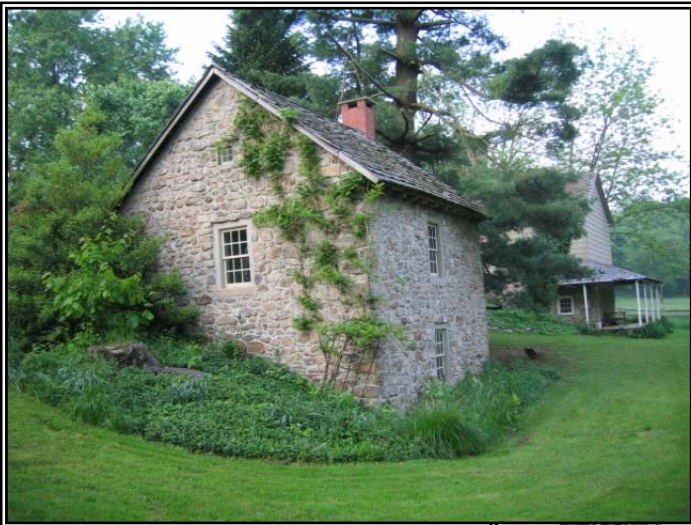




Lower Milford Township

Zoning Ordinance

2009



2009

LOWER MILFORD TOWNSHIP
ZONING ORDINANCE

ORDINANCE NUMBER 114

ORDINANCE NO. 114

An Ordinance

Repealing an Ordinance entitled “Amended Zoning Ordinance of 1997” and all other previously adopted Zoning Ordinances and Amended Zoning Ordinances and adopting the Zoning Ordinance of 2009 for Lower Milford Township, Lehigh County, Pennsylvania by the Board of Supervisors, July 20, 2009.

ZONING ORDINANCE OF 2009

LOWER MILFORD TOWNSHIP LEHIGH COUNTY, PENNSYLVANIA

Adopted July 20, 2009

BOARD OF SUPERVISORS

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Donna Wright, Vice Chair
Arland Schantz

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Lower Milford Township Zoning Ordinance

2009

Prepared on behalf of the

Lower Milford Township Board of Supervisors

Richard Harris, Chairman

Donna Wright, Vice-Chair

Arland Schantz

by the

Lower Milford Township Planning Commission

Michael Snovitch, Chairman

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Ellen Koplin

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with consulting assistance from the

Brandywine Conservancy and Pandl+ Associates

This Zoning Ordinance was funded by a grant from the Land Use Planning Technical Assistance Program, as administered by the Governor's Center for Local Government Services, Pennsylvania Department of Community and Economic Development. It is consistent with the Southwestern Lehigh County Comprehensive Plan, adopted by Lower Milford Township on May 19, 2005.

Cover photography courtesy of Lowell Linde, township resident

Lower Milford Township Zoning Ordinance

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ARTICLE I

TITLE AND PURPOSE

Section 100. SHORT TITLE

This ordinance shall be known and may be cited as "The Lower Milford Township Zoning Ordinance of 2009."

Section 101. TITLE

An ordinance to limit and restrict to specified districts or zones, and to regulate therein, buildings and structures according to their construction and the nature of and the extent of their use, and the nature and extent of the uses of land, in the Township of Lower Milford, Lehigh County, Pennsylvania, hereinafter referred to as the Township, and providing for the administration and enforcement of the provisions therein contained and fixing penalties for the violations thereof.

Section 102. INTERPRETATION AND SCOPE

In their interpretation and application, the following provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the purposes of this Ordinance. From and after the effective date of this Ordinance, the use, construction and development of all land, structures, buildings, signs or portions thereof, will be subject to the regulations herein.

Section 103. CONFLICT

Where this Ordinance imposes greater restrictions upon the use of buildings or land, or upon height and bulk of buildings, or prescribes larger open space than is required by the provisions of another ordinance, enactment, rule, regulation or permit, then the provisions of this Ordinance shall control. Where provisions of any statute, other ordinance, or regulation impose greater restrictions than this Ordinance, the provisions of such statute, ordinance or regulation shall be controlling.

Section 104. COMMUNITY DEVELOPMENT OBJECTIVES

This Zoning Ordinance reflects the following community development objectives of Lower Milford Township as specified in the policy goals found within the Southwestern Lehigh County Comprehensive Plan of 2005:

1. Protect the Township's important natural features, with special emphasis upon its stream valleys, wetlands, and steeply sloped hillsides and woodlands.
2. Insure that new development within the Township protects the natural features of a site and surrounding lands to the greatest extent possible.
3. Maintain large areas of agriculture, promote the retention of the agricultural industry, and protect the prime farmland soils within the Township.

4. Protect the quantity and quality of groundwater resources within the Township by limiting withdrawals and encouraging recharge to promote resource sustainability.
5. Protect the quantity and quality of surface water resources within the Township by discouraging the discharge of treated or untreated sanitary sewage effluent or stormwater runoff into its streams and other surface waters.
6. Maintain the attractive rural character of the Township through appropriate building scale, architecture, site orientation, use of extensive and indigenous landscaping, and architectural screening when developing properties as zoned.
7. Promote the use of innovative zoning and subdivision tools, such as the "Open Space Development" concept that clusters development on buildable portions of a tract or parcel while permanently preserving important natural and cultural features through significant open space set-asides.
8. Limit the overall density or intensity of development on a parcel based on the carrying capacity of the land and its natural resources.
9. Limit the overall density or intensity of development based upon the ability of the Township's existing road system to safely handle additional traffic.
10. Encourage adaptive reuse and historical rehabilitation of the Township's older and historic buildings, discourage demolition, and encourage new construction that is consistent with historic surroundings and emulates historic building architecture and materials.
11. Encourage uses within the Township that promote tourism by building upon the area's heritage, arts, culture and recreational assets.
12. Provide a limited amount of public or community infrastructure within the Township to address environmental quality issues and accommodate planned growth within the village of Limeport.

Section 105. VALIDITY AND SEVERABILITY

If any portion or provision of this Ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, that holding shall only affect that portion or provision of the Ordinance. All other portions and provisions shall be held as valid and enforceable.

Section 106. REPEALER

The Lower Milford Township Zoning Ordinance of 1967 and amendments are hereby repealed.

Section 107. EFFECTIVE DATE

The effective date of this Ordinance is _____, except that with respect to the subject matter of any amendment as it may affect the nonconforming uses, or otherwise, the effective date of this Ordinance shall mean the date upon which the particular amendment became or becomes effective.

ARTICLE II

DEFINITION OF TERMS

Section 200. INTERPRETATION

Unless otherwise expressly stated, the following words and phrases shall be construed throughout this Ordinance to have the meaning indicated in this Article. The present tense includes the future. The singular number includes the plural and those in the plural include the singular, except that such interchange of meaning shall not apply where numbers in the text refer to specific, minimum and maximum quantities. The masculine gender includes the feminine and neuter. The word "used" includes the words "designed" or "intended to be occupied. The word "person" includes any corporation, association, firm, partnership, or other legal entity as well as an individual. The word "structure" includes buildings and shall be encountered as if followed by the phrase "or part thereof." The words "should" and "may" are permissive; the words "shall" and "will" are mandatory and directive.

Section 201. DEFINITION OF TERMS

ABANDON or ABANDONMENT – The cessation of a use without any intention to resume the said use as established under Article XVI. Administration and Enforcement.

ACADEMIC SCHOOL - Any public or private school approved by the Pennsylvania Department of Education that maintains or conducts classes for the purpose of offering instruction, the purpose of which is to educate an individual generally or specifically or to prepare an individual for more advance study, and shall include all schools engaged in such education, except trade schools, business schools, correspondence schools, or any other school which is nonacademic in character. These schools may include, but are not limited to: nursery school and kindergarten, elementary and secondary, special education, tutoring and language schools, clinic and reading laboratories, but not including correctional institutions.

ACCESS DRIVEWAY - A privately owned, constructed, and maintained vehicular access from a street or access drive to one dwelling unit, commercial unit, or industrial unit.

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

ACCESSORY BUILDING - A private garage, garden shed or barn, a private playhouse, a private greenhouse, and a private swimming pool as hereinafter provided.

ACT 247 – The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended.

ACTIVE AREA OF MINING -- Land (and water) subject to open pit mining operations, related aggregate processing, and other mining activities on an on-going basis, including but not necessarily limited to all areas of excavation, spoil, overburden or top soil deposition, and related

aggregate processing, offices, maintenance garages, and other mining operation structures and facilities, employee parking areas, scales, laydown areas, staging areas, haul roads, access roads, and sedimentation ponds. Land lying in wait of planned mining activities is considered part of the active area of mining except when such operation is approved subject to a phasing schedule, and such land lies within an area subject to a later phase.

ADAPTIVE REUSE – The development of a new use for a building originally designed or used for another purpose.

ADJACENT AREA – Land or water within 1,000 linear feet of an area subject to an open pit mine conditional use application or conditional use approval.

ADULT COMMERCIAL USE – Adult uses shall include the following:

- A. A store or shop where the principal use is devoted to the display and selling of pornographic materials which are pictures, drawings, photographs, films or other depictions or printed matter and paraphernalia which, if sold knowingly to an individual under the age of eighteen (18) years of age, would violate the criminal laws of the Commonwealth of Pennsylvania in effect at the time thereof.
- B. Adult entertainment establishments such as cabarets, nightclubs, movie theaters, bars or similar establishments providing erotic live or media entertainment.
- C. Any other business, establishment or club which offers its patrons services, entertainment, or retail goods or commercial services characterized by an emphasis on activities or matter depicting, describing, relating to, or displaying erotic activities.

AGRICULTURE – The cultivation of the soil and the raising and harvesting of the products of the soil including but not by way of limitation, raising of grains, vegetables and fruits; vineyards; nurserying; horticulture; forestry; beekeeping; and animal husbandry of common domestic animals and birds such as cows, sheep, hogs, goats, rabbits, chickens, ducks, turkeys, pigeons and of other animals and birds including llamas, alpacas, emus, rheas, and similar non-predatory animals and birds. The raising or keeping of minks, or garbage-fed pigs, is prohibited.

AGRICULTURE, INTENSIVE – Agricultural uses involving the processing or production of agricultural products which are likely to emit frequent, reoccurring odors or noises considered obnoxious to a residential environment including but not limited to mushroom production, mushroom composting, Concentrated Animal Feed Operations (CAFOs), feedlots, mink farms, commercial piggeries and poultry houses. Rendering, defined as the melting of fat from bone or other animal parts, is specifically excluded from intensive agricultural uses.

ALTERATION - Any change or rearrangement, other than a repair, in supporting members of an existing building, such as bearing walls, columns, beams or girders, as well as any change in the opening of exterior doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or moving of a building or structure from one location to another.

ALTERATION, STRUCTURAL – Any change in or addition to the supporting or structural members of a building or other structure, such as bearing walls, partitions, columns, beams or girders, or any change which could convert an existing building or other structure into a different structure.

ALLEY – A minor right-of-way providing secondary vehicular access to the side or rear of two (2) or more properties.

ANIMAL HUSBANDRY - The raising and keeping of common domestic animals and birds, and other animals and birds, all as defined under AGRICULTURE, with the intent of producing capital gain or profit, through the selling of any animal or bird products. The keeping of domestic or other animals or birds as farm pets, or for domestic purposes pursuant to the regulations of this Ordinance, shall not be construed as animal husbandry.

ANIMAL RESCUE SHELTER – The keeping of more than ten (10) dogs or more than twenty (20) cats, or a combination of dogs and cats equaling more than fifteen (15) animals which are lost, strays, unwanted, unlicensed or unowned, whether or not the shelter is run for the eventual adoption of the animals or whether the shelter is run as a for-profit or no-profit operation.

APARTMENT – A dwelling unit commonly identified within a multi-family residential building.

APPLICANT – A landowner or developer, as defined herein, who has filed an application for development including his heirs, successors and assigns or the equitable owner of property with the owner's permission.

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, for the approval of a subdivision plat or plan or for the approval of a land development plan.

AUTOMOBILE SERVICE/GAS STATION – Any area of land, including structures thereon, or any building or part thereof, that is used for the sale of motor vehicle fuel and accessories, and which may or may not include facilities for lubricating, or otherwise servicing motor vehicles, but which shall not include painting or body and fender repairs or the storage for sale of new or used motor vehicles, or the sale of food and food products as a principal use.

BANKFULL FLOW OR LEVEL – The discharge that just fills the water channel to the top of its banks and at a point where the water begins to overflow onto a floodplain.

BANK OR OTHER FINANCIAL INSTITUTION – Any building wherein the primary occupation or use is concerned with such business as banking, savings and loan association, credit unions, loan companies, mortgage companies or investment companies.

BASEMENT – As defined by the (UCC) Uniform Construction Code.

BASE SITE AREA – The gross tract or lot area, measured either in acres or square feet, from which certain portions that may not be usable for the activities proposed for the site are subtracted, pursuant to the Site Capacity Calculations of Section 1009.F of this Ordinance.

BED AND BREAKFAST – The use and occupancy of an existing structure for the accommodation of transient, over-night guests for a fee.

BLOCK – A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to the continuity of development.

BOARD - The Zoning Hearing Board of Lower Milford Township unless otherwise stipulated or indicated by reference.

BOARD OF SUPERVISORS - The elected governing body of Lower Milford Township.

BUFFER or BUFFERING – Provision for the year round visual and/or sound attenuation between uses, through the application of such means as plantings, earthen berms, depressions, fences and walls.

BUILDING - Any enclosed or open structure which is a combination of materials to form a structure for supporting or sheltering any occupancy and/or use; including mobile homes and trailers to be used for human habitation.

BUILDING, AREA OF - The horizontal area measured within the outside of the foundation walls and of the floors or roofed porches and roofed terraces inclusive, and including the area of accessory buildings, if any. In the case of split-level dwellings, the "first floor area" shall be deemed to include floor areas on two non-overlapping levels, separated by a half-story, or less, of height.

BUILDING COVERAGE - The aggregate of the maximum horizontal cross-section areas of all buildings on a lot, taken at their greatest outside dimensions on the ground floor; including all attached and detached buildings, except steps, terraces, cornices, eaves and gutters, but not by including roofed porches, roofed breezeways and roofed carports.

BUILDING COVERAGE, MAXIMUM – Percentage of lot calculated by dividing building coverage by the Base Site Area.

BUILDING ENVELOPE - The building envelope is that area of a lot that has no development restrictions. The building envelope shall not include the area of any required setbacks (except for driveways which would cross yards), buffer yards, natural features with a one hundred (100) percent protection standard and the portion of those natural features that may not be developed or intruded upon as specified in Article X, Natural Resource Protection Standards.

BUILDING HEIGHT – See **HEIGHT OF A STRUCTURE**.

BUILDING PERMIT - An approved statement signed by the Building Code Official authorizing an officially requested activity that is regulated by the Lower Milford Township Building Code Ordinance.

BUILDING PERMIT APPLICATION - The official request filed by any person with the Building Code Official that seeks authorization to conduct an activity that is regulated by the Lower Milford Township Building Code Ordinance.

BUILDING, PRINCIPAL – A building in which the primary use of the lot where it is located is conducted, designed to be conducted or intended to be conducted.

BUILDING SPACING – The minimum distance between buildings. The minimum building spacing shall be measured from the outermost wall or projection of a building, excluding bay windows, chimneys, flues, columns, ornamental features, cornices and gutters. These exceptions may encroach not more than two (2) feet in minimum building spacing areas between buildings.

BUILDING CODE OFFICIAL – The officer of the Township designated by the Board of Supervisors as the individual who administers and enforces the Lower Milford Township Building Code Ordinance.

BULK REGULATIONS – Standards that control the height, density, intensity and location of structure, i.e. setbacks or yard requirements.

BUSINESS OR PROFESSIONAL OFFICE – An office where a particular kind of business is transacted or a service supplied and shall be limited to offices for management, executive, personnel, finance, consulting, record keeping, sales activity excluding retail sales and clerical work of a commercial, industrial, mercantile or service enterprise.

CALIPER – The diameter of a tree trunk measured at a point six (6) inches above ground level.

CARTWAY – The paved portion of a street or right-of-way intended for vehicular use.

CEMETERY OR MAUSOLEUM – Land used or intended to be used for burial of the deceased, including columbariums, mausoleums and mortuaries when operated in conjunction with the cemetery and within the boundaries.

CERTIFICATE OF OCCUPANCY - The certificate issued by the delegated authority which permits the use of a building in accordance with approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulations or conditions of the building permit.

CERTIFIED HISTORIC BUILDING OR STRUCTURE – A building or structure listed in the National Register of Historic Places and/or located within a registered historic district and certified by the Secretary of the Interior as being of historical significance by the Pennsylvania Historical and Museum Commission in accordance with PA Act No. 167 as of June 13, 1961, P.L.282, as amended.

CHANGE OF USE – A change in a building heretofore existing to a new use which imposes other special provisions of law as outlined in this and other applicable ordinances and regulations.

CHIMNEY – Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a heating appliance.

CHURCH OR SIMILAR PLACE OF WORSHIP – A non profit use of land or a building as a place of worship, convent, monastery or similar religious institution or use, including rectory and parish house.

CLEAR-CUTTING – The removal of all trees greater than twelve (12) inches dbh on a site, or any portion thereof greater than one-half (0.5) acre in contiguous area, during a single timber harvesting operation or within a three (3) year period. See also “Selective Cutting”.

CLEAR SIGHT TRIANGLE – An area of unobstructed vision at a street intersection; defined by lines of sight between points at a given distance from an intersection down the center lines of the street.

COMMERCIAL – The use of land, or improvements thereto, for the purpose of engaging in retail, wholesale or service activities for profit.

COMMERCIAL PIGGERY – The raising of hogs or pigs, on a commercial basis, as the principal use on the lot.

COMMERCIAL STABLE OR RIDING ACADEMY – The commercial boarding or renting of horses and/or riding lessons.

COMMERCIAL VEHICLE - A motor vehicle licensed by the Commonwealth in a class other than Class I or Class II.

COMMON DOMESTIC ANIMALS - Livestock such as horses, cattle, sheep, pigs or other large domestic animals; poultry; rabbits or other small domestic animals excluding domestic companion animals such as dogs and cats.

COMMON OPEN SPACE – see **OPEN SPACE, COMMON**.

COMMUNICATIONS ANTENNA – Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitation omnidirectional or whip antennas or directional or panel antennas, owned by a person or entity licensed by the Federal Communications Commission (FCC) to operate such a device. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment including without limitation ham or citizen band radio antennas.

COMMUNICATIONS EQUIPMENT BUILDING – An unmanned building or cabinet containing communication equipment required for the operation of Communications Antennas and covering an area on the ground not greater than two hundred-fifty (250) square feet.

COMUNICATIONS TOWER – A structure other than a building, such as a monopole, self-supporting or guyed tower designed and used to support communications antennas.

COMMUNICATIONS TOWER, HEIGHT – The vertical distance measured from the ground level to the highest point on a communications tower, including antennas or other appurtenances mounted on the tower.

COMMUNICATIONS TOWER, MUNICIPAL – Any communications tower that is, at the time of construction, located on land that is owned by Lower Milford Township.

COMPREHENSIVE PLAN - The maps, charts, and textual material adopted by the Board of Supervisors of Lower Milford Township in accordance with the Pennsylvania Municipalities Planning Code and designated, as a whole and in its several parts, as a Comprehensive Plan for Lower Milford Township, including the Southwestern Lehigh County Comprehensive Plan or its successors, as may be amended from time to time.

CONDITIONAL USE – See **USE, CONDITIONAL**.

CONDOMINIUM – A type of property ownership, not a type of land use, wherein each apartment or dwelling unit is owned by its occupant, while the land and such appurtenances as driveways, parking areas, sidewalks, landscaping, swimming pools, common open space and other recreation facilities, street lighting and on site utilities remain under the ownership, with full responsibility for maintenance, of the developer or any organization holding title to such land and appurtenances.

CONSTRUCTION – The erection, rebuilding, renovation, repair, extension, expansion, alteration, demolition or relocation of a building or structure, including the placement of a mobile home.

CONVENIENCE STORE – A retail activity designed to serve a local market which generally involves high turnover of clientele and includes, but is not limited to, any of the following uses: Delicatessen, small food market or video tape rental. Excludes fuel dispensing as either a principal or accessory use, except as permitted subject to Conditional Use in accordance with Article XV.

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

CONVERSION, RESIDENTIAL – The division of a single family detached dwelling into two (2) or more dwelling units.

CUL-DE-SAC STREET - A single access local street intersecting another at one end and terminating in a bulb or other style of vehicular turn around at the other end, built to Township public street standards.

DAY CARE CENTER FOR ADULTS – A commercial facility where daytime supervision is provided for adults.

DAY CARE SERVICE FOR CHILDREN - Out-of-home care for part of a twenty-four (24) hour day to children under sixteen (16) years of age, excluding care provided by relatives. Day Care Service for children shall not include day care furnished in places of worship during religious services.

DBH – see Diameter at Breast Height

DEMOLITION BY NEGLECT – As applied to Class I or Class II Historic Resources, the leaving open or vulnerable to vandalism or the absence of routine maintenance or repair, including the extermination of wood destroying insects, leading to structural weakness, decay, or deterioration of the resource, resulting in a detrimental effect on its stability, or structural integrity, and thereby compromising its viability for reuse. Demolition by neglect includes 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.

DENSITY - The number of dwelling units per acre of area.

- A. **Density, Gross:** - This is the maximum density that may be permitted in any zoning district. It is calculated by dividing the total number of dwelling units by the base site area. This density is illustrative only; net density is controlling.
- B. **Density, Net:** This is the maximum density permitted on the buildable portion of the site, as determined through the procedures of Section 1009.F of this Ordinance. All tracts of land within a zoning district may be developed to the same net density. Net density is calculated by dividing the total number of dwelling units by the Net Buildable Site Area (Section 1009).

DEP or PADEP - The Pennsylvania Department of Environmental Protection.

DEPARTMENT OF HEALTH – The Department of Health of the Commonwealth of Pennsylvania or of Lehigh County, or their representative having jurisdiction in the Township.

DEVELOPER – Any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or land development.

DEVELOPMENT – Any man-made change to improved or unimproved real estate.

DIAMETER AT BREAST HEIGHT (DBH, dbh) – The diameter of a tree trunk, measured at four and one-half (4.5) feet from the ground surface at the point of the highest elevation in contact with the trunk of such tree.

DISTRICT (OR ZONING DISTRICT) - A portion of the territory of Lower Milford Township within which certain uniform regulations and requirements of the various combinations thereof apply under the provisions of this Ordinance.

DWELLING - Any building or other structure designed for, and occupied exclusively for, residential purposes, including an apartment and mobile home, but excluding rental units in a motel, rooming house, tourist home or bed-and-breakfast, institutional home, dormitory, and the like. It is the intention to include within the definition of dwelling, all recognized housing types, architectural types or styles, or combinations thereof, whether such housing units are for lease or for sale. Dwelling types include, but are not limited to, the following:

- A. **Single-Family Detached Dwelling.** A building designed for and occupied exclusively as a residence, containing one (1) dwelling unit and having no common or party wall with an adjacent dwelling, and having yards on all sides. Where a private garage is structurally attached to such building, it shall be considered as part thereof.
- B. **Single-Family Attached Dwelling (townhouse).** A dwelling within a building designed for and occupied exclusively as a residence, containing at least three (3) but not more than six (6) dwelling units each accommodating one (1) family and which are attached by vertical common party walls and which have side yards adjacent to each end unit.
- C. **Two-Family Dwelling (twin or duplex).** A building designed for and occupied exclusively as a residence, containing two (2) dwelling units. A two-family dwelling may be either a duplex with two principal dwellings on separate floors occupying a common yard or may be a twin with two dwellings separated by a vertical common or party wall, with each individual dwelling having yards on all but the party wall side.
- D. **Multi-Family.** A building designed for and occupied exclusively as a residence, containing three (3) or more dwelling units, but which do not meet the definition of single-family attached dwellings. See **APARTMENT**.

DWELLING UNIT - A single unit providing complete, independent living facilities for one (1) family, including permanent provisions for living, sleeping, eating, cooking, and sanitation, but excluding individual rental units in a motel, rooming house, tourist home, institutional home, dormitory, and the like. Individual dwelling units shall conform to applicable Township building codes, including provision for minimum dwelling size.

EASEMENT – A grant of the specified use of a parcel of land to a public or private entity.

EDUCATIONAL USE - Use of land or building(s) for the establishment and maintenance of a public or private college, commercial or non-profit, secondary or elementary school, or other educational institution for the primary purpose of instruction and learning excluding day care. A

public or private non-profit school shall be defined as an educational use that is not conducted as a gainful business. A commercial school shall be defined as an education use conducted for-profit as a gainful business.

EFFECTIVE DATE OF THE ORDINANCE - The date upon which this Ordinance officially comes into effect, except that with respect to the subject matter of any amendment, said date shall mean the date upon which the particular amendment became or becomes effective.

EFFECTIVE VISUAL OR NATURAL SCREEN - A wall, fence, plantings, earth works, or combinations thereof, which are arranged or placed as provided in Section ** of the Township Subdivision & Land Development Ordinance to create either an opaque visual barrier or to provide for a filtered view which diverts attention from, or obstructs at least fifty (50) percent of an otherwise clear view of a use or activity during all seasons of the year.

ENGINEER, TOWNSHIP - A professional engineer, licensed by the Commonwealth of Pennsylvania, and duly appointed by the Board of Supervisors as the engineer for the Township of Lower Milford, Lehigh County.

ENTERTAINMENT, INDOOR – Building or structure serving as a place of leisure entertainment, either commercially, by private membership, or as a publicly-sponsored use, including bowling alleys, game rooms, arcades, gymnasium, health or fitness center, climbing wall, skate park, slot car or Radio Control car racing, indoor driving range or batting cages, theater and cinemas, but excluding any adult commercial use, on-premises sale of alcoholic beverages, or licensed off-track betting or gambling operation. No indoor place of entertainment shall have audio speakers or sound equipment installed in such a way that sound can emanate to the exterior of the building.

ERECTION OR CONSTRUCTION - Any or all work necessary for the erection or construction of any building or structure from a combination of materials which form safe and stable structures.

FAMILY - One or more individuals living independently as a single housekeeping unit and using cooking facilities and certain rooms in common. A FAMILY shall not be deemed to include the occupants of a college dormitory or residential club.

FENCE OR WALL - A barrier intended to prevent intrusion or escape or to mark a boundary. A fence can both involve manmade structures as well as organized plantings.

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

FLAGPOLE – A flagstaff designed and solely intended for the patriotic display of the flag of the United States of America, or its armed forces, the Commonwealth of Pennsylvania or any political subdivision thereof, or the flag of a group or organization, or combination thereof, and for no other purpose. A flagpole shall not include a standard antenna support structure, a commercial communications antenna support structure, tower, antenna or any other structure designed, intended or capable of supporting any other use or purpose.

FLOODPLAIN - Areas adjoining streams subject to the 100-year-recurrence-interval flood. The areas considered to be Flood Plain within the municipality shall include those areas identified as being subject to the one hundred (100) year flood in the Flood Insurance. Study for the Municipality prepared by the Federal Insurance Administration dated November 2, 1979 and the accompanying Flood Boundary and Floodway Map dated November 2, 1979 or current version as amended.

- A. **Floodway:** That portion of the Flood Plain including the watercourse channel and land adjacent to the channel which must be reserved to carry the 100-year-recurrence-interval flood without cumulatively increasing that flood elevation more than one (1) foot.
- B. **Flood Fringe:** That portion of the Flood Plain which is outside the Floodway.
- C. **Approximate 100-Year Flood Plain:** That portion of the Flood Plain for which no detailed flood profiles or 100 year flood elevations have been provided.

FLOOD PLAIN SOIL - Areas subject to periodic flooding containing soil types listed in the accepted Lehigh County Soils Survey for Flood Plain Soils and Hydric Soils.

FLOOR AREA, HABITABLE - The floor area within exterior walls designed for year round human occupancy, excluding such spaces as garages, accessory buildings, basements, attics, patios and porches, except where such spaces are specifically finished for year round human occupancy.

FLOOR AREA, GROSS – The floor area within the perimeter of the outside walls of the building under consideration, or from the centerline of the wall separating two (2) buildings, without deduction for hallways, stairs, closets, thickness of walls, or other features.

FLOOR AREA, GROSS LEASIBLE – That floor area within a building, on all floors of such building which are used for or related to the business or use conducted within the building, including all lavatory areas, corridors, storage areas and other areas used to keep stock and inventory, but exclusive of the following areas: elevator shafts, stairwells, first floor lobby, storage area in the basement, and any room or area dedicated to the heating plant, air conditioning equipment or other utility areas necessary for operation of the building.

FOOTCANDLE – Unit of light density incident on a plane (assumed to be horizontal unless otherwise specified), and measurable with an illuminance meter, a.k.a. light meter.

FOREST – Any area defined as “woodland” herein or depicted as woodland on the adopted Lower Milford Township Woodland Classification Map.

FOREST CANOPY – The aerial cover formed within any woodland area by the crowns of trees greater than fifty (50) feet in height.

FOREST CANOPY TREES – The individual trees which collectively form the forest canopy.

FOREST INTERIOR HABITAT (FIH) – Forest Interior Habitat is that portion of a forest or woodland which lies beyond most of the influences which degrade a forest from the outside - influences such as light, wind, noise, and non-native species. Forest Interior Habitat provides the best habitat for certain rare and sensitive species and can be referred to as the ‘deep’ woods or the ‘heart of the forest.’ Forest Interior Habitat is defined as any area meeting the definition of Woodland which is located more than 300 feet from the outermost drip line of all trees along the edge of the subject woodland area. Generalized mapping of Forest Interior Habitat is indicated on the Lower Milford Township “Woodland Classification Map,” adopted by the Board of Supervisors as an addendum to the Zoning Map of Lower Milford Township.

FORESTRY - The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting, and selling trees for commercial purposes, which does not involve any land development. Forestry shall be permitted in all zoning districts under provisions of Section 107 and 603(f) of the Pennsylvania Municipalities Planning Code, and in accordance with the provisions of Section 1004 and Section 1200.A of this Ordinance.

FRONTAGE - The length of a front lot line coinciding with a street line.

FUEL – Any materials such as but not limited to coal, wood, oil, gas, etc. burned to supply heat or power.

FULL CUTOFF – Attribute of a lighting fixture from which no light is emitted at or above a horizontal plane drawn through the bottom of the fixture and no more than 10% of the lamp’s intensity is emitted at or above an angle 10° below that horizontal plane, at all lateral angles around the fixture.

FULLY SHIELDED – Attribute of a lighting fixture provided with internal and/or external shields and louvers to prevent brightness from lamps, reflectors, refractors and lenses from causing glare at normal viewing angles.

GARAGE - A building or part thereof used for the storage or parking of one or more vehicles.

GARAGE, PARKING - A garage for the convenience of the general public in which no servicing, repairs, washing or reconditioning of motor vehicles is carried on.

GARAGE, PRIVATE - An accessory garage maintained primarily for the convenience of the occupant or occupants of the main building and in which no business or other use is carried on and no service is rendered to the general public.

GARAGE/YARD SALE - The temporary display and sale of goods and craft items on a residentially used property, as **may be** regulated by the Township.

GARAGE, PUBLIC - Any garage other than a private garage or parking garage. A public garage may include servicing, repairs, washing or reconditioning of motor vehicles, and filling station facilities.

GLARE – Excessive brightness in the field of view that is sufficiently greater than the brightness to which the eyes are adapted, to cause annoyance or loss in visual performance and visibility, so as to jeopardize health, safety or welfare.

GOLF COURSE - An organized, unlighted playing area containing a minimum of nine (9) holes, constructed according to P.G.A. and U.S.G.A. Standards and excluding miniature golf courses and driving ranges.

GREENHOUSE - A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature or humidity can be regulated for the cultivation of delicate or out-of-season plants.

GREENHOUSE, COMMERCIAL (RETAIL OR PRODUCTION) - A greenhouse occupied for growing large numbers of flowers and plants and having general public access for the purposes of viewing and purchasing the various products and/or for the purpose of growing flowers and plants on a production basis or for research without public access.

GROUNDWATER RECHARGE - The replenishment of water, contained in interconnected pores located below the water table in an aquifer, from the infiltration of precipitation, streams, lakes, or other water sources.

HAUL ROADS – Roads that are planned, designed, located, constructed, utilized and maintained for the life of the open pit mining activities for the transportation of equipment, fuel, personnel, noncoal and other operating resources from a public highway or common use road to points within the open pit mine or between principal operations on the mine site, or both. This term does not include roads within the pit.

HEARING OFFICER - A member of the Zoning Hearing Board who has been appointed by the Board to conduct a hearing.

HEDGEROW – A hedgerow is 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). Hedgerows may qualify as woodlands and be regulated as such.

HEIGHT OF A STRUCTURE - The vertical distance derived from the average finished grade at the foundation corners of the building or structure, to the highest point of the building or structure excluding a chimney or other similar structure listed in Article XIII of this Ordinance.

HELIPORT - An area of land, water or a structural surface which is designed, used or intended to be used for the landing and take-off of helicopters, and any appurtenant areas which are designed to be used for helicopter support facilities such as maintenance, refueling and parking.

HERITAGE TREE – Any tree greater than thirty (30) inches dbh shall be considered a Heritage Tree, with three exceptions: invasive non-native trees including Norway maple (*Acer platanoides*), Empress Tree (*Paulownia tomentosa*) and Tree-of-heaven (*Ailanthus altissima*). Heritage trees also include tree species recognized by the Township as slower-growing and/ or

smaller trees (listed below). These slower-growing and smaller trees shall be considered Heritage Trees when they are equal to or greater than twenty-four (24) inches dbh.

Tree, Botanical Name	Common Name
<i>Betula lenta</i>	Cherry (black) Birch
<i>Carya cordiformis</i>	Bitternut Hickory
<i>C. glabra</i>	Pignut hickory
<i>C. ovata</i>	Shagbark Hickory
<i>C. tomentosa</i>	Mockernut Hickory
<i>Celtis occidentalis</i>	Common Hackberry
<i>Fagus grandifolia</i>	American beech
<i>Gymnocladus dioica</i>	Kentucky Coffeetree
<i>Ilex opaca</i>	American holly
<i>Juglans cinerea</i>	Butternut
<i>Juniperis virginiana</i>	Red cedar
<i>Nyssa sylvatica</i>	Black gum
<i>Quercus alba</i>	White oak
<i>Q. bicolor</i>	Swamp white oak
<i>Q. coccinea</i>	Scarlet oak
<i>Q. montana</i>	Chestnut oak
<i>Q. muhlenbergii</i>	Muhlenberg's oak
<i>Q. velutina</i>	Black oak
<i>Sassafras albidum</i>	Sassafras
<i>Tsuga canadensis</i>	Eastern hemlock
<i>Ulmus rubra</i>	Slippery elm

The following smaller trees shall be considered Heritage Trees when they are equal to or greater than eighteen (18) inches dbh.

<i>Carpinus caroliniana</i>	Ironwood
<i>Cercis canadensis</i>	Eastern Redbud
<i>Cornus alternifolia</i>	Pagoda Dogwood
<i>Cornus florida</i>	Flowering Dogwood

In the context of a subdivision, land development or zoning permit review or in consideration of any application for approval of special exception variance, or conditional use, and upon the recommendation of a qualified forester or equivalent professional acceptable to the Township, the Township may designate as additional Heritage Trees any tree or other plant selected as uniquely representative of a class or group in terms of size, shape, form, age, historical importance, scenic qualities, visual prominence or other characteristics. Trees or other plants determined to be dead or diseased or in any manner constituting a safety hazard shall not be considered Heritage Trees.

HERITAGE VEGETATION - Unique, rare or otherwise specifically selected trees or vegetation which most typically represents a whole class or group, specifically in shape, form, or historical importance. Heritage vegetation includes sites which have been identified on the

Pennsylvania Natural Diversity Inventory (PNDI) or the Lehigh County Natural Areas Inventory. Any vegetation determined to be of heritage quality as determined by a registered landscape architect, professional forester or other qualified professional acceptable to the Township.

HIGHER VALUE SPECIES – Any tree(s) of the following species where greater than or equal to twelve inches (12”) diameter at breast height (dbh):

Tree, Botanical Name	Common Name
Acer saccharum	Sugar Maple
Carya cordiformis	Bitternut Hickory
Carya glabra	Pignut Hickory
Carya ovata	Shagbark Hickory
Carya tomentosa	Mockernut Hickory
Fraxinus americana	White Ash
Juglans cinerea	Butternut
Juglans nigra	Eastern Black Walnut
Quercus alba	White Oak
Quercus bicolor	Swamp White Oak
Quercus coccinea	Scarlet Oak
Quercus montana	Chestnut Oak
Quercus palustris	Pin Oak
Quercus rubra	Northern Red Oak
Quercus velutina	Black Oak

HIGHWALL – The face of exposed overburden and mineral in an open cut of an open pit mining operation.

HISTORICAL COMMISSION – The Lower Milford Township Historical Commission appointed to administer the Historic Resources provisions of this Ordinance.

HISTORIC RESOURCE INVENTORY - The list of Class I and Class II Historic Resources within Lower Milford Township as prepared by the Historical Commission.

HISTORIC STRUCTURES – Any structure within Lower Milford Township which meets the criteria specified in Article XI, Section 1101.

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

- A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.

- B. The business shall employ no employees other than family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a business use, including, but not limited to, parking, signs, or lights.
- E. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical interference, including interference with radio or television reception, which is detectable in the neighborhood.

HOME RELATED BUSINESS – A home-based business or commercial activity conducted in a dwelling or a residential accessory structure in accordance with the regulations contained in Article XII.

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

HORTICULTURE - The cultivation of fruit, vegetable, flower, or ornamental plants. A form of agriculture.

HOTEL - A building or part thereof which has a common entrance, common heating system, and general dining room, and which contains six (6) or more living and sleeping rooms designed to be occupied by individuals or groups of individuals for compensation.

HYDRIC SOILS - Mapped soils which have been classified as containing major hydric components listed in the accepted *Lehigh County Soils Survey for Flood Plain Soils and Hydric Soils*.

IESNA – Illuminating Engineering Society of North America.

ILLUMINANCE – Quantity of light, measured in footcandles.

IMPERVIOUS SURFACE - Impervious surfaces are those surfaces which is impenetrable by liquid or which is incapable of allowing groundwater recharge or absorption of precipitation or runoff. All buildings including roof overhangs, and all parking areas, driveways, roads, sidewalk, and any areas in concrete, asphalt and stone shall be considered impervious surfaces within this definition. In addition, other areas determined by the Township Engineer to be impervious within the meaning of this definition will also be classed as impervious surfaces. For purposes of compliance with lot coverage limitations, porous or pervious paving materials shall be considered impervious. For other purposes including but not limited to stormwater calculations, a percentage of any areas comprised of porous or pervious paving materials may be excluded from calculation of the area of impervious surfaces to an extent reasonably related to

the degree to which stormwater passes through the paving material and does not contribute to stormwater runoff, as determined by the Township Engineer.

IMPERVIOUS SURFACE RATIO - The impervious surface ratio is a measure of the intensity of use of a piece of land. It is measured by dividing the total area of all impervious surfaces within the site by the Base Site Area (see Section 1009.F of this Ordinance).

INDUSTRY, NON-NUISANCE - Any industry which is not detrimental to the environment of which it is located by reason of the emission of smoke, noise, odor, dust, vibration or excessive light, beyond the limits of its lot, or by reason of generating excessive traffic with attendant hazards. Non-nuisance industry may include contracting uses such as offices and supply shops for uses related to building supplies, cement, electric, heating, plumbing, masonry, painting, roofing, and similar trades.

INSTITUTE OF TRANSPORTATION ENGINEERS (I.T.E.) – The Institute of Transportation Engineers, founded in 1930, is an international educational and scientific association of transportation professionals who are responsible for meeting mobility and safety needs. ITE facilitates the application of technology and scientific principles to research, planning, functional design, implementation, operation, policy development and management for any mode of transportation. See www.ite.org for more information.

INVASIVE VEGETATION – Any plant species not native to local natural communities that grow and spread aggressively and displace native plants. Also called “exotics” and “aliens,” these species tend to reproduce prolifically and out-compete native plants for light, space, and nutrients, reducing plant diversity and wildlife habitat. Invasive vegetation includes, but is not limited to: Rosa multiflora (Multiflora Rose), Eleagnus umbellata (Autumn Olive), Lonicera japonica (Japanese Honeysuckle), Celastrus orbiculatus (Oriental Bittersweet), Acer platanoides (Norway Maple), Pueriria lobata (Kudzu), Polygonum perfoliatum (Mile-a-Minute Weed), Polygonum cuspidatum (Japanese Knotweed), Lonicera tatarica, L. morrowii (Shrub honeysuckle), and Cirsium vulgare (Canada Thistle).

JUNK - Any discarded material or article including, but not limited to, scrap metal, scrapped, abandoned or junked motor vehicles, machinery, equipment, paper, glass, containers and structures. It shall not include, however, refuse or garbage kept in a proper container for the purpose of prompt disposal.

KENNEL - An establishment equipped with pens, yards, runways or other appurtenances specifically designed or intended for the breeding, boarding, training or grooming customary household pets for compensation, or the maintenance of four (4) or more dogs that are more than six (6) months old on a single lot or contiguous lots under single ownership or lease.

LAKES AND PONDS - Natural or artificial bodies of water which retain water year-round. Artificial ponds may be created by dams, or result from excavation. Lakes are bodies of water two (2) or more acres in extent. Ponds are bodies of water less than two (2) acres in extent. The spillway crest elevation is the basis on which the shoreline is established.

LAKE AND POND SHORELINES – see **WETLAND** and **WETLAND MARGIN**.

LAND DEVELOPMENT - Any of the following activities:

- A. The improvement of one (1) lot or two (2) or more contiguous lots, tracts or parcels of land, excluding for the purpose of a single family dwelling or accessory buildings thereto, 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. The definition of land development shall not include the addition of an accessory building on a residential or agricultural property, including farm buildings, on a lot or lots where clearly subordinate to an existing principal building, or a second principal residential dwelling, in the case of an agricultural property (see Section 302.B.2 of this Ordinance).

LAND DISTURBANCE – Any activity which exposes soils, alters topography, and/or alters vegetation. The following activities shall not be regulated as land disturbance but shall nevertheless be undertaken in a manner such that disturbed areas shall be stabilized with suitable vegetation and shall not be left bare:

- A. Customary agricultural practices such as tilling, plowing, mowing, and harvesting
- B. Removal of hazardous or invasive vegetation.

LANDOWNER - The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

LANDSCAPING - The planting of turf-grass or other appropriate ground cover in all open areas of the lot, and in addition, the planting of evergreen and deciduous trees, and shrubs, including the maintenance thereof, for the control of erosion, retention of precipitation, protection against the elements, promotion of human comfort, and otherwise protecting the public health, safety and welfare.

LANE LOT - A lot which does not achieve the required minimum lot width at the ultimate right-of-way line and/or the front setback line but which has direct access to a public street through a narrow strip of land which is part of the same lot. A lane lot consists of the lane (i.e. the aforementioned narrow strip of land, the side lot lines of which must be parallel or nearly parallel), which extends from a public street rearward to the line where the lane lot first achieves the applicable minimum lot width and the main lot (i.e. that portion of the lane lot exclusive of the lane).

LOADING SPACE - A space, accessible from a street or accessway, in a building or on a lot, for the temporary use of vehicles, while loading or unloading merchandise or materials.

LOT - A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

LOT AREA - The gross area of land formed by property lines, excluding any portion of a lot included in any street or railroad right-of-way.

LOT AREA, GROSS – The lot area.

LOT AREA, MINIMUM – The minimum area of lot or tract formed by property lines required by the Zoning Ordinance for any specified use.

LOT AREA, NET – The area of lot or tract formed by property lines excluding lands within ultimate street rights-of-way of existing streets and utility rights-of-way or easements.

LOT, CORNER - A lot bounded by two (2) or more intersecting streets, or at the point of abrupt change in direction of a single street, the interior angle of which is not greater than one hundred thirty-five (135) degrees

LOT COVERAGE - The percentage of the lot area that is fully covered by impervious surfaces.

LOT, INTERIOR - A lot other than a corner lot whose sides do not abut a street.

LOT, THROUGH - An interior lot having frontage on two (2) streets.

LOT LINE – Any property boundary or a lot line dividing one lot from another or from a street or any public space, except that, in the case of any lot abutting a street deemed to be the same as the street line, the lot line shall not be the centerline of the street, or any other line within the street line even though such may be on the property boundary line in a deed. Any lot line neither a rear lot line nor a front lot line shall be deemed a side lot line.

LOT LINE, FRONT - The lot line abutting a street and coinciding with the street line; in the case of a corner lot, each street on which the corner lot abuts shall be considered a front lot line.

LOT LINE, REAR - The lot line opposite and most distant from the front lot line; if the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall

be deemed to be a line ten (10) feet in length within the lot, parallel to and at the maximum possible distance from the front lot line. In the case of a corner lot, See YARD, FRONT.

LOT LINE, SIDE - Any lot line not a front or rear lot line.

LOT, REVERSE OR DOUBLE FRONTAGE - A lot extending between and having frontage on two (2) generally parallel streets with primary vehicular access from the minor street.

LOT WIDTH - The distance, in feet, between side lot lines measured at the ultimate right-of-way line.

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

LUMEN – As used in the context of this Ordinance, the light-output rating of a lamp (light bulb).

MEDICAL OR DENTAL CLINIC - A building used exclusively by physicians and dentists for treatment and examination of patients, provided that no overnight patients shall be kept on the premises.

MEMBERSHIP CLUB OR LODGE - A building structure, lot or land area used as a private club or social organization not conducted for profit or gain.

MINE RECLAMATION – Actions covered under a Township-approved reclamation plan taken to reclaim or restore the area affected by open pit mining activities.

MOBILE HOME - A transportable, single family dwelling intended for permanent occupancy, office, or place of assembly contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term does not include recreational vehicles or travel trailers.

MOBILE HOME PAD - A concrete pad for the purpose of supporting a mobile home.

MOTEL - A building, or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units with direct outside access, designed primarily for transient automobile travelers, and provided with accessory off-street parking facilities. The term MOTEL includes buildings designed as tourist courts, motor lodges, auto courts, and other similar appellations, but shall not be considered to include mobile homes or travel trailers.

MOTOR VEHICLE – A vehicle which is motor driven or drawn including without limitation, automobiles, trucks, vans, trailers, motorcycles, tractors, all-terrain vehicles, recreational vehicles, and boats.

MULTIPLE-RESIDENTIAL DEVELOPMENT – Two or more residential dwelling types as defined herein combined on a single lot or parcel and proposed as a single, unified development, but excluding mobile home parks.

MULTI-USE DEVELOPMENT – Any two or more principal uses on a single lot or parcel otherwise permitted by-right, by special exception, or by conditional use.

MUNICIPAL USE - Any building, structure, facility, complex, area, or use, provided, constructed, or maintained by the municipal government of Lower Milford Township, Lehigh County, Pennsylvania.

MUNICIPALITIES PLANNING CODE (MPC) – The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended.

NATIVE PLANTS - Plants that are indigenous and original at approximately the time of European settlement of the region (Eastern Pennsylvania) and are most appropriate for planting as a result of their adaptation to regional environmental conditions including climate, soils, topography, winds, precipitation, wildlife and other living organisms.

NET BUILDABLE SITE AREA - The remaining site area, measured in either acres or square feet, after the Resource Protection Land is subtracted from the base site area, in accordance with the Site Capacity Calculation provisions of Section 1009.F. of this Ordinance.

NET LOT AREA – See **LOT AREA, NET**.

NET TRACT AREA – See **LOT AREA, NET**.

NO-IMPACT HOME-BASED BUSINESS – See **HOME OCCUPATION**.

NON-CONFORMING LOT - A lot lawfully existing at the effective date of this Ordinance or any amendment thereto affecting such lot, which does not conform to the regulations of this Ordinance for the district in which it is situated.

NONCONFORMING SIGN - Any sign lawfully existing at the time of the passage of this Ordinance that does not conform in use, location, height, or size to the regulations of this Ordinance.

NON-CONFORMING STRUCTURE - A structure or a part thereof manifestly not designed to comply with the applicable provisions in this Ordinance or amendments thereto, where such structure lawfully existing prior to the enactment of this Ordinance or amendments thereto. Such non-conforming structures include, but are not limited to, non-conforming signs.

NON-CONFORMING USE - A use, whether of land or of structure, which does not comply with the applicable use provisions in this Ordinance or amendments thereto, where such use was lawfully in existence prior to the adoption or amendment thereto.

NON-PROFIT ORGANIZATION - Any organization, including a corporation, partnership, or group of individuals and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster amateur sports competition, or for the prevention of cruelty to children or animals, a civic league or organization operated exclusively for the promotion of social welfare, a labor, agricultural, or horticultural organization, a club or organization for pleasure, recreation or other non-profit purposes, a business league, chamber of commerce, real estate board, or board of trade, or volunteer fire company, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda. The organization must be exempt from Federal Income Tax or fail in such exemption because part of its activities involves the provision of athletic facilities or equipment.

NURSERY - Land or greenhouses used to raise flowers, shrubs, trees, and/or other plants for commercial purposes.

OFF-STREET LOADING SPACE - A stall or berth which is arranged and intended for parking of one truck for the purposes of loading or unloading cargo.

OLDFIELD – An area undergoing natural succession characterized by the presence of herbs, shrubs, and small trees (seedlings) whose branches do not form a complete or nearly complete aerial canopy.

OPEN PIT MINING – Open pit mining shall include all activity which removes from the surface or beneath the surface, of the land some materials, mineral, resource, natural resource, or other elements of economic value, by means of mechanical excavation necessary to separate the desired material from an undesirable one; or to remove the strata or material which overlies or is above the desired material in its natural condition and position. Open pit mining includes, but is not limited to, the excavation necessary to the extraction of, sand, gravel, topsoil, limestone, sandstone, coal, clay, shale, and iron ore. Quarries, surface mining, and borrow or strip mining are considered a form of open pit mining for the purpose of this Ordinance.

OPEN SPACE, COMMON – Restricted open space designed and intended for the use and enjoyment of the residents of the subdivision or land development of which it is a part and owned and managed in common. Common ownership shall not necessarily preclude use or access by the general public or lease for private use such as agriculture.

OPEN SPACE, RESTRICTED - A parcel or parcels of land or an area of water, or a combination of land and water, within a subdivision or land development, set aside, designed and managed for the protection of open space features, including but not limited to farmland, scenic views, historic resources, natural areas and recreational areas, subject to an approved Open Space Management Plan and restricted from further development as provided in Article VIII of this Ordinance.

OUTDOOR FARMERS MARKET – The temporary and seasonal establishment within a defined open area of booths and portable enclosures, defined as temporary structures, specifically

designed and intended for display and retail sale of “home-grown” or “home-made” food, flowers, plants, non-alcoholic beverages, clothing, crafts, dry goods, holiday decorations, and other merchandise, and offered to local residents on a one-day per week basis.

OUTDOOR RECREATION AREA - An area for recreational use and associated facilities designed and equipped for the conduct of sports and leisure time activities, including swimming, tennis and other court games, baseball and other field sports, playground and other outdoor activities, but excluding amusement parks; go-carts, dirt bikes, ATV’s, or motor-cross tracks; and other activities which generate noise objectionable to a residential environment.

OUTDOOR SOLID FUEL BURNING APPLIANCE – Any equipment, apparatus or device which is designed, installed and operated outside of a residential structure and used to burn solid fuel to produce heat for domestic hot water, space heating of houses, or accessory structures, such as, but not limited to greenhouses, conservatories and swimming pools.

OVERBURDEN – The strata or material overlying a noncoal deposit or in between noncoal deposits in its natural state and material before or after its removal by open pit mining.

OVERLAY – A transparent sheet containing graphic matter to be superimposed on another sheet (as a map or photograph).

PADEP or DEP – Pennsylvania Department of Environmental Protection.

PARCEL – A lot or tract of land.

PARKING AREA - A lot or part thereof used for the storage or parking of motor vehicles, with or without the payment of rent or charges in money or other consideration.

PARKING SPACE - A stall or berth which is arranged and intended for parking of one motor vehicle in a garage or parking area.

PLANNING COMMISSION - The Planning Commission of the Township of Lower Milford, Lehigh County, Pennsylvania.

PREMISES - A separate lot, tax parcel, tract, or plot of land together with the buildings and structures thereon. Premises may include more than one (1) occupant on a lot or parcel, such as an office building or commercial center.

PRIME AGRICULTURAL LAND – Land used for agricultural purposes that contain soils of the first, second or third class as defined by the United States Department of Agriculture Natural Resource Conservation Services County Soil Survey.

PROMOTIONAL EVENT - An event, sponsored by the property owner, an association of agricultural property owners, or similar organizations formed to assist the agricultural industry in the area, to promote the sale of Pennsylvania wines, and which is intended to allow for the sampling and direct marketing and sales of wines produced on the premises or produced elsewhere from grapes grown on site.

PUBLIC NOTICE - Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the municipality. 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 (7) days from the date of the hearing.

PUBLIC STREET - A street dedicated, accepted, and maintained by the Township, County, or State for public use.

PUBLIC SERVICE FACILITIES - Telephone, electric and cable television lines, poles, equipment and structures; water or gas pipes, mains, valves or structures; sewer pipes, valves or structures; pumping stations; telephone exchanges and repeater stations; and all other facilities, equipment and structures necessary for conducting a service by a government or a public utility.

PUBLIC TASTING - Wine sampling by the general public.

PUBLIC USE - Any building, structure, facility, complex, or area used by the general public or which provides a service to the public, whether constructed by a state, county, or municipal government agency, or any private individual, partnership, association, or corporation.

PUBLIC WATER - See **WATER SUPPLY**.

RAZING - The complete removal of an entire building or structure so as to leave no part of the building or structure standing.

RECONSTRUCTION – Any or all work needed to remake or rebuild all or a part of any building to a sound condition, but not necessarily of original materials.

RECREATIONAL FACILITY - A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual passive, active, indoor or outdoor recreational activities.

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

RELATED AGGREGATE PROCESSING – Utilization of extracted resources for the production of various grades or types of stone, or the production of mixed concrete, or concrete components, often consisting of mechanical rock crushers, sorters, conveyors, storage and dispensing facilities, storage tanks, and other necessary materials.

RENTAL UNIT - An individual space offered for rent or lease within a motel, hotel, rooming house, tourist home, institutional home, dormitory, or in a professional or commercial office building.

REPAIR AND ROUTINE MAINTENANCE - Any or all work involving the replacement of existing construction, work, or features with the same material for the purpose of maintenance and upkeep only, but not including any addition, removal, change, or modification in any construction or existing features.

RESIDENTIAL CONVERSION - See **CONVERSION, RESIDENTIAL**.

RESOURCE PROTECTION LAND – The product, in acres, of the Open Space Ratio multiplied by the acres of Land in Resources for a given site, as defined by Section 1009.F. of this Ordinance.

RESTORATION - Any or all work connected with the returning to or restoring of a building or a part of any building to its original condition through the use of original or nearly original materials.

RETAIL SERVICES - Establishments providing services or entertainment, as opposed to products, to the general public, real estate and insurance, personal service establishments, motion pictures, amusement and recreation service, educational and social services, museums and galleries, but not including an adult commercial use, which see definition.

REVERSE OR DOUBLE FRONTAGE LOT - See **LOT, REVERSE OR DOUBLE FRONTAGE**

RIGHT-OF-WAY - Land reserved or dedicated for use as a street, alley, walkway, or any other public or private purpose.

RIGHT-OF-WAY, FUTURE - The right-of-way deemed appropriate to provide adequate width for future street improvements.

RIGHT-OF-WAY, LEGAL - The right-of-way of streets as established by the Commonwealth of Pennsylvania or other appropriate governing authority.

RIGHT-OF-WAY, ULTIMATE - The maximum boundary line of the right-of-way.

RIPARIAN BUFFER - An area of trees and other vegetation adjacent to a watercourse that forms a transition area between the aquatic and terrestrial environment. The riparian buffer is designed to intercept runoff from upland sources for the purpose of mitigating the effects of nutrients, sediment, organic matter, pesticides or other pollutants prior to entry into surface waters. For the purposes of this Ordinance, the riparian buffer shall be divided into two Zones:

- A. **Zone One: Inner Riparian Buffer** - This zone shall begin at each edge of any identified wetland or watercourse and shall occupy a margin of land on each side, each with a minimum width of fifteen (15) feet from any wetland or twenty-five (25) feet from any watercourse, whichever is greater. The width of such margin shall be measured horizontally on a line perpendicular to the applicable edge of the wetland or, in the case of a watercourse, to the nearest edge of the water at bankful flow. Where very steep slopes (+25%) are located within and extend beyond such margin, Zone One shall extend to include the entirety of the very steep slopes up to a maximum dimension of one hundred (100) feet on either side of a watercourse, or seventy-five (75) feet of a wetland.
- B. **Zone Two: Outer Riparian Buffer** - Zone Two begins at the outer edge and on each side of any area delineated within Zone One and occupies any additional area, if any, within one hundred (100) feet of the nearest edge of any watercourse, or seventy-five (75) feet of a wetland, measured as for Zone One.

RURAL OCCUPATION - A business or commercial activity conducted on the premises of a residential or agricultural property in accordance with the regulations contained in Article XII.

SANITARY SEWAGE DISPOSAL – See **SEWAGE DISPOSAL SYSTEM, INDIVIDUAL**)

SECONDARY FARM FAMILY BUSINESS - An agricultural accessory use, such as repair of agricultural equipment, butcher shop, or processing of local agricultural products, which provide a secondary source of income to the primary agricultural use.

SECRETARY OF THE INTERIOR STANDARDS FOR REHABILITATION - Under the direction of the National Historic Preservation Act, the Secretary of the Interior Standards for Rehabilitation address the treatment and preservation of the historic and architectural character of historic resources including interior and exterior features, design, additions, material, and construction methods.

SEDIMENTATION POND – A primary sediment control structure, including, but not limited to, a barrier, dam or excavated depression which details water runoff to allow sediment to settle out.

SELECTIVE CUTTING - The felling of certain, but not all trees in an area for the purposes of: (1) removing dead, diseased, damaged, mature or marketable timber; or (2) improving the quality of a tree stand or species diversity. (See also **CLEAR-CUTTING**)

SET BACK LINE - The line denoting the minimum requirements for front yard, side yard, and rear yard of a lot.

SEWAGE - Any substance that contains any of the waste products or excrementitious matter or other discharge from the bodies of human beings or animals and laundry, bathroom, and kitchen waste water.

SEWAGE DISPOSAL SYSTEM

- A. **Individual** - The disposal of sewage from one (1) dwelling unit by use of septic tanks or other safe and healthful means, approved by the Lower Milford Township Sewer Enforcement Officer.
- B. **Public Sewer System (Centralized)** - An off-site system for collection, treatment, and disposal of sewage in which sewage is conveyed to a treatment facility and disposed of through means and approved by the Pennsylvania Department of Environmental Protection.

SIGHT DISTANCE - The maximum extent of unobstructed vision (in a vertical or horizontal plane) along a street from a vehicle located at any given point on the street.

SIGN - Any structure or part thereof or any device attached to a building or painted or represented thereon which shall display or include any letter, word, model, banner, pennant,

insignia, device, trade flag, symbol or representation which is in the nature of, or which is used as, an announcement, direction or advertisement for commercial purposes or otherwise. A sign includes a billboard, neon tube, string of lights or similar device outlining or placed upon any part of a building or lot but does not include the flag or insignia of any nation, group of nations, governmental agency, or any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

- A. **Business Sign** – a sign which announces or directs attention to a business, produce, service or activity sold or conducted on the premises where such sign is located.
- B. **Directional Sign** – a sign which directs the reader to a business, product, service or activity, sold or conducted at a location a short distance away from where the sign is located.
- C. **Identification Sign** – a sign which identifies only the occupant of the premises, the profession or occupation of the occupancy, and/or the name of the building upon which the sign is placed.

SIGN AREA - (See **ARTICLE XIII, Section 1304, SIGNS**, for the calculation of sign area.)

SIGN HEIGHT - The distance from the existing ground elevation at the base of, or immediately below the sign, to the highest point of the sign structure.

SITE RESTORATION - Measures taken following completion of land disturbance activities which will stabilize the land surface and minimize possible erosion or sedimentation.

SPOIL – Overburden and reject material that has been removed during open pit mining operations.

SPOIL PILE – The overburden and reject materials as piled or deposited during open pit mining operations.

STEEP SLOPE – Those areas of land where the grade is eight (8) percent or greater. Steep slopes are divided into three categories:

- A. **Moderately Steep Slopes** are those areas of land where the grade is eight (8) percent to fifteen (15) percent.
- B. **Very Steep Slopes** are those areas of land where the grade is fifteen (15) percent to twenty-five (25) percent.
- C. **Prohibitively Steep Slopes** are those areas of land where the grade is greater than twenty-five (25) percent.

Slopes shall be measured as the change in elevation over the horizontal distance between consecutive contour lines and expressed as a percent. For the purpose of application of these regulations, slope shall be measured over three (3) or more two (2) foot contour intervals (six [6]

cumulative vertical feet of slope). All slope measurements shall be based on contour intervals determined by detailed topographical survey using aerial photogrammetry or actual field survey and shall be signed and sealed by a registered surveyor or engineer licensed to practice in the Commonwealth of Pennsylvania.

STEEP SLOPE MARGIN – Any area not otherwise regulated as steep slope and located within twenty-five (25) feet of any area regulated as steep slope, measured perpendicularly to the contour of the land.

STORAGE - The keeping of new or used products, merchandise, materials, equipment or vehicles for a continuous period greater than thirty (30) days. Excluded from this definition are the following:

- A. Equipment, vehicles and materials which are used in connection with a construction project during the period of construction.
- B. The unloading or loading of vehicles which are parked against a building so that all activity occurs within the building.

STORAGE, OUTDOOR - The keeping of goods or materials for present or future use in an area unprotected from the elements.

STREET - A strip of land, including the entire right-of-way (i.e. not limited to the cartway) intended for use as a means of vehicular and pedestrian circulation to provide access to more than one (1) lot. The word "street" includes a street, avenue, boulevard, road, highway, freeway, parkway, and any other ways used or intended to be used by vehicular traffic or pedestrians. Streets are further classified within the Southwestern Lehigh Comprehensive Plan of 2005:

- A. **Expressways:** These major highways connect cities and metropolitan areas. An expressway only allows traffic access at interchanges. These highways service high traffic volumes of traffic at high speeds. The only expressways are I-476/PA Turnpike and I-78 (which is adjacent to the northwest corner of the Region).
- B. **Arterial Roads:** These roads provide access between major commercial developments and part of the metropolitan area. Arterials are designed for high volumes of traffic at moderate speeds. Examples of arterial roads include Limeport Pike and Kings Highway.
- C. **Collector Roads:** These roads provide connections between arterial roads, connect together residential neighborhoods. Collectors roads are intended to provide for moderate volume s of traffic at low speeds. Examples include Grant Road, Chestnut Hill Church Road, Steinsburg Road, Dillingersville Road, Spinnerstown Road and Palm Road.
- D. **Local Roads:** These roads provide direct access from many adjacent properties and channel traffic toward collector roads.

STREET, CENTERLINE - A line which is an equal distance from both street lines unless officially designated otherwise.

STREET LINE - The dividing line between a lot and the future right-of-way of the abutting street.

STREET, PRIVATE – Where approved by the Township in accordance with the Lower Milford Township Subdivision & Land Development Ordinance, a street not dedicated to the Township for public use or not accepted by the Township for public dedication.

STREET, PUBLIC - A public thoroughfare which has been dedicated and deeded to the Township or established by other means and which affords the principal means of access to the abutting property.

STREET, SINGLE ACCESS - A street which has access to an existing public road and circulation system only at one (1) point. A single access street includes cul-de-sacs, loop roads, and dead end streets.

STRUCTURAL UNIT - One (1) or more buildings enclosed by continuous exterior walls and a continuous roof.

STRUCTURE - That which is built or constructed or a portion thereof. For the purposes of this Ordinance, structures include any form or arrangement of building materials, on or in water or land, involving the necessity of providing proper support, bracing, tying, anchoring or other protection against the forces of the elements and having a permanently fixed location. Structures include, but are not limited to buildings, sheds, mobile or manufactured homes, signs, fences or walls over six (6) feet in height, aeriels and antennae, porches, platforms, tennis courts, swimming pools, tents, tanks, and towers.

STRUCTURE, ACCESSORY - See **ACCESSORY USE OR STRUCTURE**.

STRUCTURE, TEMPORARY - A structure without foundation or footings which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

SUBDIVISION - The division or redivision of a lot, tract or parcel of land by any means, into two (2) 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 ten (10) acres, not involving any new street, easement of access or any residential dwellings shall be exempted.

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE - The Lower Milford Township Subdivision and Land Development Ordinance, as adopted and amended from time to time.

SUBSTANTIAL IMPROVEMENT - As it applies to the Flood Hazard District, a substantial improvement includes any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, to an extent or amount equaling fifty (50) percent or more of the market value of

the structure before the start of construction of the improvement. "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. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either of the following:

- A. 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, or
- B. Any alteration of a "historic" structure provided that the alteration will not preclude the structure's continued designation as a "historic structure."

SWIMMING POOL, NONCOMMERCIAL - Any constructed body of water or structure to contain water, pursuant to the provisions of Section 1300.A and any accessory equipment pertaining thereto, used or intended to be used for swimming or bathing by any family or persons residing on the premises and their guests. Such noncommercial swimming pool shall not be operated for gain; and shall be located on a lot only as an accessory use to the dwelling or dwellings, hotel, motel, or membership club thereon.

TAVERN - A drinking establishment where the sale and consumption of alcoholic beverages is a principal use, with or without a restaurant.

TDR – Transferable development rights, defined as the ability to legally sever and transfer development rights from a sending area to a receiving area as provided for by the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended.

TEMPORARY DWELLING FOR FAMILY MEMBER(S) – A second detached dwelling unit for the express purpose of housing certain family members of the occupants of the primary dwelling located on the property in accordance with criteria found in Article XII, Section 1200.A.29.

TEMPORARY ROADSIDE STAND - An open or enclosed structure situated along the roadway for the purpose of selling agricultural and/or garden products grown primarily on the premises.

TEMPORARY STRUCTURE - See **STRUCTURE, TEMPORARY**.

TIMBER HARVESTING OPERATION – The disturbance for commercial purposes, and in compliance with an approved timber harvesting plan, of more than one half (0.5) acre of woodland identified on the adopted Lower Milford Township Woodland Classification Map, whether accomplished in a single operation or in more than one operation over three or fewer years. The removal of trees pursuant to an approved subdivision or land development plan, landscape plan or open space management plan, the removal of dead or diseased trees, or invasive vegetation, and the cutting or removal of trees as part of a nursery, orchard or Christmas tree farming operation shall not be considered Timber Harvesting Operations. Forestry, as

defined by the Pennsylvania Municipalities Planning Code, as amended, shall be considered a Timber Harvesting Operation. All Timber Harvesting Operations, where permitted, shall comply with the provisions set forth in Section 1200.A.31 of this Ordinance.

TIMBER HARVESTING PLAN – A plan submitted in conformance with the provisions set forth in Section 1200.A.31 of this Ordinance which describes, by means of text and maps, proposed actions involving the removal of trees from a tract of land. Such plan shall have been prepared by a professional with demonstrated expertise in forest management, and shall document measures to be taken to: protect water quality; minimize impacts from skid trails and logging roads, landing areas, and the tree removal process; and ensure site restoration. A Forest Stewardship Plan that promotes the use of BMPs and is consistent with the Sustainable Forestry Initiative may be part of a Timber Harvesting Plan submittal, as provided for in Section 1200.A.31.k

TOPSOIL - The organically enriched layer of soil nearest the soil surface, containing a large part of the nutrient and water supplies to support plant growth, extending in depth to the extent of the majority of plant roots.

TOWNSHIP - The Township of Lower Milford, Lehigh County, Pennsylvania.

TRACT - An area of land, parcel, or property which is the subject of a development application.

TRACT AREA - The total amount of land formed by property lines.

TRACT AREA, GROSS - The tract area.

TRACT AREA, NET - See **LOT AREA, NET**.

TRAIL - A right-of-way containing a marked or beaten path, either paved or unpaved, for pedestrians, equestrian or bicycle use.

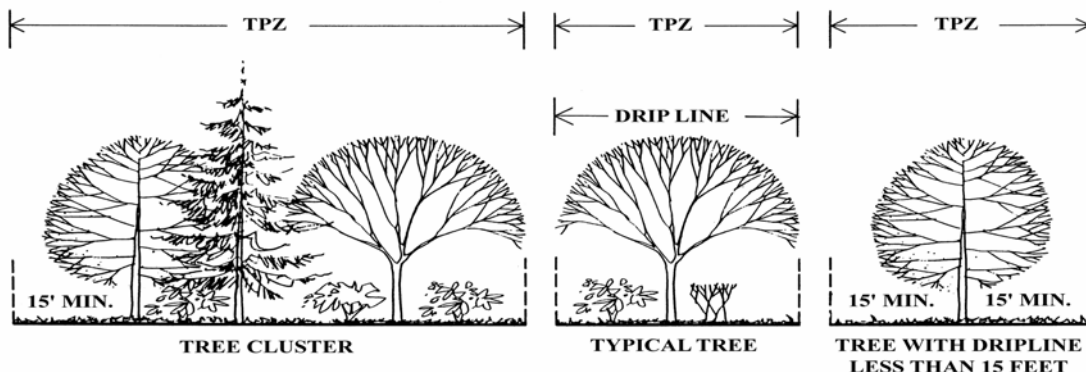
TRANSFERABLE DEVELOPMENT RIGHTS – See **TDR**

TRAVEL TRAILER - A vehicular portable structure built on a chassis, designed as a temporary dwelling for travel, recreation, vacation, and other short-term uses having a body width not exceeding eight (8) feet and a body length not exceeding thirty-two (32) feet.

TREE DRIPLINE - The line marking the outer edges of the branches of the tree.

TREE PROTECTION ZONE - An area that is radial to the trunk of a tree in which no construction activity shall occur. The tree protection zone shall be fifteen (15) feet from the trunk of the tree to be retained, or the distance from the trunk to the dripline, whichever is greater. Where there is a group of trees or woodlands, the tree protection zone shall be the aggregate of the protection zones for the individual trees.

Tree Protection Zone (TPZ)



USE ACCESSORY - See **ACCESSORY USE OR STRUCTURE**.

USE, BY-RIGHT - A use which is permitted in a zoning district without the need for a special exception, variance, or conditional use permit.

USE, CONDITIONAL - A use permitted in a particular zoning district pursuant to the provisions of Article VI of the Municipalities Planning Code and the provisions of Article XV of this Ordinance.

USE, SPECIAL EXCEPTION - A use permitted in a particular zoning district pursuant to the provisions of Article VI and IX of the Municipalities Planning Code and the provisions of Article XIV of this Ordinance.

UTILITY FACILITY - See **PUBLIC SERVICE FACILITIES**.

VARIANCE - A relief from the exact enforcement from the terms of this Ordinance granted by the Zoning Hearing Board pursuant to the provisions of Article VI and IX of the Municipalities Planning Code and Article XIV of this Ordinance.

VETERINARY HOSPITAL – A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

WALKWAY, PUBLIC - Any place designed or maintained for public pedestrian use, without regard to ownership.

WALL - See **FENCE**.

WATERCOURSE – A watercourse is a channel or conveyance of surface water, whether natural or artificial, having defined bed and banks, with perennial or intermittent flow. The definition of watercourse shall exclude facilities constructed solely for stormwater management.

WATERS OF THE COMMONWEALTH - Any and all rivers, streams, creeks, lakes, rivulets, dammed water, ponds, springs, and all other bodies of surface and underground water, or parts

thereof, whether natural or artificial, within or on the boundaries of the Commonwealth of Pennsylvania.

WATER SUPPLY

- A. **Individual** - A supply of water to a single use or dwelling from a private well located on the lot in which the use is located and which does not fall under the definition of "community water supply."
- B. **Community** - A system for supplying water from a common source or sources to more than one dwelling and other buildings within a development. The water supply source may be located on-site or off-site and may be publicly or privately owned.
- C. **Public** - A system for supplying water in sufficient quantities to more than one dwelling or other buildings of a development, which is administered by a municipal authority or by a municipality or public utility as defined and regulated by the Pennsylvania Public Utility Commission.

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

WETLAND OR WETLANDS – Wetlands are those areas inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances, do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, ponds, lakes, and similar areas. Wetlands shall include any area so delineated by the National Wetlands Inventory of the U.S. Fish and Wildlife Service and all lands regulated as wetlands by the Pennsylvania Department of Environmental Protection or the U.S. Army Corps of Engineers. In the event there is a conflict between the definitions of these agencies, the more restrictive definition that defines the wetlands most expansively shall apply.

WETLANDS MARGIN - The transitional area extending seventy-five (75) feet from the outer limit of the wetland. The first twenty-five (25) feet is designated as Zone A with 0% disturbance and the remaining fifty (50) feet is designated as Zone B with a 20% disturbance limitation.

WIND ENERGY FACILITY – An electric generation facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities. The term does not include stand-alone Wind Turbines constructed primarily for residential or farm use.

WIND TURBINE – A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator and includes the nacelle, rotor, tower and pad turbine, if any.

WINERY - A bonded winery facility comprising the building or buildings used to convert fruit juices (all or part of which are produced on the property) to wine, and to age, bottle, store, distribute and sell said wine. A winery, for the purposes of this section, includes crushing,

fermenting and refermenting, bottling, blending, bulk and bottle storage, aging, shipping, receiving, laboratory equipment and maintenance facilities, sales, and administrative office functions, and may include tasting and promotional events.

WOODLAND(S) – Woodlands include hedgerows and any other tree mass or plant community covering an area of one-quarter acre or more, in which tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete aerial canopy. The extent of any woodland plant community or any part thereof shall be measured from the outermost drip line of all the trees in such plant community. Woodland shall include any area where timber has been harvested within the previous three years and/or woodland disturbance has occurred within the previous three years which would have met the definition of woodland prior to timbering or disturbance. Woodlands do not include orchards, nurseries, or tree farms. Woodlands are further classified as follows, as indicated on the Woodland Classification Map:

CLASS I WOODLAND(S) – Class I Woodlands are defined as the highest value woodland areas on the basis of an evaluation of the overall biological and hydrological ecosystem services they provide. This includes the quantity of forest interior they encompass and their locations coextensive with other valued and environmentally sensitive resources, including stream corridors, headwater areas, steep slopes, and the Flood Plain District, as regulated by separate ordinance.

CLASS II WOODLAND(S) – Class II Woodlands also are relatively large and coextensive with other resources, but are more linear or fragmented and include little forest interior.

CLASS III WOODLAND(S) – Class III Woodlands are smaller woodland patches and hedgerows, and include fewer additional natural resources.

Contiguous woodland areas may fall into more than one Woodland Classification.

WOODLAND CLASSIFICATION MAP – The Woodland Classification Map is a map adopted by the Board of Supervisors indicating the locations of all woodlands classified as Class I, Class II or Class III Woodlands, and also indicating the locations of areas identified as Forest Interior Habitat. Where specific application of the definition of Forest Interior Habitat results in variation from mapping as indicated on the Woodland Classification Map, application of said definition shall supercede. The Woodland Classification Map shall be considered an addendum to the Zoning Map of Lower Milford Township and is incorporated by reference into this Chapter and made a part hereof.

WOODLAND DISTURBANCE –

- A. Any activity which alters the existing structure of a woodland or hedgerow. Alterations include the cutting or removal of canopy trees, subcanopy trees, understory trees, shrubs and vines, woody and herbaceous woodland floor species as well as the removal of humus or duff from the ground;

- B. Any activity which constitutes a land disturbance (exposes soils, alters topography) within a woodland or hedgerow;
- C. Woodland disturbance does not include the following:
 - 1. Removal of vegetation which constitutes hazardous condition(s);
 - 2. Selective cutting or removal of invasive vegetation; nor
 - 3. Cutting or removal of nursery stock or orchard trees.
- D. Where woodland disturbance is regulated as a Timber Harvesting Operation, such operation shall not be separately regulated as woodland disturbance.

YARD - An open unoccupied space on the same lot with a building situated between a front, rear, or side lot line and a line parallel thereto that passes through a point directly beneath the roofed portion of the building nearest to the front, rear, or side lot line.

YARD, FRONT - An open unoccupied space on the same lot with a building situated between the nearest roofed portion of the building and the front lot line and extending from side lot line to side lot line.

YARD, REAR - A space on the same lot with a building situated between the nearest roofed portion of the building and the rear lot line of the lot, and extending from side lot line to side lot line.

YARD, SIDE - An open unoccupied space on the same lot with a building situated between the nearest roofed portion of the building or of any accessory building and the side lot line of the lot, and extending through from the front yard or from the front lot line where no front yard exists, to the rear yard, or to the rear lot line where no rear yard exists.

ZONING, BASE - The basic system of zoning, which, under the Township Zoning Ordinance 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 HEARING BOARD - The Lower Milford Township Zoning Hearing Board.

ZONING MAP - The official Zoning Map of Lower Milford Township, as adopted and amended from time to time.

ZONING OFFICER - The duly constituted Township official designated to administer and enforce the provisions of the Lower Milford Township Zoning Ordinance.

ZONING, OVERLAY - Regulations which apply in addition to the base zoning of the underlying districts. Where conflicts exist between the overlay and base zoning, the most restrictive provision applies.

ARTICLE III

AC – AGRICULTURAL CONSERVATION DISTRICT

Section 300. INTENT

In accordance with the objectives of the Southwestern Lehigh County Comprehensive Plan, and in addition to achieving other community development objectives of Section 104 of this Ordinance, the AC – Agricultural Conservation District is intended to:

- A. Protect the Township's agricultural uses from conflicts by minimizing the encroachment of non-farm land uses;
- B. Encourage the retention of large contiguous areas of Township farmland;
- C. Support the Township and regional agricultural economy and agri-tourism efforts;
- D. Protect the public investment in the Township's preserved farms;
- E. Protect the Township's prime farmland soils as defined by the Pennsylvania Municipalities Planning Code;
- F. Provide the community and region with other natural and cultural resource conservation benefits;
- G. Enable local farmers to voluntarily convey their development rights, through sale or donation, to Lehigh County, Lower Milford Township, or a qualified conservation organization, or through sale to a developer through use of the Ordinance's Transferable Development Rights (TDR) provisions; and
- H. Permit other low-impact non-agricultural uses within the Township so that farmers can supplement their farm incomes.

Residents of the AC – Agricultural Conservation District must be willing to accept the impacts associated with daily farming practices and related businesses.

Section 301. USE REGULATIONS

- A. Uses permitted by right.
 - 1. Except as permitted in Section 301.A.2 below, a building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any one of the following principal uses, together with the permitted accessory uses, by right in accordance with the terms of the Ordinance.
 - a. Agriculture.
 - b. Forestry, where conducted in compliance with the provisions of Section 1004, 1005 and Section 1200.A.31 of this Ordinance.
 - c. Conservation uses including woodlands preserve, game preserve, arboretum or other similar use.
 - d. Nursery, tree farm or similar silvicultural use.
 - e. Commercial greenhouses excluding on-premise retail selling.

- f. Single-family detached dwelling.
 - g. The severance or transfer of Transferable Development Rights (TDRs) under the applicable provisions set forth in Article IX.
 - h. Temporary roadside stand.
 - i. Municipal use, including fire or ambulance station.
 - j. Church or other place of worship, Sunday School, or parish house.
 - k. Home related business, or rural occupation.
 - l. Communications antennas mounted on an existing public utility transmission tower, building or other structure; and communications equipment buildings.
2. A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for more than one of the following principal uses on a single lot or parcel not less than ten (10) gross acres in size and together with permitted accessory uses, by right in accordance with the terms of the Ordinance:
- a. Agriculture.
 - b. Forestry, where conducted in compliance with the provisions of Section 1004, 1005 and Section 1200.A.31 of this Ordinance.
 - c. Conservation uses including woodlands preserve, game preserve, arboretum or other similar use.
 - d. Nursery, tree farm or similar silvicultural use.
 - e. Commercial greenhouses excluding on-premise retail selling.
 - f. The severance or transfer of Transferable Development Rights (TDRs) under the applicable provisions set forth in Article IX.
 - g. Single-family detached dwelling.
 - h. Temporary roadside stand.
 - i. Home related business, or rural occupation.
 - j. Communications antennas mounted on an existing public utility transmission tower, building or other structure; and communications equipment buildings.

B. Uses permitted by special exception.

Within the AC-Agricultural Conservation District the following uses may be permitted by the Zoning Hearing Board as a Special Exception in accordance with Article XIV, the applicable supplemental standards of Article XII, and any other applicable provisions of this Ordinance. Special Exception uses shall be compatible with the surrounding neighborhood and shall not be detrimental to public health, safety, or welfare:

- 1. Membership club or lodge.
- 2. Mobile home siting.
- 3. Cemetery or mausoleum.
- 4. Temporary dwelling for family member(s).

5. Temporary structure or use, including buildings to provide temporary housing for farm laborers incident and necessary to the gathering of crops grown on the premises.
6. Horticultural uses and greenhouses which include on-premise retail selling, where at least eighty (80) percent of retail sales represents products produced on-site.
7. Commercial stable or riding academy.
8. Veterinary facilities.
9. Non-nuisance industry or secondary farm family business.
10. Winery.
11. Stand-alone wind turbine constructed for residential or farm use.
12. Solar or other alternative energy generation for residential or farm use.
13. Animal rescue shelter or wildlife rehabilitation center.

C. Uses permitted as conditional use.

Within the AC-Agricultural Conservation District the following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with Article XV, the applicable supplemental standards contained in Article XII, and any other applicable provisions of this Ordinance:

1. Heliport or private landing strip.
2. Intensive agricultural uses.
3. Communications towers and communications equipment buildings.
4. Oil and gas well operations.
5. Wind energy facility in accordance with the Wind Energy Facilities Ordinance and any amendment thereto.
6. A building, structure, or facility owned and used by an electric, telephone, or other public utility or other government regulated industry, but not including communications towers or communications equipment buildings.
7. Bed and breakfast.

D. Accessory uses.

The following accessory uses shall be permitted, where in compliance with all applicable provisions of Article XII, Supplemental Regulations, and Article XIII, General Regulations and Design Standards, and provided that they shall be incidental to any of the foregoing permitted uses:

1. Private garage or private parking area.
2. Other customary accessory structures and uses.
3. Signs.
4. Home Occupation
5. Non-commercial swimming pool in compliance with Ordinance No. 53 and any amendment thereto.

6. Agricultural accessory structures and buildings, not including animal husbandry barns or animal shelters.
7. Outdoor solid fuel burning appliance as an accessory to a single family dwelling pursuant to Article XIII, Section 1300.A.4.

Section 302. AREA, BULK AND DEVELOPMENT REGULATIONS

A. Conventional Residential Development Option for Pre-Existing Parcels less than Ten (10) Acres.

1. Conventional Area and Bulk Regulations:

- a. Minimum Lot Area: Two (2) acres.
- b. Minimum Lot Width: 200 feet.
- c. Minimum Front Yard Setback: 50 feet.
- d. Minimum Rear Yard Setback: 50 feet.
- e. Minimum Side Yard Setback: thirty (30) feet one yard, eighty (80) feet aggregate.
- f. Maximum Lot Coverage: fifteen (15) percent.
- g. Maximum Building Coverage: ten (10) percent.
- h. Maximum Building Height: 35 feet, except as otherwise permitted by Section 1300.F.

B. Options for Parcels Ten (10) Acres or Greater in Area

1. Transferable Development Rights.

The owner of any property ten (10) acres or greater in area may sever Transferable Development Rights and may transfer such rights to another party as set forth in Article IX, provided that at least one development right is retained or that the subject property is merged in title with another property with at least one retained development right.

2. Use of Agricultural Properties Not Subject to Subdivision.

Agricultural properties may be used for any permitted principal and accessory agricultural uses subject to the standards set forth in Article XII and up to two (2) single principal residential uses subject to the area and bulk provisions of Section 302.A, provided that no less than one (1) acre nor greater than two (2) acres shall be occupied per dwelling for residential use.

3. Limited Agricultural Subdivision.

Subdivision of any property ten (10) acres or greater in area, for purposes of development of principal single-family detached dwellings, shall comply with the following standards:

- a. On any tract undergoing subdivision or land development for residential purposes, the total maximum number of residential units shall be equal to:

Net Buildable Site Area (as defined in Section 1009 of this Ordinance) in acres, minus the total area occupied by any existing principle residential use, x 0.10.

The total area occupied by any existing principal residential use is defined as land covered by any principal residential building, accessory residential structure, accessory drainfield area, replacement drainfield area, well, and any area required to satisfy minimum yard requirements should the principal residential building be subdivided to form its own lot. Notwithstanding, the total area used for computation purposes shall not be less than one (1) acre nor more than two (2) acres.

Computations resulting in fractional numbers of units shall be rounded to the nearest whole number; fractions of one half (0.5) shall be rounded up.

- b. Each lot subdivided under the provisions of this section for a single-family detached dwelling shall be as follows:

- 1) Minimum Lot Area: one (1) acre.
- 2) Minimum Lot Width: 200 feet.
- 3) Minimum Front Yard Setback: forty (40) feet.
- 4) Minimum Rear Yard Setback: forty (40) feet.
- 5) Minimum Side Yard Setback: twenty (20) feet one yard, fifty (50) feet aggregate.
- 6) Maximum Lot Coverage: fifteen (15) percent except that, where approved at the discretion of the Zoning Hearing Board as a special exception, the maximum lot coverage may be increased to no more than thirty (30) percent, subject to the following:
 - i. The sewage system shall be certified adequate for the size of the dwelling by the Lower Milford Township Sewage Enforcement Officer.
 - ii. The Township Engineer shall certify that adequate stormwater recharge or storage facilities, adequate to handle roof drainage and resolve any existing problems, exist or shall be installed.

- 7) Maximum Building Coverage: ten (10) percent except that, where approved at the discretion of the Zoning Hearing Board as a special exception, the maximum building coverage may be increased to twenty (20) percent on any individual lot, so long as any increase in total lot coverage beyond fifteen (15) percent meets the criteria set forth in Subsection b.6) above.
 - 8) Maximum Building Height: thirty-five (35) feet, except as otherwise permitted by Section 1300.F.
- c. No single residential lot created according to the standards of this Section shall occupy more than one (1) acre of prime farmland soils except to the minimum extent necessary to provide for suitable individual sewage disposal service. Otherwise, residential lots may occupy more than one (1) acre, provided that acreage above that amount is comprised of less productive soils (Class IV and greater).
- d. Remaining lands.
- 1) Subdivision of residential lots from an agricultural property according to the standards of this Section shall be configured so as to create the least practicable disruption to agricultural operations. Remaining agricultural parcels shall be no less than ten (10) acres each, so located and configured as to be appropriate for continued agricultural use.
 - 2) On tracts existing as of the date of adoption of this Section, where creation of all the residential lots permitted by the formula in subsection B.3.a. would result in remaining agricultural lands of less than ten (10) acres, a single agricultural parcel of less than ten (10) acres may be created.
 - 3) Remaining lands, including any subdivided agricultural parcels, shall have frontage on a public street equal to or greater than forty (40) percent of the frontage of the tract prior to subdivision.
 - 4) When the maximum number of residential lots has been created from the parent tract as it existed at the time of adoption of this Section, as determined by subsection B.3.a. above, the remaining lands, regardless of use, shall be restricted from further subdivision by deed restriction under this Section for other than agricultural purposes by conservation easement or other agreement in a form acceptable to the Township and duly recorded in the office of the Recorder of Deeds of Lehigh County. Such restrictions shall not preclude such remaining lands from leasing for agricultural uses as defined by this Ordinance.
- C. All Other Permitted Uses. The following standards shall apply to tracts or lots used for any principal use permitted by right, special exception or conditional use,

not subject to any of the residential development options or provisions for agricultural properties set forth herein, and except where otherwise provided in this Ordinance. In siting such uses, applicants for land development or zoning approval shall first use the non-prime farmland soils within the property for building site(s) or limit their total area of development disturbance to minimize disruption to the site's prime farmland soils:

1. Minimum Lot Area: two (2) acres.
2. Minimum Lot Width: 200 feet
3. Minimum Front Yard Setback: fifty (50) feet
4. Minimum Rear Yard Setback: fifty (50) feet.
5. Minimum Side Yard Setback: fifty (50) feet.
6. Maximum Lot Coverage: fifteen (15) percent.
7. Maximum Building Coverage: ten (10) percent.
8. Maximum Building Height: 35 feet, except as otherwise permitted by Section 1300.F.

Section 303. OTHER APPLICABLE ORDINANCE PROVISIONS

- A. For additional requirements and design standards applicable to uses permitted in this district, refer to the provisions of Article X, Natural Resource Protection Standards; Article XI, Historic Resource Protection; Article XII, Supplementary Regulations; and Article XIII, General Regulations and Design Standards.

Section 304. AGRICULTURAL NUISANCE DISCLAIMER

- A. Lands within the AC - Agricultural Conservation District are intended principally for use in commercial agricultural production, including the keeping or raising of livestock or poultry. Owners, residents, and other users of a lot may be subjected to inconvenience and discomfort arising from normal and accepted agricultural practices and operations, including but not limited to: noise, odor, dust, the operation of machinery of any kind, the storage and disposal of manure, the application of fertilizers, herbicides, and pesticides. Owners, residents, and users of a lot should be prepared to accept these conditions and are hereby put on official notice that Section 4 of the Pennsylvania Act 133 of 1982, "The Right to Farm Law", may bar them from obtaining a legal judgment against such normal agricultural operations.

ARTICLE IV

RC – RESOURCE CONSERVATION DISTRICT

Section 400. INTENT

In accordance with the objectives of the Southwestern Lehigh County Comprehensive Plan, and in addition to achieving other community development objectives of Section 104, the RC – Resource Conservation District is intended to:

- A. Protect open space resources and reduce development pressure on those portions of the Township that are environmentally sensitive;
- B. Provide for water resource protection by reducing demand on the potable water supply, recharging the groundwater supply, limiting soil erosion and stormwater runoff, and reducing contamination and runoff into Perkiomen and Saucon Creek watersheds;
- C. Provide incentives that will lead to greater protection of the Township's natural and cultural resources; and
- D. Define areas within the Township for land uses dependent upon the convenient availability of geologic resources, including open pit mining, strip and borrow mining, and related aggregate processing facilities and operations when satisfying specific standards, criteria and procedures administered by the Commonwealth and Lower Milford Township.

Section 401. USE REGULATIONS

- A. Uses permitted by right.
 - 1. Except as permitted in Section 401.A.2 below, a building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any one of the following principal uses, together with the permitted accessory uses, by right in accordance with the terms of the Ordinance.
 - a. Agriculture.
 - b. Forestry, where conducted in compliance with the provisions of Section 1004, 1005 and Section 1200.A.31 of this Ordinance.
 - c. Conservation uses including woodlands preserve, game preserve, arboretum or other similar use.
 - d. Nursery, tree farm or similar silvicultural use.
 - e. Commercial greenhouses when excluding on-premises retail selling.
 - f. Single-family detached dwelling under any applicable development option.
 - g. Home-related business or rural occupation.
 - h. Temporary roadside stand.
 - i. Municipal use.

- j. Church or other place of worship, Sunday School, or parish house.
 - k. Communications antennas mounted on an existing public utility transmission tower, building or other structure; and communications equipment buildings.
2. A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for more than one of the following principal uses on a single lot or parcel not less than ten (10) acres in size, and together with permitted accessory uses, by right in accordance with the terms of the Ordinance:
- a. Agriculture.
 - b. Forestry, where conducted in compliance with the provisions of Section 1004, 1005 and Section 1200.A.31 of this Ordinance.
 - c. Conservation uses including woodlands preserve, game preserve, arboretum or other similar use.
 - d. Nursery, tree farm or similar silvicultural use.
 - e. Commercial greenhouses excluding on-premises retail selling.
 - f. Single-family detached dwelling.
 - g. Home related business or rural occupation.
 - h. Temporary roadside stand.
 - i. Communications antennas mounted on an existing public utility transmission tower, building or other structure; and communications equipment buildings.

B. Uses permitted by special exception.

Within the RC-Resource Conservation District the following uses may be permitted by the Zoning Hearing Board as a Special Exception in accordance with Article XIV, the applicable supplemental regulations of Article XII, and any other applicable provision of this Ordinance. Special Exception uses shall be compatible with the surrounding neighborhood and shall not be detrimental to public health, safety, or welfare:

- 1. Public or private academic schools.
- 2. Golf course.
- 3. Horticultural uses and greenhouses which include on-premises retail selling, where at least eighty (80) percent of retail sales represents products produced on-site.
- 4. Commercial stable or riding academy.
- 5. Membership club or lodge.
- 6. Outdoor recreational use.
- 7. Temporary dwelling for family member(s).
- 8. Temporary structure or use, including buildings to provide temporary housing for farm laborers incident and necessary to the gathering of crops grown on the premises.
- 9. Non-nuisance industry.

10. Winery.
11. Fire/ambulance station.
12. Stand-alone wind turbine constructed for residential or farm use.
13. Solar or other alternative energy generation for residential or farm use.
14. Cemetery or mausoleum.
15. Animal rescue shelter or wildlife rehabilitation center.

C. Uses permitted as conditional use.

Within the RC-Resource Conservation District the following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with Article XV, the applicable supplemental regulations of Article XII, and any other applicable provisions of the Ordinance:

1. Single-family dwellings and two-family dwellings in accordance with the Open Space Design Option of Article VIII.
2. Heliport or private landing strip.
3. Veterinary hospital or kennel.
4. Recreational camping park.
5. Open pit mining, strip and borrow mining, and related aggregate processing facilities, but not including, as either a principal or accessory use, a bituminous concrete batch plant, brick or block manufacturing, recycling of asphaltic, concrete, rubber, wood, or glass products, or other uses of a similar heavy industrial nature.
6. A building, structure, or facility owned and used by an electric, telephone, or other public utility or other government regulated industry, but not including communications towers or communications equipment buildings.
7. Communications towers and equipment buildings.
8. Wind energy facility in accordance with the Wind Energy Facilities Ordinance and any amendment thereto.
9. Bed and breakfast.

D. Accessory Uses.

The following accessory uses shall be permitted, where in compliance with all applicable provisions of Article XII, Supplemental Regulations, and Article XIII, General Regulations and Design Standards, and provided that they shall be incidental to any of the foregoing permitted uses:

1. Private garage or private parking area.
2. Other customary accessory structures and uses.
3. Signs.
4. Home Occupation.
5. Non-commercial swimming pool in compliance with Ordinance No. 53 and any amendment thereto.

6. Agricultural accessory structures and buildings, not including animal husbandry barns or animal shelters.
7. Outdoor solid fuel burning appliance as an accessory to a single family dwelling pursuant to Article XIII, Section 1300.A.4.

Section 402. AREA, BULK AND DEVELOPMENT REGULATIONS

A. Conventional Residential Development Option.

1. Conventional Area & Bulk Regulations:

- a. Minimum Lot Area: four (4) acres.
- b. Minimum Lot Width: 200 feet.
- c. Minimum Front Yard Setback: fifty (50) feet.
- d. Minimum Rear Yard Setback: fifty (50) feet.
- e. Minimum Side Yard Setback: thirty (30) feet one yard, eighty (80) feet aggregate.
- f. Maximum Lot Coverage: fifteen (15) percent.
- g. Maximum Building Coverage: ten (10) percent.
- h. Maximum Building Height: thirty-five (35) feet, except as otherwise permitted by Section 1300.F.

B. Open Space Design Option. Subdivision and development in accordance with the Open Space Design Option shall be permitted for parcels of 10 acres or more in size, subject to the provisions of Article VIII.

C. All Other Uses. The following standards shall apply to tracts or lots used for any principal use permitted by right, special exception or conditional use, not subject to either of the residential development options, and except where otherwise provided in this Ordinance:

1. Minimum Lot Area: four (4) acres.
2. Minimum Lot Width: 200 feet
3. Minimum Front Yard Setback: fifty (50) feet
4. Minimum Rear Yard Setback: fifty (50) feet.
5. Minimum Side Yard Setback: fifty (50) feet.
6. Maximum Lot Coverage: fifteen (15) percent.
7. Maximum Building Coverage: ten (10) percent.

8. Maximum Building Height: thirty-five (35) feet, except as otherwise permitted by Section 1300.F.

Section 403. OTHER APPLICABLE ORDINANCE PROVISIONS

- A. For additional requirements and design standards applicable to this district and uses permitted herein, refer to the provisions of Article X, Natural Resource Protection Standards; Article XI, Historic Resource Protection Standards; Article XII, Supplementary Regulations; and Article XIII, General Regulations and Design Standards.

ARTICLE V

RR – 1 – RURAL RESIDENTIAL-1 DISTRICT

Section 500. INTENT

In accordance with the objectives of the Southwestern Lehigh County Comprehensive Plan, and in addition to achieving other community development objectives of Section 104, the RR-1, Rural Residential-1 District is intended to provide for limited infill residential development in areas of the Township that are characterized by single-family detached residences on large lots.

Section 501. USE REGULATIONS

A. Uses permitted by right.

A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any one of the following principal uses, together with the permitted accessory uses, by right in accordance with the terms of the Ordinance:

1. Single-family detached dwelling.
2. Agriculture.
3. Forestry, where conducted in compliance with the provisions of Section 1004, 1005 and Section 1200.A.31 of this Ordinance.
4. Conservation uses including woodlands preserve, game preserve, arboretum or other similar use.
5. Nursery, tree farm or similar silvicultural use.
6. Commercial greenhouses excluding on premise retail selling.
7. Home related business.

B. Uses permitted by special exception.

Within the RR-1, Rural Residential-1 District the following uses may be permitted by the Zoning Hearing Board as a Special Exception in accordance with Article XIV, any applicable supplemental regulations of Article XII, and any other applicable provision of this Ordinance. Special Exception uses shall be compatible with the surrounding neighborhood and shall not be detrimental to public health, safety, or welfare:

1. Membership club or lodge.
2. Residential conversions.
3. Temporary dwelling for family member(s).
4. Non-nuisance industry.
5. Church or other place of worship, Sunday School, parish house.
6. Municipal uses.
7. Stand-alone wind turbine constructed for residential or farm use.

8. Solar or other alternative energy generation for residential or farm use.

C. Uses permitted as conditional use.

Within the RR-1, Rural Residential-1 District the following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with Article XV, any applicable supplemental regulations of Article XII, and any other applicable provisions of the Ordinance:

1. Public or private academic schools.
2. Veterinary hospitals, kennels, and animal shelters.
3. A building, structure, or facility owned and used by an electric, telephone, or other public utility or other government regulated industry, but not including communications towers or communications equipment buildings.
4. Wind energy facility in accordance with the Wind Energy Facilities Ordinance and any amendment thereto.
5. Bed and breakfast.

D. Accessory Uses.

The following accessory uses shall be permitted, where in compliance with all applicable provisions of Article XII, Supplemental Regulations, and Article XIII, General Regulations and Design Standards, and provided that they shall be incidental to any of the foregoing permitted uses:

1. Private garage or private parking area.
2. Other customary accessory structures and uses.
3. Signs.
4. Home Occupation
5. Temporary roadside stand.
6. Non-commercial swimming pool in compliance with Ordinance No. 53 and any amendment thereto.
7. Outdoor solid fuel burning appliance as an accessory to a single family dwelling pursuant to Article XIII, Section 1300.A.4.

Section 502. AREA, BULK AND DEVELOPMENT REGULATIONS

A. Residential Area & Bulk Regulations:

1. Minimum Lot Area: Two (2) acres.
2. Minimum Lot Width: 150 feet.
3. Minimum Front Yard Setback: thirty-five (35) feet.
4. Minimum Rear Yard Setback: thirty-five (35) feet.
5. Minimum Side Yard Setback: twenty (20) feet one yard, fifty (50) feet aggregate.

6. Maximum Lot Coverage: fifteen (15) percent.
 7. Maximum Building Coverage: ten (10) percent.
 8. Maximum Building Height: thirty-five (35) feet, except as otherwise permitted by Section 1300.F.
- B. All Other Uses. The following standards shall apply to tracts or lots used for any principal use permitted by right, special exception or conditional use, and except where otherwise provided in this Ordinance:
1. Minimum Lot Area: three (3) acres.
 2. Minimum Lot Width: 200 feet
 3. Minimum Front Yard Setback: fifty (50) feet
 4. Minimum Rear Yard Setback: fifty (50) feet.
 5. Minimum Side Yard Setback: fifty (50) feet.
 6. Maximum Lot Coverage: twenty (20) percent.
 7. Maximum Building Coverage: ten (10) percent.
 8. Maximum building height: thirty-five (35) feet, except as otherwise permitted by Section 1300.F.

Section 503. OTHER APPLICABLE ORDINANCE PROVISIONS

- A. For additional requirements and design standards applicable to this district and uses permitted herein, refer to the provisions of Article X, Natural Resource Protection Standards; Article XI, Historic Resource Protection Standards; Article XII, Supplementary Regulations; and Article XIII, General Regulations and Design Standards.

ARTICLE VI

RR-2 – RURAL RESIDENTIAL-2 DISTRICT

Section 600. INTENT

In accordance with the objectives of the Southwestern Lehigh County Comprehensive Plan, and in addition to achieving other community development objectives of Section 104, the RR-2, Rural Residential-2 District is intended to:

- A. Provide for new residential development in attractive subdivisions designed to conserve land and respect the natural, historic, and scenic qualities of the parcel and surrounding lands;
- B. Discourage conventional, sprawling subdivisions that consume land, create artificial views, and require high amounts of impervious surface;
- C. Serve as the Township's primary residential growth area, although continuing to rely on the use of on-lot water and sewage disposal systems; and
- D. Provide for the receipt of Transferable Development Rights (TDRs).

Section 601. USE REGULATIONS

- A. Uses permitted by right.

A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any one of the following principal uses, together with the permitted accessory uses, by right in accordance with the terms of the Ordinance:

- 1. Single-family detached dwelling under any applicable development option.
- 2. Agriculture.
- 3. Forestry, where conducted in compliance with the provisions of Section 1004, 1005 and Section 1200.A.31 of this Ordinance.
- 4. Conservation uses including woodlands preserve, game preserve, arboretum or other similar use.
- 5. Nursery, tree farm or similar silvicultural use.
- 6. Commercial greenhouses excluding on-premises retail selling.
- 7. Home related business.

- B. Uses permitted by special exception.

Within the RR-2, Rural Residential-2 District the following uses may be permitted by the Zoning Hearing Board as a Special Exception in accordance with Article XIV; and the applicable supplemental regulations of Article XII; and any other applicable provision of this Ordinance. Special Exception uses shall be compatible with the surrounding neighborhood and shall not be detrimental to public health, safety, or welfare:

1. Membership club or lodge.
2. Outdoor recreational use
3. Temporary dwelling for family member(s).
4. Non-nuisance industry.
5. Church or other place of worship, Sunday School, parish house.
6. Municipal uses.
7. Stand-alone wind turbine constructed for residential or farm use.
8. Solar or other alternative energy generation for residential or farm use.

C. Uses permitted as conditional use.

Within the RR-2, Rural Residential-2 District the following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with Article XV, any applicable supplemental regulation of Article XII, and any other applicable provisions of the Ordinance:

1. Single-family dwellings and two-family dwellings in accordance with the Open Space Design Option of Article VIII.
2. The receipt of Transferable Development Rights (TDRs) under the applicable provisions set forth in Article IX.
3. Public or private academic schools.
4. Veterinary hospital, but excluding kennels for commercial boarding.
5. A building, structure, or facility owned and used by an electric, telephone, or other public utility or other government regulated industry, but not including communications towers or communications equipment buildings.
6. Wind energy facility in accordance with the Wind Energy Facilities Ordinance and any amendment thereto.
7. Bed and breakfast.

D. Accessory Uses.

The following accessory uses shall be permitted, where in compliance with all applicable provisions of Article XII, Supplemental Regulations, and Article XIII, General Regulations and Design Standards, and provided that they shall be incidental to any of the foregoing permitted uses:

1. Private garage or private parking area.
2. Other customary accessory structures and uses.
3. Signs.
4. Temporary roadside stand.
5. Home Occupation.
6. Non-commercial swimming pool in compliance with Ordinance No. 53 and any amendment thereto.
7. Outdoor solid fuel burning appliance as an accessory to a single family dwelling pursuant to Article XIII, Section 1300.A.4.

Section 602. AREA, BULK AND DEVELOPMENT REGULATIONS

- A. Conventional Residential Development Option.
1. Conventional Residential Area & Bulk Regulations
 - a. Minimum Lot Area: three (3.0) acres.
 - b. Minimum Lot Width: 150 feet.
 - c. Minimum Front Yard Setback: thirty-five (35) feet.
 - d. Minimum Rear Yard Setback: thirty-five (35) feet.
 - e. Minimum Side Yard Setback: twenty (20) feet one yard, fifty (50) feet aggregate.
 - f. Maximum Lot Coverage: fifteen (15) percent
 - g. Maximum Building Coverage: ten (10) percent.
 - h. Maximum Building Height: thirty-five (35) feet, except as otherwise permitted by Section 1300.F.
- B. Open Space Design Option. Subdivision and development in accordance with the Open Space Design Option shall be permitted for parcels of ten (10) or more acres in size, subject to the provisions of Article VIII.
- C. All Other Uses. The following standards shall apply to tracts or lots used for any principal use permitted by right, special exception or conditional use, not subject to any of the residential development options set forth herein, and except where otherwise provided in this Ordinance:
1. Minimum Lot Area: three (3) acres.
 2. Minimum Lot Width: 200 feet
 3. Minimum Front Yard Setback: fifty (50) feet
 4. Minimum Rear Yard Setback: fifty (50) feet.
 5. Minimum Side Yard Setback: fifty (50) feet.
 6. Maximum Lot Coverage: fifteen (15) feet.
 7. Maximum Building Coverage: ten (10) percent.
 8. Maximum building height: thirty-five (35) feet, except as otherwise permitted by Section 1300.F.

Section 603. OTHER APPLICABLE ORDINANCE PROVISIONS

- A. For additional requirements and design standards applicable to uses permitted in this district, refer to the provisions of Article X, Natural Resource Protection Standards; Article XI, Historic Resource Protection Standards; Article XII, Supplementary Regulations; and Article XIII, General Regulations and Design Standards.

ARTICLE VII

VC – VILLAGE CENTER DISTRICT

Section 700. INTENT

In accordance with the objectives of the Southwestern Lehigh County Comprehensive Plan, and in addition to achieving other community development objectives of Section 104, the VC – Village Center District is intended to:

- A. Preserve the historical development patterns of the rural village of Limeport, while allowing for new and infill development that complements the village setting;
- B. Provide for a continued mix of residential, retail, office, and service establishments, and places of community assembly and recreation, in proximity to each other, the scale of which facilitates and promotes pedestrian travel within the rural village setting;
- C. Promote the retention of the historic character of Limeport and its surroundings by requiring an applicant's careful consideration of site design, signage, and building orientation and architectural features, and adaptive re-use of historic structures rather than demolition, among other considerations, when proposing rural village development;
- D. Provide for the logical extension of existing village streets and provide for pedestrian walkways and waysides;
- E. Serve as the Township's local-serving commercial area, recognizing that large-scale retail shopping opportunities and auto-oriented uses are readily available, or planned, in other areas of the southwestern region;
- F. Provide for the receipt of Transferable Development Rights (TDRs).

Section 701. USE REGULATIONS

- A. Uses permitted by right.

Within the VC – Village Center District, subject to the provision of adequate water and sewer services, a building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any one of the following principal uses, together with the permitted accessory uses, by right in accordance with the terms of the Ordinance:

- 1. Single-family or two-family detached dwelling.
- 2. Multi-family dwelling on a parcel or lot less than five (5) acres in size.
- 3. Timber harvesting activities, where conducted in compliance with the provisions of Section 1004, 1005 and 1200.A.31 of this Ordinance.
- 4. Bed and Breakfast.

5. Retail store or shop, provided that no Adult Establishment and no dispensing of gasoline shall be permitted and no drive-thru service shall be permitted by right.
6. General servicing or repair shop, such as watch, clock, radio, TV, computer, or other home appliance repair excepting uses specified in Sections 701.B.3 and 701.C.8.
7. Restaurant, café, tavern, or other place serving food and beverage, with inside and/or outside table service and with or without indoor or outdoor counter service for consumption on- or off-site but excluding drive-thru service.
8. Business or professional office.
9. Bank or other financial institution, provided that no drive-thru service or outside walk-up ATM, or other outside service, shall be permitted by right.
10. Barber shop, beauty shop, self-service laundry establishment, dry cleaning pick-up & drop-off only, tailor or dressmaking shop, or other personal service store or shop.
11. Medical or dental office building or clinic.
12. Post office or library.
13. Indoor entertainment.
14. Funeral home and/or mortuary.
15. Membership club or lodge.
16. Artist studio or design studio.
17. Municipal uses, including fire/ambulance station.
18. Residential units accessory to a principal use, provided that the building containing such units also contains a commercial use on the first floor, and that the dwelling units are located on the upper floors of the building with separate means of access.
19. Home related business.

B. Uses permitted by special exception.

Within the VC-Village Center District, subject to the provision of adequate water and sewer services, the following uses may be permitted by the Zoning Hearing Board as a Special Exception in accordance with Article XIV, any applicable supplemental regulations of Article XII, and any other applicable provisions of this Ordinance. Special Exception uses shall be compatible with the surrounding neighborhood and shall not be detrimental to public health, safety, or welfare:

1. Residential conversions.
2. Temporary dwelling for family member(s).
3. Repair services for major appliances or small engines such as lawnmowers and chain saws, but excluding automotive or other vehicular repair.
4. Church or other place of worship, Sunday School, parish house.
5. Printing, publishing, or photostatic reproduction.
6. Animal hospitals, but excluding kennels for commercial boarding.
7. Outdoor farmers market.

8. Flea market or auction house contained within a completely enclosed building or structure.
9. Stand-alone wind turbine constructed for residential or farm use.
10. Solar or other alternative energy generation for residential or farm use.

C. Uses permitted as conditional use.

Within the VC-Village Center District, subject to the provision of adequate water and sewer services, the following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with Article XV, any applicable supplemental regulations of Article XII, and any other applicable provisions of the Ordinance:

1. Receipt of Transferable Development Rights in accordance with Article IX.
2. Any non-residential principal use otherwise permitted by right or special exception that contains more than five thousand (5,000) square feet of total floor area as provided for in Section 702.I. herein.
3. Multi-use development consisting of any two or more principal uses on a single lot or parcel otherwise permitted by right, special exception, or conditional use, and including shopping center, office complex, or Multiple-residential development. Such uses shall conform to all applicable standards herein, including requirements for receipt of Transferable Development Rights as provided in Article IX.
4. Public or private academic schools.
5. Adult commercial use.
6. Day care center for children or adults.
7. Yard for storage, sale, or distribution of lumber or building materials.
8. Vehicle repair and automobile services. Sale of gasoline or other fuels shall be considered a separate principal use.
9. Sale of gasoline or other fuels.
10. Car wash.
11. Hotel, motel, or inn.
12. Convenience services either proposed as part of, or as an addition to, a principal use, including drive-through, outside walk-up (ex. ATM), or other outside services. Such services shall be considered a separate principal use.
13. Warehousing in an enclosed structure not to exceed 10,000 square feet.
14. Wind energy facility in accordance with the Wind Energy Facilities Ordinance and any amendment thereto.
15. A building, structure, or facility owned and used by an electric, telephone, or other public utility or other government regulated industry, but not including communications towers or communications equipment buildings.

D. Accessory Uses.

The following accessory uses shall be permitted, where in compliance with all applicable provisions of Article XII, Supplemental Regulations, and Article XIII,

General Regulations and Design Standards, and provided that they shall be incidental to any of the foregoing permitted uses:

1. Private garage or private parking area.
2. Other customary accessory structures and uses.
3. Signs.
4. Home Occupation.
5. Non-commercial swimming pool in compliance with Ordinance No. 53 and any amendment thereto.
6. Outdoor solid fuel burning appliance as an accessory to a single family dwelling pursuant to Article XIII, Section 13.A.4.

Section 702. AREA, BULK AND DEVELOPMENT REGULATIONS

A. Area and Bulk Regulations for any Single Principal Use, not part of a Multi-use development:

1. Minimum Lot Area. Every lot shall have a minimum area as set forth hereunder, except that where public sewage disposal is not provided, all lots shall be of sufficient size to comply with Section 703.B herein.
 - a. Single-family detached residential use or mobile home: 20,000 square feet.
 - b. Two-family attached residential use: 10,000 square feet per unit
 - c. Multi-family residential use and any non-residential use: one (1) acre.
2. Minimum Lot Width.
 - a. Lots less than one acre in area: seventy-five (75) feet.
 - b. Lots one acre in area or greater: one hundred (100) feet.
3. Minimum Front Yard.
 - a. Single-family or two-family residential use: twenty (20) feet.
 - b. Multi-family residential use and any non-residential use: thirty-five (35) feet.
 - c. All garages, regardless of use and whether attached or detached, shall be set back a minimum of forty (40) feet from the edge of cartway or from the sidewalk, if any, which ever results in the greater setback, so as to provide space for parking in front of the garage.

4. Minimum Side Yard (each side yard).
 - a. Single-family or two-family residential use: ten (10) feet
 - b. Multi-family residential use and non-residential use: twenty-five (25) feet.
5. Minimum Rear Yard.
 - a. Single-family or two-family residential use: fifty (50) feet.
 - b. Multi-family residential and any non-residential use: forty (40) feet.
6. Coverage Regulations.
 - a. Building coverage: fifteen (15) percent; percentage of lot area may be increased up to thirty (30) percent for non-residential uses through receipt of TDRs, as provided in Article IX.
 - b. Lot coverage: thirty (30) percent; percentage of lot area may be increased up to fifty (50) percent for non-residential uses through receipt of TDRs, as provided in Article IX.
7. Height Restrictions.
 - a. All Residential dwellings: thirty-five (35) feet
 - b. Non-residential uses: twenty-five (25) feet; may be increased: up to forty (40) feet or three and one-half stories through receipt of TDRs, as provided in Article IX.
8. Building Size Limitations.
 - a. For purposes of this section, an individual building shall be considered as a space or contiguous spaces fully separated from any other building. For purposes of this section, abutting buildings shall be considered as an

individual building whether or not separated by permanent walls. The following limitations shall apply to individual structures:

- 1) In the VC – Village Center District, no individual, non-residential building shall contain more than 5,000 square feet of total floor area, except where increased square footage above 5,000 is entirely within an additional story or stories above the first floor or where increased square footage above 5,000 is approved subject to Conditional Use approval and in accordance with all applicable design standards herein.

B. Exceptions to Area and Bulk Regulations for any Single Principal Use.

1. Where a new building or an expansion of an existing building is proposed within the VC District, the minimum building setback from street right-of-way and maximum building height requirements may be modified when all of the following conditions apply:
 - a. There are existing buildings on both sides of the proposed building on the same lot or on adjoining lots and located no more than fifty (50) feet distant from the proposed building.
 - b. The facing buildings need not be occupied, but shall be structurally sound and fit for human occupancy.
2. Upon satisfaction of the conditions of Section 702.B.1, the required setback from the street right-of-way for the proposed building may be reduced to the average of the setbacks of the existing buildings satisfying the aforesaid conditions, except that under no circumstances shall the setback from the street right-of-way be less than ten (10) feet.
3. Upon satisfaction of the conditions of Section 702.B.1, the height of the proposed building may be greater than thirty-five (35) feet, up to the height of the taller of the existing buildings satisfying the aforesaid conditions, except where such existing building(s) is a barn, silo, or similar agricultural structure.

C. Area and Bulk Regulations for Multi-Use Development including combinations of two or more principal uses on a single lot or parcel, whether individually permitted by right, special exception, or conditional use, including shopping center, office complex, but excluding Multiple-residential development. Apartments may be provided on floor(s) above ground or first floor area devoted to non-residential use(s) subject to the standards set forth below and shall not be separately regulated as to density or area and bulk.

1. Receipt of a minimum number of TDRs shall be a qualifying condition for any Multi-use Development. The minimum number of TDRs required shall equal the number of principal uses proposed within the Multi-use

Development. Receipt of TDRs shall comply with the provisions of Article IX. All received TDRs complying with this requirement also may be applied toward increased building or lot coverage or building height as stated below, and as provided in Article IX.

2. Minimum Lot Area

- a. Shopping center or office complex: five (5) acres
- b. Other permitted uses: two (2) acres

3. Minimum Lot Width: three hundred (300) feet

4. Minimum Front Yard; building setbacks: fifty (50) feet
from private internal access drives may
be reduced to twenty-five (25) feet.

5. Minimum Side Yard (each side yard): twenty-five (25) feet

6. Minimum Rear Yard: twenty-five (25) feet

7. Coverage Regulations.

- a. Building coverage: fifteen (15) percent;
percentage of lot area may be
increased up to thirty (30)
percent through receipt of
TDRs, as provided in
Article IX.
- b. Lot coverage: thirty-five (35) percent;
percentage of lot area may be
increased up to sixty-five
(65) percent through receipt
of TDRs, as provided in
Article IX.

8. Building Height: twenty-five (25) feet; may be
increased up to forty (40) feet
or three and one-half stories
through receipt of TDRs, as
provided in Article IX.

D. Area and Bulk Regulations for Multiple-Residential Development, except for
apartments provided on floor(s) above ground or first floor area devoted to non-
residential use(s), as provided above.

1. Minimum lot or parcel area: five (5) acres

2. Minimum lot (parcel) width: three hundred (300) feet
3. A minimum of twenty (20) percent of the lot area or parcel shall comprise permanent open space. Such open space may be included within the buildable site area for purposes of calculating permitted residential density as provided below. Additional lands, including lands not contributing to calculation of buildable site area, may also be included in designated open space. Ownership and maintenance of open space shall comply with the provisions of Article VIII, Sections 804 B. and C.
4. Maximum Residential Density, measured in dwelling units (du):
 - a. Without receipt of TDRs: three (3) dwelling units per acre
 - b. With receipt of TDRs as provided in Article IX. up to six (6) dwelling units per acre
5. Minimum Parcel Perimeter Setback: fifty (50) feet
6. Minimum Front Yard: fifty (50) feet; building setbacks from private internal access drives may be reduced to twenty five (25) feet.
7. Minimum Separation Between Residential Structures:
 - a. side to side, within sixty (60) degrees of parallel, at the narrowest point: twenty five (25) feet
 - b. any other measurement of building separation: fifty (50) feet
8. Maximum Length of Individual Residential Structure: one hundred (150) feet
9. Coverage Regulations.
 - a. Building Coverage: fifteen (15) percent; percentage of lot or parcel may be increased up to twenty-five (25) percent through receipt of TDRs, as provided in Article IX.
 - b. Lot coverage: thirty (30) percent; percentage of lot or parcel may be increased up to fifty

(50) percent through receipt of TDRs, as provided in Article IX.

10. Building Height: twenty-five (25) feet; may be increased up to forty (40) feet or three and one-half stories through receipt of TDRs, as provided in Article IX.

11. Total maximum impervious surfaces (lot coverage) for multi-family units or any other dwelling units not provided with individual lots shall be limited to forty (40) percent of the net buildable site area devoted to such dwelling units.

- a. The buildable site area used to satisfy this requirement shall be indicated on submitted plans and shall constitute a single contiguous land area including buildings, parking, access, and yard areas clearly associated with and in the immediate vicinity of the subject dwelling units.
- b. The buildable site area indicated on the plans shall not include any land area that is counted toward meeting minimum yard area or coverage requirements for any other dwelling units or other permitted use.

12. Where applicable, the applicant shall indicate the maximum lot coverage and the location of the building envelope on each lot at the time of preliminary plan submission. The approved lot coverage limitation and building envelope location for each lot shall be included on the record plan.

E. Additional Standards for Multi-Use Development, developed as provided in Section 702.C, above.

1. A tract of land to be developed for Multi-use development shall be under single and separate ownership, or, in the case of multiple ownership, shall be developed according to a single overall plan with common authority and responsibility.
2. The tract and all uses thereon shall have access to the road network via common point(s) of ingress and egress. No individual use shall have an access designed in such a way that other uses within the development are excluded from utilization of such access.
3. The development plan shall satisfy all applicable requirements of the Lower Milford Township Subdivision and Land Development Ordinance and shall further show:
 - a. A unified layout of buildings and lots;

- b. A master plan for landscaping; and
 - c. Parking areas and internal circulation – both vehicular and pedestrian including the point(s) of access to the public road system.
4. Where a Multi-use development constitutes a shopping center, all retail stores shall be under common ownership and may not be owned separately, except that a store containing at least 30,000 square feet may be owned separately under a condominium arrangement if Lower Milford Township approves the contractual provisions relating to matters which affect continuing responsibility for maintenance of common elements such as parking areas, storm water control facilities, sewage disposal, etc.
5. Uses permitted in a shopping center shall be limited to the following:
- a. Retail sale of goods and services
 - b. Financial services and offices
 - c. Business, professional, or medical offices
 - d. Eating and drinking establishments, including Fast food restaurants with or without drive-through service
 - e. Indoor entertainment, as defined herein.

Section 703. SEWER SERVICE

- A. Public sewage disposal services shall be required for any use in the VC – Village Center District, except as provided in subsection B. below.
- B. Where public or community sewage disposal service is not available and cannot reasonably be made available, any use permitted in the VC district and proposing an individual on-site sewage disposal system shall include:
 - 1. a minimum contiguous area suitable for on-site sewage disposal, and of sufficient size to accommodate disposal of all sewage generated on-site in conformance with all applicable regulation; and,
 - 2. provision for a replacement disposal system.

In no case shall such minimum contiguous area be less than three thousand (3,000) square feet for single-family detached and attached (twin) residential uses, and ten thousand (10,000) square feet for multi-family residential and non-residential uses.

Section 704. DESIGN STANDARDS.**A. Architectural Design.**

1. To the extent practicable, all new construction and/or additions to existing structures within the VC - Village Center District shall be designed with either a traditional village architectural character or may be a contemporary expression of traditional styles and forms, respecting the scale, proportion, roof pitch, character, and materials of historic examples in the Village of Limeport and the surrounding area, in accordance with the following standards:
 - a. Where any individual building façade (or adjoining facades which abut flush to the same building line) is visible from any public right-of-way or public space (including internal public spaces within a development) and exceeds sixty (60) feet in length, there shall be a clear dimensional differentiation of roofline (i.e., an obvious difference in height) and/or an offset in facade of at least ten (10) feet, effectively breaking the single facade into two or more facades each no more than sixty feet in length. Where approved by the Board of Supervisors as a Conditional Use, single facades greater than sixty (60) feet in length may be permitted, where Applicant demonstrates to the satisfaction of the Board that the design of the building and its relationship(s) to surrounding buildings and landscaped areas mitigates any negative impacts of long continuous building facade(s) on the character of the VC – Village Center District. Mitigating factors may include design which emulates characteristic historical building forms which typically included relatively long individual facade lengths such as barns, stables, churches, meeting houses, or other public buildings. Building arrangements which rely on repeated use of the same long facade element shall not be approved.
 - b. New construction shall generally have pitched roofs with overhanging eaves. Where flat roofs are provided, they shall be articulated with parapets and cornices. Desired materials on pitched roofs include slate (either natural or manmade), shingle (either wood or asphalt composition), and metal formed to resemble “standing seams.” Roof color should reflect local traditional use of color.
 - c. Exterior wall materials may include stucco, wood clapboard (including vinyl or aluminum imitation clapboard siding), native stone, brick, or other material of a shape, color, and texture similar to that found on historic structures in the vicinity.

- d. Commercial activities shall be conducted within enclosed buildings and outdoor storage of equipment, materials, or similar items shall be prohibited except where consistent with Section 1300.D of this Ordinance.
 - e. All facilities and equipment for heating/air conditioning, trash collection and compaction, and other structural elements not in keeping with historical architectural themes shall be concealed architecturally or otherwise screened from view from any public right-of-way or public space (including internal public spaces within a development).
2. For all principal and/or accessory uses permitted by special exception, variance or conditional use approval, Applicant shall provide drawings of sufficient detail to illustrate the character of the intended exterior design of structures, including scale, height, roof pitch, relationship between varying façade elements, and principal exterior materials. The Township may require that material samples also be provided. It shall be the burden of the applicant to demonstrate that submitted architectural designs are consistent with, and promote, the purposes and standards set forth for the VC - Village Center District.
 3. Where the Board of Supervisors or Zoning Hearing Board, as applicable, determines that architectural design, as presented by Applicant, is an essential means by which the proposed use will comply with the purposes and standards set forth for the VC - Village Center District, the applicable Board may require, as a condition of approval of any conditional use, special exception or variance, establishment of appropriate means to guarantee adherence to the intended architectural character as proposed by the Applicant.
- B. Preservation of Historic Resources in Addition to Provisions Contained in Article XI of this Ordinance.
1. Within the VC – Village Center District, historic structures and other historical resources, including historic ruins or sites, historic stadiums or ballfields, historic road or other transport traces, paths and trails, and any other historic landscape features, shall be preserved to the greatest degree practicable.
 2. Within the VC – Village Center District, no historic structure, as identified on the Lower Milford Township Historic Survey and/or Historic Map, shall be removed or demolished except where approved by the Township.
 3. The following standards shall apply to the rehabilitation, alteration, or enlargement of any historic resource requiring a building permit, unless such alteration is required solely for purposes of compliance with applicable

building code, ADA or other regulation, or where modified by the Board of Supervisors as a condition of Conditional Use approval:

- a. Construction plans for the rehabilitation, alteration or enlargement of any historic structure in compliance with the Secretary of the Interior's currently adopted Standards for Rehabilitation, as revised, is strongly encouraged by Lower Milford Township.
- b. Landscape plans shall be submitted with any relevant application committing the Applicant to preservation of existing landscape material and/or introduction of new landscape material so as to retain and/or enhance the integrity of the historical landscape setting.

C. Pedestrian and Vehicular Access.

1. Pedestrian access within the VC - Village Center District shall be designed to provide convenient, safe, and direct access between the various uses within the district and other nearby concentrations of development. Sidewalks shall be provided on both sides of existing and proposed streets, and across the frontage of each lot as determined by the Township. Design and location of sidewalks may be adjusted as necessary to permit conservation of significant existing vegetation, historic structures or other significant landscape features. A sidewalk need only be provided on one side of an existing or proposed street where the other side's pedestrian access needs are addressed through the provision of an existing trail, or one to be constructed at the same time as the development requiring the sidewalks.
2. Vehicular access within the VC - Village Center District shall be designed to limit the number of new access points to public roads and to limit potential for turning movement conflict. Where practicable, access to adjoining parcels shall be combined so as to limit potential turning movement and pedestrian movement conflicts. New access points to public roads shall not be located less than two hundred (200) feet from any other access point to a public road, except where approved as a conditional use where Applicant demonstrates to the satisfaction of the Board of Supervisors that compliance with this provision is not reasonably feasible and that other access management techniques are adequately employed to mitigate the impacts of more than one access point in close proximity.
3. Parking areas within the VC - Village Center District shall be designed and landscaped so as to appear broken in mass, in proportion to the scale of structural development. Coordination of access to parking areas and shared parking among adjacent uses shall be required wherever practicable. Parking shall not be provided in the front yard, except where approved by the Board of Supervisors as a condition of conditional use approval, where the Board is satisfied that no other practical location is available for required parking. To

the greatest extent practicable, all off-street parking shall be located at the rear of the lot, accessed by private alleys or driveways, and shall be screened from view of any public street, non-motorized accessway, or neighboring residence. The use of secondary access streets or alleys is encouraged as a means of accessing off-street parking. To the extent that parking areas are visible from public streets, visual impacts shall be mitigated through introduction of landscape screening, landscape walls, use of pedestrian paving materials, or other design means.

4. Streets within the VC- Village Center District shall be interconnected with each other and with streets on abutting properties, and designed to calm traffic speeds and promote pedestrian movement. Applicants shall refer to the Traffic Calming Handbook published by the Pennsylvania Department of Transportation (PennDOT). Cul-de-sacs shall not be used, unless no other street layout is physically possible. An applicant who proposes to use cul-de-sac streets shall submit a written request, with a justification and rationale related to the physical conditions of the site and surrounding streets which preclude interconnection, to the Planning Commission. The Planning Commission shall have the ability to permit the use of cul-de-sac streets where interconnection is not physically feasible.
5. To the maximum extent practicable, alleys shall be provided to move vehicular access to the rear of the principal structures and thereby improve the appearance of the streetscape. Alleys shall meet the following standards:
 - a. The minimum right-of-way, whether dedicated or not, shall be twenty-eight (28) feet.
 - b. The minimum paved cartway, whether dedicated or not, shall be eighteen (18) feet.
 - c. No parking shall be provided for or permitted within an alley.
 - d. Alleys shall have at least two (2) points of ingress and egress.
 - e. Except as otherwise permitted by the Subdivision and Land Development Ordinance, alleys shall be constructed to Township street construction standards.
 - f. Alleys, which are not accepted for dedication to the Township, shall be provided with permanent easement rights of access to all abutting properties served by the alley. Adequate funds, financial guarantees or ownership arrangements shall be provided to ensure snow plowing, maintenance, and repair by the property owners served by the alley.

- D. Maximum Front Yard Setback. Except for garages subject to Section 702.D.3 of this Article, buildings shall be set back not more than five (5) feet greater than the minimum specified front yard requirement.
- E. Streetscape Design.
1. Streetscape landscaping and pedestrian amenities shall be provided as necessary to meet overall village planning objectives, as articulated in the Southwestern Lehigh County Comprehensive Plan, and shall be coordinated with adjacent properties. Where appropriate, the Township may require installation and provision for regular upkeep and maintenance of specific public amenities, including but not limited to trash receptacles, benches of approved design and at appropriate intervals, and bicycle racks.
 2. Where provided, sidewalks shall be constructed of brick, concrete, concrete pavers, or concrete with brick borders; selection of paving material(s) shall be compatible with that existing or planned on neighboring properties. Sidewalks shall be no less than five (5) to six (6) feet in width and may, at the discretion of the Township, be required to be eight (8) to ten (10) feet in width along the frontage of commercial or mixed-use properties or where streetscape amenities such as benches, trash receptacles, bicycle racks or similar amenities are or are intended to be provided.
 3. Planting strip(s) no less than five feet in width and planted with shade trees shall be provided between sidewalks and streets and other vehicular accessways, to the extent feasible. Shade trees shall consist only of shade trees listed in the Township's approved plant list contained in the current Subdivision and Land Development Ordinance.

F. Stormwater Management.

Within the VC - Village Center District, all stormwater management facilities shall be designed to optimize the capture of storm water at the sources of generation, maximize recharge to the subsurface and minimize surface water flow. Guidance for storm water management shall use the most current Best Management Practices recommended by the Pennsylvania Department of Environmental Protection (PADEP).

Section 705. OTHER APPLICABLE ORDINANCE PROVISIONS

- A. For additional requirements and design standards applicable to uses permitted in this district, refer to the provisions of Article X, Natural Resource Protection Standards; Article XI, Historic Resource Protection Standards; Article XII, Supplementary Regulations; and Article XIII, General Regulations and Design Standards.

ARTICLE VIII

OPEN SPACE DESIGN OPTION

Section 800. PURPOSE

- A. To conserve open land, including those areas containing unique and sensitive natural resources such as woodlands, steep slopes, streams, floodplains, and wetlands.
- B. To provide greater design flexibility and efficiency in the siting of buildings and infrastructure, including the opportunity to reduce length of roads, utilities, and the amount of paving and impervious surface required for residential development.
- C. To reduce erosion and sedimentation through the retention of existing vegetation, the minimization of development on steep slopes, and the reduction of earth disturbance.
- D. To provide for a diversity of lot sizes, building densities, and housing choices.
- E. To implement the policies of the *Southwestern Lehigh County Comprehensive Plan* to protect environmentally sensitive areas, address recreation and open space needs, and to preserve the Township's scenic and rural character.
- F. To implement the policies of the *Southwestern Lehigh Comprehensive Plan* in regard to land use and agricultural preservation goals and meeting Township housing needs.
- G. To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space and with strong neighborhood identity.
- H. To provide options for landowners to minimize impacts on sensitive environmental resources, reduce disturbance of natural and cultural features, and conserve scenic views.
- I. To provide flexible standards for addressing varying circumstances and interests of individual landowners and the unique characteristics of their properties.

Section 801. GENERAL REGULATIONS

- A. Minimum Tract Area. A tract of land using the Open Space Design Option shall be of sufficient area to permit the development of not less than three (3) dwelling units under applicable density calculation, but no less than ten (10) acres in size.

B. Permitted Uses.

Except as limited pursuant to Section 801.A above, use of the Open Space Design Option may include any principal and accessory residential use(s) permitted in the base zoning district and any open space use(s) pursuant to Section 804.A.2 hereinafter set forth, subject to all applicable regulation herein.

C. Applicable Approval Process.

1. Use of the Open Space Design Option shall be limited to the RC and RR-2 Districts, and when approved by the Board of Supervisors as a conditional use in accordance with the provisions of Article XV.
2. Sketch Plan Submission. Any applicant for use of the Open Space Design Option is strongly encouraged to submit a Sketch Plan to the Lower Milford Township Planning Commission in accord with the Sketch Plan Submission provisions of the current Subdivision and Land Development Ordinance. In addition to the purposes defined in the current Subdivision and Land Development Ordinance, the purpose of the Sketch Plan submission is to discuss community development and open space resource conservation objectives with the Planning Commission prior to formal conditional use or subdivision or land development application. The Sketch Plan shall consist of those maps and materials listed in the current Subdivision and Land Development Ordinance. Upon written request from the applicant and if the Board of Supervisors and Planning Commission have previously reviewed a Sketch Plan and site analysis of the proposed development, the Board of Supervisors may elect to consider the preliminary subdivision plans concurrently with the Conditional Use approval where applicable.

D. Water Supply.

All uses shall be served by individual water supply systems located on the same lot as the use being served and adequate to supply the intended use. As part of a conditional use application, the use of the development's open space for water supply wells may be requested subject to the provisions of Section 804.A.2.f.

E. Sewage Disposal.

All uses shall be served by individual on-lot sewage disposal systems with both the primary system and a suitable replacement system location available on the same lot as the use being served. Submission of appropriate soil test results shall be required in order to demonstrate suitability of both primary and potential replacement system locations. As part of a conditional use application, the use of the development's open space for the replacement drainfield location may be requested subject to the provisions of Section 804.A.2.f.

F. Single Plan.

The tract, or tracts in the case of contiguous or non-contiguous parcels, of land to be developed shall be in one ownership or, if in multiple ownership, shall be developed according to a single plan with common authority and responsibility.

Section 802. DENSITY, AREA & BULK REGULATIONS.A. Permitted Density Calculation.

Except where additional density is permitted through receipt of transferable development rights as provided in Article IX, the maximum permissible number of lots or dwelling units on any tract utilizing the Open Space Design Option (OSDO) shall be calculated by multiplying the Net Buildable Site Area (see Section 1009.F) by the multiplier stipulated for each zoning district as provided below. The product of any such calculation may be rounded to the nearest whole number:

<u>Zoning District & Conditions</u> <u>for use of Applicable Multiplier</u>	<u>Applicable Density Multiplier</u>
RC-Resource Conservation District	0.40
RR-2 Rural Residential-2 District	0.50

Applicant is advised that the maximum number of units calculated under the provisions herein may not always be achievable while meeting requirements for minimum restricted open space and all other standards, criteria, and regulations herein.

B. Minimum Restricted Open Space. Except where adjusted to facilitate the use of transferable development rights as provided in Article IX, the minimum restricted open space shall be provided in each zoning district as follows:

1. RC-Resource Conservation District: sixty-five (65) percent of the net tract area.
2. RR-2 Rural Residential-2 District: sixty-five (65) percent of the net tract area.

C. Density and Open Space Determinations for Split-zoned Properties.

1. Density Calculations. Where a single contiguous tract of land falls into more than one zoning district, the gross density of development permitted shall be calculated separately based on permitted residential use in each zoning district. Where the applicant demonstrates to the satisfaction of the Board of Supervisors that a development more fully in compliance with the objectives

of this Article shall result, the gross density of development on the entire tract may be calculated as the sum of the density calculations made for each district separately. In such cases, ultimate placement of dwelling units may reflect a uniform plan for the entire tract without regard to zoning district boundaries within the tract.

2. Open Space Calculations. Where a contiguous tract of land falls into more than one zoning district, the open space requirement for the entire tract shall be calculated as the sum of that required in each district separately, without regard to ultimate geographic location of open space parcels relative to each zoning district.

D. Residential Area and Bulk Regulations for OSDO developments.

1. Minimum Individual Lot Area: 30,000 square feet.
2. Minimum Lot Width: one hundred twenty (120) feet.
3. Minimum Tract Perimeter Yard: Any yard abutting the pre-existing perimeter of the tract shall comply with the conventional setbacks set forth in the base zoning district, notwithstanding the provisions set forth below.
4. Minimum Front Yard:

<u>RC District</u>	<u>RR-2 District</u>
forty (40) feet.	thirty-five (35) feet.
5. Minimum Rear Yard:

forty (40) feet.	thirty-five (35) feet
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6. Minimum Side Yard:

twenty (20) feet.	twenty (20) feet
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7. Additional Building Setbacks. In addition to individual yard setbacks, all new residential structures in an Open Space Design Option (OSDO) development shall meet the following standards unless modified subject to approval as a conditional use:
 - a. From crop or pasture land: one hundred (100) feet.
 - b. From buildings or barnyards housing livestock: three hundred (300) feet.
 - c. From active recreation areas such as courts, playing fields, or golf fairways, greens or driving ranges: one hundred fifty (150) feet.
8. Coverage Regulations:
 - a. Maximum Lot Coverage: twenty-five (25) percent.
 - b. Maximum Building Coverage: fifteen (15) percent.

9. Maximum Building Height: thirty-five (35) feet, except as otherwise permitted by Section 1300.F.

Section 803. CONSERVATION & DEVELOPMENT DESIGN STANDARDS

- A. General Development Standards. All applicable standards provided in Article XIII of this Ordinance shall apply to any development utilizing the Open Space Development Option.
- B. Required Design Process.

Use of the Open Space Design Option shall follow a four-step design process as described below and as graphically presented by way of generalized example in Appendix 6 of this Ordinance. Applicants are required to document the design process for the sketch plan and conditional use applications, and in sufficient detail to demonstrate compliance with the following procedure. This procedure is established to guide the design process and is not intended to further constrain density calculations, open space requirements, or area and bulk regulations.

1. Step 1: Delineation of Open Space Lands and Development Areas

Open space lands and development areas shall be delineated according to the following procedure:

- a. All lands excluded or partially excluded from determination of net buildable area shall be delineated.
- b. A preliminary open space network shall be delineated to include lands identified pursuant to Subsection 803.B.1.a above to the greatest extent practicable and consistent with the resource protection standards set forth in Article X. At a minimum, the preliminary open space network shall further include additional lands necessary to meet the minimum restricted open space requirement as calculated in accordance with Section 802.B. This additional open space component shall be delineated so as to effect maximum consistency with the open space design standards set forth herein.
- c. Potential development areas shall constitute the residual areas of the tract(s) once the preliminary open space network has been delineated.

2. Step 2: Location of House Sites

Proposed house sites shall be located within the potential development areas and shall be designed to:

- a. Fit the tract's natural topography, minimizing need for changes in topography or disturbance to existing vegetation;
- b. Be located no less than fifty (50) feet from any area within the preliminary open space network delineated in Step 1;
- c. Provide views of and access to adjoining open space areas (without encroaching upon them in a manner visually intrusive to users of such areas);
- d. Minimize visibility from exterior roads and other properties;
- e. Be able to be served by adequate water and sewage facilities.

3. Step 3: Alignment of Streets and Trails

- a. Once proposed house site locations are identified, the applicant shall delineate a system for vehicular access to each house in a manner conforming to the tract's natural topography and providing for a safe and efficient pattern of circulation and ingress and egress to and from the tract.
- b. Houselots shall generally be accessed from interior streets, rather than from external roads bordering the tract.
- c. The locations of streets and driveways shall minimize intrusion into and adverse impacts to the open space network. Interconnection between separate development areas as well as existing or potential development areas on adjoining tracts shall be encouraged.
- d. A tentative network of trails shall also be delineated, connecting streets and development areas with various natural and cultural features within the open space network. Potential trail connections to adjacent parcels shall also be shown in areas where a Township trail network is envisioned.

4. Step 4: Design of Lot Lines

Lot lines for the subdivision should be drawn as the last step in the design procedure. They should follow the configuration of house sites and streets in a logical and flexible manner, should be consistent with the applicable dimensional standards of Sections 802.D, as applicable, and should provide for logical management of open space areas consistent with the provisions of this Section.

- C. Architectural Design. It is not the intention of the Township to govern specific architectural design or to link conditional use approval to any specific architectural design criteria. However, the applicant shall be required to

demonstrate that the intended architectural design, selected by the applicant, is consistent with, and promotes the purposes of this Article and the standards set forth herein. For all structures developed under the Open Space Design Option, excepting Single-Family and Two-Family Dwellings, the following provisions shall apply:

1. Applicant shall submit drawings illustrating the general character of the intended exterior design of structures, including principal exterior materials;
2. For principal structures in excess of eighty (80) feet in length, the applicant shall demonstrate sufficient variation in roofline and articulation of facade to mitigate the visual impact of long continuous building facades;
3. Where the Board of Supervisors determines that architectural design, as presented by the applicant, is an essential means by which the proposed development will comply with the purposes and standards of this Article, the Board may require, as a condition of approval, establishment of appropriate means to guarantee general adherence to the intended architectural character. Examples of such situations include development design replicating the general scale and appearance of a village or of a rural farmstead;
4. Applicant shall address proposed means of long-term maintenance of exterior building facades and landscaping to the satisfaction of the Board of Supervisors, for example, including where appropriate establishment of covenants and/or home-owners association documentation. In granting approval of any conditional use, the Board of Supervisors may establish appropriate conditions to require provision for long term maintenance of exterior building facades and landscaping.

D. Special Provisions for Conservation of Historic Resources.

1. Historic resources shall be preserved to the greatest degree practicable, through incorporation into development plans and design, including historic structures, ruins or sites, historic road or other transport traces, paths and trails, and any other historic landscape features.
2. Density Bonus for Conservation of Historic Resources.

In addition to the maximum permissible number of lots or dwelling units otherwise permitted on any tract developed under the Open Space Design Option, Applicant may provide dwelling units and lots therefore through the renovation or adaptive reuse of structures included in the Historic Sites Survey of Lower Milford Township subject to compliance with the standards in Section 803.D.3 below. Except where physically infeasible due to existing locational and/or structural attributes, all such dwelling units must comply with applicable

lot and yard area requirements for the base zoning district in which the structure is located.

3. Standards for Historic Resources Utilized for Density Bonus.

Where maintenance, renovation or reuse of any structure included in the Historic Sites Survey of Lower Milford Township is proposed in order to develop dwelling units in addition to the maximum otherwise permissible, the applicant shall comply with the following standards:

- a. Applicant shall demonstrate to the satisfaction of the Board of Supervisors that development plans involving historical structures shall adequately conserve the historical integrity of such structures, particularly in terms of how they are viewed from any adjacent public street or road;
- b. Authentic period materials and colors or appropriate modern replication shall be utilized on any portion of any historic structure or enlargement thereof visible from any existing or proposed public right-of-way;
- c. Applicant shall maintain sufficient landscaped or buffer area surrounding historic structures to retain the integrity of the historical landscape setting. Applicant may demonstrate mitigation of impacts to historical landscape setting through introduction of vegetation or other screening in harmony with such landscape setting and through retention of view lines which visually link historic structures to their landscape setting;
- d. Facilities and equipment for heating/air conditioning, trash collection and compaction, and other structural elements not in keeping with historical architectural themes shall be concealed architecturally or otherwise screened from view;
- e. Where bonus density is provided, Applicant shall provide for long-term protection of affected historic structures through establishment of appropriate deed restrictions, easement(s) or other agreement in a form acceptable to the Township.

E. Open Space Resource Protection. The location of proposed open space shall take into consideration the resource protection, open space, and potential trail corridor recommendations of the *Southwestern Lehigh County Comprehensive Plan*. During the conditional use review process, the Board of Supervisors shall be satisfied that the applicant has incorporated the following resources into the open space to the fullest extent practicable:

1. Stream channels, floodplains, wet soils, swales, springs and other lowland areas, including adjacent buffer areas required to ensure their protection.

2. Significant natural areas of species listed as endangered, threatened, or of special concern, such as those listed in the Statewide Natural Diversity Inventory.
3. Moderate to steep slopes, particularly those adjoining water courses and ponds, where disturbance and resulting soil erosion and sedimentation could be detrimental to water quality.
4. Healthy woodlands, particularly those performing important ecological functions such as soil stabilization and protection of streams, wetlands and wildlife habitats.
5. Areas where precipitation is most likely to recharge local groundwater resources because of topographic and soil conditions affording high rates of infiltration and percolation.
6. Hedgerows, groups of trees, large individual trees of botanic significance, and other vegetation features representing the site's rural past.
7. Class I, II and III agricultural soils as defined by the USDA Natural Resource Conservation Service.
8. Historic structures and sites.
9. Visually prominent topographic features such as knolls, hilltops and ridges, and scenic viewsheds as seen from public roads (particularly those with historic features).
10. Existing trails connecting the tract to other locations in the Township.

Section 804. OPEN SPACE DESIGNATION & MANAGEMENT STANDARDS

A. Open Space Designation & Use.

1. The location and layout of restricted open space shall be configured so as to serve residents adequately and conveniently and to promote adherence to resource protection standards in Section 803.E above, and shall further conform to the following conditions:
 - a. A portion of the designated restricted open space equal in area to no less than twenty-five (25) percent of the gross tract area shall exclude areas comprised of designated flood hazard districts, wetlands, slopes in excess of twenty-five (25) percent, sewage treatment or disposal facilities or areas, stormwater management basins, areas devoted to golf or commercial recreation.

- b. No portion of the designated restricted open space shall be measured as contributing to the minimum required restricted open space area where it:
- 1) is within twenty-five (25) feet of any residential structure except historic structures;
 - 2) is occupied by any parking area or any non-residential structure except historic structures and structures devoted to permitted agricultural or non-commercial recreational use(s);
 - 3) extends less than seventy-five (75) feet in the narrowest dimension at any point;
 - 4) comprises stormwater management facilities, except that areas devoted to stormwater management facilities may be included within the minimum required restricted open space area where the Applicant can demonstrate to the satisfaction of the Township Engineer that such facilities are designed to:
 - a) promote recharge of the groundwater system;
 - b) be available and appropriate for active or passive recreational use or scenic enjoyment; and
 - c) otherwise conform to the purposes, standards, and criteria for open space set forth in this Article.

For example, a long low berm graded to reflect natural contour could be designed to: 1) blend into the scenic landscape; 2) permit passive recreational use over the top of it; while 3) providing a relatively large linear area for seepage of stormwater into the groundwater system.

- c. Open space shall be interconnected with open space areas on abutting parcels wherever possible to promote the establishment of an interconnected and continuous network of open space, and shall include, where appropriate, provisions for pedestrian pathways for general public use to create linked systems within the Township.
2. Use of Open Space. Areas designated for open space purposes, regardless of ownership, may be used for any of the following:
- a. Conservation of open land in its natural state (e.g., woodland or managed meadow);

- b. Agricultural and horticultural uses, including raising crops or livestock and wholesale nurseries. Intensive agricultural uses may only be permitted where approved as a conditional use where consistent with the provisions of Article XV and where the Board of Supervisors is satisfied that such use(s) may be conducted in a manner not detrimental to any neighboring residential use.
- c. Forestry, if conducted in compliance with the woodland protection standards of Section 1004, 1005 and the timber harvesting standards of Section 1200.A.31 of this Ordinance.
- d. Public, common, or private green, park or outdoor recreation area. Commercial recreational use(s) may be permitted where approved as a conditional use where the Board of Supervisors is satisfied that such use(s) are consistent with the purposes of this Section.
- e. Golf courses, subject to the restriction set forth in Article XII, Supplemental Regulations.
- f. Individual water supply facilities and individual sewage disposal systems to the extent that it is not practicable to locate such facilities on individual lots. The placement of individual water and individual sewer facilities in open space areas shall be subject to all applicable regulations and shall be permitted only where the Board of Supervisors is satisfied that adequate provision(s) for the long-term management and maintenance of such facilities are guaranteed and that the placement of such systems in open space areas does not significantly compromise compliance with all other applicable standards for the designation, use and management of open space;
- g. Stormwater management facilities, subject to the provisions of measurement of minimum required open space stipulated in Section 804.A.1.b.4 above;
- h. Where water, sewer, or stormwater management facilities are located within restricted open space, easements satisfactory to the Board of Supervisors shall be established to require and enable the maintenance of such facilities by the appropriate parties.
- i. Easements for drainage, access, utilities, sewer or water lines, or other public uses. Above ground utility and rights-of-way may traverse open space and conservation areas, but shall not count towards the minimum required open space.

- j. Structures principally used for any of the above permitted open space uses, subject to compliance with any applicable limitations on measurement of minimum restricted open space. The size of any structure proposed for open space as permitted by this subsection is subject to review and approval of the Board of Supervisors as part of any conditional use approval, and shall not result in removal of, or impacts to, any natural or cultural resources which have been specifically protected through the restricted open space design.
 - k. The use of restricted open space for recreational use of All-Terrain Vehicles (ATVs), four-wheel drive vehicles, and motorcycles, and for rifle ranges is specifically prohibited.
- 3. As a condition of approval, the Township may require that open space areas be provided with sufficient perimeter parking, and with safe and convenient access by adjoining street frontage or other rights-of-way or easements capable of accommodating pedestrian, bicycle, and maintenance and vehicle traffic, and containing appropriate access improvements.
 - 4. Open space shall be suitably landscaped either by retaining existing natural cover and wooded areas and/or according to a landscaping plan to protect open space resources.
 - 5. Where open space is proposed for public, common, or private green, park or outdoor recreation area, the Township shall forward the conditional use application to the Recreation and Open Space Board for review and recommendation prior to the Board of Supervisors public hearing.

B. Standards for Ownership of Restricted Open Space.

Except to provide for permitted open space uses, required open space shall be restricted from further subdivision or development by conservation easement, created in a form acceptable to the Township, co-held by at least two separate parties (e.g., the Township, Lehigh County, or a conservation organization), and duly recorded in the office of the Recorder of Deeds of Lehigh County. Subject to such permanent easement and the approval of the Board of Supervisors, restricted open space land in any open space development may be owned by a homeowners' association, the Township, a land trust or other conservation organization recognized by the Township, or by a similar entity, or may remain in private ownership.

1. Offer of Dedication.

The Township may, but shall not be required, to accept dedication in the form of fee simple ownership of restricted open space land. Where the Township accepts dedication of restricted open space land that contains improvements, the

Board of Supervisors may require the posting of financial security to ensure structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed eighteen (18) months from the date of acceptance of dedication. The amount of financial security shall not exceed fifteen (15) percent of the actual cost of installation of said improvements.

2. Homeowners' Association.

The restricted open space land and associated facilities may be held in common ownership by a Homeowners' Association. The Association shall be formed and operated under the following provisions:

- a. The developer shall provide a description of the Association including its bylaws and proposed means of maintaining the open space. The developer shall further provide satisfactory proof of adoption of the Association bylaws and copy of all declaration(s) of covenants, easements, restrictions or similar document(s) regulating the use and maintenance of the property.
- b. The Association shall be organized by the developer and operated with financial subsidization by the developer, before the sale of any lots within the development;
- c. Membership in the Association is mandatory for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the Association from developer to homeowners shall be identified;
- d. The Association shall be responsible for maintenance and insurance on common open space land and any permitted improvements thereon, enforceable by liens placed by the Homeowners' Association. The Township has the right, but not the obligation, to enforce maintenance of common open space land, and may place liens to recover its costs. Any governmental body with jurisdiction in the area where the development is located may place liens on the owners of the lots subject to membership in the Homeowners' Association and/or the open space to collect unpaid taxes;
- e. The members of the Association shall share equitably the costs of maintaining and developing such common land. Shares shall be defined within the Association declaration and bylaws. Association dues shall be structured to provide for both annual operating costs and to cover projected long-range costs relating to the repair of any capital facilities (which shall be deposited in a sinking fund reserved for just such purposes);
- f. In the event of a proposed transfer, within the methods here permitted, of common open space land by the Homeowners' Association, or of the proposed assumption of maintenance of such land by the Township, notice

of such action shall be given to all property owners within the development within 15 days of proposed transfer;

- g. The Association shall have or hire adequate staff to administer common facilities and properly and continually maintain the common open space land;
- h. The Homeowners' Association may lease open space lands to any other qualified person, or corporation, for operation and maintenance of such lands, but such a lease agreement shall provide:
 - 1) that the residents of the development shall at all times have access to the open space lands contained therein (except that access to land that is actively farmed shall be limited to times of the year when the fields are fallow);
 - 2) that the common open space land to be leased shall be maintained for the purposes set forth in this Ordinance; and
 - 3) that the operation of open space facilities may be for the benefit of the residents only, or may be open to the residents of the Township, at the election of the developer and/or Homeowners' Association, as the case may be.
- i. The lease shall be subject to the approval of the Board of Supervisors and any transfer or assignment of the lease shall be further subject to the approval of the Board of Supervisors. Lease agreements so entered upon shall be recorded with the Recorder of Deeds of Lehigh County within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the Secretary of the Township;
- j. Homeowners' Association documentation demonstrating compliance with the provisions herein shall be filed with the Final Subdivision and Land Development Plans. At the time of Preliminary Plan submission, Applicant shall provide draft Homeowners' Association documentation with sufficient detail to demonstrate feasible compliance with this Section.
- k. All applicable Homeowners' Association documentation shall be reviewed and approved by the Township Solicitor and shall be recorded in the Office of the Lehigh County Recorder of Deeds at the time of recording of Final Plans and prior to issuance of any building permit.
- l. Any costs accrued on the part of the Township in regard to the administration, review or approval of any required activities of the Homeowners' Association shall be reimbursed by the Association within ten (10) days after written demand by the Township. Upon failure of the

Association to pay such costs by the time required, there shall be added thereto interest at the rate of fifteen (15) percent per annum as well as all costs incurred by the Township in collection thereof. All such costs, including court costs and attorney's fees, shall constitute a municipal lien and be enforceable as such against the Association and shall apply, pro rata, against all lot owners who are members of the association, in addition to applying to any affected open space.

3. Condominiums.

The restricted open space land and associated facilities may be held in common through the use of condominium agreement(s), approved by the Board of Supervisors. Such agreement shall be in conformance with the Uniform Condominium Act of 1980. All common open space land shall be held as "common elements" or "limited common elements." To the degree applicable, condominium agreement(s) shall comply with the provisions of Section 804.B.2 above, set forth for Homeowners' Associations. Condominium agreement(s) shall be filed with the Final Subdivision and Land Development Plans. At the time of Preliminary Plan submission,

Applicant shall provide draft condominium agreement(s) with sufficient detail to demonstrate compliance with this Section.

4. Dedication of Easements.

The Township may, but shall not be required to, accept easements for public use of any portion or portions of restricted open space land, title of which is to remain in common ownership by condominium or homeowners association, as applicable.

5. Transfer of Easements to a Private or Public Conservation Organization

With the permission of the Township, an owner may transfer easements to a private, nonprofit, organization recognized by the Township, among whose purpose it is to conserve open space and/or natural resources, provided that:

- a. the organization is acceptable to the Board of Supervisors, and is a bona fide conservation organization with perpetual existence;
- b. the conveyance contains appropriate provision for proper reverter or retransfer subject to the approval of the Township in the event that the organization becomes unwilling or unable to continue carrying out its functions; and
- c. a maintenance agreement acceptable to the Board of Supervisors is entered into by the developer and the organization.

6. Private Ownership of Restricted Open Space.

- a. Restricted open space may be retained in ownership by the Applicant or may be transferred to other private parties subject to compliance with all standards and criteria for restricted open space herein.
- b. All or portions of the designated restricted open space, where permitted by the Board of Supervisors, may be included within or divided among one or more of the individual lots. Where deemed appropriate, the Board of Supervisors may require that responsibility for maintenance of restricted open space be conferred upon and/or divided among the owners of one or more individual lots.

C. Maintenance of Open Space and Common Facilities

Unless otherwise agreed to by the Board of Supervisors, the cost and responsibility of maintaining common facilities and open space shall be borne by the property owner, condominium association, homeowners' association, or conservation organization as outlined below.

1. Required Open Space Management Plan.

The applicant shall provide a plan for the long term management of the restricted open space which is to be created as part of the development, including maintenance and management of any wastewater disposal, water supply, stormwater management or any other common facilities which may be located within areas of restricted open space.

a. Open Space Management Plan Information

Such a plan shall include a narrative discussion of the following items:

- 1) The manner in which the restricted open space and any facilities included therein will be owned and by whom it will be managed and maintained;
- 2) The conservation, land management and agricultural techniques and practices which will be used to conserve and perpetually protect the restricted open space, including conservation plan(s) approved by the Lehigh County Conservation District where applicable;
- 3) The professional and personnel resources that will be necessary in order to maintain and manage the property;
- 4) The nature of public or private access that is planned for the restricted open space; and

- 5) The source of money that will be available for such management, preservation and maintenance on a perpetual basis.
 - b. At the time of Conditional Use application, the applicant shall provide a conceptual open space management plan (COSMP) with sufficient detail to demonstrate feasible compliance with the provisions required under this Section.
 - c. At the time of Preliminary/Final Subdivision Plan application, the applicant shall provide the final draft open space management plan incorporating any comments or conditions applied to the COSMP. The Board of Supervisors may require that the final open space management plan be recorded with the Final Subdivision and Land Development Plans, in the Office of the Recorder of Deeds of Lehigh County.
 - d. The Board of Supervisors may require as a condition of subdivision and/or land development approval that appropriate management contracts be established as evidence of the ability to adhere to the provisions of the approved open space management plan.
 - e. In order to allow for the changing needs inherent in the perpetual management of land, the open space management plan shall contain a provision to the effect that it may be changed by written application to the Board of Supervisors. Approval of such application by the Board shall not be unreasonably withheld or delayed, so long as:
 - 1) The proposed change is feasible, is consistent with the purposes of preservation of open space set forth in this Section and with the approved subdivision and land development plans; and
 - 2) The plan for such change avoids a likelihood of the obligation for management and maintenance of the land falling upon the Township without the consent of the Board of Supervisors.
2. Provisions for Maintenance of Restricted Open Space

- a. In the event that a homeowners' association, condominium, any successor organization, or any owner of the open space shall, at any time after establishment of a development containing open space land, fail to maintain such land in reasonable order and condition in accordance with the development plan, the open space management plan and/or association or condominium documents as applicable, the Township may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the open space land in reasonable order and condition.

- b. Failure on the part of a homeowners' or condominium association to adequately maintain the open space land in reasonable order and condition shall constitute a violation of this Ordinance. The Township is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same within twenty (20) days.
- c. Upon default by any owner, homeowners' association, conservation organization, or other entity responsible for maintenance of restricted open space and/or associated facilities, where such maintenance is required under the terms of the open space management plan, homeowners' association or condominium documents, any subdivision and/or land development plan for the property, the zoning approval for the property, or under any applicable requirements of any Township ordinances, permits or approvals, or where such maintenance is otherwise necessary to abate a nuisance, emergency, hazard or other condition threatening persons or property or the public health, safety or welfare, the Township may, but shall not be obligated, to take the following actions:
 - 1) Upon thirty (30) days advance written notice to the person, association or entity responsible for such maintenance (or any such lesser period as may be specified in the notice in instances of emergency) and the failure of the responsible individual, entity or association within such thirty (30) day period (or such lesser period in the event of an emergency) to perform the necessary maintenance and otherwise remedy the condition set forth in the Township's notice, to enter upon the open space, accessing the same through any other lands of such entity, association or individual as may be necessary, to perform such maintenance and take any other action necessary to correct the condition provided in the Township's notice.
 - 2) Any and all costs incurred by the Township in connection with such notice and maintenance shall be paid by the responsible individual, entity or association within ten (10) days after written demand by the Township. Upon failure of the responsible entity, association or individual to pay such costs by the time required, there shall be added thereto interest at the rate of fifteen (15) percent per annum as well as all costs incurred by the Township in collection thereof.
 - a) All such costs of maintenance, remediation, notices, and collection, including court costs and attorney's fees, shall constitute a municipal lien and be enforceable as such against the responsible entity, individual or association.

- b) Such lien shall extend to all property of such individual, entity or association within the development containing the affected open space.
 - c) In the case of an association, such lien shall apply, pro rata, against all lot owners who are members of the association, in addition to applying to the affected open space.
- D. Open Space Performance Guarantees. Where intended as common or public amenities, all landscape improvements, plantings, accessways, and recreational facilities within designated open space areas shall be provided by the developer. A performance bond or other security acceptable to the Township shall be required to cover costs of installation of such improvements in the open space area. The performance bond or other security shall be in the same form and adhere to the same conditions as otherwise required for proposed improvements by the Lower Milford Township Subdivision and Land Development Ordinance.

ARTICLE IX

TRANSFER OF DEVELOPMENT RIGHTS (TDR)

Section 900. PURPOSE

The primary purpose of establishing a transferable development rights (TDR) program is to permanently preserve prime farmland and rural community character that would be lost if the land were developed. In addition, this Article is intended to protect property rights by allowing landowners whose land is intended for preservation to transfer their right to develop to other areas of Lower Milford Township deemed appropriate for residential and non-residential development.

Section 901. BASIC CONCEPT AND AUTHORIZATION

- A. The provisions of this Zoning Ordinance which permit transferable development rights allow landowners in areas of Lower Milford Township proposed for conservation, called “sending areas,” to sell the right to develop all, or a portion of their land to landowners in areas of Lower Milford Township proposed for additional development, called “receiving areas.” The transferable development rights provisions set forth below are specifically authorized under Sections 603(c)(2.2) and 619.1 of the Pennsylvania Municipalities Planning Code, under the terms of which development rights are acknowledged to be severable and separately conveyable from a sending area to a receiving area.
- B. When landowners in the sending area sell their right to develop all or a portion of their land, they must restrict that portion of land from which development rights are sold against any future development as provided in this Ordinance, although the land may still be used for purposes that do not involve residential, commercial, industrial or institutional development, such as agriculture or forestry. When landowners in the receiving area buy the development rights from landowners in the sending area, they receive the right to build more homes on their land than they would have been allowed had they not purchased development rights.
- C. Conservation easements imposed in the sending area will not prohibit the landowner's sale of the land after the development rights have been severed, although such land cannot thereafter be used for residential, commercial, industrial or institutional development purposes. The conservation easement on the land from which the development rights have been severed shall run in favor of the Township and/or an approved conservation organization.
- D. The owner of the tract in the sending area from which the development rights are severed or any subsequent purchaser or purchasers of the development rights may declare the development rights for sale, may hold the development rights or may resell the development rights. The only use which may be made of the development rights is the ultimate transfer to a developer with a tract in the receiving area. The

Township shall have no obligation to purchase the development rights which have been severed from a tract in the sending area.

Section 902. SALE OF TDRS FROM SENDING AREA

Owners of tracts which meet the following requirements may sever and sell or transfer their development rights:

A. Sending Area Qualifications

1. The sending area tract of land shall comprise at least ten (10) acres in area and shall be located within the AC-Agricultural Conservation District.
2. Any portion of a sending area tract from which development rights are being severed, must be restricted from future development in accordance with Section 902.E, below.
3. The acreage to be restricted shall be contiguous and shall not extend less than seventy-five (75) feet in the narrowest dimension at any point except for such lands specifically serving as trail links.
4. The portion of the parcel which will not be restricted shall be usable under the use, area, dimensional, performance and other standards of the Ordinance.

B. Calculation of Transferable Development Rights

1. The total number of development rights available on a sending area tract shall be determined by multiplying the Net TDR Area by 0.6. For purposes of this Section, the “Net TDR Area” shall include all areas within the legal property lines of the portion of a tract from which TDRs shall be severed, excluding the following:
 - a. Any existing area that has been set aside as a permanent right-of-way or easement for a public or private street, or for aboveground or underground utilities other than for local services;
 - b. Any existing area comprising permanent drainage or stormwater management easements;
 - c. Any existing area comprising sewage disposal facilities serving any property not part of the subject tract;
 - d. Any area comprising Floodplain Soils;
 - e. Any area where slopes exceed 25%;

- f. An area equivalent to 80% of any area with hydric soils where not coextensive with any area excluded in accordance with Section 902.B.1) a. through e. above;
 - g. An area equivalent to 75% of any area where slopes are between 15% and 25% where not coextensive with any area excluded in accordance with Section 902.B.1) a. through f. above.
 - h. An area equivalent to 65% of any area where slopes are between 8% and 15% where not coextensive with any area excluded in accordance with Section 902.B.1) a. through g. above.
- 2. For purposes of this Section, the extent of Flood Plain soils, Hydric soils, and soils with slopes greater than 8%, differentiated as provided above, may be determined based on the Soil Survey of Lehigh County. Alternatively, the extent of slopes, differentiated as above, may be derived from USGS mapping or, at the discretion of the Applicant, on actual photogrametric or field survey.
 - 3. Land previously restricted against development by covenant, easement or deed restriction shall not be eligible for calculation of transferable development rights unless and until such time as said covenant, restriction or easement is dissolved or rescinded with agreement of all beneficiaries of such covenant, restriction or easement.
 - 4. Any sending area tract shall retain at least one development right, unless the tract is joined in a single deed with an adjacent tract or tracts with retained or remaining development right(s). All remaining development rights may be severed from the tract.
 - 5. Where calculations result in fractional numbers, a fraction of 0.5 or higher shall be rounded up to the next whole number and a fraction of less than 0.5 shall be rounded down to the next lowest whole number.

C. **Declaration of Transferable Development Rights and Certification by Township**

Any owner in the sending area may elect to declare the development rights that may be severed from a tract of land, based on application of the provisions of subsection 902.B, and may request a written certification from the Township of the number of rights that may be severed, which certification shall not be unreasonably withheld.

D. **Severance of Transferable Development Rights**

- 1. Transferable development rights which have been severed shall be conveyed by a Deed of Transferable Development Rights duly recorded in the Office of the Lehigh County Recorder of Deeds. The Deed of Transferable

Development Rights shall specify the tract of land to which the rights shall be permanently attached or that the rights shall be transferred to the Township, retained by the owner of the sending area tract, or another person in gross.

2. The Deed of Transferable Development Rights which severs the development rights from the sending area tract shall be accompanied by a conservation easement(s) which shall permanently restrict development of the sending tract as provided below and which shall be recorded in the Office of the Recorder of Deeds at the same time as or prior to recording of the Deed of Transferable Development Rights.
3. All Deeds of Transferable Development Rights or conservation easements shall be endorsed by the Township prior to recording, which said endorsement shall not be unreasonably withheld.
 - a. Deeds submitted to the Township for endorsement shall be accompanied by a title search of the sending area tract(s) and a legal opinion of title affirming that the development right(s) being transferred by the Deed have not been previously severed from or prohibited upon the sending area tract.
 - b. A title report should be prepared within ten (10) days prior to submission of the Deed and the legal opinion of title must meet the reasonable approval of the Township Solicitor.
 - c. Reasonable cost of review by the Township Solicitor of TDR documentation required in accordance with this Article shall be borne by the owner of the sending tract or agent thereof.
4. If the agreement of sale of development rights would entail less than an entire parcel, the portion of the parcel from which the development rights are transferred shall be clearly identified on a plan of the entire parcel, drawn to scale, the accuracy of which shall be satisfactory to the Township. Such plan shall also include a notation of:
 - a. The number of development rights applicable to the entire parcel,
 - b. The number of development rights applicable to the identified portion of the parcel from which the development rights are to be transferred, and
 - c. The number of development rights which remain available to the remaining portion of the parcel.
5. If the agreement of sale of development rights would entail less than the entire number of development rights represented by a recorded Deed of Transferable Development Rights, the applicant shall indicate in the Deed the disposition of the remaining development rights.

E. **Sending Area Conservation Easement**

Any sending tract from which development rights have been severed must be permanently restricted from future development by a conservation easement which meets the following requirements:

1. Except where any development rights are retained, the conservation easement shall permanently restrict the land from future development for any purpose other than principal or accessory agricultural uses, public park land, conservation areas and similar uses. Structural development for such permitted uses shall be permitted subject to compliance with the applicable Supplemental Regulations set forth in Article XII, and the area and bulk regulations set forth in Section 302 of this Ordinance.
2. The conservation easement shall be approved by the Board of Supervisors of Lower Milford Township, in consultation with the Lower Milford Township Solicitor.
3. The conservation easement shall designate Lower Milford Township, Lehigh County, and/or a bona fide conservation organization acceptable to the Township at its sole discretion, as the beneficiary/grantee, but shall also designate the following parties as having separate and independent enforcement rights with respect to the conservation easement(s):
 - a. All future owners of any portion of the sending parcel, and
 - b. All future owners of any portion of any parcel to which the transferable development rights shall be permanently attached.
4. The conservation easement shall apply to the tract of land or portion thereof from which development rights are sold (sending tract), and shall specify the number of development rights to be severed as well as any to be retained. No portion of the tract area used to calculate the number of development rights to be severed shall be used to satisfy minimum yard setbacks or lot area requirements for any development rights which are to be retained or for any other development except as permitted under Section 902.E.1 above.
5. On any portion of a parcel from which development rights are severed, retained development rights may not exceed one (1) dwelling unit per ten (10) acres.
6. All owners of all legal and beneficial interest in the tract from which development rights are severed shall execute the Conservation Easement(s). All lienholders of the tract from which development rights are severed shall subordinate their lien to the Conservation Easement(s).

7. Final approval for any subdivision or land development plan utilizing transferred development rights shall not be granted prior to the recording of appropriate restrictions at the Lehigh County Recorder of Deeds.

Section 903. RECEIVING AREA QUALIFICATIONS AND CALCULATIONS

Development rights severed from sending area tracts may be transferred and received for development on other tracts in the following situations:

- A. Tracts of land eligible for development under the Open Space Design Option in the RR-2, Rural Residential-2 District may increase the density of development through receipt of TDRs subject to the following:
 1. The base density of development under the Open Space Design Option shall be established as provided in Article VI, set at the Net Buildable Site Area times 0.5.
 2. For each purchased TDR, 1.0 single-family detached dwelling may be added, not to exceed the maximum total density.
 3. The maximum total density, as increased above the base through receipt of TDRs, shall not exceed the Net Buildable Site Area times 0.75, including base density.
 4. Final plan approval for any increment of additional density above the base density shall be conditioned upon demonstration of severance and receipt of sufficient TDRs recorded in a deed of transferable development rights.
 5. For each 7.5 percent increase in gross density over the otherwise applicable base density, the applicable minimum open space requirement may be reduced 2.5 percent, measured as a percentage of gross tract area. In no case shall the minimum required open space be reduced below fifty (50) percent of gross tract area.
 6. Except where provided otherwise herein, all design standards applicable to the Open Space Design Option shall apply.
- B. Subject to conditional use approval, any lot or tract in the VC-Village Center District may increase the density or intensity of permitted development through receipt of TDRs subject to the following:
 1. For any single principal, non-residential, use not part of a Multi-use development or Multiple-residential development, additional building or lot coverage or additional building height may be approved, as provided in Section 702.A, through receipt of TDRs as follows:

- a. Subject to the limitations established in Section 702.A, any building coverage or lot (impervious) coverage, exceeding the base permitted coverage and measured separately in each case, shall require the receipt of one TDR for each 4,000 square feet or fraction thereof.
 - b. In addition to any received TDRs utilized to provide for additional building coverage or lot coverage or both as provide above, and subject to the limitations established in Section 702.A, any building area exceeding the base permitted height also shall require the receipt of one (1) TDR for each 4,000 square feet of gross floor area or fraction thereof. This provision applies to either single or multi-story buildings.
 - c. Each provision, (building, height, impervious coverage or building coverage) is to be viewed separately when determining the number of TDRs needed.
 - d. Final plan approval where building or lot coverage or building height is increased above that otherwise permitted shall be conditioned upon demonstration of severance and receipt of sufficient TDRs recorded in a deed of transferable development rights.
2. For any Multi-Use development, excluding Multiple-Residential development, a minimum number of TDRs shall be received as a qualifying condition for approval of such development, as set forth in Section 702.C.1. Received TDRs meeting such qualifying condition, along with additional received TDRs where applicable, may be used to provide for increased building or lot coverage or additional building height, as provided in 702.C, at a rate of one TDR for each 4,000 square feet or fraction thereof, in the same manner as provided in Section 903.B.1 above. Final plan approval shall be conditioned upon demonstration of severance and receipt of sufficient TDRs, recorded in a deed of transferable development rights, to comply with the minimum qualifying condition set forth in §903.B.1 and to justify any increase in building or lot coverage or building height above that otherwise permitted, as applicable.
3. For any Multiple-Residential development, residential density may be increased through receipt of TDRs as set forth in Section 702.D.4. Final plan approval for any increment of additional density above the base density shall be conditioned upon demonstration of severance and receipt of sufficient TDRs recorded in a deed of transferable development rights. Residential dwelling units greater than the number permitted in accordance with the base density may be developed at the following rates per received TDR, measured separately for each permitted dwelling unit type:
 - a. 1.0 single-family detached dwellings;

- b. 1.5 single-family attached or two-family dwellings (twins and townhouses); and
- c. 2.0 apartments (excluding apartments provided on floor(s) above ground or first floor area devoted to permitted non-residential uses as provided in Section 702.C).

C. Design Requirements and Modification of Area and Bulk Standards

Any development using Transferable Development Rights must comply with all requirements and design standards otherwise applicable to the subject development, except as specifically provided in this Article. For any development where at least twenty (20) Transferable Development Rights are received, applicable setbacks and lot coverage may be modified up to twenty-five (25) percent subject to conditional use approval by the Board of Supervisors. Any conditional use approval to permit such modification(s) shall be subject to the following criteria:

- 1. The design and modifications shall be consistent with the purposes and the land-use standards contained in this Ordinance.
- 2. The design and modifications shall not produce lots or street systems that would be impractical in terms of layout or circulation or detract from the appearance of the development or surrounding community and shall not adversely affect emergency vehicle access.
- 3. The applicant shall demonstrate to the Board of Supervisors that the proposed modification(s) will produce equal or better development design and open space conservation results than could be achieved without the requested modification(s) and that they represent the minimum modification necessary.
- 4. If the Board of Supervisors determines that the applicant has met his/her burden of proof, it may grant modification(s) of the requirements herein. In granting modifications, the Board may impose such conditions as will, in its judgment, secure the objectives and purposes of this Ordinance.

Section 904. PLAN SUBMITTAL PROCESS

- A. All applicants for use of transferable development rights shall submit conditional use application as provided in Article XV and applicable subdivision/land development plans as required under the Lower Milford Township Subdivision and Land Development Ordinance for the use to which transferable development rights will be added. Submitted subdivision or land development plans and/or conditional use applications, as applicable, shall, in addition to meeting all other applicable provisions, include submission of the following:

1. A Deed of Transferable Development Rights or an agreement of sale for all development rights proposed to be purchased from the sending area site(s). The applicant must prove ownership or equitable ownership of the appropriate number of development right(s), up to the maximum additional increment calculated as above.
 2. For residential TDR transfer, a note on the plan showing the total number of dwelling units proposed on the receiving area site, the total number that could be built not using TDRs, and the incremental difference between the two. This difference represents the number of additional dwelling units that could be constructed using received development rights.
 3. If the development rights have previously been severed from a tract in the sending area, a copy of the recorded Deed of Transferable Development Rights shall be submitted.
 4. Where the applicant proposes to purchase development rights from a sending area property or properties where rights have not been previously severed, a plan of the sending area site(s) shall be submitted. This plan shall show all information needed to determine the number of development rights which may be sold, as required herein. In addition, the plan shall be accompanied by a metes and bounds description of the subject property(s), as well as each tax parcel number, and owner name. If the applicant is purchasing development rights from a portion of a sending area site, this portion shall be shown on the plan and described with metes and bounds.
 5. A title search of the tract from which the transferable development rights will be transferred sufficient to determine all owners of the tract and all lienholders. If the development rights have previously been severed from the tract in the sending area, a title search of the rights set forth in the Deed of Transferable Development Rights sufficient to determine all of the owners of the development rights and all lienholders shall be furnished to the Township.
- B. In order to receive final plan approval, the applicant must provide documentation that an appropriate conservation easement has been recorded for all sending area lands whose development rights are being used by the applicant. This conservation easement must meet the requirements stipulated herein. The conservation easement on the sending area land shall be recorded first, followed by a Deed of Transferable Development Rights, in accordance with the provisions of the Pennsylvania Municipal Planning Code, as amended, which transfers the development rights from the sending area landowner to the receiving area landowner.

Section 905. PUBLIC ACQUISITION

Lower Milford Township may purchase development rights and may accept ownership of development rights through transfer by gift. All such development rights may be held or resold by

the Township. Any such purchase or gift shall be accompanied by a conservation easement(s) as specified in Section 902.E.

Section 906. AMENDMENT AND/OR EXTINGUISHMENT

The Township reserves the right to amend this Ordinance in the future, and the Township expressly reserves the right to change the manner in which the number of development rights shall be calculated for a tract in the sending area and the manner in which development rights can be conveyed. The Township further expressly reserves the right to terminate its transferable development rights program at any time. No owner of the land or owner of development rights shall have any claim against the Township for damages resulting from a change in this Ordinance relating to the regulations governing the calculation, transfer and use of development rights or the abolition of the transferable development rights program. If the transferable development rights program is abolished by the Township, no developer may attach development rights to any tract in the receiving area after the effective date of the ordinance abolishing the transferable development rights program unless an application in conformity with the provisions of this Article was filed prior to the effective date of such ordinance and thereafter is continuously processed to approval, and, following such approval, a complete subdivision and/or land development application complying such rights is thereafter filed within six (6) months from the date of such approval.

ARTICLE X

NATURAL RESOURCE PROTECTION STANDARDS

Section 1000. INTENT

The Natural Resource Protection Standards of this Article are established to protect the public health, safety, and welfare by minimizing adverse environmental impacts. These standards are intended to meet the following purposes.

- A. Define and delineate selected natural resources within the Township and establish resource protection standards to assist the Township in reducing the impact proposed uses will have on the environment, consistent with the *Southwestern Lehigh County Comprehensive Plan*.
- B. Conserve and protect areas which are naturally unsuitable for development or which provide valuable wildlife habitat or water resource values, including streams and riparian zones, steep slopes, floodplains, woodlands, wetlands, and hydric soils.
- C. Guide the location of proposed land uses in order to maximize protection of natural resources.
- D. Match the density or intensity of a proposed development with a site's natural resource-based carrying capacity.

Section 1001. GENERAL APPLICABILITY OF PROTECTION STANDARDS

- A. In the event that the provisions of this Article and any other provisions of the Township Code are in conflict, the more restrictive provisions shall apply.
- B. In the event that two or more natural resource areas identified in this Article occur on the same lot or tract, disturbance limitations shall be measured separately. Where such resource areas overlap, the most restrictive standard (the least amount of permitted alteration, regrading, clearing, or building) shall apply to the area of overlap.
- C. It shall be a violation of this Ordinance to regrade, fill, pipe, divert, channel, build upon, or otherwise alter or disturb a natural resource protected by this Article prior to the submission, review, and approval of any applicable application for zoning or building permit(s), conditional use or special exception approval, zoning variance, or subdivision or land development plan(s).
- D. Limitations to the disturbance of resources shall apply before, during, and after construction on a site.

- E. Disturbance limitations, established as a maximum percentage of permitted disturbances, shall be applied concurrently as a percentage of each applicable resource area to the extent that it is present on the entirety of any tract or any lot AND as a percentage of the area within each discrete resource area measuring one acre or more. A discrete resource area is the entirety of any single contiguous area comprising any one resource regulated by the provisions of this Article. Any area of resource overlap shall be measured as part of the contiguous resource area with the most restrictive disturbance limitation. For example, if disturbance of twenty-five (25) percent of a particular resource area is permitted, then it shall apply as twenty-five (25) percent of the total area of that resource on the applicable lot or tract. In addition, the twenty-five (25) percent limitation shall apply individually to each discrete resource area measuring one acre or more, regardless of whether, collectively, such areas comprise twenty-five (25) percent of all areas of such resource on the applicable lot or tract.
- F. Disturbance limitations shall be applied based on the occurrence of identified resource areas at the time of adoption of this Article. Disturbance permitted over time in multiple applications on the same lot or tract shall be measured against the same overall limitations established at the time of the first application after the adoption of this Article. For example, if applicable disturbance limitations for a particular resource permit two (2) acres of disturbance, and one (1) acre of disturbance is permitted upon the first application after the adoption of this section, then only one (1) acre shall remain to be permitted for future disturbance of the applicable resource regardless of the total number of applications over the years.
- G. Information submitted to demonstrate compliance with this Article shall be verified as correct by the Township Engineer or other qualified professional as determined by the Township.
- H. Regulations and disturbance limits for each specific resource area set forth below shall be complied with as applicable. The following summary table is provided as an overview of disturbance limitations. In certain cases as provided herein, exceptions or modifications may apply.

<i>Resource Area</i>	<i>Maximum Disturbance</i>
Flood Plain	0 %
Prohibitively Steep Slopes	10 %
Very Steep Slopes	25 %
Moderately Steep Slopes	35 %
Steep Slope Margins	25 %
Wetlands	0 %
Wetlands Margin Zone A	0 %
Wetlands Margin Zone B	20 %
Lakes, Ponds and Watercourses	0 %

Zone One – Inner Riparian Buffer	0 %
Zone Two – Outer Riparian Buffer	20%
Hydric Soils	15%
Heritage Trees	0 %
Class I Woodlands located on Very Steep Slopes	5%
Class I Woodlands outside Very Steep Slopes	15 %
Class II Woodlands	15 %
Class III Woodlands	25 %

Section 1002. FLOOD PLAIN CONSERVATION

- A. Flood Plain: Areas identified as within the flood plain of the one hundred year recurrence interval flood shall not be altered, regraded, filled or built upon except in conformance with the Lower Milford Township Flood Plain Zoning Ordinance, as amended, which is incorporated herein by reference. For areas designated as "Approximate 100 Year Flood Plain" along streams and watercourses where the one hundred year flood plain (with a floodway and flood fringe) has not been delineated, the requirements of Flood Plain Soils shall be met.
- B. Flood Plain Soils: All such areas shall not be altered, regraded, filled or built upon except in conformance with the Lower Milford Township Flood Plain Zoning Ordinance, as amended, with respect to which flood plain soils are to be considered to be "Approximate 100 Year Flood Plain." Flood plain soils shall not be used where the one hundred year flood plain (with a floodway and flood fringe) has been delineated.

Section 1003. STEEP SLOPE CONSERVATION

- A. Steep slope areas shall be preserved in their natural state whenever possible. Where construction of roads, buildings, driveways, or infrastructure cannot be avoided, disturbance shall be kept to the minimum necessary and, in no case, shall it exceed the following permitted disturbance limits:
1. Moderately Steep Slopes - No more than thirty-five (35) percent of moderately steep slopes shall be regraded, cleared, built upon, or otherwise altered or disturbed.
 2. Very Steep Slopes - No more than twenty-five (25) percent of very steep slopes shall be regraded, cleared, built upon, or otherwise altered or disturbed.
 3. Steep Slope Margins - No more than twenty-five (25) percent of steep slope margins shall be regraded, cleared, built upon, or otherwise altered or disturbed.
 4. Prohibitively Steep Slopes - No more than ten (10) percent of prohibitively steep slopes shall be regraded, cleared, built upon, or otherwise altered or

disturbed. In addition, disturbance permitted on prohibitively steep slopes shall be limited to the following activities:

- a. Timber harvesting, when conducted in compliance with the required timber harvesting plan of Section 1200.A.31 of this Ordinance. Clearcutting or grubbing of trees is prohibited on prohibitively steep slopes.
 - b. Grading for the minimum portion of a driveway necessary for access to the principal use and sewer, water, and other utility lines when it can be demonstrated to the satisfaction of the Township that no other routing is practicable, but excluding sewage disposal systems.
 - c. Trail(s) of minimum adequate width(s), where developed so as to minimize potential erosion, follow existing topographic contours to the greatest degree practicable, and where using unpaved surfaces to the maximum practicable extent.
- B. All permitted buildings or structures shall be constructed in such a manner as to provide for the least alteration necessary of the existing grade, vegetation, and natural soils condition.
- C. 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. Locations for all stockpiled earth, stone, and other materials shall be shown on the plan and shall not be located within the drip line of any trees intended to remain post permitted disturbance.
- D. Excessive cut and fill shall be avoided. New roads and improvements to existing roads should be designed within the existing contours of the land to the extent possible and strive for compatibility with the character of rural roads.
- E. Finished slopes of permitted cut and fill shall not exceed thirty-three (33) percent slope unless the applicant can demonstrate the method by which steeper slopes will be stabilized and maintained adequately.
- F. Any stockpile(s) of earth intended to be stored for more than twenty-one (21) days shall be seeded or otherwise stabilized to the satisfaction of the Township Engineer. Any disturbed areas of Very Steep Slope and any cut and fill resulting in slopes of greater than twenty (20) percent shall be protected with an erosion control blanket.
- G. Any disturbance of land shall be in compliance with the erosion and sedimentation control standards of Chapter 190, Subdivision and Land Development, and PA DEP Title 25, Chapter 102. All applicants shall refer to the PA DEP *Erosion and Sediment Pollution Control Program Manual* dated March,

2000, or latest addition, for applicable erosion and sediment control standards. Where applicable, in the context of any application before the Township, any applicant shall permit inspection of erosion and sedimentation controls by designated personnel of both the Township and the Lehigh County Conservation District.

1. An erosion and sedimentation control plan and soil stabilization plan shall be submitted consistent with the requirements of Chapter 190, Subdivision and Land Development.
 2. The plan shall demonstrate how soil will be protected from erosion during construction and how soil will be stabilized upon the completion of construction.
- H. Where the following information has not been previously submitted as part of a subdivision or land development plan application, such information shall be submitted to the Township with building permit, conditional use, special exception, or zoning applications, when applicable:
1. The adequacy of access to the site for emergency vehicles shall be subject to review by the Fire Chief or his designee. The necessary information shall be submitted by the applicant to the Fire Chief or his designee for his review.
 2. Grading Plan and Erosion and Sedimentation Control Plans.

Section 1004. WOODLANDS AND HEDGEROWS

A. Disturbance Limitations for Woodlands and Hedgerows

The disturbance limitations set forth herein shall apply to any woodland disturbance not otherwise regulated as a Timber Harvesting Operation. Clear-cutting of any woodland area shall not be permitted as a means of woodland disturbance except to the minimum necessary to permit the implementation of an approved subdivision or land development, landscape plan, open space management plan, or building permit in conformance with this section. All woodland disturbances other than approved timber harvesting operations shall be subject to the following total disturbance limitations:

1. Permitted woodland disturbance on any lot or tract shall not exceed five (5) percent of any area designated Class I or II Woodland on the Lower Milford Township Woodland Classification Map, where such woodland is coextensive with any area of Very Steep Slope.
2. Except on areas of very steep slopes, permitted woodland disturbance on any lot or tract shall not exceed fifteen (15) percent of any area designated as

Class I (Forest Interior Habitat) on the Lower Milford Township Woodland Classification Map.

3. Except on areas of very steep slopes, permitted woodland disturbance on any lot or tract shall not exceed fifteen (15) percent of any area designated Class II Woodland on the adopted Lower Milford Township Woodland Classification Map.
4. Permitted woodland disturbance on any lot or tract shall not exceed twenty-five (25) percent of any Class III Woodland.
5. Disturbance limitations shall be measured based on the extent of the subject woodland classification at the time of first submission of applicable application(s) after the adoption of this Section and shall be indicated on applicable plan(s). The extent of any area of woodland disturbance shall be measured to include the entire area within two (2) feet of the drip line of any tree where any part of the area within two (2) feet of the drip line of said tree is subject to woodland disturbance. Any disturbance limitation shall run with the land, once established. Subsequent applications shall be subject to the initial determination of disturbance limitations, regardless of intervening disturbance which may have occurred. If, at any time within three years prior to an applicable application, there had existed a greater extent of woodland, such greater area shall be utilized to calculate the extent of woodland disturbance and the limitations set forth herein.

B. Woodland Replacement.

1. Where permitted, any woodland disturbance exceeding any of the following standards shall require provision for vegetation replacement as set forth below. Each of the following standards shall be applied independently and the corresponding replacement requirements shall be cumulative.
 - a. Any woodland disturbance in any of the following areas:
 - 1) Any area designated as Class I or Class II Woodland on the Lower Milford Township Woodland Classification Map;
 - 2) Any area within two (2) feet of the drip line of any Heritage Tree(s);
 - 3) Any area within any Riparian Buffer.
 - b. Woodland disturbance in excess of ten thousand (10,000) square feet of existing area of Class III woodland or hedgerow(s) for each principal use permitted on any lot or tract. As an example, where two principal uses are permitted, woodland disturbance may involve up to twenty-thousand (20,000) square feet (10,000 X 2) before replacement is required, except as otherwise provided herein.

- C. In determining where necessary woodland disturbance shall occur in the context of any subdivision or land development, the applicant shall consider the following:
1. The location(s) and benefit of conservation of healthy mature woodland stands;
 2. The impacts, in terms of functions and values to wildlife, of separating, dividing and/or encroaching on wildlife travel corridors and/or extensive habitat areas. Such impacts must be explicitly assessed in any area designated as one or more of the following:
 - a. Class I or Class II woodlands;
 - b. Heritage Trees or Heritage Vegetation;
 - c. Riparian Buffers.
- D. In areas of permitted woodland disturbance and areas adjacent to permitted woodland disturbance, remaining trees shall be protected from damage. The following procedures shall be utilized during construction in order to protect remaining trees:
1. Where existing trees are to remain, no change in existing grade shall be permitted within the drip line of the trees. Appropriate fencing four (4) feet in height shall be placed two (2) feet outside of the drip line of trees to remain, wherever adjacent to proposed construction. Such fencing shall be maintained in place throughout the duration of construction activity. Roots shall not be cut within two (2) feet of the drip line of any trees to remain.
 2. Trees within twenty five (25) feet of a building, or bordering entrances or exits to building sites, shall be protected by a temporary barrier, such as construction fence or other suitable fencing, to be maintained in place throughout the duration of construction activity.
 3. No boards or other material shall be nailed or otherwise attached to trees during construction.
 4. Construction materials, equipment, soil and/or debris shall not be stored nor disposed of within the drip lines of trees to remain.
 5. Tree trunks, limbs, and exposed roots damaged during construction shall be protected from further damage by being treated immediately in accordance with accepted professional landscape procedures.

E. Calculation of Required Vegetation Replacement.

Where woodland disturbance exceeds any of the standards set forth in Section 1004.B above, applied independently and cumulatively, replacement plantings shall be installed in accordance with the standards set forth below. A sample list of acceptable replacement plantings is found below.

1. Required Replacement Trees shall be determined using the calculation set forth below which results in the greatest number of replacement trees:
 - a. Replacement Tree Calculation Based on Area of Woodland Disturbance.
At a minimum, for each five hundred (500) square feet of woodland disturbance area, or fraction thereof, in excess of the applicable standard set forth above in Section 1004.B and regardless of the character and sizes of the disturbed vegetation, one tree at least 2-2½” caliper shall be planted.
 - b. Replacement Tree Calculation Based on Specific Tree Removal.
Regardless of any disturbance allowances, for each tree greater than twelve (12) inches dbh to be removed, required replacement trees also shall be calculated in accordance with the following schedule. For purposes of this section, it shall be assumed that any tree greater than twelve (12) inches dbh shall be removed if located within twenty-five (25) feet of any proposed land disturbance:

<u>For each tree to be removed at the following sizes (dbh):</u>	<u>Minimum number & caliper of replacement trees:</u>
One, 12” to 18” dbh	Two 2-2½” caliper
One, 18” to 24” dbh	Three 2-2½” caliper
One, 24” to 36” dbh	Four 2-2½” caliper
One, greater than 36” dbh	Six 2-2½” caliper
2. Required Replacement Shrubs. At a minimum, for each one hundred (100) square feet of woodland disturbance area, or fraction thereof, in excess of the applicable standard set forth in Section 1004.A B and regardless of the character and sizes of the disturbed vegetation, one shrub at least twenty-four (24) to thirty (30) inches in height shall be planted in addition to any required tree replacement. Shrubs planted in accordance with this requirement may be of restoration quality and not necessarily landscaping quality.
3. Required replacement plantings shall be in addition to any required street trees or any other landscape material required.
4. Where approved by the Township as a condition of any building, zoning, subdivision or land development approval or as a condition of grant of modification under Section 1011, required replacement trees may be substituted for greater numbers of trees of smaller caliper such as (2) 1-1/2” -

2” caliper/ (1) 2 - 2-1/2” etc.) than otherwise required. (e.g., for purposes of reforestation).

5. Where approved by the Township as a condition of any building, zoning, subdivision or land development approval or as a condition of grant of modification under Section 1011 some or all of the required replacement plantings may be installed at a site other than that being developed upon written request and approval by the Board of Supervisors.
 6. The locations, selected species, and sizes of all replacement plantings, along with a planting schedule tied to the timing and/or phasing of the development, shall be indicated on the Final Subdivision/Land Development Plan(s) or building permit application, as applicable.
- F. Required replacement vegetation and their measurement shall conform to the standards of the publications "American or U.S.A. Standard for Nursery Stock," ANSI or U.S.A.S. Z60.1 of the American Association of Nurserymen, as amended. All plant material used on the site shall have been grown so as to have a high likelihood of survival on the site (e.g., grown specifically for planting in the applicable USDA hardiness zone) and shall be nursery grown, unless it is determined by the Township that the transplanting of trees partially fulfills the requirements of this section.
- G. Species of replacement plantings selected and planting locations shall reflect careful site evaluation and in particular the following considerations:
1. Existing and proposed site conditions and their suitability for the plant materials, based upon the site's geology, hydrology, soils, and microclimate.
 2. Specific functional and design objectives of the plantings, which may include but not necessarily be limited to: replacement of woodland area removed, enhancement of existing woodland or oldfield area(s), reforestation of riparian buffer areas, mitigation of new woodland edge conditions as a result of land disturbance, provision for landscape buffer, visual screening, noise abatement, energy conservation, wildlife habitats, and aesthetic values.
 3. Maintenance considerations such as hardiness, resistance to insects and disease, longevity, and availability.
 4. Because of the many benefits of Native Plants (ease of maintenance, longevity, wildlife habitat, etc.), the use of nursery-grown free-fruiting native trees and shrubs shall be required. Species selection shall reflect species diversity characteristic of the native deciduous woodland. A list of Township approved native trees and shrubs is provided in the Subdivision and Land Development Ordinance.

- H. All replacement plantings shall be guaranteed and maintained in a healthy and/or sound condition for at least twenty-four (24) months or shall be replaced. In addition, the applicant may be required to escrow sufficient additional funds for the maintenance and/or replacement of the proposed vegetation during the 24 month replacement period and to provide for the removal and replacement of vegetation damaged during construction, based upon the recommendation of the Township Engineer.
- I. Where applicable, all land development, subdivision or zoning permit applications shall include a plan for the long-term management of any woodland area not subject to woodland disturbance and any area selected for introduction of replacement plantings in accordance with this Section. Such plan, which, in the case of the Open Space Design Option, can be part of the Conceptual and final Open Space Management Plans submittal requirement, shall include a statement of woodland management objectives and shall demonstrate to the satisfaction of the Board of Supervisors the feasibility of intended management practices, aiming to ensure the success of stated objectives, including the viability of introduced plantings, deterrence of invasive vegetation, and means to minimize any future woodland disturbance. Applicants are strongly encouraged to seek woodland management assistance from a qualified professional.

Section 1005. HERITAGE TREES

- A. No Heritage Trees shall be removed from any lot or tract except where undertaken in accordance with an approved timber harvesting plan prepared in accordance with Section 1200.A.31 of this Ordinance, or where the applicant demonstrates to the satisfaction of the Township that such removal is essential to eliminate hazardous condition(s). In consideration of any need for tree removal, the Township may engage the services of an arborist, reasonable costs therefore to be borne by the applicant.
- B. Where any applicant for building, zoning, subdivision or land development approval establishes conservation restrictions acceptable to the Township which shall result in the conservation of Heritage Trees in areas proposed for disturbance, all such Heritage Trees to be retained shall be credited toward any tree replacement required under Section 1004.E.1, at the ratio of four (4) trees credited for each Heritage Tree retained.

Section 1006. WETLANDS CONSERVATION

- A. Wetlands shall not be regraded, filled, piped, diverted, channeled, built upon, or otherwise altered or subject to land disturbance, including for purposes of access or utility crossings, except where all applicable permits have been obtained and copy thereof submitted to the Township.

- B. Any applicant proposing a use, activity, or improvement which would entail the regrading or placement of fill in wetlands shall provide the Township with proof that the Pennsylvania Department of Environmental Protection (Bureau of Dams and Waterway Safety and Bureau of Water Quality Management) and the U.S. Army Corps of Engineers have been contacted to determine the applicability of state and federal wetland regulations. Any applicant contacted by the Pennsylvania Department of Environmental Protection or the U.S. Army Corps of Engineers in regard to wetlands also shall concurrently provide to the Township a copy of such correspondence.
- C. Where permitted subject to applicable regulation and as otherwise provided herein, sewers or other liquid transport pipelines shall only be permitted to cross wetlands on the minimum traversal distance and where every precaution shall be taken to prevent leaks and to prevent any possible draining of the wetland (e.g., water flowing through or along any pipe or trench). At the expense of the applicant, the Township may require inspection of applicable systems and facilities, including but not limited to x-ray of steel welds, video documentation, televising lines and pressure testing of pipelines.
- D. Where land disturbance in wetland areas is permitted subject to applicable regulation on any lot or tract, no more than ten (10) percent nor more than one (1) acre of any wetland area, whichever is less, shall be disturbed for any purpose. To the maximum extent feasible, any disturbance to or loss of natural wetlands shall be mitigated at the rate of three times the lost or disturbed wetland area in a manner approved by the Township. Mitigation may include creation of wetlands which shall be hydrologically fed with stormwater discharged from an approved stormwater management facility. Created wetlands may be located at a site approved by the Township for such mitigation, whether on or off the property that contains the wetland subject to disturbance. Where approved by the Township, some or a portion of any required wetlands mitigation, in lieu of wetland creation, may be accounted for through permanent conservation of other existing unprotected wetlands or by restoration of former wetlands (e.g., through removal of tile fields or other drainage facilities) by means satisfactory to the Township.
- E. Wetlands shall be staked as part of the subdivision, land development, and/or zoning permit procedure. Prior to any site disturbance or construction within one hundred (100) feet of the wetlands, construction safety fence must be installed around the perimeter of the wetlands Zone A Margin.
- F. Where a jurisdictional determination or full wetland delineation report is required to comply with state or federal regulation, or where requested by the Township, any applicant shall provide the Township with a full wetland delineation report conducted by a qualified wetland biologist, soil scientist, or environmental professional of demonstrated qualifications, subject to the following:

1. Where there is any question as to the accuracy of the wetland delineation report, the Township may hire an Army Corp of Engineers jurisdictional determination to review the delineation and recommend revisions at the applicant's expense.
 2. Such a professional shall certify that the methods used correctly reflect the currently accepted technical concepts, including identification and analysis of wetland vegetation, hydric soils, and hydrologic indicators. Methods used in the delineation report shall be acceptable to the Township Engineer or other qualified consultant hired by the Township.
 3. The wetland report submitted to the Township shall include a determination of whether wetlands are present on the site and a full delineation, area measurement (in square feet), and description of any wetlands determined to be present.
- G. All Hydric Soils shall be considered wetlands unless an on site evaluation is conducted by a qualified wetland biologist, soil scientist or environmental professional of demonstrated qualification.

Section 1007. HYDRIC SOILS

- A. With the exception of those uses or activities listed below, and where not otherwise regulated more restrictively under the provisions of this Ordinance, no more than fifteen (15) percent of any Hydric Soil shall be regraded, filled, built upon, or otherwise altered or subject to land disturbance:
1. Regulated activities permitted by the Commonwealth (i.e. permitted stream or wetland crossing);
 2. Provision for trail and trail access where approved by the Township;
 3. Selective removal of hazardous or invasive vegetation;
 4. Customary agricultural practices; or
 5. Vegetation management in accordance with an approved landscape plan or open space management plan.
- B. Notwithstanding the fifteen (15) percent disturbance limitation set forth above, the following regulations shall apply to Hydric Soils:
1. No structures for human use or habitation or for regular animal occupancy shall be constructed in any area of hydric soil;

2. No subsurface sewage system shall be constructed within any area of Hydric Soil.
3. No road, driveway, or emergency access shall cross any area of Hydric Soil except where providing necessary access which clearly is otherwise impracticable and only where drainage, adequate base preparation, and paving approved by the Township Engineer shall be provided.

Section 1008. RIPARIAN BUFFER AND WETLAND MARGIN PROTECTION STANDARDS

- A. Zone One – Inner Riparian Buffer and Wetland Margin – With the exception of those uses or activities listed below, no land disturbance shall be permitted within the Zone One Riparian Buffer or Wetland Margin:
 1. Regulated activities permitted by the Commonwealth (i.e. permitted stream or wetland crossing).
 2. Provision for trail and trail access where approved by the Township with minimum disturbance to existing woodland vegetation;
 3. Selective removal of hazardous or invasive vegetation; or
 4. Vegetation management in accordance with an approved landscape plan or open space management plan.
- B. Zone Two – Outer Riparian Buffer and Wetland Margin - Except for the following activities, no more than twenty (20) percent of a Zone Two Riparian Buffer or Wetland Margin shall be regraded, filled, built upon, or otherwise altered or subject to land disturbance:
 1. Activities permitted in the Zone One Riparian Buffer or Wetland Margin.
 2. Timber Harvesting Operations, when conducted in compliance with a Timber Harvesting Plan prepared in accordance with Section 1200.A.31 and approved by the Township and Lehigh County Conservation District. Clear-cutting of timber shall not be permitted within the Riparian Buffer or Wetland Margin.

Section 1009. SPECIFIC APPLICABILITY OF NATURAL RESOURCE PROTECTION STANDARDS

- A. Application for Conditional Use for the Open Space Design Option.
 1. As part of a sketch plan submittal for use of the Open Space Design Option, an Existing Features Plan shall accompany the Sketch Plan. This plan, together with the Sketch Plan, shall demonstrate the development's compliance with the natural resource protection standards. The Existing

Features Plan and the Sketch Plan shall be prepared and submitted as specified in the current Lower Milford Township Subdivision and Land Development Ordinance. For sketch plan purposes only, the use of the most current GIS mapped information available from the Lehigh Valley Planning Commission, Lehigh County, Lehigh County Conservation District, or Lower Milford Township may be substituted for field-survey information otherwise not available for meeting the submittal requirements.

2. As part of a conditional use application for use of the Open Space Design Option, an Existing Features Plan shall accompany the Site Plan. This Plan, together with the Site Plan, shall demonstrate the development's compliance with the natural resource protection standards. The Existing Features Plan shall be prepared and submitted as specified in the current Lower Milford Township Subdivision and Land Development Ordinance.

B. Application for Special Exception, Variance, or Conditional Use other than for the Open Space Design Option.

1. Any application for special exception, conditional use other than for the Open Space Design Option referenced in subsection A. above, or variance involving subdivision or land development, ultimately subject to submission and approval in accordance with the Lower Milford Township Subdivision and Land Development Ordinance, shall be accompanied by an Existing Features Plan. This Plan, together with the Site Plan, shall demonstrate the development's compliance with the natural resource protection standards. The Existing Features Plan shall be prepared and submitted as specified in Section 300 of the Lower Milford Township Subdivision and Land Development Ordinance.

C. Application for Preliminary Subdivision Plan or Land Development.

1. As part of a Sketch Plan submittal prior to the formal submittal of a Preliminary Subdivision Plan or Land Development, the applicant shall be required to submit an Existing Features Plan with the Sketch Plan that together demonstrate the development's compliance with the natural resource protection standards. The Existing Features Plan shall be prepared and submitted as specified in Section 300 of the Lower Milford Township Subdivision and Land Development Ordinance. For Sketch Plan purposes only, the most current GIS mapped information available from the Lehigh Valley Planning Commission, Lehigh County, Lehigh County Conservation District, or Lower Milford Township may be substituted for field-survey information otherwise not available for meeting the submittal requirements.
2. As part of a Preliminary Subdivision Plan or Land Development application, the applicant shall be required to submit an Existing Features Plan and Preliminary Plan that together demonstrate the development's compliance

with the natural resource protection standards. The Existing Features Plan shall be prepared and submitted as specified in Section 300 of the Lower Milford Township Subdivision and Land Development Ordinance.

D. Application for Zoning Permit.

1. For a Zoning Permit, or in those cases where only a limited amount of the site will be subject to disturbance, the Zoning Officer may determine the area of land required to be shown on a Site Plan such that information submitted will adequately demonstrate compliance with the natural resource protection standards of this Section. 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.

E. Building Envelope.

1. The purpose of the identification of a building envelope on a Sketch Plan, Preliminary Subdivision Plan, Land Development Plan, or Site Plan, as defined in these regulations, is to provide sufficient area for the general location of the building, driveway, patio, other improvements and site alterations while meeting the natural resources protection standards and minimum setback requirements of this Ordinance.
2. For any proposed subdivision, each lot shall have a contiguous building envelope of at least eight-thousand (8,000) square feet for residential lots and twenty-thousand (20,000) square feet for all other permitted uses. In the case of an existing lot, the plan must demonstrate that the permissible building envelope will encompass the improvements and site alterations proposed.
3. For uses with on-lot sewage systems, a three thousand (3,000) square foot or larger area, in addition to the building envelope specified in subsection 2. above, shall be identified for the location of the sewage system. Such additional area shall not include natural features with a one hundred (100) percent protection standard and the portion of those natural features that may not be developed or intruded upon.

F. Site Capacity Calculation (Determining the Net Buildable Site Area)

1. Each site is unique; it has physical features which are rarely duplicated precisely on another site. Portions of some sites may not be usable. The purpose of this subsection is to determine the appropriate intensity of use to which a specific tract may be put, by netting out certain features or land considered to be unbuildable from the total gross acreage of a tract. For each tract, the following calculation shall be submitted by an applicant for Sketch Plan, Conditional Use, Special Exception, Variance, Preliminary Subdivision Plan, Land Development, or Site Plan.

- a. Base Site Area: Certain portions of tracts may not be usable for the activities proposed for the site; these shall therefore be subtracted from the site area to determine Base Site Area.

1) Site area as determined by actual on-site Survey _____ Ac.

2) Subtract –

Land within ultimate right-of-way of existing roads, - _____ Ac.

Land within utility rights-of-way and/or Easements - _____ Ac.

3) Subtract - land which is not contiguous; i.e., a separate parcel which does not abut or adjoin, nor share common boundaries with the rest of the development; and/or land which is cut off from the main parcel by a road, railroad, existing land uses, and/or major stream so as to serve as a major barrier to common use, or so that it is isolated and unavailable for building purposes.
- _____ Ac.

4) Subtract - land which in a previously approved subdivision was reserved for natural resources protection reasons (e.g. flood plain, steep slopes, etc.) or for recreation.
- _____ Ac.

5) Subtract - land uses or zoned for another use; i.e., land which is used or to be used for commercial or industrial uses in a residential development, or land in a different zoning district than the primary use
- _____ Ac.

Base Site Area = _____ Ac.

- b. Land With Resource Restrictions and Resource Protection Land – Calculate the land with resource restrictions and the resource protection land. In the event that two or more resources overlap, only the resource with the highest open space ratio shall be used in the calculations.

Resource	Open Space Ratio (OSR)	Ac. of Land in Resources	Resource Protected Land (Ac. x OSR)
<hr/>			
Flood Plains	100%		
Flood Plain Soils	100%		
Steep Slopes:			
8-15%	65%		
15-25%	75%		
25% or more	90%		
Steep Slope Margin	75%		
Woodlands:			
Class I w/very steep slopes	95%		
Other Class I	85%		
Class II	Regulated by Underlying Resource		
Class III	75%		
Lakes or Ponds	100%		
Watercourses	100%		
Wetlands	100%		
Hydric Soils	85%		
Riparian Areas			
Zone 1	100%		
Zone 2	80%		
Wetlands Margin			
Zone A	100%		
Zone B	80%		
Land with Resource Restrictions		_____ Acres	
Resource Protection Land			_____ Acres

c. Net Buildable Site Area - Calculate the Net Buildable Site Area.

Base Site _____ Acres

Subtract Resource Protection Land - _____ Acres

Net Buildable Site Area = _____ Acres

d. Number of Dwelling Units/Lots - Calculate the maximum number of dwelling units (DU's).

Net Buildable Site Area _____ Acres

Multiply by Maximum Residential Density
Specified in Section 1010 x _____

Number of Dwelling Units = _____ DU's

Note: Fractions of DU's round up if greater than or equal to 0.5, and down if less than 0.5.

- e. Determination of Impervious Surface Ratio: To assure that the amount of impervious surfaces on the site have not exceeded the standard permitted for the various districts, the Impervious Surface Ratio, or Maximum Lot Coverage, for each site shall be calculated. The total area of impervious surface contained in any of the following categories shall be determined.

add:

Streets	_____
Buildings	_____
Driveways	_____
Sidewalks	_____
Patios	_____
Swimming Pools	_____
Other	_____

Total Impervious Surfaces = _____

Divide by Base Site Area / _____

Equals Impervious Surface Ratio = _____

The impervious surface ratio shall be less than or equal to the maximum Impervious Surface Ratio specified in Section 1010, Table of Performance Standards. In the case of conventional subdivisions, permissible impervious surface must be allocated on total tract and a per lot basis so that limitations will not subsequently be exceeded.

Section 1010. TABLE OF PERFORMANCE STANDARDS

<u>Zoning District</u>	<u>Max. Residential Density DU/AC</u>	<u>Max. Imp. Sur. Ratio</u>
<u>Agricultural Conservation</u>		
Single-Family ⁽¹⁾	0.50	0.15
Single-Family ⁽²⁾	0.10	0.15
All Other	NA	0.15

Resource Conservation

Single-Family	0.25	0.15
Single-Family ^(OSDO)	0.40	0.15
All Other	NA	0.15

Rural Residential-1

Single-Family	0.5	0.20
All Other	NA	0.20

Rural Residential-2

Single-Family	0.30	0.15
Single- and Two-Family ^(OSDO)	0.50	0.25
All Other	NA	0.15

Village Center

Single- and Two-Family	2.0	0.30
Multi-Family	1.0	0.30
Non-Residential	NA	0.30 w/o TDRs 0.50 w/ TDRs
Multi-Use (excluding residential)	NA	0.35 w/o TDRs 0.65 w/ TDRs
Multiple-Residential	3.0 w/o TDRs 6.0 w/ TDRs	0.30 w/o TDRs 0.50 w/ TDRs

(1) Single-family residential for Pre-Existing Parcels less than ten (10) net acres in size.

(2) Single-family residential for Pre-Existing parcels ten (10) or more net acres in size.

(OSDO) Residential development subject to the Open Space Design Option provisions of Article VIII.

Section 1011. MODIFICATIONS TO NATURAL RESOURCE PROTECTION STANDARDS

A. Modifications to Natural Resource Protection Standards.

1. For any use or activity not subject to Subdivision or Land Development review, and subject to application for approval of a Conditional Use, Special Exception, or Zoning Variance under the provisions of this Ordinance,

modification(s) to the provisions of Sections 1002 to 1008 may be requested as part of such application.

2. For any use or activity not otherwise subject to zoning permit or approval, modification(s) to the provisions of Sections 1002 to 1008 may be requested in the form of an application for grant of a Special Exception by the Zoning Hearing Board. Such proposal shall be submitted to the Township Planning Commission for review and comment prior to application for a Special Exception to the Zoning Hearing Board in accordance with the administrative procedures.
3. In consideration of approval of any request for modification(s) under this Article, it shall be determined that the specific nature of the lawful use or activity, existing site conditions, and/or safety considerations warrant such modification(s), and that the resource protection purposes of this Article shall be adhered to, to the maximum extent practicable.

ARTICLE XI

HISTORIC RESOURCES PRESERVATION

Section 1100. PURPOSE

- A. To promote the general welfare and retention of character by recognizing and protecting the integrity of historic resources in Lower Milford Township in compliance with Section 603(g)(2) of the Pennsylvania Municipalities Planning Code.
- B. To establish a clear process by which proposed land use changes affecting historic resources are reviewed.
- C. To mitigate the negative effects of proposed changes affecting historic resources.
- D. To encourage and provide incentives for the continued use of historic resources and to facilitate their appropriate reuse.
- E. To encourage the preservation of historic settings and landscapes.
- F. To implement the policies of the *Southwestern Lehigh County Comprehensive Plan* related to preserving historic resources.
- G. To implement the goals of the Pennsylvania Constitution, Article I, Section 27, which establishes the state policy of encouraging the preservation of historic and aesthetic resources.
- H. To implement Sections 604(1) and 605(2)(vi) of the Pennsylvania Municipalities Planning Code to permit additional classifications within any zoning district for the regulation of uses and structures at, along, or near “places having unique historical, architectural, or patriotic interest or value.”

Section 1101. APPLICABILITY

- A. Classification of Historic Resources.
 - 1. Class I Historic Resources: Class I Historic Resources include the following, whether or not specifically designated on the Historic Resources Inventory.
 - a. All buildings, sites, structures, and objects listed individually in the National Register of Historic Places;
 - b. All buildings and structures classified as "certified historic structures" by the Secretary of the Interior;

- c. All buildings, sites, structures, and objects documented as "contributing resources" in a National Register Historic District;
 - d. Any resources which have received a Determination of Eligibility (DOE) by the Pennsylvania Historical and Museum Commission (PHMC); and
 - e. Any historic district included in the National Register of Historic Places or any historic district which has received a Determination of Eligibility (DOE) by the Pennsylvania Historical and Museum Commission (PHMC).
2. Class II Historic Resources: All other historic resources included in the Historic Resource Inventory conducted by the Historical Commission. Owners may submit a request to the Board of Supervisors for consideration of either addition or removal of a resource from Class II listing.

B. Historic Resource Inventory and Classification.

The provisions of the Historic Resource Preservation standards contained in this Article shall apply to all historic resources in Lower Milford Township included on the Historic Resources Inventory, subject to classification as Class I and Class II Historic Resources.

C. Revisions

Based on the criteria set forth in this Section, the Historic Resource Inventory may be revised from time to time by legislative action of the Board of Supervisors following a public hearing, at which time the proposed changes shall be presented. Revisions may include additions or deletions to the Inventory or changes in classification of resources.

- 1. Any proposed revision to the Historic Resource Inventory shall first be referred to or proposed by the Historical Commission, which shall submit a written recommendation to the Board of Supervisors. Routine inventory maintenance or updating of information regarding individual resources included in the Inventory shall not be considered revisions for the purposes of this Section.
- 2. A resource shall be added to Class I if it is found to meet the definitional criteria for Class I (e.g., National Register listing) set forth in Section 1101.A.
- 3. A resource shall be recommended for removal from Class I if it no longer meets the definitional criteria for Class I (e.g., National Register listing) set forth in Section 1101.A.

4. A resource shall be added to Class II if it is found to meet the general definitional criteria for Historic Resource set forth in Subsection 1101.B.8 below.
5. A resource shall be recommended for removal from the Historic Resource Inventory if it does not currently meet the general definitional criteria set forth in Subsection 1101.B.8 below or is not deemed by the Historical Commission or Board of Supervisors to be of similar significance based on documentary evidence received by the Historical Commission.
6. Unless a resource is proposed for addition to or deletion from the Inventory or for reclassification by the owner(s) of the property upon which the resource is located, such owners(s) shall be notified upon receipt of a proposal affecting their property and shall be invited to respond to such proposal at or prior to the public hearing. The owner(s) of any property(ies) which are the subject of any such proposed legislative action shall be given written notice of the Historical Commission's recommendation to the Board of Supervisors at least ten (10) days prior to the public hearing.
7. Amendments, as needed, shall conform to all procedural requirements for amendment to the Zoning Ordinance.
8. The following general definitional criteria shall be considered when determining whether a resource should or should not be included on the Historic Resource Inventory or should be reclassified:
 - a. Resources uniquely associated with events or persons that have made a significant contribution to local, state, or national history.
 - b. Resources of significant character, interest, or value as part of the historical, archaeological, architectural, economic, social, or cultural heritage of Lower Milford Township, Lehigh County, Pennsylvania, or the nation.
 - c. Resources possessing distinctive characteristics of an architectural style, type, period, method of construction, or innovation of design, or that exhibit a high degree of original architectural integrity from a recognized historical period.

Section 1102. SPECIAL PROVISIONS FOR PROPERTIES WITH HISTORIC RESOURCES

A. Additional Use Opportunities.

Subject to obtaining conditional use approval from the Board of Supervisors pursuant to Article XV of this Ordinance as well as the requirements and

procedures set forth in this Section, additional use opportunities may be permitted on properties with Class I and Class II historic resources. The following use opportunities may be available as a principal or accessory use in addition to, or in place of, any current use of the property or use permitted in the underlying zoning district. Where such uses are already permitted by-right or by special exception in the underlying district, they shall not be subject to the provisions of this Section, but shall meet all other applicable requirements of this Article and Ordinance. However, if the use is proposed in addition to a principal use already on the property (i.e., a second principal use), or is otherwise not permitted in the base zoning district, such use shall be subject to the provisions of this Section and all other applicable requirements of this Ordinance.

1. Bed and Breakfast.
2. Business, Administrative, or Professional Office employing not more than five (5) persons.
3. Artist studio or craft workshop employing not more than three (3) persons. Where instructional classes are provided, the use shall be limited to one (1) class at a time with not more than five (5) students in the class and not more than two (2) instructors.
4. Antique store of fifteen hundred (1,500) square feet or less of gross leasable floor area.
5. Residential Conversion or the conversion of a nonresidential structure to a residential use.
6. Personal service shop including beauty salon, barber, tailor, dressmaker, or similar shop, but not including dry cleaning or laundromat, and shall be limited to one (1) employee per five hundred (500) square feet of gross leasable floor area devoted to this personal service use, up to a maximum of fifteen hundred (1,500) square feet.
7. Repair services including small scale uses such as small appliances, watches, household furnishings, shoes, bicycles, locks, but shall not include automobile, truck, motorcycle, or lawnmower repair, and shall be limited to one (1) employee per five hundred (500) square feet of gross leasable floor area devoted to this repair service use, up to a maximum of fifteen hundred (1,500) square feet.
8. Conference and meeting facilities as a principal use in Class I historic resources only, and where located on tracts exceeding one hundred (100) acres.
9. Customary accessory uses to any permitted principal use.

B. Modification to Area and Bulk Regulations

The Board of Supervisors, through the granting of a conditional use, may approve requested modifications to applicable lot area, lot width, or yard requirements or any other applicable area and bulk requirements or design standards otherwise applicable in the underlying zoning district for plans affecting Class I and Class II historic resources, in accordance with Article XV of this Ordinance and requirements and procedures for conditional use approval of this Section. In all cases, such modifications may be permitted to reduce otherwise applicable requirements to the minimum degree necessary to accommodate proposed plans, and to allow for the preservation and rehabilitation and/or reuse of the historic resource. For residential lots, where a historic resource exists on a site that is to be subdivided or developed, there shall be included a lot area of sufficient size to preserve those portions and features of the historic resource which are historically and architecturally significant.

C. Requirements for Conditional Use Approval

In addition to the conditional use standards and provisions set forth in this Section and in Article XV, the following requirements shall apply where additional use opportunities and/or modification to applicable area and bulk regulations for historic resources are permitted:

1. The modification shall have the effect of encouraging the continued protection or reuse of the historic resource.
2. The approval of the conditional use is deemed by the Board of Supervisors to be necessary to the preservation of the historic resource.
3. The approval of the conditional use will be deemed by the Board of Supervisors to have no adverse effect on adjoining properties.
4. Where plans involving historic resources under this Section result in all or portions of any such resource remaining unoccupied, the Township may require that such unoccupied resource shall be tightly sealed and barred off in a manner not jeopardizing historical integrity, and the utilities turned off for safety.
5. In granting conditional use approval in accordance with this Section, the Board of Supervisors shall be satisfied that adequate water supply and sewage disposal can be provided.
6. In granting a conditional use approval in accordance with this Section, the Board of Supervisors may require as a condition of approval the establishment

of a façade easement, conservation easements, or other means to guarantee permanent protection of the historical integrity of the subject resources.

7. Except where clearly detrimental to the historical integrity and where public health, safety, and welfare are otherwise adequately provided for, all other applicable standards contained in this Ordinance shall be complied with, including, but not limited to, requirements for buffering, lighting, storage, loading, parking, and signage.
8. The Historical Commission shall review all requests for conditional use approval regarding historic resources related to requested area and bulk modifications and evaluate whether requested modifications are necessary for the preservation, and are compatible with maintaining the historical integrity of the historic resource. Recommendations shall be in a written report to the Board of Supervisors.
9. The Township strongly encourages plans involving any rehabilitation, alteration, or enlargement of a Historic Resource proposed as part of the conditional use application to use as a guideline the Secretary of the Interior Standards for Rehabilitation, as follows. Such plans shall be reviewed by the Historical Commission who shall submit a written review to the Board of Supervisors, and the plans submitted shall be in sufficient detail to allow the determination of their level of compliance with the Standards below. In approving the conditional use, the Board of Supervisors may set conditions requiring compliance with the Secretary of the Interior's Standards for Rehabilitation, as applicable.
 - a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
 - b. The Township strongly encourages the historic character of a property to be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
 - c. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
 - d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
 - e. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize an historic property shall be preserved.

- f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, shall be substantiated by documentary physical or pictorial evidence.
- g. Chemical or physical treatments that can cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- h. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- i. New additions, exterior alterations, or related new construction shall not destroy the historic character of the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.
- j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

D. Application Procedures for Conditional Use Approval regarding Historic Resources

1. An applicant seeking conditional use approval regarding a historic resource shall submit the appropriate application to the Township under Article XV of this Ordinance. The application shall include, in addition to that which is required under Article XV, where relevant, the following:
 - a. A detailed depiction of the proposed use(s).
 - b. Any physical changes proposed for the affected historic resources(s) and their surrounding context.
 - c. Any proposed modifications to the otherwise applicable area and bulk regulations.
2. Upon receipt by the Township, the complete application shall be forwarded to the Historical Commission, Planning Commission, and the Board of Supervisors. Upon receipt of a complete application by the Township, the Historical Commission and Planning Commission shall, at a regular or special meeting, review the application for conditional use approval prior to the

required public hearing described in Section XV. The applicant will be notified of such meetings at least ten (10) days prior to the scheduled dates and shall have the opportunity to present reasons for filing the application. In reviewing the application the following shall be considered as well as the requirements of this Section.

a. In reviewing the application, the Historical Commission shall consider:

- 1) Regarding proposed requested modification of area and bulk, the Historical Commission shall evaluate whether the proposed modifications are necessary to preserve the affected historic resources(s).
- 2) Where the application involves physical changes to historic resources and /or the surrounding context, the Historical Commission shall review the proposed changes and make recommendations as to their appropriateness.

b. The Planning Commission shall review the application for its impact on the health, safety, and welfare of the Township including, but not limited to, traffic, water supply, and sewerage.

3. Recommendations, if any, of the Historical Commission and Planning Commission shall be in a written report to the Board of Supervisors and shall include any suggestions for specific changes to proposed plans. If no recommendation is submitted to the Board of Supervisors by the date of the public hearing to consider the application, then it shall be considered that such Commission recommends the approval of the application.
4. The Board of Supervisors shall act on the conditional use application in accordance with the provision of Article XV.

Section 1103. DEMOLITION OF CLASS I AND II HISTORIC RESOURCES

A. No Class I or Class II 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 Codes. Temporary removal of architectural features or structural members for purposes of maintenance, repair or restoration shall not constitute demolition.

B. Demolition by Neglect

1. No Class I or Class II historic resource shall be demolished by neglect as defined in Article II.

2. Demolition by neglect shall not be used as an automatic excuse by the applicant as justification for an active demolition application.
 3. Demolition by neglect does not apply to ruins, such as partially roofed structures, wall remains, remaining foundations, or other structures which are clearly in ruins and missing a substantial portion of the structural mass, existing at the time of adoption of this Article or permitted to remain as ruins pursuant to this Section.
 4. 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 Ordinance or at the time a new owner purchases 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 a historic resource listed on the Township Historic Resource Inventory 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.
- C. The structural integrity of both occupied and unoccupied Class I and Class II historic resources should be achieved through proper maintenance of all structural and other critical elements necessary to securing the integrity of the resource.
- D. Application Requirements for Demolition of Historic Resources.
1. 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. If the application concerns the demolition of a Class I or Class II 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.
 2. In addition to the applicable requirements under the Township Building Codes, any applicant seeking a permit to demolish a historic resource shall submit the following information regarding that resource:
 - a. Owner of record.
 - b. Classification of historic resource on the Historic Resource Inventory.
 - c. Recent photographs of the resource proposed for demolition.
 - d. A site plan showing all buildings and structures on the property.

- e. Reasons for demolition.
- f. Method of demolition.
- g. Proposed use for the site, timeline for implementation of proposed use for the site, and proposed disposition of materials from the demolished site.
- h. Alternatives which the applicant has considered prior to demolition.

E. Review Process for Demolition Permits

1. 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, and shall forward such application to the Historical Commission within ten (10) days of receipt.
2. Within thirty-five (35) 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:
 - a. 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, district or vicinity in which the resource is located.
 - b. Economic feasibility of continuing the existing use or of adaptively reusing the resource proposed for demolition.
 - c. Alternatives to demolition of the resource.
 - d. Whether the applicant has demonstrated that he has considered alternatives to demolition.
 - e. Whether the retention of the resource would represent an unreasonable economic hardship.
 - f. Whether the resource has been intentionally neglected.
3. 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, recommending approval of the application with conditions, or alternatively, 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.

- a. Class I historic resources. A period not to exceed ninety-five (95) days.
- b. Class II historic resources. A period not to exceed sixty-five (65) days.

4. Recommendation of the Board of Supervisors.

Within thirty-five (35) days of receiving the recommendation from the Historical Commission, the Board of Supervisors shall consider the application at a public meeting, together with the recommendations 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 ten (10) days prior to the date of the public meeting, and shall have the opportunity to present reasons for filing the application. Within five (5) 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.

5. 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.

6. 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 I historic resource proposed for demolition. Such documentation may include:

- a. Historical data, survey information, and other data provided by local, state, and federal historic preservation organizations and other agencies.

- b. Photographs.
- c. Floor plans.
- d. Measured drawings.
- e. Archeological survey, if appropriate.
- f. Other available comparable forma of documentation.

7. Financial Analysis.

In cases where there is claim that demolition of a Class I historic resource is necessary due to financial hardship or the lack of a economically reasonable alternative for reuse, the applicant may be required at the discretion of the Board of Supervisors, during the period of the delay of demolition, to prepare a financial analysis, which may include any or all of the following information:

- a. Amount paid for the property, date of purchase and party from whom purchased.
- b. Assessed value of the land and improvements thereon, according to the most recent assessment.
- c. For depreciable properties, a pro forma financial statement prepared by an accountant or broker of record.
- d. All appraisals obtained by the owner in connection with the purchase or financing of the property, or during the ownership of the property.
- e. Bona fide offers of the property for sale or rent, price asked, and offers received, if any.
- f. 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 the historic resource and any input from preservation organizations.
- g. Where relevant, written estimates of the cost of rehabilitation.

8. Final Recommendation on Demolition by the Historical Commission.

Prior to or at the end of the expiration of the ninety-five (95) or sixty-five (65) 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.

9. Final Decision on Demolition by the Board of Supervisors.

The Board of Supervisors shall act upon the application for demolition within or at the ninety-five (95) or sixty-five (65) 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 fourteen (14) days of making its decision, the Board of Supervisors shall provide written communication to the applicant, Historical Commission, and the Zoning Officer.

10. 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.

F. Enforcement.

1. Fines and penalties.

Any person who demolishes an historic resource in violation of the provisions contained herein shall be subject to the fines and penalties imposed under this Ordinance in accordance with Article XVI as well as all other applicable Township Codes.

2. The Zoning Officer shall withhold issuing a building permit for a property that, at the date of enactment of this Article, was occupied by a Class I or Class II historic resource that was subsequently demolished in violation of this Article, until the appropriate review is completed.
3. In addition to the above remedies, the Board of Supervisors may take other appropriate legal action, which may include equitable and injunctive relief, to enforce the provisions of this Article.
4. Appeals to this process shall be made to the Zoning Hearing Board.

Section 1104. HISTORIC RESOURCE IMPACT STUDY.

A. Intent

The intent of the Historic Resource Impact Study is to provide the Township with enough information and data to evaluate the impact of the proposed land

development on Class I and Class II historic resources in the Township and to encourage the preservation of those resources to the maximum extent possible, to minimize negative impacts on historic resources, and to provide mitigation of adverse effects of a proposed project on historic resources. Existing conditions, proposed changes, and proposed mitigation measures, if necessary, shall be described in this study.

B. Applicability

An Historic Resource Impact Study shall be required at the discretion of the Board of Supervisors when any of the following are proposed:

1. Subdivision or land development plans which include an on-site historic resource as identified on the Township Historic Resource Inventory.
2. Any construction, improvement, or land disturbance being undertaken in conjunction with subdivision or land development of land within three hundred (300) feet of the exterior walls of any Class I or Class II historic resource or on which historic resources are located, as identified on the Historic Resource Inventory.
3. General bridge or road construction, or substantial repair passing within three hundred (300) feet of the exterior walls of any Class I or Class II historic resource.

C. Contents

The Historic Resource Impact Study shall contain the following information, as required by the Board of Supervisors and shall be deemed a part of any preliminary or final land development application or zoning application as applicable:

1. Background Information.
 - a. If not otherwise provided by the applicant, a general site description, including topography, watercourses, vegetation, landscaping, existing drives, and similar features.
 - b. General description and classification of all Class I and Class II historic resources as described in Section 1101.A above.
 - c. Physical description of all Class I and Class II historic resources identified.

- d. Narrative description of the historic and architectural significance of each Class I or Class II historic resource, relative to the Township and the region in general.
- e. Any easements, deed restrictions, rights-of-way, or any other encumbrances upon the land, including location, size and ownership.
- f. Sufficient number of black and white or color 4" x 6" photographs to show all elevations of all Class I and Class II historic resources identified and the resource in its setting.

2. Proposed Change

- a. General description and site plan of the proposed project, including time table or phases.
- b. Description of the impact of the proposed development on each identified Class I and Class II historic resource with special emphasis on the impact to architectural integrity, historic setting and future use.
- c. General description the effect of noise and traffic generated from the proposed change on the identified Class I and Class II historic resources.

3. Mitigation Measures

- a. Measures to be undertaken by the developer to mitigate the project's negative impact on Class I or Class II historic resources, including design alternatives, buffering, landscaping, conservation of existing vegetation, and any other appropriate measures permitted under the terms of this and other Township ordinances.

D. Review

The Historical Commission shall review the Historic Resource Impact Study and shall forward it along with written recommendations to the Planning Commission and the Board of Supervisors before a decision regarding the applicable land development application is rendered and within the timeframe applicable to the subject application. In approving any applicable application, the Planning Commission and Board of Supervisors may establish conditions of approval requiring mitigation of negative impacts on Class I or Class II historic resources.

ARTICLE XII

SUPPLEMENTARY REGULATIONS

Section 1200. REGULATIONS APPLYING TO CERTAIN USES AND DISTRICTS

- A. Purpose. The following regulations have been established to govern specific uses, structures, or buildings within Lower Milford Township or are of general applicability and which shall apply in addition to any other applicable zoning regulations. In the case of building permits, special exceptions, or conditional use approvals, the applicant shall demonstrate to the Zoning Officer, for zoning or building permits; the Zoning Hearing Board, for special exceptions, or the Board of Supervisors, for Conditional Use approval, how the specific use, structure, or building complies with the following criteria or standards.

1. **Adult Commercial Uses.**

- a. No such use shall be located within five hundred (500) lineal feet of any primary or secondary school, place of worship, public park, day care center, child nursery, library, or any site marked as a proposed future park location on the Township Official Map.
- b. No such use shall be located within one thousand (1,000) lineal feet of any existing adult bookstore, adult movie theater, massage parlor or cabaret.
- c. A forty (40) foot buffer yard shall be provided, along the side and rear lot lines with plantings of an initial minimum height of five (5) feet.
- d. No obscene nor pornographic material or words shall be placed in view of persons who are not inside of the establishment. Definite precautions shall be made to prohibit minors from entering the premises.
- e. The applicant must prove to the satisfaction of the Board of Supervisors that such use would not in any way adversely affect the character of the surrounding area, including property values.
- f. No such use shall be used for any purpose that violates any Federal, Commonwealth or Township law. Any violation of this zoning requirement involving a serious criminal offense that the proprietor has continuing knowledge of and allows to occur shall be sufficient reason for the Township to withdraw the zoning permit.
- g. No such use shall be allowed in combination with the sale of alcoholic beverages.
- h. The use shall not involve activities which constitute violation of the Act of 1977, November 5, P.L. 221, No. 68 S 1 et seq., as amended (18 Pa.

C.S.A. S 5903) relating to display, sale, lending, distribution or exhibiting of obscene and other sexual material. The term "obscene materials" as used in this Ordinance shall be defined in the same manner as set forth in the aforesaid Statute.

- i. These uses are specifically prohibited in all Districts except the VC District.
- j. Minimum lot area shall be one (1) acre.
- k. Any private viewing booths shall be completely enclosed and limited to one person per booth.
- l. No use may include live actual or simulated sex acts.
- m. Only "lawful" massages as defined by State court decisions shall be performed in a massage parlor.
- n. All employees in a massage parlor or adult movie theater shall wear nontransparent outer garments that cover their "specified anatomical areas".

2. **Agricultural Uses.**

- a. The cultivation of soil and the raising and harvesting of the products of the soil including but not by way of limitation, raising of grains, vegetables and fruits, vineyards, nurserying, horticulture, forestry, and beekeeping may be conducted on all parcel areas (i.e., without minimum) in all districts where listed as a permitted use.
- b. Animal husbandry, including the use of barns, animal shelters, or other structures, shall be permitted by-right in the AC, RC, and RR-2 Districts subject to the following standards, but shall exclude any agricultural activity meeting the definition of Intensive Agriculture, which are subject to conditional use approval in accord with Article XII, Section 1200.A.3.
 - 1) The minimum parcel area shall be at least ten (10) acres.
 - 2) Expansion of animal husbandry existing at the effective date of this Ordinance by additions to such structures, or erection of new structures, is permitted. Any such additions or new structures shall be located at least one hundred fifty (150) feet from all lot lines, seventy-five (75) feet from all street lines, and five hundred (500) feet from all existing dwellings except that of the owner. Such expansion may be on land not abutting the main farm.

- 3) New animal husbandry shall be located at least one hundred fifty (150) feet from all lot lines, seventy-five (75) feet from all street lines, and five hundred (500) feet from all existing dwellings except that of the owner.
- c. Agricultural uses include grazing and pasturing. All grazing and pasturing areas shall be fenced.
 - d. Common domestic animals and birds may be kept as pets or for domestic purposes on a parcel of at least three (3) acres in the AC, RC, and RR-2 Districts, and which meets the minimum yard requirements pursuant to the following requirements:
 - 1) One (1) large animal such as a horse, cow, or pig; or four (4) medium sized animals such as sheep; or not more than twenty-five (25) poultry, fowl, rabbits, or other small animals (excluding minks) for the initial three (3) acres;
 - 2) One (1) additional large animal per added 1-1/2 acres, or four (4) medium sized animals, or twenty-five (25) small animals (excluding mink) may be kept per each additional acre;
 - 3) Animal stock kept as pets or for domestic purposes on parcels less than ten (10) acres shall meet the following setbacks:
 - i. for large and medium-sized animals: such shelters shall be three hundred (300) feet from any existing dwelling other than the owner's and seventy-five (75) feet from all street lines and one hundred (100) feet from all lot lines.
 - ii. for under forty (40) small animals: such shelters must be twenty (20) feet from all lot lines.
 - iii. for over forty (40) small animals: such shelters must be three hundred (300) feet from existing dwellings, except the owner's, and seventy-five (75) feet from all street lines and one hundred (100) feet from all lot lines.
 - e. No slaughtering operations for commercial purposes shall be permitted.
 - f. All manure management practices and operations shall comply with the applicable regulations of the Pennsylvania Department of Agriculture and the Department of Environmental Protection.

3. Agricultural Use, Intensive

- a. The minimum lot area for intensive agricultural uses shall be twenty (20) acres.
- b. Agricultural buildings or structures housing mushrooms, poultry, hogs, or other livestock; accessory mushroom composting; feed lots; or other odor or dust producing activities shall be set back a minimum of two hundred (200) feet from any lot boundary or stream.
- c. Land area used for feed lots shall be fenced and shall be graded so that animal wastes and surface run-off are confined to the lot on which they originate, and are not directed to the 100 year floodplain, streams, wetlands, or other bodies of water.
- d. All manure management practices and operations shall comply with the applicable regulations of the Pennsylvania Department of Agriculture and the Department of Environmental Protection.

4. Animal rescue shelter or wildlife rehabilitation center

Where animal rescue shelters or wildlife rehabilitation centers are permitted, they shall comply with the following requirements.

- a. Minimum lot area shall be ten (10) acres.
- b. The maximum number of animals shall be determined by the Zoning Hearing Board in accordance with the area of the shelter or center, the type of animal to be housed by the shelter or center, the nature and character of the surrounding neighborhood and guidelines of recognized organizations concerned with the keeping of animals and the prevention of cruelty to animals. The applicant shall present evidence of such guidelines to the Zoning Hearing Board.
- c. Any shelter building or structure, feed yard or manure storage area shall be located at least one hundred (150) feet from any lot line, seventy-five (75) feet from any street line, and five hundred (500) feet from all existing dwellings except any dwelling located on the same property.
- d. No animal which is dangerous or capable of causing harm to persons or damage to property shall be permitted to roam free.

5. Auction House or Flea Market

- a. An auction house or flea market shall be conducted within a completely enclosed building or accessory structure. Auctions of large transportable

equipment, such as farm tractors and farm implements, may utilize up to 20,000 sq.ft. of outdoor land area as part of a larger sale conducted within the enclosed building.

- b. Normal retail goods such as household goods, antiques, collectables, farm equipment, etc. are permitted to be sold. The Zoning Hearing Board may include conditions that would exclude the sale of hazardous items and require special conditions for unique items such as firearms and live animals.
- c. Hours of operation shall be between 8:00 a.m. and 8:00 p.m. and lighting improvements shall be designed and implemented so that lighting does not shine into neighboring yards or “uplight” into the evening sky. Security lighting may be provided to the extent that it does not shine into properties nearby or would impact the neighboring properties and the general area.
- d. Outdoor storage or sale of goods shall not be permitted.
- e. All solid waste shall be disposed of in permanent refuse containers, which are out of view from the right of way. Auction site is to be kept clean and uncluttered between auction events. Disposal of animal waste shall be accomplished to preclude stockpiling of manure.

6. **Automobile Service, or Gas Station**

- a. Spray painting or body work shall not be permitted, and retail sales of food or beverage items shall be clearly secondary to the fuel-dispensing and auto service business.
- b. All refuse shall be stored within an enclosed area. All parts and inoperable vehicles shall be stored in an enclosed structure.
- c. Vehicles awaiting repair shall not be stored outside of enclosed areas for more than five (5) days.
- d. The gasoline pumps shall be arranged so that sufficient area exists for expected lines of vehicles awaiting fueling within the property line.
- e. When the rental of equipment such as automobiles, trucks and trailers is to be conducted, an additional one thousand (1,000) square feet of lot area shall be provided for each five (5) automobiles and trailers, and one thousand (1,000) sq. ft. for each four (4) trucks. The rental of trailers containing more than one axle is expressly prohibited.
- f. All exterior lighting shall be directed away from residential properties.

- g. No auto service or gas station will be located or will have any entrance or exit within two hundred (200) feet of the entrance or exit to a public or parochial school, private school, public library, theatre, assembly hall, church, hospital, semi-public institution, public park, playground or fire station.
- h. All auto service stations will be so arranged, and all gasoline pumps shall be so placed, as to permit all services to be rendered entirely within the lot lines. No gasoline or oil pump shall be placed within fifteen (15) feet of any street line, or side lot line, nor within twenty (20) feet of any Zoning District boundary line.
- i. Business hours shall be established by the Board of Supervisors at the time of conditional use approval.

7. **Bed and Breakfast**

Application for a Bed and Breakfast use shall comply with the following regulations:

- a. The site shall comply with the lot coverage requirements for “other uses” within the applicable zoning district.
- b. Adequate parking area to provide for a minimum of 2 spaces for the resident owner, plus one space per rentable room, plus one space per employee living off site.
- c. Documentation from the township Sewage Enforcement Officer that adequate sewage disposal is or will be available for the use.
- d. Owner resides on premises.
- e. There shall be no separate kitchen or cooking facilities in any rentable room.
- f. The use of any amenities provided by the Bed and Breakfast such as swimming pool or tennis courts, shall be restricted in use to the owners and guests.
- g. The maximum uninterrupted length of stay shall be fourteen (14) days.
- h. Bathroom facilities for guests shall be separate from that of the owner residence.
- i. One sign advertising the Bed and Breakfast use shall be permitted in accordance with Article XIII, Section 1304.D.9.

- j. No external alterations or changes to the exterior structure shall be permitted except as required by the Pennsylvania Department of Labor and Industry or for safety reasons as required by any other governmental agency.

8. **Commercial Stable or Riding Academy.**

All horse boarding and riding facilities shall comply with the following regulations:

- a. Minimum lot area shall be ten (10) acres.
- b. Any structure for the boarding of horses shall be set back two hundred (200) feet from all property lines, and five hundred (500) feet from any dwelling unit, except for the home on the premises.
- c. All stables shall be maintained to minimize odors perceptible at the property line.
- d. All outdoor training and show facilities or arenas shall be set back one hundred (100) feet from all property lines.
- e. All outdoor training, show, riding, boarding, or pasture areas shall be enclosed by a minimum four (4) foot high fence.
- f. Parking shall be provided in accordance with Section 1301.D.
- g. Business hours shall be established by the Board of Supervisors at the time of conditional use approval.
- h. Animal waste and all hazardous materials, including pesticides, shall be disposed of in accordance with DEP regulations and stored outside of the required setbacks and buffer areas.

9. **Communications Antennas and Communications Equipment Buildings by Permitted Use**

- a. Building mounted communications antennas shall not be located on any dwelling or residential accessory structure.
- b. Building or other structure mounted communications antennas shall not be permitted to exceed thirty (30) feet in height above the building or structure and shall comply with all applicable Federal Aviation Administration, Commonwealth Bureau of Aviation and applicable Airport Regulations.

- c. Any applicant proposing communications antennas to be mounted on a building or structure shall submit signed and sealed evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location.
- d. Any applicant proposing communications antennas to be mounted on a building or structure shall submit detailed construction and elevation drawings indicating how the antennas will be mounted on the building or structure for review by the Township Building Inspector for compliance with the Township's Building Code and other applicable law.
- e. Any applicant proposing communications antennas to be mounted on a building or structure shall submit evidence of agreements and /or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the antennas and communications equipment building can be accomplished.
- f. Communications antennas shall not cause radio frequency interference with other communications facilities in Lower Milford Township.
- g. A communications equipment building shall be subject to the height and setback requirements of the applicable zoning district for an accessory structure.
- h. Two (2) off-street parking spaces shall be provided for all communications equipment buildings.
- i. Operations of communications antennas
 - 1) The owner or operator of communications antennas shall be licensed by the Federal Communications Commission to operate such antennas.
 - 2) The applicant shall submit a copy of his current Federal Communications Commission license; the name, address and emergency telephone number for the operator of the communications antenna; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000. per occurrence and property damage coverage in the minimum amount of \$1,000,000. per occurrence,

naming Lower Milford Township as an additional insured, covering communications antennas.

10. **Communications Towers as Conditional Uses**

- a. The applicant shall demonstrate that it is licensed by the Federal Communications Commission to operate a communications tower, if applicable, and communications antennas.
- b. The applicant shall demonstrate that the proposed communications tower and communications antennas proposed to be mounted thereon comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. Demonstration shall be required demonstrating compliance with radio frequency exposure limits issued by the FCC and an environmental impact statement be submitted when required.
- c. Communications towers shall comply with all applicable Federal Aviation Administration, Commonwealth Bureau of Aviation and applicable Airport Regulations.
- d. Any applicant proposing construction of a new communications tower shall demonstrate that a good faith effort has been made to obtain permission to mount the communications antennas on an existing building, structure, or communications tower. A good faith effort shall require that all owners of potentially suitable structures within one (1) mile radius of the proposed communication tower site be contacted and that one (1) or more of the following reasons for not selecting such structure apply:
 - 1) The proposed antennas and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.
 - 2) The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.
 - 3) Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.

- 4) Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
 - 5) A commercially reasonable agreement could not be reached with the owners of such Structures.
- e. Access shall be provided to the communications tower and communications equipment building by means of a public street or easement to a public street. The easement shall be a minimum of twenty-five (25) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for its entire length.
 - f. Lot size: For purposes of determining whether the installation of a communications tower complies with district regulations, including, but not limited to, setback requirements, lot coverage requirements and other such requirements, the dimensions of the entire lot shall control, and not the leased portion, located within such lot.
 - g. The minimum lot size requirement for the zoning district in which an application for a Conditional Use for a communications tower has been submitted, shall be provided for the communications tower and communications equipment building. No other uses or structures are permitted on the minimum lot area.
 - h. A fall zone radius as measured from the base of the communications tower at ground level, shall be provided equaling two hundred (200) percent of the tower height. No other structures, excepting the communications equipment building, shall be located within the fall zone.
 - i. The applicant shall demonstrate that the proposed height of the communications tower is the minimum height necessary to perform its function.
 - j. In all zoning districts, the maximum height of any communications tower shall be one hundred fifty (150) feet.
 - k. The base of a communications tower and the communications equipment building shall be surrounded by an evergreen planting screen which shall attain and be maintained at a height of not less than eight (8) feet.

- l. The communications equipment building shall comply with the required setback and height requirements of the applicable zoning district for an accessory structure.
- m. A security fence, not less than eight (8) feet in height, shall be provided around the communications tower.
- n. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed communications tower will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association /Telecommunications Industry Association and applicable requirements of the Lower Milford Township Building Code.
- o. In order to reduce the number of communications towers in the future, the proposed communications tower shall be designed to accommodate other communications users, including commercial wireless communications companies, local police, fire and ambulance companies, where technically, practically and economically feasible.
- p. The applicant shall submit a copy of his current Federal Communications license; the name, address, and emergency telephone number for the operator of the communications tower; and a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence, naming Lower Milford Township as an additional insured, covering the communications tower and communications antennas.
- q. All guy wires associated with guyed communications towers shall be clearly marked so as to be visible at all times and shall be located within a fenced enclosure.
- r. No signs or lights shall be mounted on a communications tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency which has jurisdiction.
- s. If a communications tower remains unused for a period of twelve (12) consecutive months, the owner or operator of tower and/or landowner, shall dismantle and remove the communications tower within six (6) months of the expiration of such twelve (12) month period.
- t. Two (2) off-street parking spaces shall be provided within the fenced area.

11. Day Care Centers for Children and Older Adults

- a. Applications for a child or adult day care center shall include a letter from the Pennsylvania Department of Public Welfare that all of the requirements of Chapter II, Section 8A of the Department's Social Services Manual on Regulations for child day care centers have been met.
- b. Only Commonwealth of Pennsylvania approved adult day care facilities will be permitted. The Pa. Department of Aging approves licenses for qualifying facilities. Commonwealth standards establish the client capacity based on the qualifying building space provided for this use.
- c. The applicant shall provide evidence that he will construct the facility in accordance with the standards of the Commonwealth. A copy of the approved license shall be provided to the Township when the facility is completed prior to the initiation of business.

12. Golf Course

- a. A golf course may include an accessory club house, retail pro shop, driving range, practice area and greens, restaurant, other recreation activities, administrative offices and other directly related uses provided that they are clearly subordinate to the golf course. The area of the golf course devoted to these accessory uses and the parking area for the golf course shall not exceed five (5) percent of the total site area. The applicant shall identify the uses and activities that are proposed to be associated with the golf course.
- b. A golf course shall not include a miniature golf course, lighted driving range, practice area or green.
- c. No building shall be closer than one hundred (100) feet to any property line.
- d. No green or tee area shall be closer than fifty (50) feet to any property line.
- e. The land development plan shall specify all uses to be included as part of the golf course land development. Any addition or changes in the uses will constitute a revised land development plan which requires review and action of the Board of Supervisors and of the Subdivision and Land Development Ordinance.
- f. Provide a transportation impact statement.

- g. Except for the accessory restaurant use, hours of operation shall not extend beyond daylight hours.
- h. Lighting improvements shall be designed and installed to direct light away from neighboring properties and to prevent “up lighting” into the night sky
- i. Demonstrate the adequacy of the golf course irrigation water supply, both for golf course grow-in time, and for annual watering and irrigation thereafter as long as the course shall be open.

13. **Heliports**

Each application for a heliport shall include the following:

- a. A copy of the Federal Aviation Administration Form 7480-1, "Notice of Landing Area Proposal."
- b. A copy of a letter of "No Objections" from the FAA.
- c. A copy of State of "Pennsylvania application for approval of landing area site and the letter of site approval" from the Bureau of Aviation.
- d. Diagrammatic documentation of heliport design consistency with U. S. Department of Transportation, Federal Aviation Administration, Heliport Design Advisory Circular 150/5390-2B, September 30, 2004, as amended.
- e. A site plan demonstrating that the landing pad of the heliport shall be located a minimum of 300 feet from the boundary of any adjoining property on which a dwelling exists and shall be located a minimum of 100 feet from all other property lines.

14. **Home Related Business**

- a. Home related businesses are permitted on a parcel of not less than one (1) acre and shall be incidental to the principal residential use of the parcel.
- b. The home related business may be conducted in the principal dwelling and shall not exceed more than thirty (30) percent of the floor area of the dwelling (including a finished basement which meets building code requirements), or may be conducted in an accessory structure not to exceed an area of five hundred (500) square feet.
- c. Only one home related business shall be permitted per lot.

- d. The equivalent of one (1) full-time employee, who does not reside on the property, may be employed in the home related business.
- e. Two (2) parking spaces in addition to the required parking spaces for the dwelling unit shall be provided outside of the required minimum front yard.
- f. There shall be no outside storage of materials.
- g. No home related business and its principal dwelling shall generate more than fifteen (15) vehicle trips per day to or from the site.
- h. There shall be no change in the outside appearance of the building or premises except for one Home Occupation Sign shall be permitted in accordance with Section 1304. of the Zoning Ordinance.
- i. Two (2) vehicles used in the conduct of the home related business shall be permitted.
- j. The applicant shall furnish evidence from the township's Sewage Enforcement Officer that the sewage disposal needs have been reviewed and are adequate.
- k. A home related business that requires any county, state or federal agency approvals shall show proof of those agency approvals prior to receiving a permit from the Zoning Officer.
- l. A bed and breakfast use shall be permitted only in a single family detached residential building, and shall be limited to not more than six (6) guest rooms.
- m. The applicant shall submit the following signed and notarized statement:

"I understand that this use has prescribed limitations that are imposed to protect the residential character of the area. I also recognize that continued success of my business that requires expansion beyond such limitations at this location would constitute a zoning violation. Should expansion beyond these limitations occur, I will be required to find another, more suitable, location with the appropriate zoning."

15. **Kennels**

- a. The minimum lot size shall be five (5) acres.
- b. The maximum number of animals shall be determined by the Zoning Hearing Board in accordance with the area of the kennel, the type of

animal to be housed by the kennel, the nature and character of the surrounding neighborhood and guidelines of recognized organizations concerned with the breeding of animals and the prevention of cruelty to animals. The applicant shall present evidence of such guidelines to the Zoning Hearing Board.

- c. All kennel pens and sales areas associated with kennels shall not be located closer than one hundred (100) feet from all property lines and street right-of-way lines except if owner of the prospective structure owns land on the other side of the road opposite the location of the proposed structure, such structure need only be setback from the street right-of-way line fifty (50) feet.
- d. There shall be no outdoor activity conducted between 10:00 p.m. and 6:00 a.m. and there shall be no illuminated signs during such hours.
- e. All kennel pens shall be located within an approved enclosed area.
- f. Animal waste and all hazardous materials, including pesticides, shall be disposed and stored of in accordance with DEP regulations and stored outside of the required setbacks and buffer areas.

16. Membership Club or Lodge

- a. It shall be demonstrated to the Board that the private club or lodge shall operate on a membership basis only, and shall be a non-profit organization as defined.
- b. It will serve as a purely social, athletic or community service purpose.
- c. It will not be conducted as a business.
- d. It will not cause or create a nuisance to adjoining properties or to its general neighborhood in the conduct of its activities.

17. Mobile Home Siting

All permanent mobile home placements shall occur in accord with the following provisions:

- a. The area of the mobile home stand shall be improved to provide an adequate permanent foundation for the placement of the mobile home.
- b. The stand shall be constructed from material sufficient to adequately support the mobile home and to prevent abnormal settling or heaving under the weight of the home. The corners of the mobile home shall be anchored to prevent wind overturn and rocking with tie-downs such as

concrete "dead men," screw augers, arrowhead anchors, or other devices to comply with the requirements of the latest edition of the International Residential Code and PA UCC.

- c. After a mobile home has been anchored to the mobile home stand, the hitch which is employed for the transportation of the unit shall be removed and there shall be a decorative skirt installed around the base of the unit.

18. **Oil and Gas Well Operations**

All oil and gas exploration, generating and developing of gas wells with related by-products and facilities shall be conducted pursuant to the following provisions:

- a. The minimum lot size shall be ten (10) acres.
- b. Internal access roads shall comply with the width standards of the current Subdivision and Land Development Ordinance requirements for local roads.
- c. Wells and brine storage areas shall be setback 200 feet from all existing buildings and water supply facilities.
- d. Wells and brine storage areas shall be setback 100 feet from any watercourse or wetland.
- e. Wells and brine storage areas shall be setback 100 feet from all property lines and from public streets and rights-of-way.
- f. Other structures accessory to the oil and gas operations shall be placed within the building envelope.
- g. Noise reduction measures shall be instituted to minimize noise impact upon adjoining properties.
- h. An Erosion and Sedimentation Control Plan approved by the Lehigh County Conservation District shall be submitted.
- i. All oil and gas operations shall be secured by a six foot high chain link fence.
- j. The applicant shall submit a list of all owners of water wells within 1,000 feet of the proposed well. The applicant shall have notified such owners by registered mail notifying them of the proposed oil or gas well and offering to conduct a test of their well water. Copies of the letters and responses shall be provided to the Board of Supervisors. The testing shall

be conducted at the applicant's expense by an independent laboratory. The testing shall be in accordance with the Environmental Protection Agency drinking water standards and shall also cover specific conductivity, potassium, methane, ethane, oil and grease. If pollution is detected based on these criteria, testing for volatile organics and base neutral extractables may be required. The results shall be provided to the water well owners at no cost.

- k. All water wells shall be tested annually in accordance with Subsection j. above until the oil or gas well has been abandoned and capped in accordance with Pennsylvania Department of Environmental Protection regulations.
- l. If no water wells are located within 1,000 feet of the proposed oil or gas well, the applicant shall drill a monitoring well within 1,000 feet of the proposed oil or gas well site and conduct the testing in accordance with Subsection j. The results shall be provided to the Township Zoning Officer for review by the Township Engineer.
- m. All equipment when not in use, must be stored in enclosed buildings.
- n. All tanks used for the storage or production of oil shall conform to the specifications of the American Petroleum Institute.
- o. Oil and gas drilling operations shall comply with the provisions of the Pennsylvania Oil and Gas Act
- p. An annual inspection of the operation shall be conducted by the Zoning Officer to determine if the provisions of the Zoning Ordinance are being met.

19. Open Pit Mining, Strip and Borrow Mining, and Related Aggregate Processing Facilities

- a. General – Open Pit Mining operations and related aggregate processing facilities:
 - 1) Shall not substantially injure or detract from the lawful existing or permitted use of neighboring properties;
 - 2) Shall not adversely affect any public or private water supply source;

- 3) Shall not adversely affect the logical, efficient and economical extensions of public services, facilities and utilities throughout the Township;
 - 4) Shall not create any significant damage to the health, safety, or welfare of the Township and its residents and property owners;
 - 5) Shall not result in the land area subject to mining being placed in a condition which will prevent the use of that land for economically and ecologically productive uses upon completion of the mining operation;
 - 6) Must demonstrate compliance with all applicable State and federal regulations at all times; and
 - 7) Should be designed so that all accessory and support facilities, such as employee parking lots, topsoil stockpiles, spoil piles, truck and equipment maintenance facilities, processing operations, and offices be so located to avoid prime agricultural soils whenever possible.
- b. Site Plan Requirements – In addition to those conditional use application materials and credible evidence generally required by Section XV, the applicant for an open pit mine, strip or borrow mine, and related aggregate processing facilities shall submit the following specific documents and other illustrative or descriptive materials that establish by credible evidence compliance with those general objectives of subsection a. above:
- 1) Plan of General Area (within a one (1) mile radius of site) at a scale of one-thousand (1,000) feet or less to the inch with a twenty (20) foot or less contour interval to show existing land use data:
 - i.) Site location with respect to general area.
 - ii.) Land use inventory of the general area, including:
 - (1) building locations and any historical sites, structures or buildings;
 - (2) known subdivisions; and
 - (3) parks, schools, churches, cemeteries, and other non-residential structures or uses.
 - iii.) State and Township roads showing pavement and right-of-way width, weight loads, types of surfaces, existing traffic data

- or counts for those road intersections nearest the proposed mining operation, and proposed routing of quarry trucks.
 - iv.) Other uses potentially affecting or affected by the proposed mining, processing or aggregate recycling facilities and operations.
 - v.) Applicable township zoning overlain upon the general area.
- 2) Plan of Proposed Site and Adjacent Area at a scale of one-hundred (100) feet or less to the inch with a five (5) foot or less contour interval to show:

Existing natural resource data:

- i.) Geology, including confirmed areas with aggregate.
- ii.) Soils, (prime farmland soils to be highlighted).
- iii.) Surface and ground water features (streams, floodplains, wetlands, drainage basins, aquifer, water quality report, etc.).
- iv.) Site topography.
- v.) Current vegetation – with dominant species.
- vi.) Wind data – directions and percentage of time.

Proposed usage:

- i.) Plan of operation, showing mining or borrow pit, or area to be stripped, related aggregate processing facility location(s), proposed buildings or structures, overburden areas, spoil piles, soil stockpiles, truck and equipment storage areas, employee parking areas and number of spaces, etc. Include phasing plan, if applicable.
- ii.) Final grading by contours.
- iii.) Interior road pattern, its relation to operation yard and proposed points of ingress and egress to state and township roads, including sight distance estimates and any proposed entrance improvements.
- iv.) Estimated amount and description of annual and ultimate aggregate and overburden to be removed.
- v.) Ultimate use and ownership of site after completion of operation.

- vi.) Source and amount of water, volume required for processing; wastewater from processing – treatment and means/point of discharge/groundwater recharge.
- 3) Plan of Zoning Ordinance compliance showing:
 - i.) Proposed perimeter fencing location, height and material.
 - ii.) Soil embankments (berms) and landscaping for noise, dust, and visual barriers, including heights and side slopes of soil mounds, and landscaping materials and specifications.
 - iii.) Method of disposition of excess water during operation.
 - iv.) Truck wash rack and sedimentation pond.
 - v.) Mining operation setbacks (see subsection F.).
 - vi.) Location and typical schedule of blasting.
 - vii.) Machinery – type and noise levels.
 - viii.) Safety measures— monitoring and response to complaints.
- 4) Copies of all documents and materials filed with DEP as part of the applicant's concurrent noncoal mining permit application. Where providing the same information as requested in subsections 1, 2, and 3 above, DEP application materials may be utilized in lieu thereof. Documents and materials submitted to DEP as part of an earlier noncoal mining permit application for the property subject to the conditional use application may also be utilized for satisfying the requirements of subsections 1, 2, and 3 above, provided however, the Township has the right to request more current documents and materials if needed to allow for a complete conditional use application.

c. Maximum Height Limitations:

- 1) The height of any spoils pile or topsoil stockpile shall not exceed thirty-five (35) feet.
- 2) Unless located in the mining pit itself, the height of any buildings, structures associated with the mining activity or related aggregate processing equipment

shall not exceed thirty-five (35) feet, except as provided for in paragraph 3) below.

- 3) Where approved by the Board of Supervisors as part of a Conditional Use application in accordance with this Section, requested modifications to the thirty-five (35) height limitation for the purpose of establishing accessory structures (such as concrete silos) for mining or aggregate processing operations may be permitted. In such cases, height modifications may be permitted to the minimum degree necessary to accommodate the proposed plan in accordance with the specific requirements for conditional use approval as defined by this Ordinance.
- d. Minimum Lot Area: Fifty (50) acres.
 - e. Fencing - Open pit mining operations shall be required to enclose the entire active area of mining, including any accessory uses and structures, with a minimum six (6) foot high chain link fence and like latching gates. The location and materials of the chain link fence and like latching gates shall be as defined in paragraph 3) of Section 19.i.

All gates shall be latched and locked at times when the site is unattended. Along all fences the applicant will be required to post and maintain “No Trespassing” and/or “Danger” signs at intervals of no more than one (1) sign per each one hundred (100) linear feet of fence/gate, except as may otherwise be required by the DEP. Such signs shall be no larger than two (2) square feet per sign and shall not be posted higher than five (5) feet above grade. All fences/gates/signs shall be maintained in good condition and shall not be allowed to become deteriorated or unsightly.
 - f. Setbacks – Table 12.1 identifies minimum setbacks imposed upon specific features of the mining and/or aggregate processing uses from adjoining and/or nearby uses:
 - g. Access – Vehicular access to the mining or related aggregate processing operation shall be provided in accordance with the design standards of the Lower Milford Township Subdivision and Land Development Ordinance. Notwithstanding those standards, all driveways serving the site shall have a paved minimum thirty-five (35) foot wide cartway for a distance of at least one hundred feet (100’) from the intersecting street right-of-way line.

Table 12.1. Minimum Required Setbacks for Mining-Related Features

	Any Occupied Residential or Nonresidential Building located in the RC District that is not part of the Mining and/or Processing site	Any Occupied Residential Building within the AC, RR-1, & RR-2 Districts	Adjoining Road measured from outside edge of right-of-way	Church, Cemetery, Schools, and Parks, public or private	Pond, Lake or Stream measured from closest bank, or outer edge of 100 yr. floodplain where such exists	AC District Boundary, and Adjoining Property within the RC Zone
Stock piles or spoil piles	300 ft.	500 ft.	100 ft.	500 ft.	100 ft.	100 ft.
Mineral processing equipment (e.g., crushers, sorters, conveyors, dryers, etc.)	300 ft.	500 ft.	100 ft.	500 ft.	100 ft.	300 ft.
Open mine pit and highwall	300 ft.	500 ft.	100 ft.	500 ft.	100 ft.	100 ft.
On-site access roads and off-street parking, loading and vehicle storage and weighing facilities	300 ft.	500 ft.	100 ft.	500 ft.	100 ft.	100 ft.
Other operational equipment, structures and/or improvements	300 ft.	500 ft.	100 ft.	500 ft.	100 ft.	100 ft.

In addition, a truck wash-rack and water supply shall be placed just beyond the preceding one hundred (100) foot paved section to be used to remove any mud that may have attached to a vehicle's wheels prior to accessing Township and State roads. A sedimentation pond shall be used to collect the wash water and mud. Such rack and pond shall be maintained by the quarry or mine operator throughout the life of the quarry or mining operation and for any reclamation work after the operation is completed.

h. Reclamation – The applicant shall submit as part of the conditional use application a proposed reclamation plan consistent with the submittal requirements of Title 25, Chapter 77, Noncoal Surface Mining, of the Pennsylvania Code. At a minimum, the Plan shall:

- 1) provide a detailed description of the proposed use of the site once the mining operation has ceased, including a description of any zoning and/or subdivision approvals or remedies that would be necessary to accommodate the proposed use. Subject to the discretion of the Board of Supervisors, if the application property's existing land use is agricultural, the reclamation plan shall be developed to return as much of the land as possible to productive agricultural use;
- 2) if the reclaimed use proposed is other than agricultural, state if the applicant intends to dedicate the site to the Township upon completion of the reclamation work; and
- 3) propose reclamation to occur in phases whenever possible.

Finally, the applicant shall provide written notification to the Township within thirty (30) days, whenever a change in the reclamation plan is proposed to the DEP.

i. Screening –

- 1) Where the open pit mine conditional use application property adjoins a public roadway, a seventy (70) foot wide landscaped buffer shall be established prior to the start of mining or processing activity consisting entirely of a berm, the side slopes of which shall not exceed a two and one-half -to-one (2.5 :1) ratio on the road side of the berm, and a one

and one-half to-one (1.5:1) ratio on the mine side of the berm. The street-facing toe of such berm shall be setback ten (10) feet from the outside edge of the public right-of-way.

- 2) Where the quarry, borrow or strip mine application property adjoins another parcel, a twenty-five (25) foot wide landscaped buffer shall be established prior to the start of mining or processing activity consisting entirely of a berm, the side slopes of which shall not exceed a two-to-one (2:1) ratio on that side of the berm facing the adjoining parcel, and one and one-half to one (1.5:1) on the mine side of the berm.
- 3) Perimeter fencing required under subsection 17.e shall be located on the back slope (mine-side) of the berm or behind it, to be shown on the applicant's landscape plan, or, such fencing may be located in front of the berm provided it shall be plastic coated, dark green or brown in color, placed at the toe of slope of the berm, and subject to the landscaping provisions of paragraph 4) below. The use of razor wire or barbed wire shall be prohibited, unless the fence and such wire are hidden from public view behind the berm.
- 4) Landscaping of the side slopes and tops of the berms shall consist of a mix of deciduous and evergreen trees and shrubs, and tall (3' – 5') meadow grass and wildflower species. Except as provided in paragraph 5 below, a mixture of tree and shrub species shall be planted at an average of one tree and one shrub per ten (10) linear feet of berm. For all berms, meadow grasses shall be applied at a rate of twenty pounds (20 lbs.) of seed per acre. Groupings of tree and shrub plantings are encouraged in lieu of linear arrangements, as necessary to mitigate any adverse impacts, including visual impacts which proposed actions will have on property, adjoining properties, and the Township in general.
- 5) Where perimeter fencing is located in front of the berm, landscaping consisting of a mix of deciduous and evergreen trees and shrubs shall be provided to

effectively screen the full length of such fencing from public view. The deciduous and evergreen trees shall be planted at an average of one tree per ten (10) linear feet of fence, and may be staggered on either side of the fence.

- 6) The berm design may allow for a level top for maintenance or access purposes.
- 7) Deciduous trees required for buffer plantings shall be a minimum of one and one half inches (1 ½”) diameter at breast height (dbh) at the time of planting. Evergreen trees shall be a minimum of five to six feet (5’ to 6’) in height at the time of planting. Shrubs shall be a minimum of twenty four inches (24”) height at the time of planting. Tree and shrub species shall consist of a mixture of the following drought-tolerant species:

<u>Scientific Name</u>	<u>Common Name</u>
<i>Amelanchier arborea</i>	Shadbush
<i>Aronia arbutifolia</i>	Red Chokecherry
<i>Clethra alnifolia</i>	Summersweet Clethra
	Sweet Pepperbush
<i>Cornus amomum</i>	Silky Dogwood
<i>Cornus sericea</i>	Redosier Dogwood
<i>Corylus americana</i>	American Filbert
	American Hazelnut
<i>Ilex verticillata</i>	Common Winterberry
	Black Alder
<i>Ilex opaca</i>	American Holly
<i>Lindera benzoin</i>	Common Spicebush
<i>Pinus strobus</i>	Eastern White Pine
<i>Prunus virginiana</i>	Chokecherry
<i>Pseudotsuga menziesii</i>	Douglas Fir
<i>Sambucus canadensis</i>	Elderberry
	American Elder
<i>Vaccinium corymbosum</i>	Highbush Blueberry
<i>Viburnum acerifolium</i>	Mapleleaf Viburnum
<i>Viburnum dentatum</i>	Arrow-Viburnum
	Arrowwood
	Southern Arrowwood
<i>Viburnum prunifolium</i>	Blackhaw Viburnum
<i>Viburnum trilobum</i>	Highbush Cranberry
	American Cranberrybush
	Viburnum

- 6) The meadow grasses required for buffer plantings shall consist of a mixture of the following species:

Grasses

Broomsedge (*Andropogon virginicus*) – low growing (2 – 3 feet), seed source for songbirds

Fox sedge (*Carex vulpinoidea*) – low growing (2 – 3 feet), seed source for songbirds

Switchgrass (*Panicum virgatum*) – tall (3 – 5 feet), blue/green foliage, erosion control, food source for songbirds

Indiangrass (*Sorghastrum nutans*) – 3 to 4 feet, seed source for songbirds

Upland Meadow Plants

The following wildflowers are recommended in moderate to dry upland areas. They have been selected to provide a range of colors and heights. Many provide important habitat for various species of butterflies and birds.

Early Season 2-3' ht.:

Wild Bergamot (*Monarda fistulosa*) – abundant purple flowers June through August, hardy, important butterfly and hummingbird plant. Spreads by rhizomes.

Bee Balm (*Monarda - didyma*) – red flowers from June to August, hardy, important butterfly and hummingbird plant.

Black Eyed Susan (*Rudbeckia hirta*) – hardy, abundant yellow daisy-like flower with brown centers from June to September, self seeding.

Thin-leaved Coneflower (*Rudbeckia triloba*) - hardy, abundant yellow daisy-like flower with brown centers from June to September, self seeding.

Late Season 2-3' height:

New England Aster (*Aster novae-angliae*) – violet to pink shades flowering in August and September, good in moist meadows and woods edge.

Showy Goldenrod (*Solidago speciosa*) -

Late Season 3-4' height:

Purple Coneflower (*Echinacea purpurea*) – pink daisy-like flowers in August and September, important butterfly plant.

Common Milkweed (*Asclepias syriaca*) – abundant pink flowers in July and August, important butterfly plant.

Butterfly Weed (*Asclepias tuberosa*) – bright orange flowers in June and July, decorative pods in the fall, important monarch butterfly plant.

Late Season 3-5' height:

Stiff Goldenrod (*Solidago rigida*) -

Late Season 6-8' height:

Tall Tickseed Coreopsis (*Coreopsis tripteris*) – tall daisy-like yellow bloom from July to September, hardy, good butterfly plant. Works well with Indiangrass.

- 7) Use of landscape plantings determined to be potentially hazardous to the growing of crops and raising of livestock by the Natural Resource and Conservation Service shall be prohibited when the adjacent area to the mining operation is in agricultural use.
 - 8) The quarry or mine operator shall be responsible for maintaining the approved and planted landscaping for the life of the mining operation, including replacing any dead or dying trees, and removing any invasive vegetation.
- j. Operations Progress Report – Within ninety (90) days after commencement of mining operations, and during the first thirty (30) days of each calendar year thereafter, the operator shall file an operations progress report with the Zoning Officer setting forth all of the following:
- 1) The name or number of the operation;
 - 2) The location of the operation with reference to the nearest public road;
 - 3) A description of the subject property or properties, including a site plan showing the location of all improvements, stockpile, quarry pits, etc.;

- 4) The name and address of the landowner or his duly authorized representative;
 - 5) An annual report of the type and quantity of mineral produced;
 - 6) The current status of the reclamation work performed in pursuance of the approved reclamation plan;
 - 7) A maintenance report for the site that verifies that all required fencing, screening, landscaping, signage, and truck wash rack has been specifically inspected for needed repairs and/or maintenance and that such needed repairs and/or maintenance has been performed; and,
 - 8) Verification that the proposed use continues to comply with all applicable State (and Township) regulations. The operation shall furnish copies of any approved permits and/or any notices of violation issued by the PA DEP.
- k. Water Restoration – Any mining/processing operation that affects a public or private water supply due to contamination, interruption, or diminution shall restore or replace the affected water supply with an alternate source of water adequate in quantity and quality for the purposes served by the affected supply.
- l. Industry Performance Standards - All open pit mining operations and related aggregate processing facilities shall meet all standards set forth in Section 1306, Physical Performance Requirements of this Ordinance unless such standard is specifically addressed in this Section or in the regulations of the DEP. To the extent that a particular performance standard established in Section 1306 is the subject of DEP regulations for noncoal surface mining, the DEP standard shall control. To the extent that a performance standard established by Section 1306 is also regulated by this Section, the provision of this Section shall control.

20. Outdoor Farmers Market

- a. Establishment of an outdoor farmers market shall be sponsored by one or more organization(s) or governmental entity, and will be wholly responsible for the organization, operation, clean-up, and safety of the outdoor market event.

- b. The outdoor farmers market may operate any time between 6:00 a.m. and 5:00 p.m., with set-up and take-down permitted no more than one (1) hour before 6:00 a.m. or after 5:00 p.m.
- c. The sponsoring organization or governmental entity shall coordinate the dates and times, site layout, parking, vehicle storage, and other key elements of the event with Township police and emergency services at least thirty (30) days in advance of the opening day of the market. A managing representative of the sponsoring organization shall be present during the outdoor farmers market hours of operation to oversee the event and to insure that all conditions of Special Exception approval, and these standards, are observed at all times.
- d. The sponsoring organization or governmental entity shall provide a sufficient number of portable public restroom facilities to meet anticipated crowd levels and be responsible for their maintenance and removal after the close of each outdoor market day.
- e. Items to be sold at the outdoor market shall exclude any products of a national chain or franchise, alcoholic beverages, firearms, tobacco, motor vehicles, antiques, collectables, adult toys or novelties, or any other product or item that is not consistent with the definition of outdoor farmers market contained in Article II of this Ordinance.

21. Outdoor Recreation Uses

- a. The minimum lot size shall be five (5) acres.
- b. Any outdoor recreation areas shall be appropriately screened and no structure shall be located closer to any lot line than the minimum front setback requirement.
- c. The area will not cause or create a nuisance to adjoining properties or to its general neighborhood in the conduct of its activities.
- d. All exterior lighting shall be directed away from neighboring properties.

22. Private Landing Strips - Each application for a private landing strip shall include the following:

- a. A copy of a letter or other documentation showing proof of authorization of approved air space by the Federal Aviation Administration.
- b. A copy of a letter or other documentation showing that the surface characteristics and approach clearances of the private landing strip meet

the approval of the Pennsylvania Department of Transportation's State Bureau of Aviation.

- c. Diagrammatic documentation of private landing strip design consistency with U. S. Department of Transportation, Federal Aviation Administration, Airport Design Advisory Circular 150/5300-13, September 29, 1989, as amended.
- d. A site plan demonstrating that the end of the runway shall be located a minimum of 1,000 feet from the boundary of an adjoining property containing a dwelling and that any portion of the runway shall be located a minimum of 100 feet from all other property lines. The site plan shall also provide for a flight path 200 feet wide and 500 feet outward from the outer edges of the landing strip.

23. Public and Private Academic Schools

- a. Applications for public schools shall include a letter from the Pennsylvania Department of Education stating that all of the requirements of that Department have been met.
- b. Private schools shall meet all requirements of the Pennsylvania Department of Education which pertain to the site, location, and siting of the school on the property. The Board of Supervisors shall be granted such time as is necessary to obtain the most current regulations from the Department of Education.

24. Recreational Camping Park.

- a. Campgrounds shall be in single ownership and provide camp sites on a lease or rental basis only. Camp sites are permitted in approved Campgrounds only.
- b. No campground building or campsite shall be less than two hundred (200) feet from a public road, less than one hundred (100) feet from a property line, or less than five hundred (500) feet from all existing dwellings other than dwellings located on the same property.
- c. Applicants shall specify on their township application, and employ, measures to fully abate noise which would impact adjoining properties and constitute a public nuisance.
- d. Applicant must propose and employ measures to ensure the safety of the public and neighbors, including fire safety measures that address campfires, cooking fires and prohibit use of fireworks.

- e. All Campground developments shall have a total land area of not less than ten (10) acres.
- f. All Campgrounds shall be located on well drained land; the average natural slope of the area to be improved for camp sites shall not exceed twelve (12) percent.
- g. The site of the proposed Campground shall not be subject to flooding or to any other hazard.
- h. The proposed Campground shall have direct access to an existing public street or road which existing public street or road shall intersect one of the arterial streets. The existing public street or road which provides direct access to the proposed Campground shall be free of traffic hazards and shall meet the geometric, grade and sight requirements for arterial, connector or collector streets as set forth in this Ordinance.
- i. The area improved for camping sites shall not exceed fifty (50) percent of the total gross areas of the tract being developed as a Campground.
- j. No camping site may be occupied on a permanent basis. Campsites shall be used for temporary or seasonal recreation use from April 1 to October 31 only.
- k. The design of the Campground shall conform to the requirements of this Ordinance and/or the requirements of the Pennsylvania Department of Environmental Protection for Travel Trailer Parks, whichever is greater or more restrictive. The applicant shall submit proof of approval of the proposed plan by the Department of Environmental Protection before the plan will be considered for final approval by the Planning Commission and the Board of Supervisors.
- l. Each camping site shall have a minimum area of twenty-five hundred (2,500) square feet exclusive of street rights-of-way and walkways.
- m. The maximum gross density of development in the area improved for camp sites shall not exceed ten (10) sites per acre.
- n. The land between the campsites and a public road, exterior property line, or existing dwelling on an adjoining property exclusive from the campground use shall have sufficient existing or planted trees and/or shrubbery to screen the campsites from the adjacent lands and to serve as a buffer.
- o. Electric service shall be provided to each campsite not designed for tenting. Such electric service shall be installed underground.

- p. At least fifty (50) percent of the campsite designed and improved for recreational vehicles shall be provided with a connection to a centralized sewage system.
- q. All campsites which are not provided with a connection to a centralized sewage system shall be located within three hundred (300) feet of a bath house/toilet facility which shall be equipped with toilets, urinals and lavatories in accordance with Department of Environmental Protection regulations. There shall be at least one shower head for each sex for each twenty (20) campsites.
- r. All campsites designed for recreational vehicles shall have off-street on-site parking spaces for the recreational vehicle and for one passenger vehicle. The parking spaces shall be level in a longitudinal direction and shall be uniformly crowned in a transverse direction and shall be well drained. The parking spaces need not be paved, but shall have a minimum depth of six inches of compacted crushed stone, bank run gravel or shale.
- s. All camp sites designed for tenting may be provided with on-site parking spaces or may have a common parking area not over three hundred (300) feet from the most distant camp site. Common parking areas shall provide at least two (2) spaces per campsite. The minimum area of each parking space shall be at least two hundred (200) square feet, exclusive of any aisle.
- t. The Campground shall be equipped with sewage dumping stations designed and constructed in accordance with the Department of Environmental Protection requirements.
- u. Streets within the Campground shall conform to the following:
 - 1) All Campground streets shall conform to the requirements for Private Access Streets.
 - 2) One way streets shall have a minimum right-of-way width of twenty (20) feet and shall be improved with a travelway not less than fifteen (15) feet in width.
 - 3) Two way streets shall have a minimum right-of-way width of thirty (30) feet and shall be improved with a travelway not less than twenty (20) feet in width.
 - 4) The minimum center-line radius of any interior Campground street shall be not less than fifty (50) feet.
 - 5) The maximum grade of any Campground street shall not exceed twelve (12) percent.

- 6) Drainage facilities shall be designed and constructed in accordance with the standards set forth in the Lower Milford Township Subdivision and Land Development Ordinance.
- 7) No campground street may be offered for dedication. Construction and maintenance of Campground streets shall be the sole responsibility of the developer or operator of the Campground.
- v. At least five (5) percent, but not less than one-half acre, of the area improved for campsites shall be suitable for and improved to provide for active recreation for users of the Campground. Such active recreation may include, but is not limited to: swimming pools, playgrounds, play fields, ball fields, courts of all types, community building and similar facilities. The Planning Commission and the Board of Supervisors will determine the adequacy of the proposed facilities for the number of campsites and may require additional facilities before granting approval.
- w. There shall be provided in each Campground such other improvements as the Commission and the Board of Supervisors may require whereby such requirements shall at all times be in the best interests of the public's health, safety and general welfare and may include, but shall not be limited to, garbage and trash collection, removal and disposal as approved by the Department of Environmental Protection; adequate park lighting system; and maintenance of all areas.

25. **Roadside Stands, Temporary**

Where the display and sale of farm products are permitted, it shall be provided that:

- a. At least fifty (50) percent of such products shall have been produced on the property on which they are offered for sale or on property contiguous to the property on which they are offered for sale.
- b. Parking spaces for at least three (3) cars shall be provided on the lot. Where building area exceeds six hundred (600) square feet, one (1) additional parking space shall be provided for each additional two hundred (200) square feet of building area.
- c. Sale of farm products shall be conducted from a portable stand, dismantled at the end of the growth season, or from a permanent building under the following conditions:
 - 1) Such building shall be located at least fifty (50) feet from the right of way line of the road;

- 2) Parking space shall be provided behind the highway right of way line.

26. **Rural Occupations**

Rural occupations are permitted on parcels of no less than two (2) acres, subject to the following criteria:

- a. Only one (1) rural occupation may be conducted on the same property as the owner's principal residence, and shall not exceed the area of one thousand (1,000) square feet. Owner shall include lessee or tenant with the approval of the owner.
- b. In no case shall any new rural occupation building be constructed before the owner resides on the subject property. In addition, rural occupations may only be conducted so long as the sole owner of the business resides on the site.
- c. The maximum building coverage for the lot shall not be exceeded.
- d. No outdoor storage or display shall be permitted, except that one (1) commercial truck or truck/trailer combination in excess of 26,000 pounds gross vehicle weight may be parked behind the principal residence so long as it is screened from adjoining roads and properties.
- f. Signs shall only be permitted in accordance with Section 1304 of the Zoning Ordinance regulating Home Occupation Signs.
- g. No rural occupation and its principal dwelling shall generate more than twenty (20) vehicle trips per day to or from the site. For properties which also conduct an agricultural use, vehicles and equipment associated with the agricultural use shall not be counted for purposes of this section.
- h. The maximum number of employees permitted in the conduct of the rural occupation who do not reside on the property, shall be the equivalent of two (2) full-time employees.
- i. Rural occupations shall only be conducted between the hours of 6 a.m. and 9 p.m. No rural occupation shall be conducted on Sundays and Holidays with the exception of retail sales.
- j. Any area devoted to retail sales display shall be limited to two hundred (200) square feet.

- k. No use shall be permitted which emits smoke, dust, dirt, fumes, vapors, gasses, and odors except in accordance with Section 1306 of the Zoning Ordinance.
- l. A rural occupation which requires any county, state, or federal agency approvals shall show proof of those agency approvals prior to receiving a permit from the Zoning Officer.
- m. The applicant shall furnish evidence from the township's Sewage Enforcement Officer that the sewage disposal needs have been reviewed and are adequate.
- n. Evidence shall be provided indicating that the disposal of all materials and wastes associated with the Rural Occupation will be accomplished in a manner that complies with state and federal regulations. Such evidence shall, at a minimum, include copies of contracts with waste haulers licensed to operate within the County of Lehigh which have been contracted to dispose of the materials and wastes used or generated on-site or some other legal means of disposal.
- o. The applicant shall submit the following signed and notarized statement:

"I understand that this use has prescribed limitations that are imposed to protect the rural character of the township. I also recognize that continued success of my business that requires expansion beyond such limitations at this location would constitute a zoning violation. Should expansion beyond these limitations occur, I will be required to find another, more suitable location with the appropriate zoning."

27. Solar or Other Alternative Energy Generation

- a. A Zoning Permit shall be required for the construction and installation of solar or other alternative energy generation.
- b. All minimum set-back requirements shall be met for the district in which it is located.
- c. All design and installation shall conform to the Pennsylvania Uniform Construction Code, Act 45 of 1999 as amended and regulations adopted by the Pennsylvania Department of Labor and Industry.
- d. A site plan shall be submitted with the Special Exception application showing the proposed location of the solar or other energy generation structures, property lines, setback lines, occupied buildings and other structures, well and septic facilities, and other utility services.

28. Stand-alone Wind Turbine

- a. A site plan shall be submitted with the Special Exception application showing, in addition to any other required submittal information, the proposed location of the wind turbine, property lines, setback lines, fall zone, occupied buildings and other structures, well and septic facilities, and other utility services.
- b. The wind turbine shall be designed and constructed in conformance with the Pennsylvania Uniform Construction Code, Act 45 of 1999 as amended and regulations adopted by the Pennsylvania Department of Labor and Industry.
- c. The wind turbine shall meet all set-back requirements for the zoning district where it is located.
- d. A clear fall zone shall be established around the wind turbine equal to one and one-half times the tower height.
- e. The applicant shall establish evidence that the wind turbine will not interfere with radio, telephone, television or other signals on adjoining properties.
- f. Climb prevention measures shall be taken to prevent climbing up to fifteen (15) feet above the ground surface.
- g. A Zoning Permit shall be required for the construction and installation of a stand-alone wind turbine.

29. Temporary Dwelling for Family Member(s)

- a. A temporary Zoning Permit may be issued for a period not to exceed three (3) years for a dwelling intended for the sole occupancy by a family member(s) of a resident of the main dwelling.
- b. Such temporary permit shall be issued only upon Zoning Hearing Board approval and written agreement by the owner of the main dwelling that all lot dimension and sanitary sewerage requirements will be met.
- c. The Zoning Hearing Board may attach such reasonable conditions as are necessary to protect the public health, safety, morals, and are necessary to protect the public health, safety, morals, and general welfare.
- d. The family member(s) and resident shall have any combination of a parent/child and/or grandparent/ grandchild relationship to one another by blood, marriage, or adoption.

- e. The temporary permit may be renewed for additional one (1) year periods, subject to the approval of the Zoning Officer.
- f. The temporary Zoning Permit shall cease when the family member(s) cease to occupy the temporary dwelling.
- g. The temporary dwelling shall be removed within ninety (90) days of expiration of the Zoning Permit.
- h. The property owner shall submit to the Zoning Officer a notarized statement accepting the conditions set forth above and any additional conditions imposed by the Zoning Hearing Board prior to issuance of the temporary Zoning Permit.
- i. A maximum of two individuals shall be permitted to occupy the temporary dwelling.
- j. Only one temporary dwelling shall be permitted per property.

30. Temporary Structures and Uses

- a. A temporary Zoning Permit may be issued for a period not to exceed one (1) year for a structure or use which does not comply with the zoning ordinance including such uses as the storage of building supplies and machinery, for a real estate office located on a tract of land where individual properties are being offered for sale.
- b. Such temporary permit shall be issued only upon Zoning Hearing Board approval and written agreement by the owner or his agent to remove such structure or use upon expiration of such permit.
- c. The Zoning Hearing Board may attach such reasonable conditions to the permit as are necessary to protect the public health, safety, and general welfare.
- d. The temporary permit may be renewed annually over a period not to exceed three (3) years, subject to approval of the Township Zoning Officer.

31. Timber Harvesting Operations

- a. The following provisions shall apply to all Timber Harvest Operations within the Township to promote management of forests for long-term ecological and commercial benefits; promote good forest stewardship; protect adjoining property owners; minimize the potential for adverse environmental impacts, including ‘high-grading’ of forests, excessive soil

erosion and the spread of invasive plants; and avoid unreasonable restrictions on forestry.

- b. Any timber harvesting operation shall be undertaken in accordance with a Timber Harvesting Plan approved by the Township. All Timber Harvesting Plans shall be submitted to the Township for review for compliance with the standards for timber harvesting operations set forth herein not less than forty-five (45) days prior to commencement of the timber harvesting operation. Within thirty (30) days of submission to the Township, a Timber Harvesting Plan shall be approved or denied.
- c. Any Timber Harvesting Plan submitted to the Township for review and approval shall be consistent with the Timber Harvesting Guidelines of the Pennsylvania Model Forestry Regulations of the Penn State School of Forest Resources, as applicable, and shall include a plan or plans indicating the following information:
 - 1) Site location and boundaries of both the entirety of the property upon which the timber harvesting operation shall occur and the specific area proposed for timber harvesting;
 - 2) Significant natural features on the property including steep slopes, wetlands, Riparian Buffer zones, known Heritage Trees or Heritage Vegetation.
 - 3) Identification of the classification of the woodland or woodland(s) including areas of forest interior habitat where the timber harvesting operation is proposed to occur, as indicated on the Lower Milford Township *Woodland Classification Map*;
 - 4) The planned route(s) and proposed weight loads of the proposed operation in relation to municipal and state highways and any proposed accesses to those highways;
 - 5) Design, construction, maintenance, and retirement of the access system, including haul roads, skid roads, skid trails, and landings;
 - 6) Design, construction, and maintenance of water control measures and structures such

- as culverts, broad-based dips, filter strips,
and water bars;
 - 7) Design, construction, and maintenance of
proposed stream and wetland crossings; and,
 - 8) Identification of forest canopy to remain.
- d. Any permits required by any other agency under any applicable regulation shall be the responsibility of the landowner or timber harvesting operator as applicable. Copy of all required permits and a letter of adequacy from the Lehigh County Conservation District shall be submitted to Lower Milford Township at least forty-five (45) days prior to commencement of the timber harvesting operation.
- e. The following management practices shall apply to all timber harvesting operations:
- 1) Felling and skidding of trees shall be undertaken in a manner which minimizes damage to trees or other vegetation not intended to be harvested unless such practice is specified as part of an approved timber harvesting plan.
 - 2) Felling or skidding across any public thoroughfare is prohibited without the express written consent of the Township or Penn DOT, whichever is responsible for the maintenance of said thoroughfare.
 - 3) Prior to initiating any timber harvesting operation, the applicant should review with the Township Public Works Director the condition of any Township road, bridge or other public facility that will be used to transport log loads or that may otherwise be impacted by the timbering operation, and shall provide the Public Works Director with a description of the gross vehicle weight, axle load, and size of vehicles to be used in removal of timber.
 - 4) Slash or tops resulting from a timber harvesting operation shall be cut to a height of four (4) feet or less and left on-site. The burning of slash or tops shall be prohibited.

- 5) No tops or slash shall be left within twenty-five (25) feet of any public thoroughfare or private roadway.
 - 6) Litter resulting from a timber harvesting operation shall be removed from the site or otherwise dealt with as approved by the Township.
- f. No timber harvesting operation or grubbing of trees shall be permitted within any Zone One Riparian Buffer or Wetland. No clear-cutting of timber shall be permitted within any Zone Two Riparian Buffer, Wetland, Wetland Margin or Hydric Soil.
 - g. In all woodlands, a minimum percentage of the forest canopy trees shall remain after the completion of any timber harvesting operation, as set forth in the table below. Remaining forest canopy trees shall be well distributed throughout the area subject to the timber harvesting operation.

	Percentage Forest Canopy Trees to Remain by location		
Woodland Class	<u>Zone One Riparian Buffer or Wetland</u>	<u>Zone Two Riparian Buffer, Wetland Margin, or Hydric Soil</u>	<u>All Other</u>
Class III	100	70	30
Class II	100	80	40
Class I/ Forest Interior Habitat	100	90	50

- h. At least thirty (30) percent of the required remaining forest canopy trees, as provided above, shall be comprised of Higher Value Species. Where the number of trees comprising Higher Value Species that exist prior to the approval of any timber harvesting operation, is less than the number which would be required to comply with this provision, no Higher Value Species may be harvested.
- i. Township representative(s) shall be permitted access to the site of any timber harvesting operation before, during, or after active timber harvesting to review, inspect and ascertain compliance with the provisions set forth herein.

- j. Upon determination that a timber harvesting operation is in violation of these regulations, each day where any violation occurs shall constitute a separate violation subject to the provisions of this Chapter.
- k. Notwithstanding the tree canopy percentage requirements of subsection g. above an applicant for a timber harvesting operation may submit for Township approval, in addition to the Timber Harvesting Plan, a Forest Stewardship Plan prepared by a professional with demonstrated expertise in forest management. The Forest Stewardship Plan shall identify property management and silviculture practices supported by the PA DCNR Bureau of Forestry that will be employed by the timber harvest operator for the subject property. The Plan shall favor extensive use of Best Management Practices (BMPs) for silvicultural activities that will provide the landowner with economic benefits while maintaining or improving wildlife habitat, protecting forest soils and waters, and ensuring the continuation of productive forest ecosystems. Upon Forest Stewardship Plan submittal, the Township may:
 - 1) request a formal review of the Forest Stewardship Plan by PA DCNR Bureau of Forestry staff; or,
 - 2) hire its own forest management professional to review the Plan, the cost of said consultant review shall be born by the applicant.

Recommendations on the Plan forwarded to the Township either by Bureau of Forestry staff or the Township's consultant shall be incorporated into the applicant's Forest Stewardship Plan and a final Forest Stewardship Plan shall be resubmitted to the Township prior to obtaining timber harvesting approval. Once approved, the applicant's Timber Harvesting Plan, and the Forest Stewardship Plan, shall direct the timber harvest operator's silvicultural activities for the subject property, and both Plans shall be maintained at the site for Township inspection.

32. **Winery**

Requirements for wineries are set forth below. If a proposal includes more than one of the elements listed below, the highest applicable permit process shall apply.

- a. The primary purpose of the winery shall be to process wine grapes grown on the winery property or on other local agricultural lands.
- b. Retail sales of wine fruit products shall be limited to those produced, vinted, cellared or bottled by the winery operator or grown on

the winery premises, or custom crushed at another facility for the winery operator.

- c. Such use may include a building, of not more than three thousand (3,000) square feet of floor area, for wine tasting, demonstrations and education, and the retail sales of wine and related products. The primary focus of the tasting area shall be the marketing and sale of the wine and grape products produced at the winery. Incidental sales of wine-related merchandise and food shall be allowed.
- d. The minimum lot area for establishment of a winery is five (5) acres.
- e. Parking. The following parking standards shall apply to wineries:
 - 1) A minimum of five permanent parking spaces shall be provided for public tasting rooms.
 - 2). One space per 300 square feet offices or administration areas.
 - 3). One space per 500 square feet production, storage or warehousing areas
 - 4) One space per 2.5 persons, may be in an overflow parking area, for events.
- f. Access roads to winery structures shall meet State and local Fire Safe Standards as determined by the serving fire agency. Alternative design allowances and/or requirements may be determined on a case-by-case basis for modification to the standards, dependent upon anticipated level of use, site constraints, turnout opportunities, road length, slope, and other site- specific issues.
- g. All solid waste shall be stored in a manner that prevents the propagation, harborage, or attraction of flies, rodents, vector, or other nuisance conditions.
- h. On-site Sewage Disposal. If public sanitary sewer is not available, then the on-site sewage disposal system shall be designed and sized to accommodate employee, tasting room and commercial sewage flows. Portable toilets may be approved by the Township Sewage Enforcement Officer for temporary and promotional events.
- i. Promotional Events.
 - 1) Application Requirements. The application shall include the following information:
 - a) number of annual events;
 - b) estimated number of participants,

- c) description of parking and circulation, and
 - d) sanitation provisions.
- 2) Duration. No single promotional event shall exceed more than two (2) consecutive days.
- 3). Parking Requirements. Temporary, overflow parking may be utilized. The applicant shall demonstrate to the Planning Commission the ability to provide safe access and parking, including providing attendants to monitor proper parking and access road clearance for emergency vehicles.

ARTICLE XIII

GENERAL REGULATIONS AND DESIGN STANDARDS

Section 1300. GENERAL REGULATIONS APPLYING TO ALL DISTRICTS AND USES

The provisions of this Article represent regulations and standards which are common to all zoning districts. Unless exempted by applicable provisions or specified limitations, the following General Regulations and Design Standards shall apply to all uses. In the event that the provisions of this Article conflict with other provisions of this Ordinance, the more restrictive provisions shall apply.

A. Accessory Uses and Structures

1. The placement of a private garage, accessory parking area, or other accessory building or use, shall be subject to the following requirements:
 - a. Accessory buildings and uses may be established within a required rear yard but no closer than a distance equivalent to the minimum side yard requirement.
 - b. Accessory garages when structurally attached to a main building shall observe the minimum front, side, and rear yard requirements applying to the main building.
 - c. Accessory buildings and uses shall not be established in any required front or side yard.
 - d. Accessory buildings and uses shall only be established on the same lot containing the main building or buildings, except for agricultural properties within the AC District. In such cases, accessory buildings and uses shall only be established on the same lot containing a principal agricultural use.
2. Any use or structure accessory to a use permitted by special exception or conditional use shall be established only as part of the special exception or conditional use approval, or an amendment thereto.
3. A noncommercial swimming pool which is designed to contain a water depth of twenty-four (24) inches or more shall not be located, constructed, or maintained on any lot or land area, except in conformity with the requirements of Ordinance No. 58, or any amendment thereto.
4. An outdoor solid fuel burning appliance shall be operated for the sole purpose of furnishing heat and/or hot water to a dwelling or accessory structure pursuant to the following criteria.
 - a. Shall be located a minimum of 100 feet from all property lines.

- b. Shall only burn natural, untreated wood and/or fuel as recommended by the appliance manufacturer. Garbage, waste oil, asphalt products, rubber, and/or any material not recommended by the appliance manufacturer are prohibited.
- c. All outdoor solid fuel burning appliances must be installed with a chimney which extends two (2) feet in height above the roof ridge of the enclosing structure.
- d. All appliances shall be UL approved.
- e. No outdoor solid fuel burning appliance shall be installed or operated without a zoning permit issued and inspected in compliance with the Building Code of Lower Milford Township.

B. Parking, Storage, or Use of Major Recreational Equipment

- 1. For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.
- 2. Recreational equipment that is currently licensed and/or in use may be parked or stored within the minimum required yards or on a surfaced driveway in the front yard.
- 3. Storage on a surfaced driveway in the front yard shall be limited to not more than thirty (30) days at any one time.

C. Storage of Commercial Vehicles in All Districts

- 1. The parking of one (1) commercial vehicle of eight thousand (8,000) pounds or more is permitted up to thirty (30) days in a side or rear yard but located outside of any required yards, and in the front yard only on a surfaced driveway.
- 2. Storage (more than 30 days) of commercial vehicles is prohibited.
- 3. Notwithstanding subsections 1 and 2 above, commercial vehicles used to haul or transport agricultural products, or for use on a farm, may be stored anywhere upon the property intended for their use.

D. Outdoor Storage

Outdoor storage shall be permitted for a non-residential use in the VC - Village Center District, other than storage as a primary or principal use of the land, necessary and incidental to the normal operation of a primary or principal use, subject to the following provisions:

1. No part of the street right-of-way, no alley, no sidewalk, or other areas intended or designed for pedestrian use, no required parking area, and no required yard area shall be used for outdoor storage.
2. No more than twenty-five (25) percent of the lot area shall be used for outdoor storage.
3. Outdoor storage shall be totally shielded from view from public streets, any existing residential use on an adjoining property, or from any land zoned for residential uses.

E. Small Lots

With the exception of lots referred to in Section 1608 and notwithstanding the Lot Area, Lot Width and Lot Coverage requirements of any District, a dwelling, where it is a permitted, special exception, or conditional use, may be erected on any lot with less than the required lot width or lot area of separately owned and not adjacent to any lot in the same ownership at the effective date of the 1967 Ordinance, provided that a variance has been obtained pursuant to Article XIV.

F. Height

No building or structure shall exceed the height limitations of this Ordinance, except for church spires, cupolas, dome masts, belfries, clock towers, radio or transmission lines, flagpoles, chimney flues, water tanks, elevator or stair bulkheads, stage towers, scenery lofts, smokestacks, silos, or similar structures, provided the minimum setback for each structure from any lot line is a distance equal to or greater than the proposed height, unless otherwise provided for in this Ordinance. No such structure shall be used for residence or tenancy purposes. These height exceptions shall not apply to any communication towers.

G. Yards

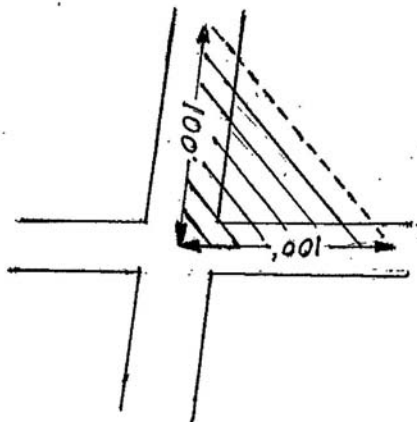
1. Front Yard. The space in a required front yard shall be open and unobstructed except for an unroofed balcony or terrace or steps giving access to a porch or first floor entry door.
2. All Yards. Every part of a required yard shall be open to the sky unobstructed by structures except for retaining walls, fences and privacy screens and for accessory buildings in a rear yard, and except for the ordinary projections of

sills, belt courses, and for ornamental features projecting not to exceed six (6) inches.

3. Open, or lattice-enclosed, fireproof fire escapes or stairways, required by law, projecting into a required minimum yard not more than four (4) feet, and the ordinary projections of chimneys and pilasters shall be permitted when placed so as not to obstruct light and ventilation.

H. Through Lots and Lot Access

1. Where a lot extends through from street to street, the applicable front yard regulations shall apply on both street frontages.
2. Every building hereafter erected or moved shall be on a lot abutting a public street. All structures shall be so located as to provide safe and convenient access for servicing, fire protection, and required off-street parking.



I. Corner Clearance

On a corner lot, within the triangular area (shown in the figure) determined as provided in this Section, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two (2) and ten (10) feet above the centerline grades of the intersecting streets in the area. Such triangular area shall be determined by: 1) the intersecting street centerline, each of which points is one hundred (100) feet from the intersection of such street centerlines or 2) as may be required per PennDOT Publication 70, "Guidelines for Design of Local Roads and Streets," whichever controls.

J. Measurement of Lot Width for Lots Not Rectangularly Shaped

1. For cul-de-sacs, the width measurement made at the front lot line shall not be less than forty (40) percent of the lot width requirement.

2. On irregularly shaped lots and lots on street centerline curves of less than three hundred (300) foot radius, the width measurement made at the front lot line shall not be less than eighty (80) percent of the lot width requirement provided that the lot width requirement is met at the minimum front setback line.

K. Lane Lots

A lane lot, as defined in these regulations, may be created through Township Planning Commission approval of a subdivision provided the following requirements are met:

1. The lane shall have a minimum width of twenty-five (25) feet for its entire length and shall not narrow to a lesser dimension. Said length shall not exceed five hundred (500) feet.
2. The area of the lane shall be excluded from the total area of the lane lot for purposes of determining minimum lot area.
3. The lane shall provide the access for and only serve that lane lot of which it is a part.
4. A lane lot may only be established for the purpose of single family dwelling unit use.
5. Lot area, lot width, and setback requirements for the zoning district within which the lane lot is located must be achieved within the main lot.
6. The main lot may be irregular in shape but shall encompass a rectangle with one dimension not less than the applicable minimum lot width requirement and the other not less than the length required for the rectangle area to meet the applicable minimum lot area requirement.
7. The front yard setback for a lane lot shall be a distance equal to the applicable front yard requirement and shall be measured from the point at the rear of the lane where the main lot first achieves the minimum lot width requirement.

L. Fence and Walls

1. Man-made fences and walls may be erected, altered and maintained within the yards, provided that any such fence or wall in the required front yard shall not exceed four (4) feet in height, and any fence or wall in the required side or rear yard may be six (6) feet or more in height; provided, that any fence or wall exceeding six (6) feet in height shall contain openings therein equal to fifty (50) percent of the area of that portion of the wall or fence exceeding six (6) feet.

2. No fence or wall shall be erected and no hedge, tree, shrub or other vegetative growth shall be maintained which may obstruct required sight distance at street intersections, public streets, private roads, or driveways, in accordance with the Lower Milford Township Subdivision and Land Development Ordinance.
3. All yards used for the storage of any material needed for the operation or conduct of a manufacturing or commercial enterprise in the Village Center District shall be enclosed by an eight foot solid wall, uniformly painted board fence, or live evergreen screen plantings, on all sides which face upon a street or face upon a lot in any adjacent Zoning District.

M. Temporary Emergency Dwelling.

1. A Zoning Permit may be issued by the Zoning Officer for a temporary emergency dwelling for a situation caused by natural disaster, fire, or similar occurrence, not to exceed one (1) year from the date of issuance.
2. The temporary permit shall be issued only upon the owner or his agent entering into a written agreement with the Township to remove such structure upon expiration of the Zoning Permit.
3. The temporary permit may be renewed annually over a period not to exceed three (3) years from the date of issuance, subject to the approval of the Zoning Officer.

Section 1301. OFF-STREET PARKING REQUIREMENTS

This Section establishes specific controls for the design, location, size and layout of off-street parking areas as they relate to land use. The provisions of this Section serve as supplemental provisions to the requirements of the applicable zoning district. These provisions are established to ensure adequate parking areas are provided for each use in the Township, and that such areas are designed to complement the intended use.

A. Applicability to New Developments

1. All land uses proposed in Lower Milford Township subsequent to the adoption of this Ordinance shall be in conformance with the specifications and requirements herein.
2. The developer of a property shall provide the number of parking spaces, surfacing and surface markings, signage, lighting, landscape elements and any other design or structural elements required by this Ordinance and amendments hereto.

3. The owner(s) or manager(s) of a developed property shall be responsible for the maintenance of the off-street parking areas serving that property. Maintenance shall include, but shall not be limited to, plowing of snow, maintenance of landscape elements and lighting, sealing of pavement, repainting of lines and other markings on the pavement, repaving as necessary, and any other work required to maintain the parking area in an attractive, safe and functional condition.

B. Applicability to Existing Development

Uses existing at the time of the adoption of this Ordinance, and subdivision or development plans granted final approval and signed by the Board of Supervisors prior to the adoption of this Ordinance shall not be bound by the requirements herein. Redesign of existing parking areas to conformance with this Ordinance shall be permitted pending the submission to and subsequent approval by the Board of Supervisors of a parking plan, following the same procedure specified for a development plan in the Lower Milford Township Subdivision and Land Development Ordinance.

C. Alterations to Existing Structures and Uses

Parking areas serving existing uses or structures shall be brought into conformance with the requirements of this Ordinance under the following circumstances:

1. If the use or structure served by the parking area is substantially improved, including additions to interior floor space, or other construction or restoration activity requiring a Township building permit.
2. If the use or function of the structure is changed.

D. Required Off-Street Parking Spaces

The following minimum number of off-street parking spaces per use shall be provided for the uses indicated below. If a conflict arises between the provisions contained in this Article and the requirements of the PA Uniform Construction Code, the more stringent requirement shall apply. In addition, one (1) space for each company vehicle stored on the premises shall be provided. Throughout this Section, “s.f.” shall be interpreted as “square feet” and “GLFA” shall be interpreted as “gross leasable floor area,” as defined in Article II. The term “GLFA” shall include storage areas and other areas used to keep stock and inventory, unless such storage areas are located below grade level in a basement. For any use not specifically provided herein, the parking requirements shall be as specified in the 3rd Edition of the Institute of Transportation Engineers (I.T.E.) *Parking Generation* manual or as recommended by the Township Engineer. Where the I.T.E. manual suggests a standard or standards differing from those set

forth herein, the Township at its sole discretion may elect to impose any applicable I.T.E. standard.

1. Residential Uses

For each residential dwelling unit, the first garage bay serving such dwelling unit shall not count towards off-street parking requirements; however, each garage bay serving such dwelling unit in excess of one (1) may be counted as one (1) parking space. Parking space(s) in driveways also may be counted, where not blocking direct access into counted garage bays.

All residential dwelling units	2.0 spaces per dwelling unit

2. Office and Professional Uses

Animal hospital, veterinary office	4.0 spaces per doctor, plus 1.0 space per employee
Personal and professional services (including medical and dental offices)	3.5 spaces per 1,000 s.f. GLFA
Printing and publishing services	2.0 spaces per 1,000 s.f. GLFA
Professional, administrative, and general offices	1.0 space per 150 s.f. GLFA

3. Commercial Uses and Services

Bank or other financial institution	4.0 spaces per 1,000 s.f. GLFA
Bed and breakfast	1.0 space per guest room, plus 1.0 space per employee, plus 2.0 spaces for the resident owner(s)
Car wash	3.0 stacking spaces per bay, plus 2.0 drying spaces per bay
Convenience store (in addition to gas station requirements, where applicable)	5.0 spaces per 1,000 s.f. GLFA
Personal service (e.g., barber shop, dry cleaners, beautician, shoe repair)	3.5 spaces per 1,000 s.f. GLFA
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
Home occupation	Minimum number required for residence, plus as required in Section 1017
Hotel/Inn	1 space per rental unit, plus 1 space per 3 employees on the largest shift
Junkyard	0.1 space per 1,000 s.f. of gross lot area, not including spaces for junked cars

Kennel, animal shelter, animal hospital, veterinary office	1.0 space per employee, plus 1.0 space per 10 of animal capacity
Lumberyard	3.0 spaces per 1,000 s.f. GLFA in sales or display area, plus 1.0 space per 1,000 s.f. GLFA of warehouse or outdoor storage
Restaurant without drive-through service	1.0 space per 35 s.f. of GLFA, plus 1.0 space per employee
Restaurant with drive-through service	1.0 space per 50 s.f. of GLFA
Retail store, service, or shop not covered elsewhere	4.5 spaces per 1,000 s.f. of GLFA
Service station, repair facility, auto body repair service (in addition to gas station requirements, if applicable)	4.0 spaces per garage bay
Shopping center	3.5 spaces per 1,000 s.f. of GLFA

4. Institutional and Public Uses

Commercial stable or Riding Academy	1.0 space per instructor or employee, plus 1.0 space per student at capacity
Camp ground	1.0 space per camp site
Day care center	3.0 spaces per 1,000 s.f. GLFA, plus 1.0 unloading space per 10 children
Elementary school and middle school	1.0 space per classroom, plus 2.0 spaces per 1,000 s.f. devoted to administrative use
High school	1.0 space per classroom, plus 1.0 space per 15.0 students in grades 11 and 12, plus 1.0 space per 10.0 fixed seats in the auditorium
Library	3.0 spaces per 1,000 s.f. GLFA
Church or Other Place of worship	0.5 spaces per seat in any room(s) likely to be used at the same time or overlapping times, including but not limited to use for worship services, meetings, and educational programs

5. Recreational Uses

Theater/auditorium/assembly hall	1.0 space per 3.0 seats
Golf Course	4.0 spaces per tee, plus 50% of requirements for ancillary uses, if applicable
Community or cultural recreation center	5.0 spaces per 1,000 s.f. GLFA
Membership Club or Lodge	1.0 space per 5.0 members at capacity, plus 1.0 space per employee

6. Mixed Uses

The parking space requirements for a building or development with mixed use shall be calculated using the most stringent requirement for the total gross leasable floor area.

E. Location of Parking

1. Except as provided in subsection 2), below, required off-street parking shall be located on the same lot as the uses or activities for which the parking is required.
2. The required parking spaces may be located other than on the same lot when authorized as a special exception, provided that:
 - a. Some portion of the common off-street parking areas lie within two hundred (200) feet of an entrance regularly used by patrons into the building served thereby, or
 - b. The owners of two (2) or more establishments desiring a common parking area shall submit, with their application for special exception, a site plan showing joint use and location of a common off-street parking area.

F. Off-Street Parking in Required Yards

The following standards shall apply except where modified subject to conditional use approval by the Board of Supervisors:

1. Nonresidential parking areas, including access drives, shall be set back a minimum of fifteen (15) feet from any street right-of-way or any property line abutting a residential use or district.
2. In any situation not subject to sub-Section F.1, above, all parking areas and access drives, whether residential or nonresidential, shall be set back at least five (5) feet from any lot line.

G. Size and Design of Parking Spaces

1. Parking spaces shall be reasonably level, sloping not more than five (5) percent in any direction, but providing for positive drainage with a slope of at least one (1) percent. A rectangular block of the following dimensions shall be provided for all off-street parking spaces, regardless of pull-in angle, and shall not be occupied by, 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. Parking spaces shall have the dimensions of nine (9) feet wide by eighteen (18) feet long, exclusive of passageways, driveways or other means of circulation access. Not more than two (2) feet of the parking space may overhang the outer perimeter boundaries of the parking lot, so long as such overhang does not intrude into an adjacent right-of-way or pedestrian walkway, and for those parking spaces only, the area directly below the overhang need not be paved, although the balance of said space must be paved. All such perimeter parking spaces shall be equipped with curbing.
3. Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space without requiring the moving of any other motor vehicle.
4. In all cases, parking areas and access drives shall be designed to provide for ingress and egress in a manner that does not require or encourage vehicles to back into a public street in order to leave the lot.

H. Handicapped Parking

1. Parking spaces for use by handicapped drivers shall be located on the shortest accessible route to minimize the distance between the vehicle and a wheelchair accessible entrance to the facility served.
2. Handicapped parking shall be in accordance with the dictates of the Americans With Disabilities Act of 1990 (U.S.C. 42§§12101 et. seq.) and the latest edition of the International Building Code. Construction and dimensions of the accessible components to be in accordance with ICC/ANSI A117.1, latest edition.

I. Traffic Lane and Driveway Dimensions

Lanes designed for circulation of motor vehicles within the parking area (abutting parking spaces) shall have a minimum width, as required below:

Angle of Parking (degrees)	Lane Width	
	One-Way (feet)	Two-Way (feet)
90	21	24
60	18	22
45	16	20

1. Access drives shall conform to the setback standards set forth in Subsection F, unless shared between adjoining properties.
2. Driveways providing access to the parking area from the 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 (1) vehicle, plus one (1) vehicle for every fifty (50) spaces provided in the parking area, for up to twenty (20) stacking spaces.

3. Off-street parking areas shall have separate, marked lanes of ingress and egress. Residential parking areas with access solely onto a local access road and providing ten (10) or fewer off-street parking spaces, a single lane for both ingress and egress may be permitted upon the recommendation of the Township Engineer.
4. The minimum width of entrance and exit drives shall be as follows:
 - a. One-way access – Fourteen (14) feet.
 - b. Two-way access – Twenty-four (24) feet.

J. Off-Street Parking Surfacing Requirements

1. All parking areas shall be designed to be accessible year-round.
2. Required parking areas shall be asphalt, except where an alternative paving material is permitted upon the recommendation of the Township Engineer.
3. Reserve parking areas may be pervious pavement, or with the approval of the Township, upon the recommendation of the Township Engineer, gravel, grass or other approved material, depending upon the degree of anticipated use.

K. Required Landscaping and Screening

Off-street parking areas that contain more than five (5) parking spaces shall be landscaped in accordance with the provisions of the current Lower Milford Township Subdivision & Land Development Ordinance.

L. Stormwater Management

1. All land development plans with off-street parking areas shall be accompanied by a stormwater management plan for the entire site meeting all applicable provisions of the current Lower Milford Township Subdivision & Land Development Ordinance regarding stormwater management and erosion control.
2. Development plans presented at the preliminary plan stage shall clearly indicate drainage patterns across all surface areas and areas altered by proposed developments.

Section 1302. OFF-STREET LOADING**A. General Provisions**

1. The requirements of this Section shall apply to all new commercial and mixed-use developments, and to all expansions of such existing uses resulting in a gross floor area totaling two thousand (2,000) square feet or more, and as specified below.
2. Loading areas for all uses shall be completely on-site and shall not occupy any street right-of-way.
3. Loading areas shall be designed so as not to interfere with vehicular and pedestrian circulation, or occupy parking spaces, traffic lanes within a parking area, driveways or any public cartway.
4. Loading areas shall be located in rear or side yard areas.

B. Required Off-Street Loading Facilities

The following off-street loading standards shall apply, except where modified subject to conditional use approval by the Board of Supervisors:

1. Commercial Uses

Loading or unloading berths shall be provided in accordance with the following table for commercial and industrial uses:

Aggregate Gross Floor Area Devoted to Each Use (square feet)	Minimum Required Number of Berths
2,000 to 7,999	1
8,000 to 19,999	2
20,000 to 39,999	3
For each additional 40,000	1 additional

2. Office and Professional Uses, and Institutional Uses

Loading or unloading berths shall be provided in accordance with the following table for office and professional uses, and institutional uses:

Aggregate Gross Floor Area Devoted to Each Use (square feet)	Minimum Required Number of Berths
5,000 to 9,999	1
10,000 to 24,999	2
25,000 to 49,999	3
For each additional 50,000	1 additional

3. All other commercial and mixed-use developments uses with a total of 5,000 s.f. or more of aggregate gross floor area shall provide loading spaces adequate to accommodate normal demands of loading and unloading incidental to that type of use, to the satisfaction of the Zoning Officer.
4. The number of loading or unloading berths may be less than the number of berths required above in the event that both of the following conditions are met:
 - a. Evidence is submitted documenting that the use of the building requires fewer loading berths than required by subsections 1. and 2., above.
 - b. The site development plan shall indicate where such loading berths could be located if, at a future date, they are determined to be needed. Such area shall be designated as “proposed future loading area” on the plan and no permanent structures shall be permitted within this area.

C. Size of Loading Space

1. Minimum of fourteen (14) feet by fifty-five (55) feet.
2. All loading berths shall have a minimum vertical clearance of fourteen (14) feet.

D. Loading Area Surfacing Requirements

All loading areas shall be designed to be accessible year-round and shall be surfaced with asphalt, except where an alternative paving material is permitted upon the recommendation of the Township Engineer.

E. Loading Area Required Yards

1. No loading areas shall be permitted within any front yard.
2. Loading areas shall be set back a minimum of thirty-five (35) feet from a street right-of-way or any property line abutting a residential use or district.
3. Except as provided for in subsection E.2. above, all loading areas shall be set back at least fifteen (15) feet from any lot line.

Section 1303. ACCESS DRIVEWAYS

- A. All entrance or exit driveways for a public garage, public parking area, filling station, service station or car washing station shall have a minimum unobstructed width of ten (10) feet. Every combined entrance and exit access driveway shall have a minimum total unobstructed width of twenty (20) feet.

- B. Erection of all access driveways shall require a permit from the Township if on a Township road and a Highway Occupancy Permit from the State if on a State Road. Driveway requirements and permit fees are to be ~~ms~~et by Resolution of the Board of Supervisors.

Section 1304. SIGNS

- A. Intent. The intent of this Section is to provide for the regulation of signs in Lower Milford Township, as a proper exercise of the municipal police power, to protect the public health, safety, and welfare in accordance with the following objectives:
1. To control the size, location, and illumination of signs in the Township in order to reduce hazards to pedestrian and vehicular traffic;
 2. To encourage signs which are well-designed and pleasing in appearance, and to provide latitude for variety, in order to enhance the economic value as well as the visual character of properties within the Township;
 3. To establish standards designed to encourage signs which are compatible with their surroundings, appropriate to the type of activity to which they pertain, expressive of the identity of individual proprietors, and legible in the circumstances in which they are seen; and to prohibit the erection of signs that do not meet these criteria;
 4. To prohibit the construction of and require the removal of signs which constitute a hazard or a blighting influence.
- B. General Regulations. The following regulations shall be observed in all districts:
1. No sign shall be erected within a street line, except traffic signs and similar regulatory notices of a duly constituted governmental body;
 2. All signs requiring the use of electricity shall be manufactured in accordance with Underwriter Laboratories specifications;
 3. No sign which emits smoke, visible vapors, particles, sound, or odor shall be permitted;
 4. No sign which flashes, rotates, is animated, or revolves, with the exception of barbershop poles, is permitted, nor is a searchlight used as a means of drawing attention to a business or other use.
 5. No sign which is suspended between poles and lighted by a series of lights, or a sign suspended between poles consisting of either pennants or spinners is permitted.

6. No artificial light or reflecting device shall be used as a part of a sign where such light or device interferes with, competes for attention with, or may be mistaken for a traffic signal;
7. No sign shall be erected containing information on it which states or implies that a property may be used for any purpose not permitted in the Zoning District in which the property is located;
8. A truck or other vehicle not used for normal day-to-day operations of a business or not regularly moved for business related purposes shall be prohibited for use as a sign.
9. Every sign shall be constructed of a durable material and kept in good condition, repair, and safe from collapse. Whenever a sign becomes structurally unsafe or endangers the safety of a building or premises, or the general public, written notice shall be given to the owner of the sign or the owner of the premises on which such sign is located, that such sign shall be made safe or removed within five (5) days. A sign shall be considered unsafe upon the lapse of the insurance required by Section 1304.F herein;
10. All distances provided for in this Section shall be measured along straight lines between signs, and from the near edge of a sign or sign structure. This paragraph shall apply in all cases, including locating new signs in relationship to current existing non-conforming signs;
11. No sign, other than official street signs shall be erected or maintained nearer to a street line than a distance equaling the height of the sign, unless attached flatly to a building. Along Limeport Pike (State Route 2029) and Kings Highway (State Route 2027), the minimum setback for all free-standing signs shall be fifteen (15) feet measured from the street right-of-way. In the case of a pole sign, this measurement shall be taken from the edge of the sign board closest to the street;
12. No sign shall be erected in any district without a permit, unless so stated in Section 1304.C, Exempt Signs;
13. No Business Sign may be located nearer to a residence or a residential district lot line than permitted for buildings on the lot. If located nearer than thirty (30) feet and facing into a residence or a residential district, it shall be so designed as not to shine or reflect light upon such residence or district;
14. The gross sign area shall be the entire area within a single continuous perimeter enclosing the extreme limits of such sign, and in no case passing through or between adjacent elements of the same. Such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display. In the case of an open sign, made up of individual

letters, figures or designs, the space between such letters, figures or designs shall be included. In computing the area of a double-face sign, only one side shall be considered PROVIDED that both faces are identical. In V -type structures, the interior angle of which exceeds forty-five (45) degrees, both sides shall be considered in computing the sign area;

15. No sign shall be erected or maintained so as to prevent free ingress or egress from any door, window or fire escape. No signs shall be attached to a stand-pipe or fire escape. No roof signs shall be permitted, and no signs projecting above the roof-line shall be permitted;
16. Signs and their respective illumination existing at the time of the passage of this Ordinance and which do not conform to the requirements of this Section shall be considered nonconforming signs subject to the regulation of Section 1608;
17. No person shall maintain or permit to be maintained on any premises owned or controlled by him a sign which has been abandoned. An "abandoned sign," for the purposes of this Section, is a sign erected on and/or related to the use of a property which becomes vacant and unoccupied for a period of six (6) months or more, or any sign which was erected for a prior occupant or business, or any sign which relates to a time, event, or purpose which is past. Any such abandoned sign shall be removed by the landowner or person controlling the property within ten (10) days of the abandonment as described above;
18. Except as otherwise provided in this Ordinance, any permitted sign, building or structure in any district may be illuminated, provided that there shall be no illumination of a flashing, intermittent LED or moving type, and further provided that floodlighting shall be so shielded and aimed that the source of light shall not be visible from any point off the lot on which the sign, building or structure being illuminated is erected, and so that only the sign, building or structure is directly illuminated thereby. All signs shall be illuminated only from the top unless otherwise specifically approved by the Township.

C. Exempt Signs. No permit shall be required for the following signs. These signs shall conform to all other regulations set forth in Sections 1304.A, B, and D:

1. Traffic signs or other directional, information, or public services signs such as those advertising the availability of restrooms, telephone, or similar public conveniences;
2. Signs advertising meeting times and places of non-profit service or charitable clubs and organizations, provided that such signs do not advertise any commercial establishment, activity, organization, product, goods, or service, excepting public utilities. Such signs shall be limited to one (1) sign per use and shall not exceed twelve (12) square feet;

3. Trespassing signs;
4. Real estate signs of six (6) square feet or less;
5. Rural occupation and home related business signs;
6. Agricultural signs;

D. Sign Classification, Size, and District Applicability. Signs shall be classified, regulated, and permitted as follows:

1. Real Estate Signs. Signs which advertise the sale, rental, or lease of the property on which they are placed.
 - a. Permitted in all districts.
 - b. Dimensional Requirements - Not to exceed six (6) square feet.
 - c. No more than one such sign shall be permitted per street frontage on a single lot.
2. Traffic Signs. Signs regulating traffic, naming streets, or describing conditions, which are officially erected by the Commonwealth of Pennsylvania Department of Transportation or Lower Milford Township.
 - a. Permitted in all districts.
 - b. Dimensional Requirements - As deemed appropriate by the Commonwealth of Pennsylvania or Lower Milford Township.
3. Identification Signs. Signs which display the name of a particular non-commercial or non-industrial building or use, such as a church or school or development.
 - a. Permitted in all districts.
 - b. Dimensional Requirements - Not to exceed twelve (12) square feet.
 - c. No more than one such sign shall be permitted per street frontage on a single lot or tract, as applicable.
4. Non-Commercial Informational Signs other than traffic signs pursuant to Section 1304.C.1 above.
 - a. Permitted in all districts.

- b. Dimensional Requirements - Not to exceed two (2) square feet.
- 5. Trespassing Signs. Any sign indicating the private nature of property, a street, or driveway, or a sign restricting or prohibiting some particular activity.
 - a. Permitted in all districts.
 - b. Dimensional Requirements - Not to exceed two (2) square feet.
- 6. Agricultural Signs. Signs advertising the sale of farm products grown on the premises.
 - a. Permitted in all districts.
 - b. Dimensional Requirements - Not to exceed twelve (12) square feet.
 - c. No more than one such sign shall be permitted per street frontage on a single lot or tract, as applicable.
- 7. Temporary Professional Signs. Signs of contractors, architects, mechanics, or artisans displayed on a temporary basis on the premises at which the services are being performed, pursuant to the provisions of Section 1304.E below.
 - a. Permitted in all districts.
 - b. Dimensional Requirements - Not to exceed six (6) square feet.
 - c. No more than one such sign shall be permitted on a single lot or tract, as applicable.
- 8. Temporary Non-Professional Signs. Signs noting a special event such as a fair, circus, yard sale, bingo party, farmers market, or political activity, or a seasonal activity such as the sale of Christmas trees, pursuant to the provisions of Section 1304.E.
 - a. Permitted in all districts.
 - b. Dimensional Requirements - Not to exceed twelve (12) square feet.
 - c. No more than one such sign shall be permitted per street frontage on the property such event or activity shall take place.
- 9. Home Occupation Signs. Signs used to indicate a rural occupation or a home related business, but excluding a No-impact Home Based Business, which by definition, is precluded from the use of signs.

- a. Permitted in all districts.
 - b. Dimensional Requirements - Not to exceed two (2) square feet, and subject to the provisions of Section 1304.C.
 - c. No more than one such sign shall be permitted per rural occupation or home related business on the property where the use is located only.
10. Business or Commercial Signs. Signs used to attract attention to a permitted use on the same premises. Such signs normally include the identifying name, type of business, and trademark of the establishment.
- a. Permitted in the VC District.
 - b. Dimensional Requirements:
 - (1) Mounted Signs. The total area of all signs mounted on any single building façade shall not exceed five (5) percent of the wall area of the façade upon which the sign(s) is/are to be mounted or 12 square feet of signage for each individual business housed within the building, whichever is greater. Mounted signs shall be installed parallel to the supporting wall and project not more than twelve (12) inches from the face of such wall. No more than one (1) mounted sign shall be permitted per use;
 - (2) Projecting Signs. Signs projected from the face of a building shall extend no more than forty-two (42) inches, with a minimum height of ten (10) feet from ground level, and have a maximum area of twelve (12) square feet. No more than one (1) projecting sign shall be permitted per use;
 - (3) Free-standing Signs. No more than one (1) free-standing sign shall be erected within the limits of the front yard of the property to which it pertains only, regardless of how many individual uses are located on the property. Free standing signs shall have a maximum sign area of twenty-four (24) square feet, provided however that free standing signs advertising multiple use of a single property shall have a maximum area of thirty-two (32) square feet except where a larger sign is approved as a conditional use, and provided further that signage applicable to any single use shall not exceed twelve (12) square feet. Pole signs shall be setback a minimum of fifteen (15) feet from the public street right-of-way, measured from the edge of the sign closest to the street, and shall not exceed fifteen (15) feet in height; monument

signs shall be setback a minimum of five (5) feet from the public street right-of-way. A monument sign shall not exceed six (6) feet in height.

- a. No sign provided for by this subsection may be located nearer to a residence or a residential district lot line than permitted for buildings on the lot. If located nearer than thirty (30) feet and facing into a residence or a residential district, it shall be so designed as not to shine or reflect light upon such residence or district.

11. Off-Premise Signs. Off-Premise advertising signs shall be permitted, provided that:

- a. The off-premises sign shall only be permitted within thirty-five (35) feet of the Pennsylvania Turnpike Extension (I-476) right-of-way. Such sign shall be required to face the Turnpike Extension.
- b. The area of an Off-premises sign is restricted to three hundred (300) square feet and the height of such sign is restricted to twenty (20) feet with a ground clearance of ten (10) feet measured from the grade of the site.
- c. Where permitted, only one (1) off-premises sign may be erected on a single tract.
- d. Off-premises signs shall not be located closer than four hundred (400) feet from another off-premises sign or from a designated historic resource as defined by this Ordinance.
- e. Off-premises signs shall not be erected within thirty (30) feet of a side or rear property line.
- f. Off-premises signs shall not be illuminated.

E. Temporary Sign Regulations. Temporary signs as defined in Section 1304.D.8. shall be subject to the following:

1. Permits shall not be issued for a period in excess of six (6) months per year;
2. Any free standing sign shall be located at least five (5) feet from any lot line;
3. Signs shall be removed immediately upon expiration of the permit or cessation of the activity to which they pertain, whichever is sooner;
4. The site or building on which the sign was erected shall be restored to its original condition upon removal of the sign.

F. Sign Permits and Bond.

1. Applications for sign permits shall be filed on forms furnished by the Township and shall be accompanied by detailed plans and specifications and such other information deemed necessary by the Zoning Officer to determine the location and details of sign construction.
2. All application for sign permits shall be accompanied by the property owner's written consent, if the property owner is not the owner of the sign.
3. Permit fees shall be collected prior to the issuance of a permit. Permit fees shall be as designated by the Board of Supervisors.
4. Before any permit will be issued for any sign projecting over any public property or right-of-way, a liability insurance policy or an indemnity bond in an amount and form satisfactory to the Township, shall be posted and maintained for the life of the sign.
5. The Zoning Officer is hereby authorized to revoke any sign permit upon failure of the holder thereof to comply with any provisions of this Ordinance.
6. All signs for which a permit is required may be subject to annual inspection by the Zoning Officer. The fees for annual inspection shall be as established by resolution by the Board of Supervisors, and the Zoning Officer shall issue a certificate of inspection upon payment of the same.

Section 1305. PLANTING SCREEN

Adjacent to every side and rear lot line of every property in the Village Center District which abuts any adjacent Zoning District and which is to be developed for non-residential purposes, a protective planting strip shall be required not less than ten (10) feet nor more than thirty (30) feet in width, situated within any required side or rear yard, designed and laid out with evergreen plant material which will be planted at a minimum height of four (4) feet, and will attain and shall be maintained at a height of not less than eight (8) feet, so as to provide an effective natural screen between the non-residential and residential districts. Use of native or indigenous plant materials listed in the current Subdivision and Land Development Ordinance shall be required, and a planting and maintenance plan, to be submitted with the development plan, is required.

Section 1306. PHYSICAL PERFORMANCE REQUIREMENTS.

- A. The following standards shall apply to all uses in all districts in the Township:
1. Air Quality.

There shall be no emission of smoke, ash, dust, fumes, vapors, gases, or other matter toxic or noxious to air which violates the Pennsylvania Air Pollution Control Laws, including the standards set forth in Chapter 123 (Standards for Contaminants) and Chapter 131 (Ambient Air Quality

Standards), Article III, Title 25, Pennsylvania Department of Environmental Protection, Rules and Regulations.

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 Ordinance.

2. Fire and Explosive Hazards.

All activities and all storage of flammable and explosive material at any point shall be provided with adequate safety devices against the hazard of fire and explosion, and adequate fire-fighting and fire-suppression equipment and devices as detailed and specified by the laws of the Commonwealth of Pennsylvania. All buildings and structures and activities within such buildings and structures shall conform to the Building Code, the Fire Prevention Code, and other applicable Township Ordinances. Any explosive material shall conform to the requirements of Chapter 211, Title 25, Rules and Regulation, Pennsylvania Department of Environmental Protection, for Storing, Handling and Use of Explosive.

3. Glare and Heat.

No direct or sky-reflected glare, whether from floodlights or high temperature processes such as combustion or welding or otherwise, so as to be visible at the lot line shall be permitted. These regulations shall not apply to signs or floodlighting of parking areas otherwise permitted by this Ordinance. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line.

4. Liquid and Solid Waste.

There shall be no discharge at any point into any public or private sewerage system, or watercourse or into the ground, of any materials in such a way or such a nature, as will contaminate or otherwise cause the emission of hazardous materials in violation of the laws of Lower Milford Township and the Commonwealth of Pennsylvania, and specifically Chapters 73, 75, 95 and 97, Title 25 Pennsylvania Department of Environmental Protection, Rules and Regulations.

5. Noise.

Noise levels shall be maintained at a level which is not objectionable due to intermittence, frequency or intensity and shall not exceed the standards established by this section. Farm operations, temporary activities involved in the construction or demolition of structures, emergency generators, and emergency alarm signals shall be excluded from this regulation. Sound levels measured at all the property lines housing the activity producing the sound by a sound level meter which conforms to the specifications published by the American Standards Association shall not exceed 65 decibels (dBA) at any time. Sound levels at property lines abutting residential uses shall not exceed 50 decibels (dBA) between the hours of 9:00 p.m. and 7:00 a.m.

6. Odor.

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. Odor thresholds shall be measured in accordance with ASTM d-1391-57, "Standard Method for Measurement of Odor in Atmospheres (Dilution Method)".

7. Vibration.

No vibration shall be produced which is transmitted through the ground and is discernible at or at any point beyond the lot lines without the aid of instruments.

8. Radioactivity or Electrical Disturbances.

There shall be no activities which emit radioactivity disturbance (except from domestic household appliances) or electro-magnetic interference (EMI) adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.

9. Public Health and Safety.

No use shall create any other objectionable condition in an adjoining area which will endanger public health and safety or be detrimental to the proper use of the surrounding area.

Section 1307. OUTDOOR LIGHTING.

- A. Intent. It is the intent of this Section to establish minimum standards for outdoor lighting for the protection of public health, safety and welfare in accordance with the following objectives:

1. To provide for and control lighting in outdoor public places where public health, safety and welfare are potential concerns.
2. To protect drivers and pedestrians from the glare of non-vehicular light sources.
3. To protect neighbors, the environment and the night sky from nuisance glare and light trespass from improperly selected, placed, aimed, applied, maintained or shielded light sources.

B. Applicability.

1. All uses within the Township where there is exterior lighting that creates a nuisance or hazard as viewed from outside on public rights-of-way and public or private property.
2. Temporary seasonal decorative lighting is exempt from the requirements of this ordinance with the exception of glare-control requirements.
3. Emergency lighting, as may be required by any public agency or emergency services agency while engaged in the performance of their duties, is exempt from the requirements contained in this ordinance.

C. Criteria.

1. For the lighting of predominantly horizontal surfaces, fixtures shall be aimed straight down and shall meet IESNA full-cutoff criteria. Fixtures, except those containing directional lamps, with an aggregate rated lamp output not exceeding 500 lumens, e.g., the rated output of a standard non-directional 40-watt incandescent or 10-watt compact fluorescent lamp, are exempt from the requirements of this paragraph.
2. For the lighting of predominantly non-horizontal surfaces, fixtures shall be fully shielded and shall be installed and aimed so as to not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway. Fixtures, except those containing directional lamps, with an aggregate rated lamp output not exceeding 500 lumens, e.g., the rated output of a standard non-directional 40-watt incandescent or 10-watt compact fluorescent lamp, are exempt from the requirements of this paragraph.
3. All lighting shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.

4. Directional fixtures such as floodlights and spotlights shall be so shielded, installed and aimed that they do not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway. Floodlights, when installed above grade on residential properties, except when motion-sensor actuated, shall not be aimed out more than 45° from straight down. When a floodlight creates glare as viewed from an adjacent residential property, the floodlight shall be required to be reaimed and/or fitted with a shielding device to block the view of the glare source from that property.
5. “Dusk-to-dawn lights,” when a source of glare as viewed from an adjacent property, shall not be permitted unless effectively shielded as viewed from that property.
6. Parking facility and vehicular and pedestrian lighting for commercial, industrial and institutional uses shall be automatically extinguished no later than one-half hour after the close of business or facility operation. When safety or security lighting is proposed for after-hours illumination, it shall not be in excess of twenty-five (25) percent of the number of fixtures or illumination level required or permitted for illumination during regular business hours.
7. Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily through the use of such means as cutoff fixtures, shields and baffles, and appropriate application of fixture mounting height, wattage, aiming angle and fixture placement.
8. The illumination projected from any use onto a residential use shall at no time exceed 0.1 footcandle, measured line-of-sight from any point on the receiving residential property.
9. The illumination projected from any property onto a non-residential use shall at no time exceed 1.0 footcandle, measured line-of-sight from any point on the receiving property.
10. Under-canopy lighting for uses other than residential, shall be accomplished using flat-lens full-cutoff fixtures aimed straight down and shielded in such a manner that the lowest opaque edge of the fixture shall be below the light source at all lateral angles. The average illumination in the area directly below the canopy shall not exceed 20 initial footcandles and the maximum shall not exceed 30 initial footcandles.
11. All outdoor lighting fixtures shall be installed in accordance with the Pennsylvania Uniform Construction Code, Act 45 of 1999 as amended.

12. Lighting fixtures and ancillary equipment shall be maintained so as to remain in compliance with the requirements of this Ordinance.
13. Any lighting fixture or lighting installation existing on the effective date of this Ordinance that does not conform with the requirements of this Ordinance, shall be considered as a lawful nonconformance.
14. A nonconforming lighting fixture or lighting installation shall be made to conform with the requirements of this Ordinance when:
 - a. It is deemed to create a safety hazard.
 - b. It is replaced by another fixture or fixtures or abandoned or relocated.
 - c. There is a change in use of the property.
15. A Zoning Permit is required for lighting under the provisions of this Ordinance.

ARTICLE XIV

ZONING HEARING BOARD

Section 1400. ESTABLISHMENT AND MEMBERSHIP

There shall be a Zoning Hearing Board, appointed by the Board of Supervisors in accordance with Article IX of the Pennsylvania Municipalities Planning Code, as amended. Membership of the Zoning Hearing Board shall be appointed as prescribed below.

- A. The purpose of this Article is to establish regulations to govern the establishment, functions, and procedures of the Board.
- B. The Board shall have exclusive jurisdiction to hear and render final decisions in the following matters:
 - 1. Substantive challenges to the validity of this Ordinance or Zoning Map, except those brought before the Township Board of Supervisors, pursuant to Section 609.1, Curative Amendments and 916.1(a)(2), Validity of Ordinances of the Pennsylvania Municipalities Planning Code, (MPC).
 - 2. Challenges to the validity of this Ordinance or Map raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said Ordinance.
 - 3. Appeals from the determination of the Zoning Officer, including, but not limited to the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order, misinterpretation or misapplication of any provision of a valid ordinance or map, or any valid rule or regulation of the Township governing the action of the Zoning Officer.
 - 4. Appeals from a determination by the Township Engineer or the Zoning Officer with reference to the administration of any floodplain provision within the Lower Milford Township Floodplain Zoning Ordinance.
 - 5. Applications for variances from the terms of the zoning ordinance, pursuant to Section 910.2 of the MPC, Zoning Hearing Board's Function; Variances.
 - 6. Applications for special exceptions under the zoning ordinance pursuant to Section 1403 of this Ordinance, or such provisions within a land use ordinance, pursuant to Section 912.1 of the MPC, Zoning Hearing Board's Function; Special Exceptions.

7. Appeals from the Zoning Officer's determination under Section 916.2 of the MPC, Procedure to Obtain Preliminary Opinion.
8. Appeals from the determination of the Zoning Officer or Township Engineer in the administration of this Ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development.
9. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the zoning ordinance.

C. Appointment

The membership of the Board shall consist of five (5) residents of the Township appointed by the Board of Supervisors for a normal term of office of five (5) years, starting at the date of appointment. The first appointment shall be one (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, and one (1) for five (5) years so that the term of office of one (1) member shall expire each year. The Board shall promptly notify the Board of Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Township.

D. Organization

The Board shall elect its Chairman and Vice-Chairman from its membership, who shall serve annual terms as such and may succeed themselves. The Board may make, alter and rescind rules and forms for its procedure, consistent with the provisions of the Pennsylvania Municipalities Planning Code and this Ordinance.

1. For the conduct of any hearing and taking of any action, a quorum shall be not less than a majority of all the members of the Board, but where two (2) members are disqualified to act in a particular matter, the remaining member may act for the Board. The Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in Section 908 of the MPC.
2. The Board may make, alter, and rescind rules and forms for its procedure consistent with the provisions of this Ordinance and the laws of the Commonwealth. The Board shall keep full public records of its business and shall submit a report of its activities to the Board of Supervisors once a year. The Board is authorized to employ a Secretary or Clerk, who is not a member of the Board, at a salary to be fixed by the Board of Supervisors.

E. Removal of Members

Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors. Such a vote may be taken only after the member has received at least fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member requests it in writing.

F. Compensation

The Board may receive compensation for each meeting as fixed by the Township Supervisors. In no case shall the amount exceed the rate of compensation authorized to be paid to members of the Board of Supervisors.

G. Meetings

Meetings of the Board shall be held at the call of the Chairman, and at such other times as the Board may determine. Meetings shall be at sufficiently frequent intervals, at the discretion of the Board, for the efficient conduct of its business. All meetings shall be open to the public.

Section 1401. PROCEDURE

A. Rules of Procedure

The Board shall adopt such rules of procedure, consistent with the provisions of the Pennsylvania Municipalities Planning Code and this Ordinance, as it may deem necessary to the proper performance of its duties and the proper exercise of its powers.

B. Hearings

The Board shall conduct a public hearing for all decisions it must make. It may appoint any member as a hearing officer to conduct such hearings. The decision or, where no decision is called for, the findings shall be made by the Board, but the parties to the hearing may waive the decision or findings being made by the Board and accept the decision or findings of the hearing officer as final.

C. Time Limitations

1. A hearing shall be held on all requests or consents to an extension of time.
2. No person shall be allowed to file any proceeding with the Board later than thirty (30) days after an application for development, preliminary or final, has been approved by appropriate Township officer, agency or body if such proceeding is designated 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.

D. Notice of Hearings

The Board shall publish a public notice, in a newspaper of general circulation in the Municipality, in accordance with the Pennsylvania Municipalities Planning Code. Also, the owners of property adjacent to or within 300 feet of the property for which action is requested shall be notified by letter of the hearing not less than fourteen (14) days prior to said hearing. The names and addresses of these property owners shall be supplied to the Board by the applicant.

E. Parties to the Hearings

The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

In any matter that relates to a property which lies within five hundred (500) feet of the boundary of another municipality, the Secretary of the Board shall transmit to the municipal clerk of such other municipality a copy of the official notice of the public hearing on such matter, not later than one (1) day after publication thereof. Such other municipality shall have the right to appear and to be heard at such public hearing.

F. Minutes and Records

The Secretary shall keep a stenographic record (minutes) of the Board's proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The Secretary shall keep records of the Board's examinations and official actions, all of which shall be immediately filed in the Office of the Board and shall be a public record. A transcript of all proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.

1. A record of all variances and special exception uses granted pursuant to action of the Board under this Ordinance shall be maintained. This record shall be available for public inspection.

G. Witnesses and Evidence

The Chairman, or acting Chairman, may administer oaths and compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties to the hearing. Such 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. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.

H. Communications with the Parties

The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representative in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials unless all parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

I. Decisions

The Board or the hearing officer shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. Each decision shall be accompanied by findings of fact and conclusions based on any provisions of the Pennsylvania Municipalities Planning Code, of this Ordinance, or of other Township 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.

1. If the hearing is conducted by a hearing officer, and there has been no stipulation that his/her decision or findings are final, the Board shall make his/her report and recommendations available to all parties within 45 days, which shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings. The Board's final decision or findings shall be entered no later than thirty (30) days after the decision of the hearing officer.
2. Where the Board fails to render the decision within the time periods required, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless he has agreed in writing to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as required, the Township shall give public notice, pursuant to the requirements of the Pennsylvania Municipalities Planning Code, and shall notify all parties of said decision within ten (10) days.
3. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board no later than the last day of the hearing, the Board shall provide, by mail or otherwise, brief notice of the decision or findings and

a statement of the place at which the full decision or findings may be examined.

Section 1402. APPEALS ON INTERPRETATION OF THE ZONING ORDINANCE OR MAP

The Zoning Hearing Board is hereby authorized, upon an appeal by an affected landowner, any officer or agency of the Township, or any person aggrieved, to hear and decide:

- A. Any matter where an appellant or his agent or attorney alleges that the Zoning Officer was in error in refusing to issue a Zoning Permit or Certificate of Use and Occupancy.
- B. Any matter where an appellant alleges that the Zoning Officer was in error in his determination as to the exact location of a district boundary line on the Zoning Map that forms a part of this Ordinance.
- C. Any other matter relating to this Ordinance, where an appellant seeks a review of any decision, order or ruling made by the Zoning Officer.
- D. Any matter which the Zoning Officer appeals on grounds of doubt as to the meaning or intent of any provision of this Ordinance or as to the location of a district boundary line on the Zoning Map.

Section 1403. SPECIAL EXCEPTION USES

- A. Where a use requires a Special Exception review by the Board, the applicant shall request a hearing by the Board. The applicant shall submit all materials relevant to the Special Exception request, including, but not limited to, those plans, documents, and supporting materials that demonstrate compliance with the regulations and criteria of Article X, Natural Resource Protection Standards, Article XI, Historic Resource Protection Standards, Article XII, Supplementary Regulations, Article XIII, General Regulations and Design Standards, and other applicable provisions of the Ordinance.
- B. The Board shall hear and decide on the request in accordance with the standards and criteria for each Special Exception use set forth below:
 - 1. The size, scope, extent, and character of the special exception request is consistent with the Comprehensive Plan of the Township and promotes the harmonious and orderly development of the zoning district involved;
 - 2. The proposed special exception is an appropriate use consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter, or detract from the use of surrounding property or of the character of the neighborhood in light of the zoning classification of the area affected; the effect on other properties in the

area; the number, extent, and scope of nonconforming uses in the area; and the presence or the absence in the neighborhood of conditions or uses which are the same or similar in character to the condition or use for which Applicant seeks approval;

3. The proposed special exception is suitable with respect to traffic and highways in the area and provides for adequate access and off-street parking arrangements in order to protect major streets and highways from undue congestion and hazard;
4. The proposed special exception is reasonable in terms of the logical, efficient, and economical extension of public services and facilities, such as public water, sewers, police, fire protection, and public schools, and ensures adequate arrangements for the extension of such services and facilities in specific instances;
5. Conditions are being imposed on the grant of the request necessary to ensure that the general purpose and intent of the property adjacent to the area included in the proposed special exception is adequately safeguarded with respect to harmonious design of buildings, aesthetics, planting and its maintenance as a sight or sound screen, landscaping, hours of operation, lighting, numbers of persons involved, allied activities, ventilation, noise, sanitation, safety, smoke and fume control and the minimizing of noxious, offensive or hazardous elements;
6. The proposed special exception does not materially and adversely affect the safety, health and general welfare of the Township.

- C. Any subsequent amendment or addition to plans for which a permit is sought shall be subject to review and public hearing by the Board.

Section 1404. VARIANCES

A. General Delegation of Power

In addition to and separate from the power of the Zoning Hearing Board to grant permits for special exception uses, as provided in Section 1403, the Zoning Hearing Board shall have the power to authorize, upon appeal, in specific cases such variance from the terms of this Ordinance as will not be contrary to public interest, where owing to special conditions a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be served and substantial justice done. Such unnecessary hardship may not have been created by the applicant.

B. Granting of Variances

1. The Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship on the applicant.
2. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.
3. The Board may grant a variance, provided the following findings are made where relevant in a given case:
 - a. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the district in which the property is located;
 - b. That, because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is, therefore, necessary to enable the reasonable use of the property;
 - c. That such unnecessary hardship has not been created by the applicant.
 - d. That the variance, if authorized, will neither alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare;
 - e. That, in the case where the property is located in part or totally within the designated floodplain, the granting of a variance will not increase the base flood elevation; and
 - f. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
4. In addition, the Board shall, to the full extent permitted by law, consider the factors and criteria listed in Section 1404.C. below when considering a request for a variance.
5. In the case of a request for a variance, it shall be the responsibility of the applicant to present such evidence as is necessary to demonstrate that the

proposed use or modification complies with the pertinent criteria or standards set forth in this Section and in Article XII, Supplemental Regulations.

C. Specific Types of Variances

In conformity with the general power to vary or modify the provisions of this Ordinance, as provided in Section 1404.A, and pursuant to the guiding principles stated in Section 1404.B.3, the following specific types of variances, among others, may be granted:

1. To permit the enlargement or extension of a nonconforming use or building on the lot occupied by such use or building prior to the 1967 Ordinance, in accordance with Section 1608.
2. To issue a certificate of occupancy for a change in a nonconforming use in accordance with Section 1608.
3. To modify the side yard requirements on the side street frontage of a corner lot, in cases where such requirements would unduly reduce the buildable width of such corner lot.
4. To modify the yard requirements of a nonconforming lot which qualifies under the terms of Section 1300.E.

Section 1405. BURDEN OF PROOF; CONDITIONS.

To the maximum extent permitted by law, all burdens of proof and persuasion shall be upon the landowner in connection with any variance, special exception, or other application or appeal before the Zoning Hearing Board. In allowing a variance or special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of the MPC and this Zoning Ordinance.

Section 1406. CHALLENGES TO THE VALIDITY OF THE ZONING ORDINANCE OR MAP

- A. The Board shall hear challenges to the validity of this Ordinance or the zoning map from:
1. A landowner who, on substantive grounds, desires to challenge the validity of this Ordinance or any provision thereof which prohibits or restricts the use or development of land in which he has an interest.
 2. A person aggrieved by a use or development permitted on the land of another by this Ordinance or any provision thereof and desiring to challenge its validity on substantive grounds.

- B. The Board shall not hear questions of an alleged defect in the process of enactment of adoption of this Ordinance.
- C. The landowner or persons aggrieved shall submit a written request to the Board that it hold a hearing on the challenge. The request shall contain a short statement reasonably informing the Board of the matters that are at issue and the grounds for the challenge. A request submitted by a landowner shall be accompanied by plans and other materials describing the use or development proposed in lieu of the use or development permitted by this Ordinance. Such plans and other materials shall not be required to meet the drawing requirements prescribed in the Lower Milford Township Subdivision and Land Development Ordinance so long as they provide reasonable notice of the proposed use or development and a sufficient basis for evaluating this Ordinance in the light thereof.
- D. Notice of such hearing shall include notice that the validity of this Ordinance is in question. Where the challenge is that of a landowner, the notice shall also give the place where and the times when a copy of the landowner's request, including the plans and other materials submitted, may be examined by the public.
- E. If a hearing has been held by the Board of Supervisors covering the same matters at which a stenographic record has been taken, the Board shall, upon motion of any party, accept said record as the record in the case before the Board, but the Board shall not be precluded from taking additional evidence.
- F. The Board shall decide on all contested quantities and shall make findings on all relevant issues of fact.
- G. Refer to the Lower Milford Flood Plain Zoning Ordinance, as amended, for procedures related to variances and special exceptions for uses and activities within flood plain areas.

ARTICLE XV
CONDITIONAL USES

Section 1500. INTENT

This Article provides for certain uses to be permitted within the Township as conditional uses. These uses may not be appropriate at every location within a zoning district, and accordingly the Board of Supervisors has established standards and procedures by which to evaluate and decide upon conditional use applications. It is intended that these uses, which have the potential for substantial impact upon the community, shall comply with the regulations hereinafter set forth. The Board of Supervisors shall have the power to approve conditional uses.

Section 1501. CONTENT OF APPLICATION

- A. Application for conditional use shall be filed with the Board of Supervisors, through the Township Secretary, on such forms prescribed for that purpose, and shall include the application form, required filing fee, and the following information:
1. Name and address of the applicant.
 2. Name and address of the owner of the real estate to be affected by the proposed Conditional Use Application.
 3. Description and location of the real estate on which the conditional use is proposed.
 4. Statement of the present zoning classification, present land use, and existing improvements for the real estate in question.
 5. Statement of the section of the present Zoning Ordinance authorizing the proposed conditional use.
 6. Description of the proposed use and site improvements.
 7. Statement of compliance with the applicable Supplementary Regulations and criteria of Article XII.
- B. Site Plan. The application for conditional use shall be accompanied by a proposed site plan to include the following information:
1. Site Plan shall be drawn to a scale of one (1) inch equals one hundred (100) feet.

2. Location, dimensions, use, coverage, and height of proposed buildings and proposed improvements in relation to property and street lines.
 3. Dimensional features showing compliance with the applicable area, width, coverage, yard, natural and historic protection standards, and other design standards as specified in the Township Zoning Ordinance.
 4. Location, dimension, and arrangements of proposed facilities including sidewalks, parking areas, site access, and interior circulation, off-street loading and unloading, and lighting for these areas.
 5. Site Capacity Calculations prepared in accordance with Section 1009.F of this Ordinance, and Building Envelope compliance demonstrated in accordance with Section 1009.E of this Ordinance.
 6. Location, dimensions, and arrangement of all areas devoted to open space, ground cover, trees, plantings, and recreation.
 7. Provisions for handling of stormwater drainage, treatment of disposal of sewage, and supply of water.
 8. A copy of the last recorded subdivision plan of which the property is part.
 9. Locations and design of all on-site and off-site improvements related to access control and traffic capacity.
- C. In addition to the above information, for conditional use applications for use of the Open Space Design Option, the required information for determining compliance with Section 802.A, Density Determination, and Section 803.B, Required Design Process, among other applicable sections, shall be provided with the application.
- D. Existing Features Analysis. Any application for conditional use approval involving subdivision or land development, ultimately subject to submission and approval in accordance with the Lower Milford Township Subdivision and Land Development Ordinance, shall be accompanied by an Existing Features Plan in accordance with the provisions of the current Subdivision and Land Development Ordinance, prepared at the same scale as the Site Plan provided in accordance with Section 1501.B.2 above.
- E. Traffic Analysis. Any application for conditional use approval involving a use or use(s) which can be expected to generate more than fifty (50) trips during any peak hour, based on the most current version (8th edition) of the Trip Generation Manual published by the Institute of Transportation Engineers (ITE), shall be accompanied by traffic studies demonstrating feasible compliance with the objectives of this ordinance, the Subdivision and Land Development Ordinance,

and the Southwestern Lehigh County Comprehensive Plan, as applicable. Such studies shall estimate traffic volumes, turning movements, and levels of service at intersections, and potentially unsafe conditions existing prior to development as well as any that may be reasonably expected to occur after proposed development and shall suggest action(s) to mitigate any anticipated reduction of level of service or other negative impact to traffic conditions resulting from the development as proposed.

Section 1502. APPLICATION REVIEW PROCEDURES

- A. Upon receipt of a complete conditional use application, the Township Secretary shall submit the application for recommendation to the Township Planning Commission, and the Planning Commission shall perform a review and provide a report to the Board of Supervisors concerning the grant of approval or disapproval of the proposed use. No formal hearing before the Planning Commission shall be required. The Planning Commission shall submit any recommendation regarding the subject application to the Board of Supervisors at or prior to the public hearing held by the Board of Supervisors. If the Planning Commission fails to submit any recommendations to the Board of Supervisors by the time set by the Board of Supervisors for public hearing, the Board of Supervisors shall proceed to consider such application without the recommendation of the Commission.
- B. The hearing shall be conducted by the Board of Supervisors 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 of Supervisors. However, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the Board of Supervisors and accept the decision or findings of the hearing officer as final.
- C. The Board of Supervisors shall schedule a hearing for public review and comment. Such hearing shall be held within sixty (60) days of filing of the application for conditional use approval, unless the applicant waives this requirement, or extends this time limit. Should the Applicant submit new or revised plans for the use subject to Conditional Use application between the time of the original submission and the time set by the Board of Supervisors for public hearing, the review period shall start anew and prior plans shall be deemed withdrawn. The Conditional Use application shall be in accordance with the following procedures:
 - 1. Notice of public hearing shall be in the publication of a newspaper of general circulation in the Township in accordance with the requirements for public notice established in the Municipalities Planning Code. Property owners within three hundred (300) feet of the application property shall be notified in the same manner as provided for zoning hearings under Section 1401.D. no less than fourteen (14) days prior to the scheduled hearing. Additionally, like

notice thereof shall be given to the Applicant, the Zoning Officer, and to any person who has made timely written request for the same. Notice of the hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the date of the hearing. Proof of proper notification shall be required as a precondition before any formal action on the application, yet the failure of any person or entity to receive notice given pursuant to this section shall not constitute grounds for any court to invalidate the actions of the Township for which notice was given.

2. The parties to the hearing shall be the Township, any person affected by the application who has made a timely appearance of record before the Board of Supervisors and any other persons, including civic or community organizations, permitted to appear by the Board of Supervisors. The Board of Supervisors shall have the power to require that all persons who wish to be considered parties must enter appearances in writing on forms provided by the Board of Supervisors.
3. The Chairman or Acting Chairman of Board of Supervisors, or the Township Solicitor acting on the Board's behalf, shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents required by the parties.
4. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded by the Board of Supervisors.
5. The Board of Supervisors shall keep a stenographic record of the proceedings and copies of the graphic or written material received in evidence shall be available to any party at cost.
6. The Board of Supervisors shall render a written decision within forty-five (45) days after the last hearing before the Board of Supervisors, approving the application, approving the application subject to conditions, or denying the application. However, all hearings must be completed no later than one hundred (100) days after the completion of the Applicant's case. Any aggrieved party may apply to the Court of Common Pleas for a time extension for good cause. If the Board of Supervisors fails to complete a hearing within this time period, the application shall be deemed approved. Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons for the final decision.
7. A copy of the final decision shall be delivered to the applicant and the parties personally or sent by registered mail with return receipt to them no later than the day following the decision.

- D. Appeals from a determination of the Board of Supervisors pursuant to any conditional use application shall be only as prescribed within such times permitted by the applicable provisions of Act 247, the Municipalities Planning Code.
- E. In granting a conditional use approval, the Board of Supervisors may also attach such conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purpose of Act 247, the Municipalities Planning Code, as amended, and this Ordinance. Conditional uses shall be subject to compliance with particular standards contained in this Ordinance and criteria defined in the application review process. The standards described shall be deemed additional and shall in no way impair any other applicable standard from this or any other Township ordinance.
- F. The Applicant shall have the burden to prove, by a preponderance of the evidence, that the proposed use will comply in all respects with this and other applicable Township Ordinances, County, State or Federal regulations. The Board of Supervisors may retain such consultants as necessary to review and certify the accuracy of submitted plans and documents, reasonable and necessary charges therefore to be borne by the Applicant. When the Applicant does not provide information as required, then it shall be presumed that the proposed use is not in accordance with the requirements applicable for the granting of conditional use approval;
- G. If the Board of Supervisors approves the conditional use application and site plan, such approved plan shall accompany any application for subdivision of land or land development as prescribed by the Township Subdivision and Land Development Ordinance in addition to the requirements normally required and any application for a building permit.
- H. Any grant of conditional use approval shall be deemed null and void twelve (12) months from the date of such approval, if within that period, no application is made for a building permit, a use and occupancy permit, or a subdivision or land development approval, as appropriate, unless the Board of Supervisors shall grant an extension.

Any request to extend the twelve (12) month expiration period shall be properly filed with the Township Secretary thirty (30) days in advance of the expiration date. The request shall include the reason why the extension is required, a reasonable estimate of the time needed to obtain the necessary approvals, and a qualified statement that there has been no change in the conditional use application or the neighborhood in which the property is located. Failure to diligently pursue necessary approvals shall not be grounds for an extension.

Section 1503. GENERAL REVIEW CONDITIONS FOR APPROVAL

In reviewing an application for conditional use, the Board of Supervisors shall evaluate the degree of compliance with the following conditions. It shall be the burden of the Applicant to demonstrate compliance with all applicable criteria.

- A. The proposed use is consistent with the purpose of the Article whereby it is permitted, the overall purpose of the Zoning Ordinance, the Community Development Objectives as contained in Article I, and with the policies articulated in the Southwestern Lehigh County Comprehensive Plan. The proposed use will satisfy all of the relevant provisions and requirements of the Township Subdivision & Land Development Ordinance and any other applicable ordinance, code and/or regulations.
- B. The proposed use shall be limited to those authorized as conditional uses within the zoning district in which the lot or parcel is located.
- C. The proposed use is located in an area or areas for which the lot is suited, is consistent with the nature of land uses existing on immediately adjacent properties, and will be designed, constructed, and maintained in a manner which complements the appearance and character of the neighborhood.
- D. If the development is to be carried out in successive stages, each stage shall be so planned that the condition and intent of this Ordinance shall be fully complied with at the completion stage.
- E. If containing more than one (1) building, the development will consist of a harmonious grouping of buildings or other structures.
- F. The proposed use will be in the public interest and serve the health, safety, morals and general welfare of the Township.
- G. The proposed use is consistent with, and will have no adverse effect upon, the logical extension of public services and utilities, such as a public water, public sewer, police, fire protection, recreational opportunities, open space, and public schools.
- H. Proposed new construction and proposed change in use of existing buildings will be compatible with and in keeping with the existing character of the neighborhood.
- I. The proposed use reflects an environmentally sensitive approach to land planning and design, will be sited in a manner sensitive to existing site conditions including streams, vegetation, and other natural resources, and is consistent with the natural resource protection standards of Article X.

- J. The location and layout of the proposed use is suitable with respect to probable effects upon highway traffic, and assures adequate access arrangements in order to protect major streets and highways from undue congestion and hazard. The Board of Supervisors may require that the Applicant demonstrate that the proposed use shall not result in a lowering of the level of service on adjacent road segments and intersections as defined by the most recent edition of the Highway Capacity Manual from the Transportation Research Board. As a policy, proposed projects should incorporate designs which assure safe and efficient access and maintain a level of service "C", as a minimum, on all adjacent road segments and intersections.
- K. The interior traffic circulation for the proposed use shall provide safe and convenient circulation for all users including vehicular and pedestrian modes. Applicant shall demonstrate that sufficient safeguards such as parking, traffic control, screening, and setbacks can be implemented to remove any potential adverse influences the use may have on adjoining uses. Emergency design considerations will be addressed in the proposed plan.
- L. The adequacy of sanitation and public safety provisions shall be adequate and a certificate of adequacy of sewage and water facilities from the appropriate Township Official shall be provided where required or deemed necessary.
- M. The proposed use will be developed using stormwater management techniques and soil erosion and sedimentation control techniques deemed effective by the Township Engineer and the Lehigh County Soil Conservation District.
- N. Review of conditional use applications for use of the Open Space Design Option, shall specifically take into consideration the requirements of Section 803.B, Open Space Use and Design Standards, in determining the consistency of the proposed plan's layout of buildings and open space with the intent of this Ordinance.
- O. In review and consideration of the issues set forth above, the Board of Supervisors may require that the applicant submit appropriate impact analyses prepared by recognized professional(s) acceptable to the Township, including, but not limited to, environmental impact assessment, fiscal impact analyses, recreation impact assessment, and Historic Resource Impact Study.
- P. The Board of Supervisors may impose such conditions, in addition to those required, as may be necessary to assure that the intent of the Zoning Ordinance is complied with, which conditions may include, but are not limited to, harmonious design of buildings, planting and its maintenance as a sight or sound screen, the minimizing of noise, glare, noxious, offensive or hazardous elements, adequate standards of parking and sanitation.

ARTICLE XVI

ADMINISTRATION AND ENFORCEMENT

Section 1600. PURPOSE AND APPLICATION

- A. The purpose of this Article is to outline the procedures and regulations by which the Township Zoning Ordinance shall be administered and enforced. The procedures for obtaining and regulating permits, amending the Ordinance, enforcing this Ordinance, and the responsibilities of the Zoning Officer are included herein.
- B. Hereafter, no land shall be used or occupied, and no building or structure shall be created, altered, used or occupied, except in conformity with the regulations herein established for the district in which such land, building, or structure is located, as well as all other applicable standards.
- C. 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.

Section 1601. POWERS AND RESPONSIBILITIES OF THE ZONING OFFICER

- A. The Zoning Officer shall not hold any elective office in the Township and shall meet the qualifications established by the Board of Supervisors. Further, the Zoning Officer shall be able to demonstrate to the satisfaction of the Board of Supervisors a working knowledge of municipal zoning. The Zoning Officer shall administer the Zoning Ordinance in accordance with its literal term, and shall not have the power to permit any construction or change of use which does not conform to the Zoning Ordinance. There shall be a Zoning Officer, appointed by the Board of Supervisors and meeting the qualifications established by the Board of Supervisors. The Zoning Officer's duties shall include, but not be limited to, the following:
 - 1. To enforce all provisions of this Ordinance and all amendments thereto.
 - 2. To receive all applications for building, zoning, land use and other permits, referring applications to the Planning Commission or Building Code Official, when deemed advisable, and issue zoning and other permits only when there is compliance with the provision of this and other Township Ordinances.
 - 3. To receive applications for special exceptions, conditional uses, validity challenges, interpretations or variances or other zoning relief and refer these applications to the Zoning Hearing Board, or Board of Supervisors, as applicable, for action thereon.

4. To issue permits for special exception or variance applications only upon written order of the Zoning Hearing Board. Permits requiring approval by the Board of Supervisors, including but not limited to Conditional Use, shall be issued only upon written authorization from the Board of Supervisors.
5. To conduct inspections and surveys to determine compliance or noncompliance with the terms of this Article.
6. To issue enforcement notices for properties found to be in violation of the provisions of this Ordinance in accordance with procedures set forth in the Pennsylvania Municipalities Planning Code. Enforcement notices shall be sent to the owner of record by certified return receipt and first class mail.
7. To keep an official record of all business and activities, including complaints of a violation of any of the provisions of this Ordinance and of the subsequent action taken on each such complaint, and to record and file all applications for permits with accompanying plans and documents.
8. To be responsible for the administration of the National Flood Insurance Program in the Township and specifically in those areas where records must be maintained relative to the types of land use permitted and occurring within the floodplain district, variances issued, base flood elevations, elevation of lowest floor, including basement, the elevation to which the structure is flood-proofed and other administrative functions necessary for participation in the National Flood Insurance Program.
9. To be responsible for maintaining an up-to-date copy of this Ordinance and the Zoning Map, filed with the Township Secretary and to include any amendments thereto.
10. To issue Use and Occupancy permits for a change in use of a structure or parcel of land or new or re-occupancy of a structure or land indicating that the premises, to the best knowledge of the Zoning Officer, complies with the provisions of the Township Zoning Ordinance.

Section 1602. NOTICE OF VIOLATION

- A. If it appears to the Township that a violation of any provision of this Ordinance or any amendment thereto, any detailed statement or a plan approved under the provisions of this Article or any amendment thereto, or any condition of a variance or special exception granted by the Zoning Hearing Board or of a conditional use granted by the Board of Supervisors has occurred or is occurring, the Board of Supervisors shall authorize the Zoning Officer to initiate enforcement proceedings by sending notice thereof as provided in this Article. By means of the enforcement notice, the Zoning Officer may order

discontinuance of illegal use of the land or structures, removal and illegal structures thereto, or discontinuance of any illegal work being done.

- B. The enforcement notice shall be sent to the owner of record of the parcel by registered mail with return receipt, 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, at least, state the following:
 - 1. The name of the owner of record and any other person against whom the Township intends to take action.
 - 2. The location of the property in violation.
 - 3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the Ordinance.
 - 4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - 5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with the procedures set forth in this Article.
 - 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 as described in Section 1605 below.

Section 1603. CAUSES OF ACTION

- A. Whenever a violation of this Article 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, and take action thereon as provided by this Article and report to the Board of Supervisors regarding the complaint and the action thereon.
- B. In case any building, structure, landscaping or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this Article, the Board of Supervisors or the Zoning Officer or any aggrieved owner or tenant of the real property who show that the property in question or a person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct, or abate such a building, structure, landscaping, or land or to prevent, in or about such premises, any such action instituted by a landowner or tenant.

Notice of this action shall be served upon the Township at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint to the Board of Supervisors. No such action may be maintained until such notice is given.

Section 1604. ENFORCEMENT REMEDIES

- A. The District Justice 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 Ordinance shall, upon being found liable thereof in a civil enforcement proceeding, pay a judgment of not more than Five Hundred Dollars (\$500.00), plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof.
 - 1. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant fails to pay or to appeal the judgment in a timely manner, the Township may enforce the judgment pursuant to applicable rules of civil procedure.
 - 2. Each day that a violation continues shall constitute a separate violation, unless the District Justice, determining that there has been a violation, further determines that there was a good faith basis for the person, partnership or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth (5th) day following the date of the determination of a violation by the District Justice; and thereafter each day that a violation continues shall constitute a separate violation.
 - 3. All judgments, costs and reasonable attorney fees collected for violating this Ordinance shall be paid 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.

Section 1605. FEES

- A. Permit Applications. Fees for application for Building Permits, Zoning Permits, Use and Occupancy Permits, Sign Permits, or similar permits shall be paid in accordance with a fee schedule adopted by resolution of the Board of Supervisors.

Such a schedule may be revised, as necessary, by resolution of the Board of Supervisors. The schedule of fees shall be posted in the office of the Zoning Officer or the Township Building and may be altered or amended only by the Board of Supervisors.

- B. No action shall be taken on any application for any conditional use, special exception, variance, validity challenge, curative amendment, petition for a zoning change or appeal until all application fees and charges have been paid in full. Required fees shall accompany the application.

Section 1606. ZONING PERMITS

- A. A Zoning Permit shall be required prior to: a change in use of land or buildings; a change in the principal use or expansion of a nonconforming use or development on properties located within the 100 year floodplain, as depicted on the most current FEMA map, for new construction, reconstruction or alterations, for all permitted, special exception, conditional and accessory uses. The placing of vacant land under cultivation shall not require a Zoning Permit. It shall be unlawful to commence any site work or other work requiring a Zoning Permit until a permit has been properly issued therefore.
- B. Application for Permits under this Section, along with accompanying plans and data, may be required to be submitted by the applicant 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. All applications shall be accompanied by:
 - 1. Three (3) copies of the approved land development and/or plot plan, together with any other data and information required by the Zoning Officer to evaluate compliance with this Ordinance and other existing statutes.
 - 2. Wherein the disturbance or movement of earth is contemplated, a soil erosion and sedimentation control plan with an accompanying narrative prepared by a qualified person for review and approval by the Township Engineer and in compliance with the annual resolution adopted by the Board of Supervisors or, when applicable, a copy of the permit issued by the Pennsylvania Department of Environmental Protection and Lehigh County Conservation District approving earth moving operations.
 - 3. All other applicable permits required by outside agencies.
 - 4. Additional copies of any information that may be required by the Zoning Officer.
 - 5. Application Fees.

- C. A Zoning Permit may be authorized by the Zoning Officer for a temporary structure or use provided that such structure or use shall be completely removed upon expiration of the permit, without cost to the Township. Such a Permit shall be issued for a specified period of time, not exceeding one (1) year, and may be renewed for one (1) additional year by the Zoning Officer with an approved application.
- D. All Special Exception approvals granted by the Zoning Hearing Board shall be required to obtain Zoning and Building Permits, as applicable.
- E. All Conditional Use approvals granted by the Board of Supervisors shall be required to obtain Zoning and Building Permits, as applicable.

Section 1607. BUILDING PERMITS

- A. No Building Permit shall be issued until the Zoning Officer has certified that the proposed building, structure or alteration complies with the provisions of this Ordinance and other applicable ordinances. See the current version of the Lower Milford Township Building Code Ordinance.

Section 1608. NONCONFORMING USES AND NONCONFORMING BUILDINGS OR STRUCTURES

- A. Within the districts established by this Ordinance, or amendments that may later be adopted, there exist lots, structures, and uses which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are terminated.
- B. An unlawful building or structure, or unlawful use of a building, structure, lot or land existing at the effective date of the Ordinance shall not be deemed to be a nonconforming building, structure or use.
- C. Any lawful use which occupies any building or structure, lot or land at the effective date of this Ordinance or any amendment thereto, but does not comply with the use regulations of the District in which it is situated after the effective date of this Ordinance or any amendment thereto, may be continued as a nonconforming use in the building or structure or upon the lot or land so occupied.
- D. A nonconforming building wholly or partially destroyed by fire, explosion, flood, or other phenomenon, or legally condemned as not habitable may be reconstructed and used for the same nonconforming use, provided that building reconstruction shall be commenced within twenty-four (24) months from the date the building was destroyed or condemned and shall complete the reconstruction within 36 months from the date the building was destroyed or condemned.

- E. A nonconforming building or structure that is devoted to a conforming use may be reconstructed, structurally altered, restored, or repaired in whole or in part, provided that the change does not encroach further on provisions of the Ordinance, including setbacks.
- F. A nonconforming structure may be enlarged or extended up to fifty (50) percent of the original building area as is existing prior to the effective date of this Zoning Ordinance, providing it conforms to all other provisions herein and has not utilized this provision under a previous ordinance.
- G. A nonconforming use may be enlarged or extended only by Variance under the provisions of Section 1404.C of this Ordinance.
- H. Change of Use
 - 1. A nonconforming use may be changed to a conforming use.
 - 2. A nonconforming use may be changed to another nonconforming use, through a Variance under the provisions of Section 1404.C, provided that the Zoning Hearing Board shall have made a determination that such change will not be detrimental to the general neighborhood, and further provided that the nonconforming use to which it is changed is of the same or more restricted classification which is more appropriate to the neighborhood in which situated than the original nonconforming use.
 - 3. A nonconforming use shall not be expanded to displace or replace a conforming use.
- I. Termination

A nonconforming use shall be deemed to have been terminated and shall not thereafter be reinstated:

 - 1. When it is changed to a conforming use.
 - 2. When it has been discontinued for a period of twenty-four (24) consecutive months where such nonconforming use is in a building or structure designed for such use.
 - 3. When it has been discontinued for a period of twelve (12) consecutive months where such nonconforming use is in a building or structure not designed for such use, or is on a lot of land whereupon there is no consequential building or structure devoted to such use.

J. Repairs and Maintenance

Normal maintenance and repairs of a building or other structure containing a nonconforming use are permitted, provided they do not extend the floor area occupied by the nonconforming use.

K. Registration of Non-conforming Uses and Structures

Upon adoption of this Ordinance, owners of property in Lower Milford Township may identify and register with the Zoning Officer, all non-conforming uses and structures.

Section 1609. VIOLATIONS AND PENALTIES

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding, pay a judgment of not more than Five Hundred Dollars (\$500.00) plus all court costs, including reasonable attorney fees incurred by Lower Milford Township as a result of enforcement action. Each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the enforcement of this Ordinance shall be paid over to the Township of Lower Milford.

Section 1610. FEES

- A. Fees shall accompany all application submittals. Application fees shall be determined by the Board of Supervisors.

ARTICLE XVII

PROCEDURE FOR AMENDMENT

Section 1700. POWER TO AMEND

The regulations, restrictions, and boundaries set forth in this Ordinance and on the Official Zoning Map may, from time to time, be amended, supplemented, changed, or repealed through amendment by the Board of Supervisors.

A. Who May Initiate

Proposals for amendment, supplement, change or repeal may be initiated by the Board of Supervisors on its own motion, by the Planning Commission, or by petition of one or more residents of the Township. Such petitions shall be signed and acknowledged and submitted in writing to the Township Secretary.

1. A landowner who desires to challenge on substantive grounds the validity of this Ordinance or any provisions thereof, which prohibit or restrict the use or development of land in which he has an interest, may, as an alternative to submitting a validity challenge to the Zoning Hearing Board pursuant to Section 1405 of this Ordinance and to Section 916.1 of the Pennsylvania Municipalities Planning Code, submit a Curative Amendment to the Board of Supervisors with a written request that his challenge and proposed amendments be heard and decided, as provided in Section 609.1 and Section 916.1(a)(2) of the Pennsylvania Municipalities Planning Code.

B. Planning Commission Review

1. Proposals originated by the Board of Supervisors, by petition of Township residents, or by Curative Amendment, shall be referred to the Planning Commission at least thirty (30) days prior to any public hearing on the proposed amendment. The Planning Commission shall submit to the Board of Supervisors a report of its recommendations, including any additions or modifications to the original proposal, prior to the public hearing.

C. Review by Lehigh Valley Planning Commission

1. All proposals for amendment, supplement, change or repeal which are subsequently drafted into an ordinance to amend this Ordinance or the Official Zoning Map shall be submitted to the Lehigh Valley Planning Commission for recommendations at least thirty (30) days prior to the public hearing on the proposed amendment.
2. No action shall be taken by the Board of Supervisors until the Lehigh Valley Planning Commission comments are received, unless thirty (30) days pass without comments being received.

D. Public Hearing

1. Before voting on enactment of an amendment, the Board of Supervisors shall hold a public hearing thereon. Public notice shall be provided pursuant to the requirements the Pennsylvania Municipalities Planning Code. Notice shall be placed on the Township website and also be mailed to any persons who shall have registered their name and address for this purpose with the Board of Supervisors. If a proposed amendment affects any land or structure within five hundred (500) feet of an adjoining municipality, notice of the hearing and a copy of the proposal may be forwarded to the Secretary of the governing body of the municipality at least fifteen (15) days prior to the hearing.
2. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land not previously affected by it, the Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
3. Within thirty (30) days of enactment, the Township shall forward a copy of the amendment to the Lehigh Valley Planning Commission.

Section 1701. CURATIVE AMENDMENTS

A. Landowner Initiated

A landowner who desires to challenge on substantive grounds the validity of this Ordinance or any provisions thereof, which prohibit or restrict the use or development of land in which he has an interest, may submit a Curative Amendment to the Board of Supervisors with a written request that his challenge and proposed amendments be heard and decided, as provided for in Section 609.1 of the Pennsylvania Municipalities Planning Code.

1. For a curative amendment request, the applicant shall pay the Township all fees required under the applicable Township fee schedule.

B. Township Initiated

The Township may declare by formal action that the Zoning Ordinance or portions thereof are substantially invalid and may propose to prepare a curative amendment to overcome such validity, as provided for in Section 609.2 of the Pennsylvania Municipalities Planning Code.

Exhibit 1

Official Zoning Map

Lower Milford Township, Lehigh County, PA

Official Zoning Map

July 20, 2009

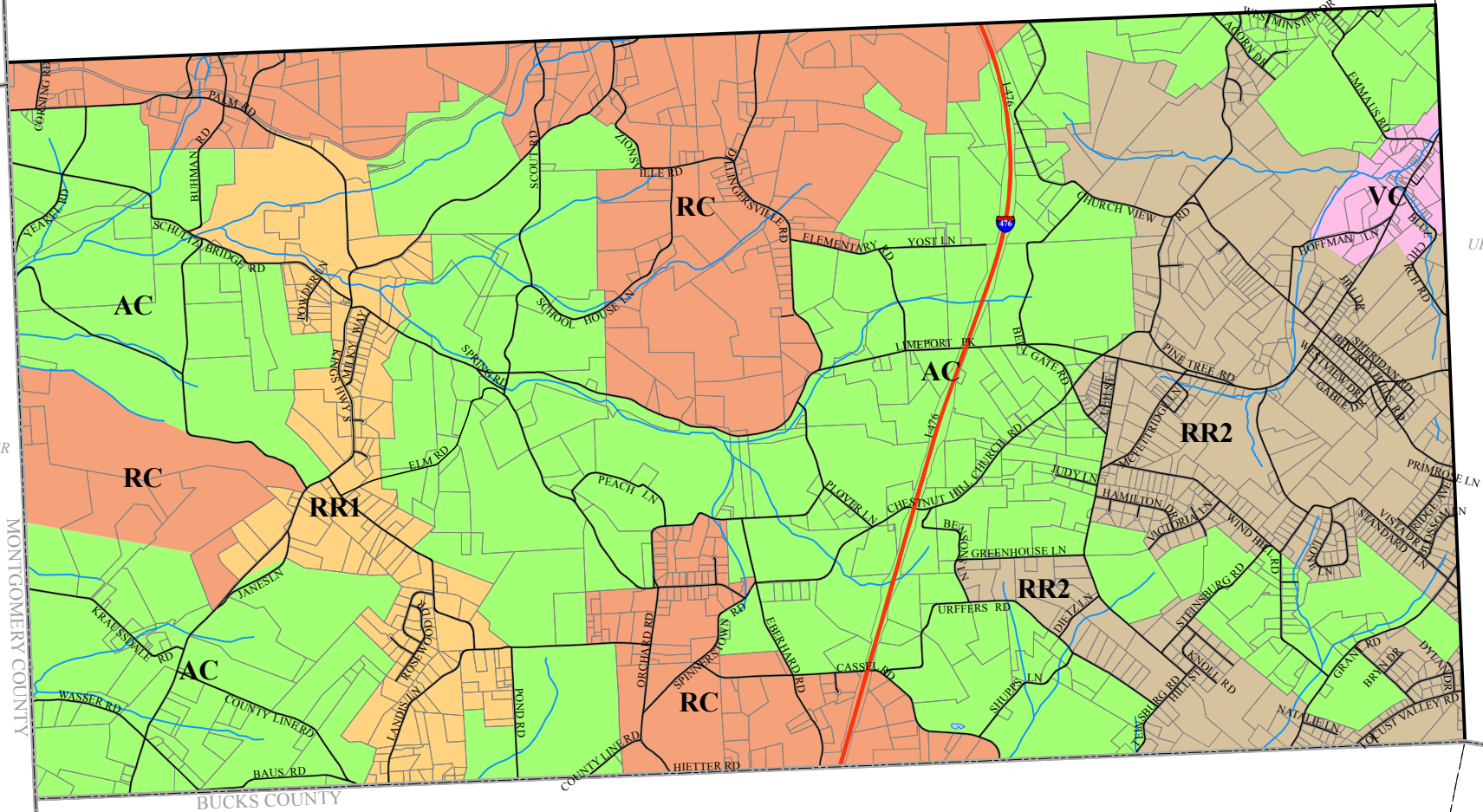


UPPER MILFORD
TOWNSHIP

HEREFORD
TOWNSHIP

UPPER HANOVER
TOWNSHIP

UPPER SAUCON
TOWNSHIP



MILFORD
TOWNSHIP

0 1,900 3,800
Feet

 Brandywine Conservancy
Environmental Management Center

DATA SOURCE: Base data from Lehigh Valley Planning Commission, 10/2005.
Proposed zoning digitized by Brandywine Conservancy, 5/2008.

Map created: July 20, 2009

Legend














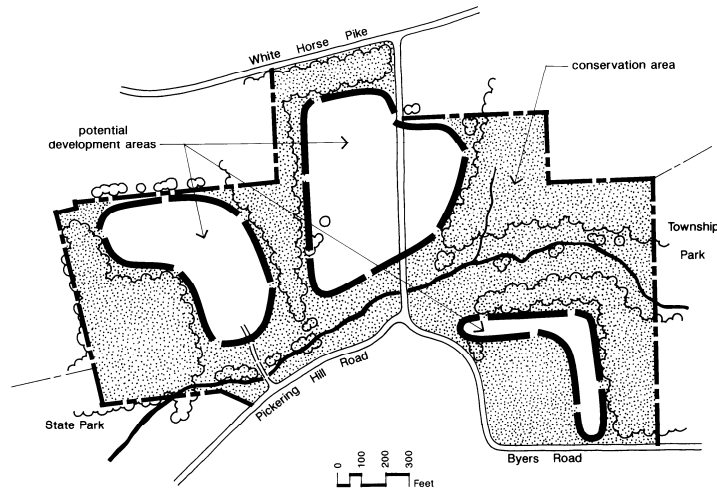
- | | |
|---|--|
|  PA Turnpike | Zoning districts |
|  Roads |  AC Agricultural Conservation |
|  Streams |  RC Resource Conservation |
|  Bodies of water |  RR1 Rural Residential - 1 |
|  Tax parcels |  RR2 Rural Residential - 2 |
|  Township boundary |  VC Village Center |
|  Adjacent municipalities | |
|  County boundaries | |

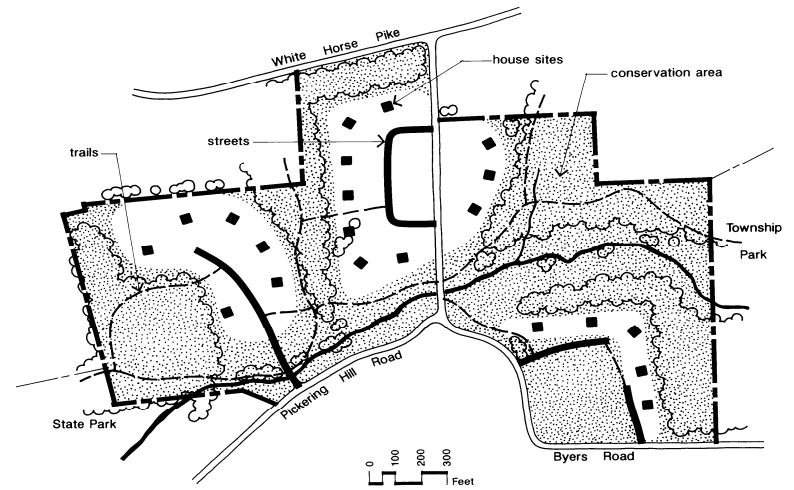
Exhibit 2

Four-Step Open Space Design Process (Section 803.B.)

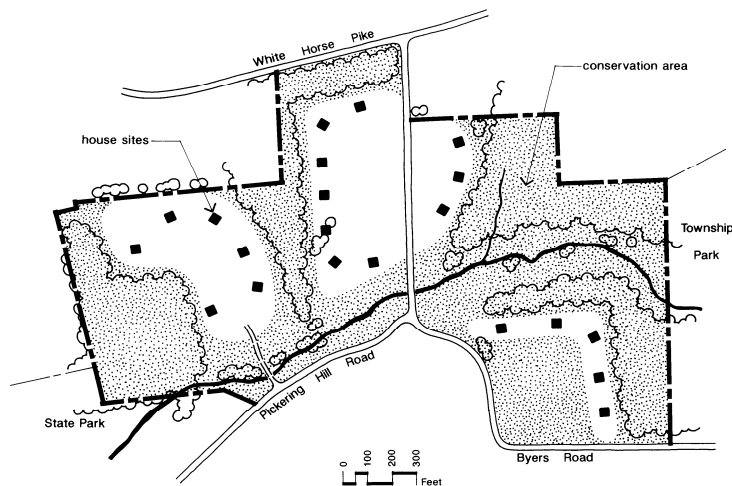
Four Step Design Process (Section 803.B.)



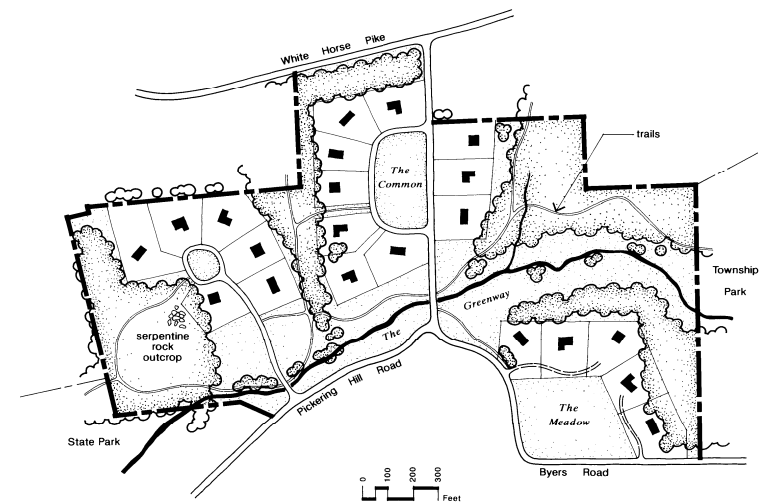
Step 1: Identify Open Space



Step 2: Locate House Sites



Step 3: Locate Infrastructure



Step 4: Delineate Lot Lines

Exhibit 3

Woodland Classification Map Woodlands Classification Calculations

Lower Milford Township, Lehigh County, PA

Woodland Classification Map

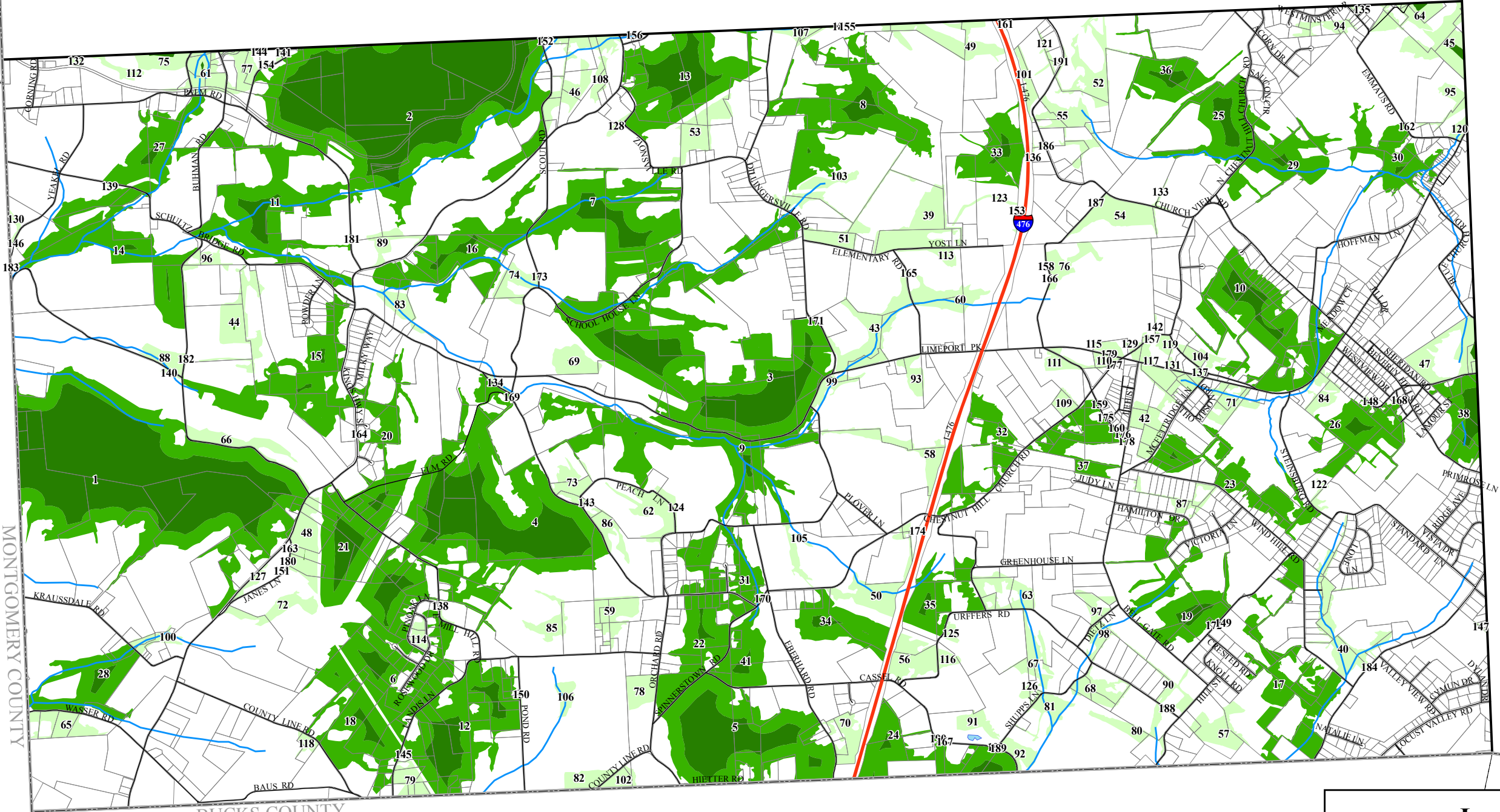
UPPER MILFORD
TOWNSHIP



HEREFORD
TOWNSHIP

UPPER SAUCON
TOWNSHIP

UPPER HANOVER
TOWNSHIP






0 1,300 2,600 3,900 5,200
Feet

 **Brandywine Conservancy**
Environmental Management Center

DATA SOURCE: Base data from Lehigh Valley Planning Commission, 10/2005.
Wodlands from Lehigh Valley Planning Commission, 2003.

Map created: May 1, 2009

Legend

- | | |
|---------------------------|---|
| — Roads |  Class I |
| — PA Turnpike |  Class II |
| — Streams |  Class III |
| — Bodies of water | |
| — Tax parcels | |
| — Adjacent municipalities | |
| — Township boundary | |
| — County boundaries | |

Lower Milford Township Woodlands Classification Calculations (August 1, 2007)								
Map Number	Patch Acres	Forest Interior (ac.)	Steep Slope (ac.)	Headwater Streams (mi.)	Streams (mi.)	Class I (ac.)	Class II (ac.)	Class III (ac.)
1	394.2	236.5	242.5	0.5	0.5	248.90	157.7	0
2	354.3	216.3	295.3	0.1	0.9	244.80	138.0	0
3	250.3	66.0	181.7	0.6	0.6	66.0	184.3	0
4	235.7	84.7	195.0	0.0	0.0	84.6	151.1	0
5	136.2	54.1	7.0	0.0	0.0	54.1	82.1	0
6	117.9	13.9	70.7	0.0	0.0	13.9	104.0	0
7	115.1	15.6	67.6	0.9	0.9	15.6	99.6	0
8	103.8	8.4	77.4	0.0	0.0	8.4	95.3	0
9	102.5	1.6	53.1	0.8	1.3	1.6	100.9	0
10	100.9	12.4	83.7	0.0	0.3	12.4	88.5	0
11	99.4	9.6	11.9	0.0	1.1	9.6	89.9	0
12	98.9	24.3	29.7	0.0	0.0	24.50	74.6	0
13	93.7	27.1	79.0	0.1	0.1	28.60	66.6	0
14	81.0	1.4	27.5	0.1	0.9	1.4	79.7	0
15	79.2	1.2	72.9	0.0	0.0	1.2	78.0	0
16	71.3	3.9	49.4	0.2	0.4	3.9	67.4	0
17	64.1	0.0	19.8	0.0	0.3	0.01	64.1	0
18	63.2	4.2	26.8	0.0	0.0	4.20	59.00	0
19	58.1	4.7	2.6	0.2	0.2	4.7	53.4	0
20	51.6	2.1	32.3	0.0	0.0	2.1	49.5	0
21	51.4	13.7	31.6	0.0	0.0	13.7	37.7	0
22	50.1	2.0	0.8	0.0	0.0	2.0	48.2	0
23	50.0	0.4	44.1	0.1	0.1	0.4	49.6	0
24	47.9	1.0	25.5	0.0	0.0	1.0	47.1	0
25	47.8	8.3	22.0	0.3	0.3	8.3	39.4	0
26	44.3	2.8	41.3	0.0	0.0	2.8	41.5	0
27	43.3	2.2	1.0	0.0	0.5	2.2	41.2	0
28	43.2	3.5	18.7	0.8	0.8	3.5	39.6	0
29	43.1	1.4	14.3	0.4	0.4	1.4	41.7	0
30	37.1	0.5	11.7	0.0	0.4	0.5	36.6	0
31	36.9	0.1	19.0	0.4	0.4	0.1	36.8	0
32	35.9	0.0	20.9	0.0	0.0	0	35.9	0
33	35.8	2.9	24.6	0.0	0.0	2.9	32.9	0
34	35.3	2.4	15.5	0.0	0.0	2.4	32.9	0
35	33.9	1.6	17.5	0.1	0.1	1.6	32.2	0
36	33.0	4.2	28.7	0.0	0.0	4.2	28.8	0
37	31.8	0.0	2.2	0.0	0.0	0	31.8	0
38	30.4	0.8	28.1	0.1	0.1	8.60	29.6	0
39	29.8	0.4	17.9	0.0	0.0	0.4	0	29.5
40	28.2	0.0	0.8	0.7	0.8	0	0	28.2
41	28.1	2.6	0.0	0.1	0.1	2.6	25.50	0
42	27.5	0.0	15.0	0.1	0.1	0	0	27.5

Map Number	Patch Acres	Forest Interior (ac.)	Steep Slope (ac.)	Headwater Streams (mi.)	Streams (mi.)	Class I (ac.)	Class II (ac.)	Class III (ac.)
43	27.4	0.0	5.5	0.4	0.4	0	0	27.4
44	23.3	0.1	195.0	0.0	0.0	0.1	0	23.2
45	22.7	0.2	18.2	0.0	0.0	1.50	0	22.6
46	22.5	0.0	10.1	0.2	0.2	0	0	22.5
47	21.8	0.0	7.0	0.2	0.2	0.80	0	21.8
48	21.8	0.0	12.4	0.0	0.0	0.04	0	21.7
49	21.3	0.0	17.3	0.0	0.0	0	0	21.3
50	20.6	0.0	7.5	0.2	0.2	0.02	0	20.6
51	20.6	0.0	13.2	0.1	0.1	0	0	20.6
52	19.3	0.0	6.0	0.0	0.0	0	0	19.3
53	19.1	0.1	11.5	0.0	0.0	0.1	0	18.9
54	18.7	0.0	17.1	0.0	0.0	0	0	18.7
55	17.1	0.0	0.2	0.1	0.1	0	0	17.1
56	17.1	0.0	2.4	0.0	0.0	0	0	17.1
57	15.9	0.0	9.7	0.0	0.0	0	0	15.9
58	15.7	0.0	8.4	0.0	0.0	0	0	15.7
59	15.7	0.0	0.2	0.0	0.0	0	0	15.7
60	15.6	0.0	3.4	0.2	0.2	0	0	15.6
61	14.6	0.2	11.0	0.0	0.3	0.2	0	14.4
62	14.3	0.0	11.9	0.0	0.0	0	0	14.3
63	14.2	0.0	0.0	0.1	0.1	0	0	14.2
64	14.2	0.0	9.4	0.0	0.0	0.80	0	14.2
65	14.0	0.0	11.9	0.0	0.0	0	0	14.0
66	13.2	0.0	9.1	0.0	0.0	0	0	13.2
67	12.6	0.0	0.2	0.3	0.3	0	0	12.6
68	12.3	0.0	0.0	0.1	0.1	0	0	12.3
69	12.1	0.1	10.6	0.0	0.0	0.1	0	12.1
70	12.1	0.0	2.8	0.0	0.0	0	0	12.1
71	11.8	0.0	9.9	0.1	0.1	0	0	11.8
72	11.3	0.0	0.0	0.0	0.0	0	0	11.3
73	11.1	0.0	9.5	0.0	0.0	0	0	11.1
74	10.5	0.0	6.2	0.1	0.1	0	0	10.5
75	10.5	0.0	10.4	0.0	0.0	0.80	0	10.5
76	10.4	0.0	9.0	0.0	0.0	0	0	10.4
77	10.2	0.0	6.9	0.0	0.0	0	0	10.2
78	9.9	0.0	0.0	0.0	0.0	0.05	0	9.9
79	9.8	0.0	2.8	0.0	0.0	0	0	9.8
80	9.6	0.0	1.4	0.0	0.0	0	0	9.6
81	9.0	0.0	0.0	0.2	0.3	0	0	9.0
82	8.8	0.0	0.0	0.0	0.0	0	0	8.8
83	8.8	0.0	0.2	0.0	0.3	0	0	8.8
84	8.7	0.0	6.5	0.0	0.1	0	0	8.7
85	8.7	0.0	2.5	0.0	0.0	0	0	8.7
86	8.2	0.0	4.7	0.0	0.0	0	0	8.2

Map Number	Patch Acres	Forest Interior (ac.)	Steep Slope (ac.)	Headwater Streams (mi.)	Streams (mi.)	Class I (ac.)	Class II (ac.)	Class III (ac.)
87	8.1	0.0	0.3	0.0	0.0	0	0	8.1
88	7.6	0.0	2.5	0.1	0.1	0	0	7.6
89	7.5	0.0	5.9	0.0	0.0	0	0	7.5
90	6.9	0.0	1.8	0.0	0.0	0	0	6.9
91	6.8	0.0	0.0	0.0	0.0	0	0	6.8
92	6.7	0.0	0.3	0.0	0.0	0	0	6.7
93	6.7	0.0	2.5	0.0	0.0	0	0	6.7
94	6.6	0.0	1.2	0.0	0.0	0	0	6.6
95	6.6	0.0	3.2	0.0	0.0	0	0	6.6
96	6.5	0.0	6.4	0.0	0.0	0	0	6.5
97	6.4	0.0	0.0	0.0	0.0	0	0	6.4
98	6.2	0.0	0.0	0.1	0.1	0	0	6.2
99	6.2	0.0	1.6	0.1	0.1	0	0	6.2
100	6.1	0.0	0.9	0.2	0.2	0	0	6.1
101	5.9	0.0	4.2	0.0	0.0	0	0	5.9
102	5.8	0.0	0.0	0.0	0.0	0	0	5.8
103	5.8	0.0	4.1	0.1	0.1	0	0	5.8
104	5.7	0.0	5.7	0.0	0.0	0	0	5.7
105	5.5	0.0	1.4	0.0	0.0	0	0	5.5
106	5.5	0.0	0.0	0.2	0.2	0	0	5.5
107	5.4	0.0	0.0	0.1	0.1	0	0	5.4
108	5.0	0.0	0.1	0.0	0.0	0	0	5.0
109	4.9	0.0	0.0	0.0	0.0	0	0	4.9
110	4.8	0.0	0.2	0.0	0.0	0	0	4.8
111	4.4	0.0	3.6	0.0	0.0	0	0	4.4
112	4.2	0.0	4.2	0.0	0.0	0	0	4.2
113	4.2	0.0	4.1	0.0	0.0	0	0	4.2
114	4.0	0.0	0.0	0.0	0.0	0	0	4.0
115	3.5	0.0	0.3	0.0	0.0	0	0	3.5
116	3.4	0.0	0.0	0.0	0.0	0	0	3.4
117	3.4	0.0	0.0	0.0	0.0	0	0	3.4
118	3.1	0.0	0.1	0.0	0.0	0	0	3.1
119	3.0	0.0	2.8	0.0	0.0	0	0	3.0
120	2.7	0.0	1.1	0.0	0.1	0	0	2.7
121	2.7	0.0	2.7	0.0	0.0	0	0	2.7
122	2.5	0.0	1.9	0.0	0.0	0	0	2.5
123	2.4	0.0	1.9	0.0	0.0	0	0	2.4
124	2.4	0.0	2.2	0.0	0.0	0	0	2.4
125	2.3	0.0	0.0	0.0	0.0	0	0	2.3
126	2.2	0.0	0.0	0.0	0.0	0	0	2.2
127	2.1	0.0	0.0	0.0	0.0	0	0	2.1
128	1.9	0.0	1.9	0.0	0.0	0	0	1.9
129	1.7	0.0	0.0	0.0	0.0	0	0	1.7
130	1.5	0.0	0.9	0.0	0.0	0	0	1.5

Map Number	Patch Acres	Forest Interior (ac.)	Steep Slope (ac.)	Headwater Streams (mi.)	Streams (mi.)	Class I (ac.)	Class II (ac.)	Class III (ac.)
131	1.4	0.0	0.0	0.0	0.0	0	0	1.4
132	1.3	0.0	1.1	0.0	0.0	0	0	1.3
133	1.2	0.0	0.8	0.0	0.0	0	0	1.2
134	0.9	0.0	0.0	0.0	0.0	0	0	0.9
135	0.8	0.0	0.8	0.0	0.0	0	0	0.8
136	0.7	0.0	0.7	0.0	0.0	0	0	0.7
137	0.7	0.0	0.7	0.0	0.0	0	0	0.7
138	0.7	0.0	0.0	0.0	0.0	0	0	0.7
139	0.7	0.0	0.0	0.0	0.0	0	0	0.7
140	0.7	0.0	0.6	0.0	0.0	0	0	0.7
141	0.7	0.0	0.5	0.0	0.0	0	0	0.7
142	0.7	0.0	0.7	0.0	0.0	0	0	0.7
143	0.6	0.0	0.6	0.0	0.0	0	0	0.6
144	0.6	0.0	0.6	0.0	0.0	0	0	0.6
145	0.5	0.0	0.4	0.0	0.0	0	0	0.5
146	0.5	0.0	0.1	0.0	0.0	0	0	0.5
147	0.4	0.0	0.0	0.0	0.0	0	0	0.4
148	0.4	0.0	0.4	0.0	0.0	0	0	0.4
149	0.4	0.0	0.0	0.0	0.0	0	0	0.4
150	0.3	0.0	0.0	0.0	0.0	0	0	0.3
151	0.3	0.0	0.0	0.0	0.0	0	0	0.3
152	0.3	0.0	0.0	0.0	0.0	0	0	0.3
153	0.3	0.0	0.3	0.0	0.0	0	0	0.3
154	0.2	0.0	0.2	0.0	0.0	0	0	0.2
155	0.2	0.0	0.1	0.0	0.0	0	0	0.2
156	0.1	0.0	0.0	0.0	0.0	0	0	0.1
157	0.1	0.0	0.1	0.0	0.0	0	0	0.1
158	0.1	0.0	0.1	0.0	0.0	0	0	0.1
159	0.1	0.0	0.0	0.0	0.0	0	0	0.1
160	0.1	0.0	0.0	0.0	0.0	0	0	0.1
161	0.1	0.0	0.0	0.0	0.0	0	0	0.1
162	0.1	0.0	0.0	0.0	0.0	0	0	0.1
163	0.1	0.0	0.0	0.0	0.0	0	0	0.1
164	0.1	0.0	0.0	0.0	0.0	0	0	0.1
165	0.1	0.0	0.0	0.0	0.0	0	0	0.1
166	0.1	0.0	0.0	0.0	0.0	0	0	0.1
167	0.0	0.0	0.0	0.0	0.0	0	0	0.01
168	0.0	0.0	0.0	0.0	0.0	0	0	0.01
169	0.0	0.0	0.0	0.0	0.0	0	0	0.01
170	0.0	0.0	0.0	0.0	0.0	0	0	0.01
171	0.0	0.0	0.0	0.0	0.0	0	0	0.01
172	0.0	0.0	0.0	0.0	0.0	0	0	0.01
173	0.0	0.0	0.0	0.0	0.0	0	0	0.01
174	0.0	0.0	0.0	0.0	0.0	0	0	0.01

Map Number	Patch Acres	Forest Interior (ac.)	Steep Slope (ac.)	Headwater Streams (mi.)	Streams (mi.)	Class I (ac.)	Class II (ac.)	Class III (ac.)
175	0.0	0.0	0.0	0.0	0.0	0	0	0.01
176	0.0	0.0	0.0	0.0	0.0	0	0	0.01
177	0.0	0.0	0.0	0.0	0.0	0	0	0.01
178	0.0	0.0	0.0	0.0	0.0	0	0	0.01
179	0.0	0.0	0.0	0.0	0.0	0	0	0.01
180	0.0	0.0	0.0	0.0	0.0	0	0	0.01
181	0.0	0.0	0.0	0.0	0.0	0	0	0.01
182	0.0	0.0	0.0	0.0	0.0	0	0	0.01
183	0.0	0.0	0.0	0.0	0.0	0	0	0
184	0.0	0.0	0.0	0.0	0.0	0	0	0
185	0.0	0.0	0.0	0.0	0.0	0	0	0
186	0.0	0.0	0.0	0.0	0.0	0	0	0
187	0.0	0.0	0.0	0.0	0.0	0	0	0
188	0.0	0.0	0.0	0.0	0.0	0	0	0
189	0.0	0.0	0.0	0.0	0.0	0	0	0
190	0.0	0.0	0.0	0.0	0.0	0	0	0
191	0.0	0.0	0.0	0.0	0.0	0	0	0
192	0.0	0.0	0.0	0.0	0.0	0	0	0

Exhibit 4

Deed of Transferable Development Rights (Sample: Lancaster Farmland Trust)

PREPARED BY: LANCASTER FARMLAND TRUST

RETURN TO: LANCASTER FARMLAND TRUST
125 LANCASTER AVENUE
STRASBURG, PA 17579
TELEPHONE: (717) 687-8484

PARCEL ID#: 600-J9999-9-9999

TITLE NOT CERTIFIED OR INSURED

DEED OF TRANSFERABLE DEVELOPMENT RIGHTS

THIS DEED of Transferable Development Rights made this _____ day of _____, 2007, by and between _____ and _____, of Address, City, State, Zip, hereinafter referred to as "Grantors", and **LANCASTER FARMLAND TRUST**, a qualified non-profit corporation created and organized under the laws of the Commonwealth of Pennsylvania and being tax exempt under Section 501(c)(3) of the Internal Revenue Code, with an address at 125 Lancaster Avenue, Strasburg, Pennsylvania 17579, hereinafter referred to as "Grantee".

WITNESSETH:

That in consideration of One Dollar (\$1.00) in hand paid, receipt of which is hereby acknowledged by Grantors, said Grantors, intending to be legally bound, do hereby grant and convey to Grantee, its successors and assigns, all _____ () transferable development rights which are attributable to all that certain tract of land situated in Warwick Township, Lancaster County, Pennsylvania, more particularly bounded and described as set forth in Exhibit "A" which is attached hereto and incorporated herein by reference, said tract of land being a farm located within the Agricultural Zone as shown on the Official Zoning Map of Warwick Township and such transferable development rights having been apportioned to said tract by a determination of the Warwick Township Zoning Officer.

BEING all of the transferable development rights attributable to the Warwick Township portion of the same premises which was conveyed to _____, by deed recorded in the Office of the Recorder of Deeds of Lancaster County, Pennsylvania, in Record Book _____, Page _____.

AND the said development rights herein conveyed shall be transferred to the Grantee in gross. Grantee shall have the right, in its sole discretion, to determine the lands in the receiving area of Warwick Township to which the development rights herein conveyed shall be transferred. At the time of their transfer, the development rights herein conveyed shall be attached to lands in the receiving area of Warwick Township and shall be used in accordance with the provisions of the Warwick Township Zoning Ordinance, as amended, and as hereinafter further amended, and in accordance with all other applicable laws and regulations.

As a result of the transfer of all of the development rights attributable to the premises to Grantee, the premises described in Exhibit "A" shall be permanently restricted from development, except such development as may be permitted by the Conservation Easement dated and intended to be recorded contemporaneously herewith.

Grantors covenant that they will warrant specially the transferable development rights hereby conveyed.

THIS CONVEYANCE is to a conservancy which possesses a tax exempt status under section 501(c)(3) of the Internal Revenue Code and which has as its primary purpose preservation of land for agricultural opportunities, and is therefore exempt from Pennsylvania realty transfer taxes pursuant to 61 PA. Code § 91.193 (b) (18).

IN WITNESS WHEREOF, Grantors have executed this Deed of Transferable Development Rights the day and year first above written.

WITNESS:

GRANTOR

GRANTOR

WITNESS my hand and notarial seal the day and year aforesaid.

My Commission Expires:

By: Jeffery E. Swinehart
On behalf of Grantee

ENDORSEMENT BY TOWNSHIP OF WARWICK

In accordance with the requirements of Section 619.1(c) of the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, as amended and reenacted, 53 P.S. §10619.1(c), the Board of Supervisors of the Township of Warwick, Lancaster County, Commonwealth of Pennsylvania, has approved the sale of the transferable development rights to which the instant Deed relates. This endorsement shall remain valid for sixty (60) days. The attached Deed of Transferable Development Rights must be recorded on or before _____, 2007.

Dated: _____, 2007

TOWNSHIP OF WARWICK
Lancaster County, Pennsylvania

Attest: _____
Secretary

By: _____
Chairman, Board of Supervisors

[TOWNSHIP SEAL]

COMMONWEALTH OF PENNSYLVANIA)
)SS:
COUNTY OF LANCASTER)

On this, the _____ day of _____, 2007, before me, the undersigned officer, personally appeared _____, who acknowledged himself to be the Chairman of the Board of Supervisors of the Township of Warwick, Lancaster County, Pennsylvania, and that he, as such officer, being authorized to do so, executed the foregoing Endorsement for the purposes therein contained by signing the name of such Township by himself as such officer.

IN WITNESS WHEREOF, I set my hand and official seal.

Notary Public

My Commission Expires:

Exhibit "A"

(legal description)

Exhibit 5

Conservation Easement

Sample:

Pennsylvania Land Trust Association
(PALTA)

Prepared by:
Name:
Address:
Telephone:

Return to:
Name:
Address:

Tax Parcel(s):

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT dated as of _____ (the “Easement Date”) is by and between _____ (“the undersigned Owner or Owners”) and _____ (the “Holder”).

Article I. Background

1.01 Property

The undersigned Owner or Owners are the sole owners in fee simple of the Property described in Exhibit “A” (the “Property”). The Property is also described as:

Street Address:

Municipality:

County:

Parcel Identifier:

State: Pennsylvania

Acreage:

1.02 Conservation Plan

Attached as Exhibit “B” is a survey or other graphic depiction of the Property (the “Conservation Plan”) showing, among other details, the location of one or more of the following areas – the Highest Protection Area, the Standard Protection Area and the Minimal Protection Area.

1.03 Conservation Objectives

This Conservation Easement provides different levels of protection for the areas shown on the Conservation Plan so as to achieve the goals and resource protection objectives (collectively, the “Conservation Objectives”) for the Property set forth below:

(a) Resource Protection Objectives

- (i) **Water Resources.** This Conservation Easement seeks to protect the quality of water resources within or in the vicinity of the Property by implementing measures that help protect water resources from sediment and non-point pollution and promote the infiltration, detention and natural filtration of storm water. Protecting water resources also helps preserve habitat for Native Species dependent on water resources.
- (ii) **Forest and Woodland Resources.** This Conservation Easement seeks to promote biological diversity and to perpetuate and foster the growth of a healthy and unfragmented forest or woodland. Features to be protected include Native Species; continuous canopy with multi-tiered understory of trees, shrubs, wildflowers and grasses; natural habitat, breeding sites and corridors for the migration of birds and wildlife. Species other than Native Species often negatively affect the survival of Native Species and disrupt the functioning of ecosystems. Trees store carbon, offsetting the harmful by-products of burning fossil fuels and trap air pollution particulates, cleaning air.

- (iii) **Wildlife Resources.** This Conservation Easement seeks to protect large intact areas of wildlife habitat and connect patches of wildlife habitat. Large habitat patches typically support greater biodiversity and can maintain more ecosystem processes than small patches. Large intact habitats allow larger, healthier populations of a species to persist; thus, increasing the chance of survival over time. Fragmentation of large habitats often decreases the connectivity of systems, negatively affecting the movement of species necessary for fulfilling nutritional or reproductive requirements.
- (iv) **Scenic Resources.** This Conservation Easement seeks to preserve the relationship of scenic resources within the Property to natural and scenic resources in its surrounds and to protect scenic vistas visible from public rights-of-way and other public access points in the vicinity of the Property.
- (v) **Sustainable Land Uses.** This Conservation Easement seeks to ensure that Agriculture, Forestry, and other uses, to the extent that they are permitted, are conducted in a manner that will neither diminish the biological integrity of the Property nor deplete natural resources over time nor lead to an irreversible disruption of ecosystems and associated processes. Agricultural and Forestry activities are regulated so as to protect soils of high productivity; to ensure future availability for Sustainable uses; and to minimize adverse effects of Agricultural and Forestry uses on water resources described in the Conservation Objectives.
- (vi) **Compatible Land Use and Development.** Certain areas have been sited within the Property to accommodate existing and future development taking into account the entirety of the natural potential of the Property as well as its scenic resources.

(b) Goals

- (i) **Highest Protection Area.** This Conservation Easement seeks to protect natural resources within the Highest Protection Area so as to keep them in an undisturbed state except as required to promote and maintain a diverse community of predominantly Native Species.
- (ii) **Standard Protection Area.** This Conservation Easement seeks to promote good stewardship of the Standard Protection Area so that its soil and other natural resources will always be able to support Sustainable Agriculture or Sustainable Forestry.
- (iii) **Minimal Protection Area.** This Conservation Easement seeks to promote compatible land use and development within the Minimal Protection Area so that it will be available for a wide variety of activities, uses and Additional Improvements subject to the minimal constraints necessary to achieve Conservation Objectives outside the Minimal Protection Area.

1.04 Baseline Documentation

As of the Easement Date, the undersigned Owner or Owners and Holder have signed for identification purposes the report (the “Baseline Documentation”), to be kept on file at the principal office of Holder, that contains an original, full-size version of the Conservation Plan and other information sufficient to identify on the ground the protection areas identified in this Article; that describes Existing Improvements; that identifies the conservation resources of the Property described in the Conservation Objectives; and that includes, among other information, photographs depicting existing conditions of the Property as of the Easement Date.

1.05 Structure of Conservation Easement

This Conservation Easement is divided into eight Articles. Articles II, III and IV contain the restrictive covenants imposed by the undersigned Owner or Owners on the Property. In Article V the undersigned Owner or Owners grant to Holder and Beneficiaries (if any) certain rights to enforce the restrictive covenants in perpetuity against all Owners of the Property (“Enforcement Rights”). Article V also contains the procedure for Review applicable to those items permitted subject to Review under Articles II, III and IV. Article VI details the procedures for exercise of Enforcement Rights. Article VII contains provisions generally applicable to both Owners and Holder. The last Article entitled “Glossary” contains definitions of capitalized terms used in this Conservation Easement and not defined in this Article I.

1.06 Federal Tax Items

(a) Qualified Conservation Contribution

The rights granted to Holder under this Conservation Easement have been donated in whole or in part by the undersigned Owner or Owners. This Conservation Easement is intended to qualify as a charitable donation of a partial interest in real estate (as defined under §170(f)(3)(B)(iii) of the Code) to a qualified organization (a “Qualified Organization”) as defined in §1.170(A-14(c)(1) of the Regulations.

(b) Public Benefit

The undersigned Owner or Owners have entered into this Conservation Easement to provide a significant public benefit (as defined in §1.170A-14(d)(2)(i) of the Regulations). In addition to the public benefits described in the Conservation Objectives, the Baseline Documentation identifies public policy statements and other factual information supporting the significant public benefit of this Conservation Easement.

(c) Mineral Interests

No Person has retained a qualified mineral interest in the Property of a nature that would disqualify the Conservation Easement for purposes of §1.170A-14(g)(4) of the Regulations. From and after the Easement Date, the grant of any such interest is prohibited and Holder has the right to prohibit the exercise of any such right or interest if granted in violation of this provision.

(d) Notice Required under Regulations

To the extent required for compliance with §1.170A-14(g)(5)(ii) of the Regulations, and only to the extent such activity is not otherwise subject to Review under this Conservation Easement, Owners agree to notify Holder before exercising any reserved right that may have an adverse impact on the conservation interests associated with the Property.

(e) Property Right

In accordance with §1.170A-14(g)(6) of the Regulations, the undersigned Owner or Owners agree that the grant of this Conservation Easement gives rise to a property right, immediately vested in the Holder, that entitles the Holder to compensation upon extinguishment of the easement. The fair market value of the property right is to be determined in accordance with the Regulations; i.e., it is at least equal to the proportionate value that this Conservation Easement as of the Easement Date bears to the value of the Property as a whole as of the Easement Date (the “Proportionate Value”). If the Proportionate Value exceeds the compensation otherwise payable to Holder under Article VI, Holder is entitled to payment of the Proportionate Value. Holder must use any funds received by application of this provision in a manner consistent with the Conservation Objectives.

(f) Qualification under §2031(c) of the Code

To the extent required to qualify for exemption from federal estate tax under §2031(c) of the Code, and only to the extent such activity is not otherwise prohibited or limited under this Conservation Easement, Owners agree that commercial recreational uses are not permitted within the Property.

(g) Acknowledgment of Donation

Except for such monetary consideration (if any) as is set forth in this Article, Holder acknowledges that no goods or services were received in consideration of the grant of this Conservation Easement.

1.07 Beneficiaries

As of the Easement Date, no Beneficiaries of this Conservation Easement have been identified by the undersigned Owner or Owners and Holder.

1.08 Consideration

The undersigned Owner or Owners acknowledge receipt of the sum of \$1.00 in consideration of the grant of this Conservation Easement to Holder. The consideration has been paid in full to the undersigned Owner or Owners as of the Easement Date.

Article II. Subdivision

2.01 Prohibition

No Subdivision of the Property is permitted except as set forth below.

2.02 Permitted Subdivision

The following Subdivisions are permitted:

(a) Lot Line Change

Subdivision resulting in (i) no additional Lot; and (ii) no material decrease in the acreage of the Property; or (iii) subject to Review, other change in the boundary of the Property or any Lot not creating any additional Lot.

(b) Transfer to Qualified Organization

Subdivision to permit the transfer of a portion of the Property to a Qualified Organization for use by the Qualified Organization for park, nature preserve, public trail or other conservation purposes consistent with and in furtherance of Conservation Objectives.

(c) Lease

Transfer of possession (but not ownership) of land by lease for Sustainable Agriculture or Sustainable Forestry purposes in compliance with applicable requirements of this Conservation Easement.

2.03 Subdivision Requirements

(a) Establishment of Lots; Allocations.

Prior to transfer of a Lot following a Subdivision, Owners must (i) furnish Holder with the plan of Subdivision approved under Applicable Law and legal description of the each Lot created or reconfigured by the Subdivision; (ii) mark the boundaries of each Lot with permanent markers; and (iii) allocate in the deed of transfer of a Lot created by the Subdivision those limitations applicable to more than one Lot under this Conservation Easement. This information will become part of the Baseline Documentation incorporated into this Conservation Easement.

(b) Amendment

Holder may require Owners to execute an Amendment of this Conservation Easement to reflect changes and allocations resulting from Subdivision that are not established to the reasonable satisfaction of Holder by recordation in the Public Records of the plan of Subdivision approved under Applicable Law.

Article III. Improvements

3.01 Prohibition

Improvements within the Property are prohibited except as permitted below in this Article.

3.02 Permitted Within Highest Protection Area

The following Improvements are permitted within the Highest Protection Area:

(a) Existing Improvements

Any Existing Improvement may be maintained, repaired and replaced in its existing location. Existing Improvements may be expanded or relocated if the expanded or relocated Improvement complies with requirements applicable to Additional Improvements of the same type.

(b) Existing Agreements

Improvements that Owners are required to allow under Existing Agreements are permitted.

(c) Additional Improvements

The following Additional Improvements are permitted:

- (i) Fences, walls and gates.
- (ii) Regulatory Signs.
- (iii) Habitat enhancement devices such as birdhouses and bat houses.
- (iv) Trails covered (if at all) by wood chips, gravel, or other highly porous surface.

- (v) Subject to Review, footbridges, stream crossing structures and stream access structures.
- (vi) Subject to Review, Access Drives and Utility Improvements to service Improvements within the Property but only if there is no other reasonably feasible means to provide access and utility services to the Property.

3.03 Permitted Within Standard Protection Area

The following Improvements are permitted within the Standard Protection Area:

(a) Permitted under Preceding Sections

Any Improvement permitted under a preceding section of this Article is permitted.

(b) Additional Improvements

The following Additional Improvements are permitted:

- (i) Agricultural Improvements.
- (ii) Utility Improvements and Site Improvements reasonably required for activities and uses permitted within the Standard Protection Area.

(c) Limitations on Additional Improvements

Additional Improvements permitted within the Standard Protection Area are further limited as follows:

- (i) The Height of Improvements must not exceed ___ feet except for Utility Improvements (such as windmills) providing alternative sources of energy approved by the Holder after Review.
- (ii) Impervious Coverage must not exceed a limit of ___ square feet per roofed Improvement. Impervious Coverage must not exceed a limit of ___ square feet in the aggregate for all Improvements within the Standard Protection Area. The limitation on aggregate Impervious Coverage excludes Impervious Coverage associated with ponds and Access Drives.
- (iii) Access Drives and farm lanes are limited to ___ feet in width and are further limited, in the aggregate, to ___ feet in length.
- (iv) Ponds are limited, in the aggregate, to ___ square feet of Impervious Coverage.
- (v) In addition to Regulatory Signs, signs are limited to a maximum of ___ square feet per sign and ___ square feet in the aggregate for all signs within the Property.
- (vi) Utility Improvements must be underground or, subject to Review, may be aboveground where not reasonably feasible to be installed underground or where used as a means of providing alternative sources of energy (such as wind or solar). The following Utility Improvements are not permitted unless Holder, without any obligation to do so, approves after Review: (A) exterior storage tanks for petroleum or other hazardous or toxic substances (other than reasonable amounts of oil, petroleum or propane gas for uses within the Property permitted under this Conservation Easement); and (B) Utility Improvements servicing Improvements not within the Property.

3.04 Permitted Within Minimal Protection Area

The following Improvements are permitted within Minimal Protection Area:

(a) Permitted under Preceding Sections

Any Improvement permitted under a preceding section of this Article is permitted.

(b) Additional Improvements

The following Additional Improvements are permitted:

- (i) Residential Improvements.
- (ii) Utility Improvements and Site Improvements servicing activities, uses or Improvements permitted within the Property. Signs remain limited as set forth for the Standard Protection Area.

(c) Limitations

- (i) Not more than ___ Improvements (whether an Existing Improvement or Additional Improvement) may contain Dwelling Units (if any) permitted under Article IV.

- (ii) Additional Improvements are subject to a Height limitation of ___ feet.

Article IV. Activities; Uses; Disturbance of Resources

4.01 Prohibition

Activities and uses are limited to those permitted below in this Article and provided in any case that the intensity or frequency of the activity or use does not materially and adversely affect maintenance or attainment of Conservation Objectives.

4.02 Density Issues under Applicable Law

(a) Promoting Development outside the Property

Neither the Property nor the grant of this Conservation Easement may be used under Applicable Law to increase density or intensity of use or otherwise promote the development of other lands outside the Property.

(b) Transferable Development Rights

Owners may not transfer for use outside the Property (whether or not for compensation) any development rights allocated to the Property under Applicable Law.

4.03 Permitted Within Highest Protection Area

The following activities and uses are permitted within the Highest Protection Area:

(a) Existing Agreements

Activities, uses and Construction that Owners are required to allow under Existing Agreements.

(b) Disturbance of Resources

- (i) Cutting trees, Construction or other disturbance of resources, including removal of Invasive Species, to the extent reasonably prudent to remove, mitigate or warn against an unreasonable risk of harm to Persons, property or health of Native Species on or about the Property. Owners must take such steps as are reasonable under the circumstances to consult with Holder prior to taking actions that, but for this provision, would not be permitted or would be permitted only after Review.
- (ii) Planting a diversity of Native Species of trees, shrubs and herbaceous plant materials in accordance with Best Management Practices.
- (iii) Removal and disturbance of soil, rock and vegetative resources to the extent reasonably necessary to accommodate Construction of and maintain access to Improvements within the Highest Protection Area with restoration as soon as reasonably feasible by replanting with a diversity of Native Species of trees, shrubs and herbaceous plant materials in accordance with Best Management Practices.
- (iv) Vehicular use (including motorized vehicular use) in connection with an activity permitted within the Highest Protection Area or otherwise in the case of emergency.
- (v) Except within Wet Areas, cutting trees for use on the Property not to exceed ___ cords per year.
- (vi) Subject to Review, removal of vegetation to accommodate replanting with a diversity of Native Species of trees, shrubs and herbaceous plant materials.
- (vii) Other resource management activities that Holder, without any obligation to do so, determines are consistent with maintenance or attainment of Conservation Objectives and are conducted in accordance with the Resource Management Plan approved for that activity after Review.

(c) Release and Disposal

- (i) Application of substances (other than manure) to promote health and growth of vegetation in accordance with manufacturer's recommendations and Applicable Law. Within Wet Areas only substances approved for aquatic use are permitted.
- (ii) Piling of brush and other vegetation to the extent reasonably necessary to accommodate an activity permitted within the Highest Protection Area under this Conservation Easement.

(d) Recreational and Educational Uses

Activities that do not require Improvements other than those permitted within the Highest Protection Area and do not materially and adversely affect maintenance or attainment of Conservation Objectives such as the following: (i) walking, horseback riding on trails, cross-country skiing on trails, bird watching, nature study, fishing and hunting; and (ii) educational or scientific activities consistent with and in furtherance of the Conservation Objectives.

4.04 Permitted Within Standard Protection Area

The following activities and uses are permitted within the Standard Protection Area:

(a) Permitted under Preceding Sections

Activities and uses permitted under preceding sections of this Article are permitted within the Standard Protection Area.

(b) Agricultural and Forestry Uses; Disturbance of Resources

- (i) Uses and activities that maintain continuous vegetative cover (other than Invasive Species) such as pasture and grazing use, meadow, turf or lawn.
- (ii) Sustainable Agricultural uses that do not maintain continuous vegetative cover (such as plowing, tilling, planting and harvesting field crops, equestrian, horticultural and nursery use) if conducted in accordance with a Soil Conservation Plan furnished to Holder.
- (iii) Removal of vegetation and other Construction activities reasonably required to accommodate Improvements permitted within the Standard Protection Area.
- (iv) Sustainable Forestry uses in accordance with a Resource Management Plan approved after Review. Woodland Areas within the Standard Protection Area may not be used for or converted to Agricultural uses unless Holder, without any obligation to do so, approves after Review.
- (v) Subject to Review, Sustainable Agricultural uses within Steep Slope Areas if conducted in accordance with a Soil Conservation Plan implementing measures to minimize adverse effects on water resources such as a conservation tillage system, conservation cover, conservation cropping sequence, contour farming or cross slope farming.
- (vi) Subject to Review, Agricultural uses that involve removal of soil from the Property (such as sod farming and ball-and-burlap nursery or tree-farming uses) if conducted in accordance with a Resource Management Plan providing for, among other features, a soil replenishment program that will qualify the activity as a Sustainable Agricultural use.
- (vii) Subject to Review, removal or impoundment of water for activities and uses permitted within the Standard Protection Area under this Conservation Easement but not for sale or transfer outside the Property.

(c) Release and Disposal

- (i) Piling and composting of biodegradable materials originating from the Property in furtherance of Agricultural Uses within the Property permitted under this Article. Manure piles must be located so as not to create run-off into Wet Areas.
- (ii) Subject to Review, disposal of sanitary sewage effluent from Improvements permitted under Article III if not reasonably feasible to confine such disposal to Minimal Protection Area.

(d) Recreational and Open-Space Uses

Non-commercial recreational and open-space uses that do not require Improvements other than those permitted within the Standard Protection Area; do not materially and adversely affect scenic views and other values described in the Conservation Objectives; and do not require vehicular use other than for resource management purposes.

4.05 Permitted Within Minimal Protection Area

The following activities and uses are permitted within the Minimal Protection Area:

(a) Permitted under Preceding Sections

Activities and uses permitted under preceding sections of this Article are permitted within the Minimal Protection Area.

(b) Disturbance of Resources

Disturbance of resources within the Minimal Protection Area is permitted for residential landscaping purposes and other purposes reasonably related to uses permitted within the Minimal Protection Area. Introduction of Invasive Species remains prohibited.

(c) Release and Disposal

- (i) Disposal of sanitary sewage effluent from Improvements permitted under this Article.
- (ii) Other piling of materials and non-containerized disposal of substances and materials but only if such disposal is permitted under Applicable Law; does not directly or indirectly create run-off or leaching outside the Minimal Protection Area; and does not adversely affect Conservation Objectives applicable to the Minimal Protection Area including those pertaining to scenic views.

(d) Residential and Other Uses

- (i) Residential use is permitted but limited to not more than ____ Dwelling Units.
- (ii) Any occupation, activity or use that is wholly contained within an enclosed Improvement permitted under Article III is permitted. Subject to Review, exterior vehicular parking and signage accessory to such uses may be permitted by Holder.

Article V. Rights and Duties of Holder and Beneficiaries

5.01 Grant to Holder

(a) Grant in Perpetuity

By signing this Conservation Easement and unconditionally delivering it to Holder, the undersigned Owner or Owners, intending to be legally bound, grant and convey to Holder a conservation servitude over the Property in perpetuity for the purpose of administering and enforcing the restrictions and limitations set forth in Articles II, III, and IV in furtherance of the Conservation Objectives.

(b) Superior to all Liens

The undersigned Owner or Owners warrant to Holder that the Property is, as of the Easement Date, free and clear of all Liens or, if it is not, that Owners have obtained and attached to this Conservation Easement as an Exhibit the legally binding subordination of any Liens affecting the Property as of the Easement Date.

5.02 Rights and Duties of Holder

The grant to Holder under the preceding section gives Holder the right and duty to perform the following tasks:

(a) Enforcement

To enforce the terms of this Conservation Easement in accordance with the provisions of Article VI including, in addition to other remedies, the right to enter the Property to investigate a suspected, alleged or threatened violation.

(b) Inspection

To enter and inspect the Property for compliance with the requirements of this Conservation Easement upon reasonable notice, in a reasonable manner and at reasonable times.

(c) Review

To exercise rights of Review in accordance with the requirements of this Article as and when required under applicable provisions of this Conservation Easement.

(d) Interpretation

To interpret the terms of this Conservation Easement, apply the terms of this Conservation Easement to factual conditions on or about the Property, respond to requests for information from Persons having an interest in this Conservation Easement or the Property (such as requests for a certification of compliance), and apply the terms of this Conservation Easement to changes occurring or proposed within the Property.

5.03 Other Rights of Holder

The grant to Holder under this Article also permits Holder, without any obligation to do so, to exercise the following rights:

(a) Amendment

To enter into an Amendment with Owners if Holder determines that the Amendment is consistent with and in furtherance of the Conservation Objectives; will not result in any private benefit prohibited under the Code; and otherwise conforms to Holder's policy with respect to Amendments.

(b) Signs

To install one or more signs within the Property identifying the interest of Holder or one or more Beneficiaries in this Conservation Easement. Any signs installed by Holder do not reduce the number or size of signs permitted to Owners under Article III. Signs are to be of the customary size installed by Holder or Beneficiary, as the case may be, and must be installed in locations readable from the public right-of-way and otherwise reasonably acceptable to Owners.

5.04 Review

The following provisions are incorporated into any provision of this Conservation Easement that is subject to Review:

(a) Notice to Holder

At least thirty (30) days before Owners begin or allow any Construction, activity or use that is subject to Review, Owners must notify Holder of the change including with the notice such information as is reasonably sufficient to comply with Review Requirements and otherwise describe the change and its potential impact on natural resources within the Property.

(b) Notice to Owners

Within thirty (30) days after receipt of Owners' notice, Holder must notify Owners of Holder's determination to (i) accept Owners' proposal in whole or in part; (ii) reject Owners' proposal in whole or in part; (iii) accept Owners' proposal conditioned upon compliance with conditions imposed by Holder; or (iv) reject Owners' notice for insufficiency of information on which to base a determination. If Holder gives conditional acceptance under clause (iii), commencement of the proposed Improvement, activity, use or Construction constitutes acceptance by Owners of all conditions set forth in Holder's notice.

(c) Failure to Notify

If Holder fails to notify Owners as required in the preceding subsection, the proposal set forth in Owners' notice is deemed approved.

(d) Standard of Reasonableness

Holder's approval will not be unreasonably withheld; however, it is not unreasonable for Holder to disapprove a proposal that may adversely affect natural resources described in the Conservation Objectives or that is otherwise inconsistent with maintenance or attainment of Conservation Objectives.

5.05 Reimbursement

Owners must reimburse Holder for the costs and expenses of Holder reasonably incurred in the course of performing its duties with respect to this Conservation Easement other than monitoring in the ordinary course. These costs and expenses include the allocated costs of employees of Holder.

Article VI. Violation; Remedies

6.01 Breach of Duty

(a) Failure to Enforce

If Holder fails to enforce this Conservation Easement, or ceases to qualify as a Qualified Organization, then the rights and duties of Holder under this Conservation may be (i) exercised by a Beneficiary or a Qualified Organization designated by a Beneficiary; and/or (ii) transferred to another Qualified Organization by a court of competent jurisdiction.

(b) Transferee

The transferee must be a Qualified Organization and must commit to hold this Conservation Easement exclusively for conservation purposes as defined in the Code.

6.02 Violation of Conservation Easement

If Holder determines that this Conservation Easement is being or has been violated or that a violation is threatened or imminent then the provisions of this Section will apply:

(a) Notice

Holder must notify Owners of the violation. Holder's notice may include its recommendations of measures to be taken by Owners to cure the violation and restore features of the Property damaged or altered as a result of the violation.

(b) Opportunity to Cure

Owners' cure period expires thirty (30) days after the date of Holder's notice to Owners subject to extension for the time reasonably necessary to cure but only if all of the following conditions are satisfied:

- (i) Owners cease the activity constituting the violation promptly upon receipt of Holder's notice;
- (ii) Owners and Holder agree, within the initial thirty (30) day period, upon the measures Owners will take to cure the violation;
- (iii) Owners commence to cure within the initial thirty (30) day period; and
- (iv) Owners continue thereafter to use best efforts and due diligence to complete the agreed upon cure.

(c) Imminent Harm

No notice or cure period is required if circumstances require prompt action to prevent or mitigate irreparable harm or alteration to any natural resource or other feature of the Property described in the Conservation Objectives.

6.03 Remedies

Upon expiration of the cure period (if any) described in the preceding Section, Holder may do any one or more of the following:

(a) Injunctive Relief

Seek injunctive relief to specifically enforce the terms of this Conservation Easement; to restrain present or future violations of this Conservation Easement; and/or to compel restoration of resources destroyed or altered as a result of the violation.

(b) Civil Action

Recover from Owners or other Persons responsible for the violation all sums owing to Holder under applicable provisions of this Conservation Easement together with interest thereon from the date due at the Default Rate. These monetary obligations include, among others, Losses and Litigation Expenses.

(c) Self-Help

Enter the Property to prevent or mitigate further damage to or alteration of natural resources of the Property identified in the Conservation Objectives.

6.04 Modification or Termination

If this Conservation Easement is or is about to be modified or terminated by exercise of the power of eminent domain (condemnation) or adjudication of a court of competent jurisdiction sought by a Person other than Holder the following provisions apply:

(a) Compensatory Damages

Holder is entitled to collect from the Person seeking the modification or termination, compensatory damages in an amount equal to the increase in Market Value of the Property resulting from the modification or termination plus reimbursement of Litigation Expenses as if a violation had occurred.

(b) Restitution

Holder or any Beneficiary is entitled to recover from the Person seeking the modification or termination, (i) restitution of amounts paid for this Conservation Easement (if any) and any other sums invested in the Property for the benefit of the public as a result of rights granted under this Conservation Easement plus (ii) reimbursement of Litigation Expenses as if a violation had occurred.

6.05 Remedies Cumulative

The description of Holder's remedies in this Article does not preclude Holder from exercising any other right or remedy that may at any time be available to Holder under this Article or Applicable Law. If Holder chooses to exercise one remedy, Holder may nevertheless choose to exercise any one or more of the other rights or remedies available to Holder at the same time or at any other time.

6.06 No Waiver

If Holder does not exercise any right or remedy when it is available to Holder, that is not to be interpreted as a waiver of any non-compliance with this Conservation Easement or a waiver of Holder's rights to exercise its rights or remedies at another time.

6.07 No Fault of Owners

Holder will waive its right to reimbursement under this Article as to Owners (but not other Persons who may be responsible for the violation) if Holder is reasonably satisfied that the violation was not the fault of Owners and could not have been anticipated or prevented by Owners by reasonable means.

6.08 Multiple Owners; Multiple Lots

If different Owners own Lots within the Property, only the Owners of the Lot in violation will be held responsible for the violation.

6.09 Multiple Owners; Single Lot

If more than one Owner owns the Lot in violation of this Conservation Easement, the Owners of the Lot in violation are jointly and severally liable for the violation regardless of the form of ownership.

6.10 Continuing Liability

If a Lot subject to this Conservation Easement is transferred while a violation remains uncured, the transferor Owners remain liable for the violation jointly and severally with the transferee Owners. This provision does not apply if Holder has issued a certificate of compliance evidencing no violations within thirty (30) days prior to the transfer. It is the responsibility of the Owners to request a certificate of compliance to verify whether violations exist as of the date of transfer.

Article VII. Miscellaneous

7.01 Notices

(a) Requirements

Each Person giving any notice pursuant to this Conservation Easement must give the notice in writing and must use one of the following methods of delivery: (i) personal delivery; (ii) certified mail, return receipt requested and postage prepaid; or (iii) nationally recognized overnight courier, with all fees prepaid.

(b) Address for Notices

Each Person giving a notice must address the notice to the appropriate Person at the receiving party at the address listed below or to another address designated by that Person by notice to the other Person:

If to Owners:

If to Holder:

7.02 Governing Law

The laws of the Commonwealth of Pennsylvania govern this Conservation Easement.

7.03 Assignment and Transfer

Neither Owners nor Holder may assign or otherwise transfer any of their respective rights or duties under this Conservation Easement voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law or any other manner except as permitted below. Any purported assignment or transfer in violation of this Section is void.

(a) By Holder

Holder may assign its rights and duties under this Conservation Easement, either in whole or in part, but only to a Qualified Organization that executes and records in the Public Records a written agreement assuming the obligations of Holder under this Conservation Easement. The assigning Holder must deliver the Baseline Documentation to the assignee Holder as of the date of the assignment. Holder must assign its rights and duties under this Conservation Easement to another Qualified Organization if Holder becomes the Owner of the Property.

(b) By Owners

This Conservation Easement is a servitude running with the land binding upon the undersigned Owners and, upon recordation in the Public Records, all subsequent Owners of the Property or any portion of the Property are bound by its terms whether or not the Owners had actual notice of this Conservation Easement and whether or not the deed of transfer specifically referred to the transfer being under and subject to this Conservation Easement.

7.04 Binding Agreement

Subject to the restrictions on assignment and transfer set forth in the preceding Section, this Conservation Easement binds and benefits Owners and Holder and their respective personal representatives, successors and assigns.

7.05 No Other Beneficiaries

This Conservation Easement does not confer any Enforcement Rights or other remedies upon any Person other than Owners, Holder and the Beneficiaries (if any) specifically named in this Conservation Easement. Owners of Lots within or adjoining the Property are not beneficiaries of this Conservation Easement and, accordingly, have no right of approval or joinder in any Amendment other than an Amendment applicable to the Lot owned by such Owners. This provision does not preclude Owners or other Persons having an interest in this Conservation Easement from petitioning a court of competent jurisdiction to exercise remedies available under this Conservation Easement for breach of duty by Holder.

7.06 Amendments; Waivers

No Amendment or waiver of any provision of this Conservation Easement or consent to any departure by Owners from the terms of this Conservation Easement is effective unless the Amendment, waiver or consent is in writing and signed by an authorized signatory for Holder. A waiver or consent is effective only in the specific instance and for the specific purpose given.

7.07 Severability

If any provision of this Conservation Easement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Conservation Easement remain valid, binding and enforceable. To the extent permitted by Applicable Law, the parties waive any provision of Applicable Law that renders any provision of this Conservation Easement invalid, illegal or unenforceable in any respect.

7.08 Counterparts

This Conservation Easement may be signed in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement.

7.09 Indemnity

Owners must indemnify and defend the Indemnified Parties against all Losses and Litigation Expenses arising out of or relating to (a) any breach or violation of this Conservation Easement or

Applicable Law; and (b) damage to property or personal injury (including death) occurring on or about the Property if and to the extent not caused by the negligent or wrongful acts or omissions of an Indemnified Party.

7.10 Guides to Interpretation

(a) Captions

Except for the identification of defined terms in the Glossary, the descriptive headings of the articles, sections and subsections of this Conservation Easement are for convenience only and do not constitute a part of this Conservation Easement.

(b) Glossary

If any term defined in the Glossary is not used in this Conservation Easement, the defined term is to be disregarded as surplus material.

(c) Other Terms

- (i) The word “including” means “including but not limited to”.
- (ii) The word “must” is obligatory; the word “may” is permissive and does not imply any obligation.

(d) Conservation and Preservation Easements Act

This Conservation Easement is intended to be interpreted so as to convey to Holder all of the rights and privileges of a holder of a conservation easement under the Conservation Easements Act.

(e) Restatement of Servitudes

This Conservation Easement is intended to be interpreted so as to convey to Holder all of the rights and privileges of a holder of a conservation servitude under the Restatement (Third) of Servitudes.

7.11 Entire Agreement

This is the entire agreement of Owners, Holder and Beneficiaries (if any) pertaining to the subject matter of this Conservation Easement. The terms of this Conservation Easement supersede in full all statements and writings between Owners, Holder and others pertaining to the transaction set forth in this Conservation Easement.

7.12 Incorporation by Reference

Each Exhibit attached to this Conservation Easement is incorporated into this Conservation Easement by this reference. The Baseline Documentation (whether or not attached to this Conservation Easement) is incorporated into this Conservation Easement by this reference.

7.13 Coal Rights Notice

The following notice is given to Owners solely for the purpose of compliance with the requirements of the Conservation Easements Act:

NOTICE: This Conservation Easement may impair the development of coal interests including workable coal seams or coal interests which have been severed from the Property.

Article VIII. Glossary

8.01 Access Drive(s)

Roads or drives providing access to and from Improvements or Minimal Protection Areas and public rights-of-way.

8.02 Additional Improvements

All buildings, structures, facilities and other improvements within the Property other than Existing Improvements. The term Additional Improvements includes Agricultural Improvements, Residential Improvements, Utility Improvements and Site Improvements.

8.03 Agricultural Improvements

Improvements used or usable in furtherance of Agricultural uses such as barn, stable, silo, spring house, green house, hoop house, riding arena (whether indoor or outdoor), horse walker, manure storage pit, storage buildings, feeding and irrigation facilities.

8.04 Agricultural or Agriculture

Any one or more of the following and the leasing of land for any of these purposes:

(a) Farming

- (i) Production of vegetables, fruits, seeds, mushrooms, nuts and nursery crops (including trees) for sale.
- (ii) Production of poultry, livestock and their products for sale.
- (iii) Production of field crops, hay or pasture.
- (iv) Production of sod to be removed and planted elsewhere.

(b) Equestrian

Boarding, stabling, raising, feeding, grazing, exercising, riding and training horses and instructing riders.

8.05 Amendment

An amendment, modification or supplement to this Conservation Easement signed by Owners and Holder and recorded in the Public Records.

8.06 Applicable Law

Any federal, state or local laws, statutes, codes, ordinances, standards and regulations applicable to the Property or this Conservation Easement as amended through the applicable date of reference.

8.07 Beneficiary

Any governmental entity or Qualified Organization that is specifically named as a Beneficiary of this Conservation Easement under Article I.

8.08 Best Management Practices

A series of guidelines or minimum standards (sometimes referred to as BMP's) recommended by federal, state and/or county resource management agencies for proper application of farming and forestry operations, non-point pollution of water resources and other disturbances of soil, water and vegetative resources and to protect wildlife habitats. Examples of resource management agencies issuing pertinent BMP's as of the Easement Date are: the Natural Resource Conservation Service of the United States Department of Agriculture (with respect to soil resources); the Pennsylvania Department of Environmental Protection (with respect to soil erosion, sedimentation and water resources) and the following sources of BMP's with respect to forest and woodland management: the Forest Stewardship Council principles and criteria, Sustainable Forestry Initiative standards, Forest Stewardship Plan requirements, American Tree Farm standards and Best Management Practices for Pennsylvania Forests.

8.09 Code

The Internal Revenue Code of 1986, as amended through the applicable date of reference.

8.10 Conservation Easements Act

The Pennsylvania Conservation and Preservation Easements Act, the act of June 22, 2001 (P.L. 390, No. 29) (32 P.S. §§5051-5059) as amended through the applicable date of reference.

8.11 Construction

Any demolition, construction, reconstruction, expansion, exterior alteration, installation or erection of temporary or permanent Improvements; and, whether or not in connection with any of the foregoing, any excavation, dredging, mining, filling or removal of gravel, soil, rock, sand, coal, petroleum or other minerals.

8.12 Default Rate

An annual rate of interest equal at all times to two percent (2%) above the "prime rate" announced from time to time in *The Wall Street Journal*.

8.13 Dwelling Unit

Use or intended use of an Improvement or portion of an Improvement for human habitation by one or more Persons (whether or not related). Existence of a separate kitchen accompanied by sleeping quarters is considered to constitute a separate Dwelling Unit.

8.14 Existing Agreements

Easements and other servitudes affecting the Property prior to the Easement Date and running to the benefit of utility service providers and other Persons that constitute legally binding servitudes prior in right to this Conservation Easement.

8.15 Existing Improvements

Improvements located on, above or under the Property as of the Easement Date as identified in the Baseline Documentation.

8.16 Existing Lots

Lots existing under Applicable Law as of the Easement Date.

8.17 Forestry

Planting, growing, nurturing, managing and harvesting trees whether for timber and other useful products or for water quality, wildlife habitat and other Conservation Objectives.

8.18 Height

The vertical elevation of an Improvement measured from the average exterior ground elevation of the Improvement to a point, if the Improvement is roofed, midway between the highest and lowest points of the roof excluding chimneys, cupolas, ventilation shafts, weathervanes and similar protrusions or, if the Improvement is unroofed, the top of the Improvement.

8.19 Impervious Coverage

The aggregate area of all surfaces that are not capable of supporting vegetation within the applicable area of reference. Included in Impervious Coverage are the footprints (including roofs, decks, stairs and other extensions) of Improvements; paved or artificially covered surfaces such as crushed stone, gravel, concrete and asphalt; impounded water (such as a man-made pond); and compacted earth (such as an unpaved roadbed). Excluded from Impervious Coverage are running or non-impounded standing water (such as a naturally occurring lake); bedrock and naturally occurring stone and gravel; and earth (whether covered with vegetation or not) so long as it has not been compacted by non-naturally occurring forces.

8.20 Improvement

Any Existing Improvement or Additional Improvement.

8.21 Indemnified Parties

Holder, each Beneficiary (if any) and their respective members, directors, officers, employees and agents and the heirs, personal representatives, successors and assigns of each of them.

8.22 Invasive Species

A plant species that is (a) non-native (or alien) to the ecosystem under consideration; and (b) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. In cases of uncertainty, publications such as "Plant Invaders of the Mid-Atlantic Natural Areas", by the National Park Service National Capital Region, Center for Urban Ecology and the U.S. Fish and Wildlife Service, Chesapeake Bay Field Office are to be used to identify Invasive Species.

8.23 Lien

Any mortgage, lien or other encumbrance securing the payment of money.

8.24 Litigation Expense

Any court filing fee, court cost, arbitration fee or cost, witness fee and each other fee and cost of investigating and defending or asserting any claim of violation or for indemnification under this Conservation Easement including in each case, attorneys' fees, other professionals' fees and disbursements.

8.25 Losses

Any liability, loss, claim, settlement payment, cost and expense, interest, award, judgment, damages (including punitive damages), diminution in value, fines, fees and penalties or other charge other than a Litigation Expense.

8.26 Lot

A unit, lot or parcel of real property separated or transferable for separate ownership or lease under Applicable Law.

8.27 Market Value

The fair value that a willing buyer, under no compulsion to buy, would pay to a willing seller, under no compulsion to sell as established by appraisal in accordance with the then-current edition of Uniform Standards of Professional Appraisal Practice issued by the Appraisal Foundation or, if applicable, a qualified appraisal in conformity with §1.170A-13 of the Regulations.

8.28 Native Species

A plant or animal indigenous to the locality under consideration. In cases of uncertainty, published atlases, particularly *The Vascular Flora of Pennsylvania: Annotated Checklist and Atlas* by Rhoads and Klein and *Atlas of United States Trees, vols. 1 & 4* by Little are to be used to establish whether or not a species is native.

8.29 Owners

The undersigned Owner or Owners and all Persons after them who hold an interest in the Property.

8.30 Person

An individual, organization, trust or other entity.

8.31 Public Records

The public records of the office for the recording of deeds in and for the county in which the Property is located.

8.32 Qualified Organization

A governmental or non-profit entity that (a) has a perpetual existence; (b) is established as a public charity for the purpose of preserving and conserving natural resources, natural habitats, environmentally sensitive areas and other charitable, scientific and educational purposes; (c) meets the criteria of a Qualified Organization under the Regulations; and (d) is duly authorized to acquire and hold conservation easements under Applicable Law.

8.33 Regulations

The provisions of C.F.R. §1.170A-14 as amended through the applicable date of reference.

8.34 Regulatory Signs

Signs (not exceeding one square foot each) to control access to the Property or for informational, directional or interpretive purposes.

8.35 Residential Improvements

Dwellings and Improvements accessory to residential uses such as garage, swimming pool, pool house, tennis court and children's play facilities.

8.36 Resource Management Plan

A record of the decisions and intentions of Owners prepared by a qualified resource management professional for the purpose of protecting natural resources described in the Conservation Objectives during certain operations potentially affecting natural resources protected under this Conservation Easement. The Resource Management Plan (sometimes referred to as the "RMP") includes a resource assessment, identifies appropriate performance standards (based upon Best Management Practices where available and appropriate) and projects a multi-year description of planned activities for identified operations to be conducted in accordance with the plan.

8.37 Review

Review and approval of Holder under the procedure described in Article V.

8.38 Review Requirements

Collectively, any plans, specifications or information required for approval of the Subdivision, activity, use or Construction under Applicable Law (if any) plus (a) the information required under the Review Requirements incorporated into this Conservation Easement either as an Exhibit or as part of the Baseline Documentation or (b) if the information described in clause (a) is inapplicable, unavailable or insufficient under the circumstances, the guidelines for Review of submissions established by Holder as of the applicable date of reference.

8.39 Site Improvements

Unenclosed Improvements such as driveways, walkways, boardwalks, storm water management facilities, bridges, parking areas and other pavements, lighting fixtures, signs, fences, walls, gates, man-made ponds, berms and landscaping treatments.

8.40 Soil Conservation Plan

A plan for soil conservation and/or sedimentation and erosion control that meets the requirements of Applicable Law.

8.41 Steep Slope Areas

Areas greater than one acre having a slope greater than 15%.

8.42 Subdivision

Any transfer of an Existing Lot into separate ownership; any change in the boundary of the Property or any Lot within the Property; and any creation of a unit, lot or parcel of real property for separate use or ownership by any means including by lease or by implementing the condominium form of ownership.

8.43 Sustainable

Land management practices that provide goods and services from an ecosystem without degradation of biodiversity and resource values at the site and without a decline in the yield of goods and services over time.

8.44 Utility Improvements

Improvements for the reception, storage or transmission of water, sewage, electricity, gas and telecommunications or other sources of power.

8.45 Wet Areas

Areas within 100-feet beyond the edge of watercourses, springs, wetlands and non-impounded standing water.

8.46 Woodland Areas

Area(s) within the Property described as “wooded” or “forested” in the Baseline Documentation”, or if not wooded or forested as of the Easement Date, are designated as successional woodland areas on the Conservation Plan.

INTENDING TO BE LEGALLY BOUND, the undersigned Owner or Owners and Holder, by their respective duly authorized representatives, have signed and delivered this Conservation Easement as of the Easement Date.

Witness/Attest:

Owner's Name:

Owner's Name:

[NAME OF HOLDER]

By: _____
Name:
Title:

This document is based on the model Pennsylvania Conservation Easement (9/26/2007 edition) provided by the Pennsylvania Land Trust Association.

The model on which this document is based should not be construed or relied upon as legal advice or legal opinion on any specific facts or circumstances. It should be revised to reflect specific circumstances under the guidance of legal counsel.

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF _____ :

ON THIS DAY _____, before me, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____, Notary Public

Print Name:

COMMONWEALTH OF PENNSYLVANIA _____ :

SS

COUNTY OF _____ :

ON THIS DAY _____ before me, the undersigned officer, personally appeared _____, who acknowledged him/herself to be the _____ of _____, a Pennsylvania non-profit corporation, and that he/she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by her/himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____, Notary Public

Print Name:

Exhibit 6

Summary of Residential Area & Bulk Regulations

Summary of Residential Area & Bulk Regulations¹

	AC <10 AC	AC ≥ 10 AC	RC W/O OSDO	RC W/ OSDO ²	RR-1	RR-2 W/O OSDO	RR-2 W/ OSDO ²
Min. Lot Area³	2 ac.	1 ac.	4 ac.	30,000 sq. ft.	2.0 ac.	3.0 ac.	30,000 sq. ft.
Max. Lot Area	NA	2 ac.	NA	NA	NA	NA	NA
Max. Permitted Density³	NA	2 houses + 1 house for every 10 ac.	NA	1 house for every 2.5 ac.	NA	NA	1 house for every 2 ac.
Min. Lot Width	200 ft.	200 ft.	200 ft.	120 ft.	150 ft.	150 ft.	120 ft.
Building Setbacks							
Front	50 ft.	40 ft.	50 ft.	40 ft.	35 ft.	35 ft.	35 ft.
Rear	50 ft.	40 ft.	50 ft.	40 ft.	35 ft.	35 ft.	35 ft.
Side	30 ft.	20 ft.	30 ft.	20 ft.	20 ft.	20 ft.	20 ft.
Coverage							
Lot	15%	15%	15%	20%	15 %	15%	20%
Building	10%	10%	10%	15%	10%	10%	15%
Maximum Bldg. Height	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.
Minimum Restricted Open Space	NA	NA	NA	65%	NA	NA	65%

1. Excluding Village Center District regulations and regulations for non-residential uses.
2. Subject to Conditional Use approval (see Article XV).
3. Minimum Lot Area and Maximum Permitted Density Based on Net Buildable Site Area (see Section 1009.F.)