Inc., or equal, to assist the Township in satisfying its NPDES Phase II stormwater permit requirements.
 - (2) Stormwater manhole cover shall be Product No. 00103918 as manufactured by East Jordan Iron Works, Inc., or equal, to assist the Township in satisfying its NPDES Phase II stormwater permit requirements. Cover shall contain the text "dump no waste" and "drains to waterways," in addition to the profile of a trout.
- F. Headwalls/endwalls. Reinforced concrete, minimum 4,000 psi. Compressive strength in accordance with PADOT Publication 408, latest edition.
- G. All miscellaneous stormwater management appurtenances, such as energy flow dissipaters, shall be in accordance with PADOT Publication 408, latest edition, and the PADOT Standard Drawings.
[Amended 12-15-2014 by Ord. No. 424-14]

H. Trench restoration for storm sewers shall be performed in accordance with the Standard Details.

§ A490-46. Inlets or manholes; bridges.

- A. When there is a change in pipe size in an inlet or manhole, the elevation of the top of pipes shall be the same or the smaller pipe higher. A minimum drop of two inches shall be provided between the inlet pipe invert elevation and the outlet pipe invert elevation.
- B. At street intersections, inlets shall be placed in the tangent and not in the curved portion of the curbing.
- C. Inlets or manholes shall be placed at all changes in vertical or horizontal direction of pipe.
- D. Bridges.
 - (1) A bridge shall be considered an enclosed water-carrying structure of one or more cells having a combined span of eight feet or greater.
 - (2) All bridge designs shall be in accordance with PADOT Design Manual, Part IV (latest revision), and shall be submitted to the Township Engineer for approval of materials, structural design, compliance to AASHTO HS-25 loading, flow design capacity and calculated life cycle of the proposed structure. All bridges shall have approach guide rail in accordance with PADOT.

ARTICLE VIII **Structural BMPs**

§ A490-47. General provisions.

Structural post-construction stormwater management best management practices (BMPs) shall be designed and constructed in accordance with the Pennsylvania Stormwater Best Management Practices Manual, latest revision, and Chapter 388, Stormwater Management, of the Township's Code. The intent of these specifications is to supplement the Pennsylvania Stormwater Best Management Practices Manual and Chapter 388, Stormwater Management, of the Township's Code for all structural BMPs designed to manage stormwater runoff from any public improvement; however, if there is a conflict among or between the requirements of the Pennsylvania Stormwater Best Management Practices Manual, Chapter 388, Stormwater Management, of the Township's Code and/or these specifications, the requirements of the Pennsylvania Stormwater Best Management Practices Manual shall prevail, followed by the requirements of the Chapter 388, Stormwater Management, of the Township's Code.

§ A490-48. Materials.

- A. Concrete pipe shall be reinforced concrete, rubber gasketed, and shall conform to AASHTO M170, M198 and M207.
- B. Smooth bore high-density polyethylene pipe shall be product N-12 as manufactured by ADS, or approved equal.
- C. Cast-in-place outlet structure. Reinforced concrete, minimum 4,000 psi compressive strength in accordance with PADOT Publication 408, latest edition.
- D. Precast outlet structure. Reinforced concrete, minimum 4,000 psi compressive strength in 28 days in accordance with PADOT Publication 408, latest edition. Submit design for Township Engineer review and approval.
- E. Precast reinforced concrete inlet box sections shall be in accordance with AASHTO M259, PADOT Publication 408, latest edition, and PADOT Standard Drawings.
- F. Orifice plates. Stainless steel, Type 304, with stainless steel mounting hardware. Use one-fourth-inch-thick up to twenty-four-inch span and three-eighths-inch-thick over twenty-four-inch spans.
- G. Headwalls/endwalls. Reinforced concrete, minimum 4,000 psi compressive strength in accordance with PADOT Publication 408, latest edition.
- H. Anti-seep collars. Reinforced concrete, minimum 4,000 psi compressive strength in 28 days.
- I. Concrete pipe end sections. Reinforced concrete in accordance with PADOT Publication 408, latest edition. Concrete pipe end sections shall be permitted only where approved by the Township Engineer.
- J. Steel grates shall be in accordance with PADOT Publication 408, latest edition.

§ A490-49. Construction standards.

- A. Basins shall be installed prior to any earthmoving or land disturbances that they will service. The phasing of their construction shall be as noted in the soil erosion and sedimentation pollution control narrative on the approved soil erosion and sedimentation pollution control plan.

- B. Whenever a basin will be located in an area underlined by limestone, a geological evaluation of the proposed location will be conducted to determine susceptibility to sinkhole formations. The design of all facilities over limestone formations shall include measures to prevent groundwater contamination and, where necessary, sinkhole formation. Soils used for the construction of basins shall have low erodibility factors ("K" factors) with values between 0.17 and 0.49.
- C. The maximum slope of earthen basin embankments shall be four horizontal to one vertical (4:1). The top and/or toe of any slope shall be located a minimum of five feet from any property line. Whenever possible, the side slopes and basin shape shall conform to the natural topography.
- D. The minimum top width of the basin berm shall be 10 feet. A cutoff trench (keyway) of impervious material shall be provided under all embankments that require fill material. The cutoff trench shall be a minimum of eight feet wide, two feet deep and have side slopes of 1:1.
- E. In order to insure proper drainage on the floor of any detention basin, a minimum grade of 2% shall be maintained for areas of sheet flow to provide positive drainage in the direction of the outlet structure. Under certain circumstances, such as continuous seasonal flow, the Township may require that a low-flow channel be constructed.
- F. All basin embankments shall be placed in maximum of eight-inch lifts, compacted to a minimum of 95% of the maximum dry density, as established by ASTM D-1557, PTM No. 112 or PTM No. 402. Prior to proceeding to the next lift, the compaction shall be checked by a soils engineer. The improver shall obtain the services of a third-party certified materials testing firm to perform the tests on the leading and the trailing edge of the berm along with the top of the berm. All test results shall be signed and sealed by a professional engineer registered in the Commonwealth of Pennsylvania and shall be furnished to the Engineer for review and approval. Any location not meeting the compaction requirements shall be recompacted and retested until suitable compaction is achieved.
- G. Whenever possible, the emergency spillway for basins shall be constructed on undisturbed ground. All emergency spillways shall be constructed so that the basin berm is protected against erosion. The minimum capacity of all emergency spillways shall be the peak flow rate from the one-hundred-year design storm after development. The construction material of the emergency spillway shall extend along the upstream and downstream berm embankment slopes. The upstream edge of the emergency spillway shall, at a minimum, extend to the toe of the berm embankment. The emergency spillway shall not discharge over earthen fill and/or easily erodible material.
- H. The minimum freeboard for flow through the emergency spillway shall be one foot. Freeboard is the difference between the design water elevation in the spillway at the one-hundred-year design storm peak flow rate and the top of berm elevation.
- I. Anti-seep collars shall be installed around the outlet pipe barrel within the normal saturation zone of the basin berms. The anti-seep collars and their connections to the pipe barrel shall be watertight. The anti-seep collars shall extend a minimum of two feet beyond the outside of the principal pipe barrel. The maximum spacing between collars shall be 14 times the minimum projection of the collar measured perpendicular to the pipe. A minimum of two anti-seep collars shall be installed on each outlet pipe.

ARTICLE IX
Public Sanitary Sewers

§ A490-50. Adoption of standards.

Public sanitary sewers and appurtenances shall be in accordance with the Easttown Municipal Authority's Standard Specifications for Construction of Sanitary Sewers and Appurtenances, latest revision thereof.

ARTICLE X
Public Water Distribution

§ A490-51. General provisions.

- A. Prior to the installation of any public water distribution system, the improver shall furnish the Township with a letter of serviceability from the public water purveyor with franchise rights in the subject area. The letter of serviceability shall include the following:
 - (1) Identification of the number of units to be serviced.
 - (2) Certification that the demand and pressure requirements identified in Chapter 400, Subdivision and Land Development, of the Township's Code will be met, and in the case of residential dwelling units, further certification that said requirements will be met without the need for individual residential booster pumps in any of the dwelling units.
- B. Prior to the installation of any public water distribution system, the improver shall furnish the Township with a letter from the public water purveyor with franchise rights in the subject area approving the construction drawings for the public water distribution system.
- C. Water distribution mains shall be a minimum of eight inches (nominal) in diameter.
- D. For land development projects, the only item related to public water distribution systems for which financial security for the construction of improvements shall be posted is fire hydrants.

§ A490-52. Fire hydrants.

- A. Fire hydrants shall be cast-iron body, fully bronze mounted, suitable for a working pressure of 200 psi, and shall conform to AWWA Standard C502, latest revision. Hydrants shall be constructed in a manner permitting withdrawal of internal working parts without disturbing the barrel or casing. Valve, when shut, shall be reasonably tight when upper portion of barrel is broken off. Valve opening shall be 5 1/4 inch diameter. Hydrants shall be provided with two two-and-one-half-inch hose nozzles and one four-and-one-half-inch pumper nozzle. Each hydrant shall be shop tested to hydrostatic pressure of 400 psi with valve in both open and closed positions.
 - (1) The main valve shall open left with the direction of opening cast on head of hydrant. Operating nut shall be a pentagon with national standard threads. The hydrant shall be currently dated.
 - (2) Hydrants shall be enameled above ground with fire hydrant or fire protection red, with the minimum dry film thickness as recommended by the hydrant manufacturer.
 - (3) Acceptable manufacturer and model. Hydrants shall be Mueller Modern Centurion, Item No. MMC. Other models may be accepted if approved by the Township, local fire company, and public water purveyor with franchise rights in the Township.
- B. Pole marker. A pole marker shall be provided on each hydrant. Pole marker shall be five-foot reinforced fiberglass, red with reflective white bands, heavy-duty spring and integral mounting bracket. Pole marker shall be USA BlueBook Stock No. 22516, or approved equal.

ARTICLE XI
Street Signs and Markings

§ A490-53. Street name signs.

- A. Unless specified otherwise, all materials, sign dimensions, lettering and installation shall meet the requirements of Pennsylvania Code Title 67, Chapter 212.
- B. Street name signs shall be reflectorized with a white legend on a green background.
- C. Street name sign posts shall be hot-dipped galvanized steel or aluminum tubing, twelve-foot one-piece section, 2 3/8 inches O.D., minimum 2 lbs. per foot.
- D. All fittings shall be aluminum and/or stainless steel.
- E. Each post shall have a minimum of two signs, naming each street.
- F. Where new streets are constructed, street name signs shall be installed immediately after installation of the road binder course or prior to issuance of the first new home use and occupancy permit, whichever occurs first.

§ A490-54. Barricades.

Barricades, if required, shall meet PADOT standards.

§ A490-55. End-of-lane markings.

- A. Right clearance markers, PADOT W16-2-2R, and painted line striping shall be installed at all widened sections of roadways where the widened portion of the lane ends and shall be as shown in the Standard Details.
- B. The markers shall be reflectorized white and red stripes. The bottom of the markers shall be at least 18 inches above the pavement and shall be mounted on steel channel post with breakaway mount. Line striping shall be as shown in the Standard Details.

§ A490-56. Shoulder markings.

At all streets and widened sections of road where curb is not required, but paved shoulders are to be constructed, the cartway shall be delineated from the shoulder by the painting of a four-inch-wide white line.

§ A490-57. Traffic paint.

- A. General. Traffic paint shall be of a ready-mixed pigmented binder in a single package system and shall meet the requirements of ASTM D868 and ASTM D1309. When applied at a wet-film thickness of 15 mils, paint shall be suitable for application to traffic bearing surfaces such as portland cement concrete, bituminous pavements, and plain or vitrified brick surfaces of streets, highways, bridges, tunnels, and parking lots.
- B. Traffic paint shall be either an alkyd resin type product or a combination of alkyd resin modified with chlorinated rubber, ready-mixed, white and yellow. Products shall be reflectorized for night visibility, if required, by adding reflective spheres before the paint dries or sets, using the drop-on or pressurized methods.

- (1) Pigments. Except for the yellow pigment, the supplier may use any combination of pigments, provided the finished paint meets all the requirements specified herein. Supplier may use any organic yellow pigment, provided it does not contain any of the metals listed in Environmental Protection Agency (EPA) Code of Federal Regulations, 40 CFR 261.24, Table 1. Sufficient suspending and dispersing agents shall be used to prevent excessive settling as specified herein.
- (2) Binder. The supplier may use any combination of ingredients, except tall oil resins, provided the finished paint meets all the requirements herein. Sufficient amounts of anti-skimming agents shall be used to prevent skinning as specified herein. Sufficient resin solids, compatible thinners and driers, if necessary, shall be used to meet requirements of Table I.
- C. Paint requirements. The mixed paints shall meet the requirements specified below in the following table for white and yellow paints:
- (1) Color of yellow paint. The color of the dry paint film when compared visually shall essentially match Color No. 33538 of Federal Standard 595.
 - (2) Glass spheres shall meet the requirements of PADOT Publication 408, Section 1103.14(a)2.

Requirements of Mixed Paints

| Characteristics | Standards | Type I White and Yellow |
|---|------------------|--|
| Pigment, percent by weight | | 55% to 60% |
| Nonvolatile vehicle, percent by weight of vehicle | | 40 minimum |
| Uncombined water, percent by weight of paint | | 1.0 maximum |
| Coarse particles and skins (retained on No. 325 sieve, 1% by weight of pigment) | | 1.0 maximum |
| Consistency, krebs units | | 65 to 70 (Type I) 70 to 110 (Type II) |
| Weight per gallon, pounds: | | |
| White | | 11.7 minimum |
| Yellow | | 12.0 minimum |
| Fineness of grind, Hegman | | 2.0 minimum |
| Contract ratio, dry | | 0.96 minimum |
| Directional reflectance: | | |
| White | | 84 minimum |
| Yellow | | 50 minimum |
| Drying time, no pickup, minutes (lab) | ASTM D711 | 30 maximum |
| Flexibility | | No cracking or flaking |

Requirements of Mixed Paints

| Characteristics | Standards | Type I White and Yellow |
|--|-----------------------|------------------------------------|
| Bleeding test | ASTM D868 and D969 | 5 minimum |
| Water Resistance | | — |
| Skinning (48 hours) | | None |
| Storage Stability | ASTM D1309 | 6 minimum |
| Condition in container (1/sieve conforming to RR-S-366) | | See 3.6.3 |

Disposition List

Chapter DL**DISPOSITION LIST**

The following is a chronological listing of legislation of the Township of Easttown 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 Ordinance No. 419-13, adopted 11-18-2013.

§ DL-1. Disposition of legislation.

| Ord. No. | Adoption Date | Subject | Disposition |
|-----------------|----------------------|--|---|
| 422-14 | 6-2-2014 | Adoption of Code | Ch. 1, Art. I |
| 423-14 | 10-20-2014 | Lease rental debt | NCM |
| 424-14 | 12-15-2014 | Property maintenance; wireless communications; nomenclature change; various Code amendments | Ch. 13, Art. II; Ch. 44; Ch. 141; Ch. 160; Ch. 177; Ch. 203; Ch. 274; Ch. 280, Art. II; Ch. 285, Art. I; Ch. 313; Ch. 329; Ch. 245; Ch. 377; Ch. 388; Ch. 400; Ch. 447; Ch. 455; Ch. A490 |
| 425-15 | 7-20-2015 | Stormwater Management Amendment | Ch. 388 |
| 426-15 | 8-17-2015 | Claims: Attorney Fees | Ch. 150, Art. I |
| 426-16 | 3-7-2016 | Cable Television Franchise: Comcast Amendment | Ch. A470, Art. I |
| 427-16 | 12-13-2016 | Zoning Amendment | Ch. 455 |
| 428-17 | 5-15-2017 | Floodplain Management; Natural Resources Protection Amendment; Stormwater Management Amendment; Subdivision and Land Development Amendment; Zoning Amendment | Ch. 220; Ch. 274; Ch. 388; Ch. 400; Ch. 455 |
| 428.1-17 | 1-17-2017 | Vehicles and Traffic Amendment | Ch. 430 |
| 429-17 | 3-20-2017 | Alarm Systems and Emergency Communication Systems: Emergency Communication Systems | Ch. 110, Art. II |
| 430-17 | 8-21-2017 | Vehicles and Traffic Amendment | Ch. 430 |
| 431-17 | | Nuisances: General Regulations Amendment; Zoning Amendment | Ch. 280, Art. I; Ch. 455 |
| 432-17 | | School Crossing Guards | Ch. 79 |

| Ord. No. | Adoption Date | Subject | Disposition |
|-----------------|----------------------|--|---|
| 433-18 | 1-15-2018 | Boards, Commissions and Committees: Planning Commission Amendment; Alcoholic Beverages; Natural Resources Protection Amendment; Parks and Recreation Areas Amendment; Peddling and Soliciting; Property Maintenance Amendment; Special Events Amendment; Stormwater Management Amendment; Subdivision and Land Development Amendment; Zoning Amendment | Ch. 13, Art. I; Ch. 112; Ch. 274; Ch. 306; Ch. 313; Ch. 329; Ch. 382; Ch. 388; Ch. 400; Ch. 455 |
| 434-18 | 7-16-2018 | Vehicles and Traffic Amendment | Ch. 430 |
| 435-18 | 8-20-2018 | Vehicles and Traffic Amendment | Ch. 430 |
| 436-18 | 10-1-2018 | Vehicles and Traffic Amendment | Ch. 430 |

| Ord. No. | Adoption Date | Subject | Disposition | Supp. No. |
|-----------------|----------------------|--|--|------------------|
| 437-19 | 2-4-2019 | Floodplain Management Amendment; Subdivision and Land Development Amendment; Wireless Communications Facilities Amendment; Zoning Amendment; Standard Construction and Material Specifications for Public Improvements Amendment | Ch. 220; Ch. 400; Ch. 447; Ch. 455; Ch. A490 | 4 |
| 438-19 | 2-19-2019 | Bond | NCM | 4 |
| 439-19 | 4-1-2019 | Vehicles and Traffic Amendment | Ch. 430 | 4 |
| 440-19 | 5-20-2019 | Vehicles and Traffic Amendment | Ch. 430 | 4 |
| 441-19 | | | Pending codification | 4 |
| 442-19 | 9-16-2019 | Lease Rental Debt | NCM | 4 |
| 443-20 | 2-18-2020 | Vehicles and Traffic Amendment | Ch. 430 | 5 |
| 445-20 | 12-7-2020 | Boards, Commissions and Committees: Environmental Advisory Council | Ch. 13, Art. V | 5 |

| Ord. No. | Adoption Date | Subject | Disposition | Supp. No. |
|-----------------|----------------------|--|---|------------------|
| 446-20 | 12-7-2020 | Boards, Commissions and Committees: Easttown Citizen's Advisory Committee Amendment | Ch. 13, Art. III | 5 |
| 447-20 | 12-7-2020 | Vehicles and Traffic Amendment | Ch. 430 | 5 |
| 448-21 | 4-5-2021 | Zoning Amendment | Ch. 455 | 5 |
| 449-22 | 3-21-2022 | Boards, Commissions and Committees: Stormwater Management Advisory Committee | Ch. 13, Art. VI | 5 |
| 450-22 | 4-4-2022 | Zoning Amendment | Ch. 455 | 5 |
| 451-22 | 6-20-2022 | Plastic Bags | Ch. 320 | 5 |
| 452-22 | 10-17-2022 | Stormwater Management Amendment | Ch. 388 | 5 |
| 453-22 | 11-21-2022 | Boards, Commissions and Committees: Historical Commission Amendment; Natural Resources Protection Amendment; Noise; Nuisances: General Regulations Amendment; Subdivision and Land Development Amendment; Zoning Amendment | Ch. 13, Art. IV; Ch. 274; Ch. 278; Ch. 280, Art. I; Ch. 400; Ch. 455 | 6 |
| 454-22 | 11-21-2022 | Municipal Claims and Liens Amendment | Ch. 267 | 6 |
| 455-22 | 11-21-2022 | Taxation: Compliance with Act 57 of 2022 | Ch. 409, Art. III | 6 |
| 456-23 | 5-15-2023 | Vehicles and Traffic Amendment | Ch. 430 | 6 |
| 457-23 | 7-17-2023 | Subdivision and Land Development Amendment; Zoning Amendment | Ch. 400; Ch. 455 | 6 |

| Ord. No. | Adoption Date | Subject | Disposition | Supp. No. |
|-----------------|----------------------|--|--|------------------|
| 458-23 | 10-16-2023 | Boards, Commissions and Committees: Environmental Advisory Council Amendment; Easttown Citizen's Advisory Committee Amendment; Stormwater Management Advisory Committee Amendment; Animals: Dogs Running at Large; Control of Dogs Amendment; Natural Resources Protection Amendment; Parks and Recreation Areas Amendment; Special Events Amendment; Vehicles and Traffic Amendment; Zoning Amendment | Ch. 13, Art. V; Ch. 13, Art. III; Ch. 13, Art. VI; Ch. 118, Art. II; Ch. 274; Ch. 306; Ch. 382; Ch. 430; Ch. 455 | 6 |
| 459-23 | 8-21-2023 | Vehicles and Traffic Amendment | Ch. 430 | 6 |