

WEST VINCENT TOWNSHIP
ZONING ORDINANCE

2010

Chester County, Pennsylvania

(As Amended by and through Ordinance ~~171~~____-~~2016~~2017,
~~June 20,~~_____ 20162017)

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WEST VINCENT TOWNSHIP

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WEST VINCENT TOWNSHIP ZONING ORDINANCE OF 2010

An Ordinance of the Township of West Vincent, Chester County, Pennsylvania to amend and revise the West Vincent Township Zoning Ordinance of 2003, incorporating all amendments, maps, and supplements thereto.

ARTICLE I

GENERAL PROVISIONS

SECTION 101 SHORT TITLE AND EFFECTIVE DATE

This Ordinance shall be known and may be cited as the "West Vincent Township Zoning Ordinance of 2010". This Ordinance shall become effective five days following its official adoption.

Adopted: _____, 2010

Effective: _____, 2010

SECTION 102 ORDINANCE PROVISIONS

This Ordinance is enacted to permit, prohibit, regulate, restrict and determine: uses of land, watercourses, and other bodies of water; size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal, and use of structures; areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as areas, courts, yards and other greenway lands and distances to be left unoccupied by uses and structures; density of population and intensity of use; provisions for special exceptions and variances; provisions for conditional uses; provisions for the administration and enforcement of such Ordinances; provisions for the protection and preservation of natural resources and agricultural land and activities; and such other provisions as may be necessary to implement the purposes of the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended.

SECTION 103 PURPOSE

This Ordinance is enacted under and pursuant to the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, for the following purposes:

- A. To promote, protect and facilitate one or more of the following: the public health, safety, morals and general welfare of current and future Township residents; the coordinated and practical community development, proper density of population, civil defense, disaster evacuation, airports, and national defense facilities, the provisions of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewage, schools, public grounds and other public requirements.

- B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.
- C. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
- D. To promote sustainability by: adopting measures to reduce Township-wide energy costs and dependence on fossil fuels or other sources that negatively affect the natural environment; incorporating protections for local ecosystems; and supporting sustainable policies and practices in a manner that enhances the community's prosperity, its sense of community identity, inclusiveness and civic-mindedness; honoring and advancing the natural beauty of the Township in an effort to achieve the status as a model community for sustainable policies and practices.

This Ordinance has been prepared in accordance with the West Vincent Township Comprehensive Plan, as amended, the Phoenixville Regional Comprehensive Plan, the Township Sustainability Plan of 2012, as amended, and with consideration for the character of the Township, its various parts and the suitability of the various parts for particular uses and structures.

SECTION 104 COMMUNITY DEVELOPMENT OBJECTIVES

This Ordinance has been prepared in accordance with the West Vincent Township Comprehensive Plan, as amended, and with consideration for the goals and objectives of the Township. The goals and objectives are stated within the Township Comprehensive Plan, which goals are reestablished as part of this Ordinance, as follows:

- A. To provide for the preservation, protection, management, and enhancement of the natural resources and environmental qualities of West Vincent Township for present and future generations.
- B. To encourage and promote the provisions for a wide-range and variety of decent, safe and sanitary housing that meet the needs of all present and future Township residents regardless of age, sex, income, religion or ethnic background and which is compatible with the limitations established by the environment, transportation network, community facilities and services.
- C. To provide in an economically and aesthetically beneficial manner, the various facilities and services necessary to meet the existing and future needs of the Township in a way that is compatible with the natural and man-made environments.
- D. To provide a transportation system that provides the most efficient, safe and convenient movement of goods and people while minimizing the adverse impacts the system may have on the natural and man-made environment.

- E. To encourage opportunities for managed economic development and expansion in the Township compatible with the natural and man-made environment of the area, including services, facilities and transportation network, and consistent with regional needs and capabilities for appropriate economic activities.
- F. To promote the adequate provision for recreational and cultural amenities.
- G. To promote the conservation and continuation of agricultural activities in the Township.
- H. To develop a planning implementation program that continually updates planning policies and coordinates these policies with Township and regional officials and residents.

SECTION 105 INTERPRETATION

In interpreting and applying the provisions of this Ordinance, the said provisions shall be held to be the minimum requirements for promoting the health, safety, morals, and general welfare of the Township and its residents. Any use, structure, building, or sign shall conform with all provisions of the Ordinance except for which an exception or variance may be granted.

SECTION 106 CONFLICT

It is not intended by this Ordinance to interfere with, abrogate, or annul any rules or regulations previously adopted or permits previously issued by the Township, provided the same are not in conflict with any provisions of this Ordinance, nor is it intended by this Ordinance to interfere with, abrogate, or annul any easement, covenants, building restrictions, or any other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of the buildings or premises or upon the height of the building, or requires a larger greenway land than is imposed or required by such Ordinance, rules, regulations or permits, or by easements, covenants, building restrictions or agreements, the provisions of this Ordinance shall control.

When the provisions of any statute, other Ordinance or regulation impose greater restrictions than established by this Ordinance, the provisions of such statute, other Ordinance or regulation shall be controlling.

SECTION 107 SEVERABILITY

In the event that any article, section, subsection or provision of this Zoning Ordinance be declared by a court of competent jurisdiction to be illegal, unconstitutional or invalid, such decision shall not affect or impair the validity of the Ordinance as a whole or any remaining part thereof.

SECTION 108 REPEALER

Any resolution, Ordinance, or part of any Ordinance or resolution, including the West Vincent Township Zoning Ordinance of 2003, as amended, inconsistent with the provisions of this Ordinance are hereby repealed.

ARTICLE II

DEFINITION OF TERMS

SECTION 201 INTERPRETATION

Unless otherwise expressly stated, the following words and phrases shall be interpreted throughout this Ordinance in the following manner:

- A. The present tense includes the future tense; the singular includes the plural, and the plural the singular; the masculine gender includes the feminine.
- B. The word "person" includes any individual, estate, trust, fiduciary, partnership, company, firm, association, corporation or organization.
- C. The word "shall" is always mandatory; the word "may" is optional.
- D. The words "used" or "occupied" shall include the words "arranged," "designed," or "intended" to be used or occupied.
- E. The word "built" shall include the words "erected," "constructed," or "altered".
- F. The word "including" shall not limit the term to the specified example, but is intended to extend its meaning to all other instances of similar kind and character.
- G. When terms, phrases, or words herein are not defined, they shall have the meaning prescribed by the Township Subdivision and Land Development Ordinance, any other Township ordinances or resolutions, or, in the absence of such, their ordinarily accepted meaning or such as the context may imply.

SECTION 202 DEFINITION OF TERMS

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

Abandonment. The relinquishment of a use without intention to resume the said use as established under Article XXVI.

Accessory Apartment. A self-contained accessory dwelling unit located entirely within an existing single-family dwelling which serves as a principal dwelling, with a habitable floor area which is less than that of the principal dwelling.

Accessory Building. A permanent detached building whose primary use is secondary to that of the principal building on the same lot. No truck bodies, abandoned mobile homes, travel

trailers, or similar structures shall be used for accessory buildings or to house accessory uses.

Accessory Dwelling. A dwelling whose use is secondary to that of the principal dwelling or building on same lot, including but not limited to accessory apartment, tenant house or carriage house.

Accessory Use or Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Accessway. An area of land that extends from the street line to the front lot line providing access to an interior lot.

Act. The Pennsylvania Municipalities Planning Code, Act 247 (53 P.S. 10101 et. seq.) as amended.

Addition. An enlargement or increase in floor area or height of an existing building or structure.

Adjusted Tract Acreage. See "Tract Acreage, Adjusted".

ADU (Accessory Dwelling Unit). See "Accessory Dwelling".

Adult Bookstore. An establishment having a substantial or significant portion of its stock in trade, books, films, magazines, periodicals, and other paraphernalia which are distinguished or characterized by their emphasis on matters depicting, describing or related to "specified sexual activities," or "specified anatomical areas," or an establishment with a segment or section devoted to the sale or display of such material.

Adult Motion Picture Theater. An enclosed building or outdoor drive-in theater used for presenting material distinguished or characterized by emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Agricultural Operation. An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural or aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.

Agricultural Village Community. A planned and unified development designed as part of an agricultural operation, consisting of dwelling units and providing a variety of facilities and services for its residents.

Agriculture, Intensive. Agricultural uses involving the processing or production of agricultural products that are likely to emit frequent, recurring odors or noises considered obnoxious to a residential environment. Intensive agriculture includes, but is not limited to, feedlots, mushroom houses, and poultry houses.

Agriculture, Passive. The cultivation of the soil and the raising and harvesting of products of the soil including nurserying, horticulture, the raising of crops, forestry, dairying, raising of beef cattle and other livestock (excluding pigs), but excluding intensive agriculture.

Aircraft. Any vehicle or device, except an unpowered hang-glider, hot air balloon or parachute, used for manned ascent into or flight through the air.

Airport. A place or facility where aircraft can land and takeoff, which may be equipped with storage hangers, facilities for refueling and repair, and various accommodations for passengers.

- A. **Public Use Airport.** Any airport open to the general public and not requiring prior permission of the owner and/or operator to land.
- B. **Private Use Airport.** Any airport that restricts usage to the owner and/or operator or to persons authorized by the owner and/or operator.
- C. **Personal Use Airport.** Any airport used exclusively by the owner.

Alley. A minor right-of-way, which may or may not be legally dedicated to the Township, serving as a secondary means of access to the rear or side of properties otherwise abutting on a street.

All-Weather Surface. A pavement constructed of graded stone or slag, with or without a surface of macadam, bituminous concrete or Portland cement concrete.

Alteration. Any substantial or significant change, rearrangement, addition to or diminution, whether horizontally or vertically, of the supporting or structural members of a building or other structure, such as bearing walls, columns, beams or girders, as well as any addition or reduction in the number, area or dimensions of doors or windows; any change which could convert an existing building or structure into a different structure or adapt it to a different use; or the moving of a building or structure from one location to another.

Animal Hospital. A building in which domestic animals such as dogs, cats, rabbits, and birds or fowl receive medical or surgical treatment by a veterinarian and in which any housing or boarding of animals is limited to short-term care incidental to the hospital use.

Annexation. A subdivision in which (1) a portion of a parcel is conveyed and merged with an adjacent parcel and (2) the resultant parcels conform to the area and bulk requirements of the applicable district in which they are located.

Applicant. A landowner(s), developer(s) or authorized agent who has filed an application

under this Ordinance, including his/her heirs, successors and assigns.

Architecture. The art/science of building design and construction; a method or style of building; the product of construction; the recognizable features for any kind of structure; the materials and methods used to produce a structure. Architecture signifies a standing cultural resource, either in whole or in part, used at one time for dwelling, storage, industry, recreation, religious use or any other activity related to reasonable human functioning.

Architect. An individual registered in the Commonwealth of Pennsylvania in the profession of architecture.

Archaeology. The science of investigation and study of the past by examination of artifacts/remains of human activity; the examination of non-renewable cultural resources deposited in the earth by human or animal-related activity over time for the purpose of defining or affirming human activities and behavior.

Archaeologist. An individual with a degree from a recognized college or university in the science of archaeology.

Attached Garden Lot Development. See Single-Family Garden Lot Development.

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

Automotive/Mechanical Repair Shop. A structure, building or area of land or any portion thereof that is used principally for mechanical or body repair of motor vehicles, and which may or may not be used for the sale of motor fuel, lubricants, parts and accessories.

Base Density. The number of dwelling units per acre or in the case of non-residential uses, the maximum floor area or building/lot coverage that may be achieved when a property is developed in accordance with the applicable zoning district requirements without the use of Transferable Development Rights or other design options.

Base District. A zoning district designated by this Ordinance and whose boundaries are depicted on the Township Zoning Map.

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

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

Basement. Any area of a building having its floor below ground level on all sides.

Bed and Breakfast. An accessory use to a single family dwelling unit in which all or a portion of the dwelling unit is rented on a short-term basis, including peer-to-peer home or room rental services. Bed and Breakfast rentals shall be classified as either: a) Host Rentals: where the owner of the property remains on-site during the entirety of the rental period; or b) Non-Host Rentals: where the owner of the property does not remain on-site during the entirety of the rental period. Residential leases greater than six (6) months in duration shall not be subject to the provisions associated with Bed and Breakfast uses.

Berm. An earthen mound designed to create a visual and sound barrier between a use and adjoining properties, streets, and adjacent uses.

Board. The Board of Supervisors of West Vincent Township.

Boarding House. A dwelling in which three (3) or more, but not more than fifteen (15) rooms are rented, housed, or lodged for compensation with or without meals. A rooming house, tourist home, or lodging house shall be deemed a boarding house.

Boarding Unit. An inhabited space within a boarding house designed for the use and enjoyment of a boarder(s) which does not qualify as a self-contained dwelling unit under this Ordinance.

Buffer. An area to be used as means of limiting the effects created by a use on adjoining properties, streets and uses, including but not limited to screening, fencing and use of berms.

Buffer, Riparian (a.k.a. Stream Buffer, Vegetated Stream Buffer). Land areas immediately adjacent to streams or ponds, and typically include floodplains, alluvial soils and stream-related wetlands. Riparian buffers can provide many environmental benefits (including, but not limited to, functioning as silt and chemical buffers for associated streams).

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

Building Area. The aggregate of the maximum horizontal cross-section areas of all buildings on a lot, excluding cornices, eaves, and gutters projecting not more than eighteen (18) inches.

Building Coverage. The ratio of the total building area on a lot to the lot area, expressed as a percentage.

Building Footprint. The total enclosed area in the horizontal plane or floor of a building at grade or ground level. See also Floor Area, Ground.

Building Height. The vertical distance measured from the average finished grade at all foundation corners of a building or structure, or at not less than ten (10) equidistant points in the case of a circular structure, to a point midway between the highest and lowest points of the roof, excluding chimneys, antennas, spires, towers, stair or elevator bulkheads, silos, tanks, renewable or alternative energy system components, and other similar projections.

Building Inspector. An agent of the Board of Supervisors, charged with the administration and enforcement of the Township Building Code.

Building Permit. A statement issued and signed by the Building Inspector authorizing the erection, construction, alteration or enlargement of a building or structure. The statement should indicate that the proposed activity complies with the applicable Township codes and Ordinances.

Building Setback Line. A line established within a lot, measured from the ultimate or future street right-of-way and parallel thereto, defining the distance in which no building may be constructed. In the case of an interior lot not fronting a street for its entire width, the building setback line shall be a line parallel to and measured from the property line nearest the street, defining the minimum distance in which no building may be constructed.

Bulk. A term used to describe the size of buildings and other structures and their relationship to each other, to open areas within a lot such as yards and to lot lines, and includes: the size, height and floor area of a building or structure; the relationship of the number of dwelling units in a residential building to the area of the lot (density); and all open areas or yard space relating to buildings and other structures.

Caliper. The diameter of a tree trunk measured six (6) inches above ground level for a tree measuring up to and including four (4) inches in diameter and twelve (12) inches above ground level for a tree measuring over four (4) inches in diameter.

Campground. A tract of land under single and separate ownership upon which two or more campsites are located, established, or maintained for occupancy by tents or other individual camping unit of the general public as temporary living quarters for recreation or vacation purposes.

Campsite. A plot of ground within a campground intended for the accommodation of either a tent or other individual camping unit, excluding recreational vehicles, on a temporary basis.

Carriage House. An accessory residential building, previously or currently used for the storage of vehicles.

Cartway. The portion of a street or alley right-of-way, paved or unpaved, intended for vehicular use, including travel lanes, but not including shoulders, curbing and drainage facilities.

Cellar. That portion of a building which is partly or completely below grade and having more than one-half (1/2) of its height below the average level of the adjoining ground. A cellar shall not be considered a story in determining the permissible number of stories.

Cemetery. Land used or intended to be used for the burial of the deceased, including crematories, mausoleums and mortuaries when operated in conjunction with a cemetery and within its boundaries.

Center for Local Government Services. The Governor's Center for Local Government Services located within the Department of Community and Economic Development.

Certificate of Occupancy. A statement signed, issued, and administered by the Building Inspector upon completion of construction of a new building or upon change or conversion of a structure or use of a building, which establishes that a building complies with all requirements and regulations as provided in this Ordinance and other applicable codes, and that the same may be occupied for the intended use.

Church. A building utilized for public divine worship. The term church shall also include temple, synagogue, or mosque.

Clear-Cutting. Any intentional act to cut down, remove all or virtually all of a group or stand of trees.

Clear Sight Distance. An area of unobstructed vision at street intersections or access points defined by lines of sight between points at given distance from the intersection of street center lines.

Club. An organization established for social or fraternal purposes whose buildings, facilities and services are for the use of members and their guests only including service organizations and lodges.

Cluster Development. A development design which allows the minimum lot area and yard requirements to be reduced so that buildings and lots can be grouped together in a more efficient and environmentally sensitive configuration, provided that the remaining area is set aside and preserved as greenway land.

Commercial Use. A use of land or improvements thereto for the purpose of engaging in retail, wholesale, or service activities for profit.

Common Facilities. Services or utilities such as, but not limited to, water and sewer service within a development site designed, constructed, and maintained primarily for the use of residents of the development.

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

Communications Equipment Building. An unmanned building or structure containing communications equipment required for the operation of communications antennas.

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

Community Supported Agriculture (CSA) - A partnership of mutual commitment between a farm and a community of supporters that provides a direct link between the production and consumption of food. Members generally purchase a share of the season's harvest. Members may participate in harvesting, or they may be limited to regularly scheduled pick-ups at the farm.

Completely Dry Space: A space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

Comprehensive Plan. The Comprehensive Plan of West Vincent Township, as adopted and amended from time to time, which shall be deemed to include the Township Sustainability Plan of 2012, as amended from time to time, and the Regional Comprehensive Plan.

Conditional Use. A use which is not generally appropriate or allowed by right in a particular zoning district as a whole, but which may be suitable in certain localities within the district only when specific conditions and factors prescribed for such cases within this Ordinance are present. Conditional uses are allowed or denied by the Board of Supervisors after a public hearing and review and recommendations by the Planning Commission.

Condominium. Real estate, portions of which are designated for separate ownership and the remainder of which may be designated for common ownership solely by the owners of those separate portions, in accordance with the Pennsylvania Uniform Condominium Act 1980-82, as amended.

Conservancy Lot or Conservation Lot. A large, privately-owned lot comprised partially of greenway land and restricted from further subdivision and development under Article XIX and subject to the provisions in Section 1903 C.4. The purpose of the conservancy lot is to provide surrounding residents with visual access to greenway land, while keeping the land under private ownership and maintenance. Only a small portion of such lots may be developed; the remainder must be protected through conservation easements and used in conformance with the standards set forth in this Ordinance. Public access to conservancy lots is not required.

Conservation Area Map. A map adopted as part of the Township Comprehensive Plan and/or Township Zoning Ordinance depicting Primary and Secondary Conservation Areas for the purposes of creating an interconnected system of greenway land and recreation areas.

Conservation Area, Primary. Environmentally constrained lands comprising floodplains, submerged lands, wetlands, and prohibitive steep slopes (above 25%).

Conservation Area, Secondary. Features, such as precautionary slopes (15-25%),

seasonal high water table soils, woodlands, visual resources, and other features as depicted on the Township Conservation Area Map, which do not create severe limitations for development but which designation as greenway areas, along with the preservation of primary conservation areas, is desirable for purposes of providing an interconnected system of greenway land and recreation.

Consistency. An agreement or correspondence between matters being compared which denotes a reasonable, rational, similar connection or relationship.

Consistency, General or Consistent, Generally. That which exhibits consistency.

Continuum of Care. The provision of independent adult living, assisted living, skilled nursing and dementia care pursuant to a lifetime contract with the single owner or agent for the single owner of a life care community, having full responsibility for and control over all facets of the housing, assisted living and nursing operations. The ratio of independent adult living unit, assisted living unit and skilled nursing care beds in a life care community shall be in accordance with industry standards and/or general practices and shall be planned with the objective of complying with the contractual obligations of the single owner or agent for the single owner to the residents of the life care community.

Construction. The building, rebuilding, assembly, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of mobile homes.

Contributing Building, Structure, Site or Object. A building, structure, site or object within a National Register historic district that reflects the cultural, historical or architectural character of the district as defined by the National Register nomination.

Convenience Commercial Use. A retail activity designed to serve a local market such as the residents of a neighborhood or planned development, including delicatessens, newsstands and small food markets.

Conventional Development Design. A form of subdivision or development design in which the total tract is "lotted out" or fully divided among individual building lots without the use of lot averaging or clustering with greenway land.

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

County Comprehensive Plan. A land use and growth management plan prepared by the Chester County Planning Commission and adopted by the Chester County Commissioners which establishes broad goals and criteria for municipalities to use in preparation of their comprehensive plans and land use regulations.

Cultural Landscape. The minimum essential setting or context in which an identified historic resource retains its historic integrity, including both natural (trees, streams, slopes, etc.) and man-made features (bridges, outbuildings such as springhouses, barns, stables, cemetery markers,

etc.) in an unimpaired state, allowing a better understanding of the materials and culture of the past.

Cultural Resource. A site or collection of sites, building or collection of buildings, with such a combination of historical, architectural, natural and scenic attributes as to create an irreplaceable, unique entity that serves as an element in defining the overall community character.

Customary Agricultural Accessory Uses – Accessory uses that are incidental and subordinate to an Passive Agricultural Operations, including, but not limited to farm product sales, processing of dairy and meat products, breeding and raising of certain animals, alternative energy generation for on-site consumption, and the storage and use of farm implements, barns, sheds, corrals, windmills and watering and feed troughs.

Customary Residential Accessory Uses – Accessory uses that are incidental and subordinate to residential uses, including, but not limited to Low Intensity Recreation, storage and animal care, which may utilize structures such as swimming pools, tennis courts, garages, sheds and horse barns.

Cut-Off Fixture. A lighting fixture that provides a cut-off (shielding) of the emitted light.

Day Care Center, Child. The premises in which care is provided at any one time for seven (7) or more children unrelated to the operator and where tuition, fees, or other forms of compensation for the care of the children is charged, and which is licensed or approved by the state to operate as a child day care center.

Day Care Facility, Family. A single-family detached dwelling in which care is provided as a home occupation to a maximum of six (6) children unrelated to the owner and where tuition, fees, or other forms of compensation for the care of the children is charged, and which is licensed or approved by the state to operate as a family day care facility.

DBH (Diameter at Breast Height). Tree trunk diameter measured in inches at a height of four and one-half (4.5) feet above the ground. If a tree divides or splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split.

Deed of Transfer of Development Rights. A legal instrument which records the conveyance of Transferable Development Rights from a tract of land in a designated sending zone.

Demolition by Neglect. The failure to provide ordinary and necessary maintenance and repair to a building, structure or object classified as a historic resource, whether by ordinary negligence or willful neglect, purpose or design, by the owner or any party in possession thereof, which results in any of the following conditions:

- A. the deterioration of exterior features so as to create or permit a hazardous or unsafe condition to exist; or
- B. the deterioration of exterior walls, roofs, chimneys, windows, the lack of adequate waterproofing, or deterioration of interior features or foundations which will or

could result in permanent damage or loss of exterior features.

Demolition/Demolish. The razing or destruction, whether entirely or in significant part, of a building, structure, site or object. Demolition includes the removal of a building, structure or object from its site.

Density, Gross. The number of dwelling units per acre, calculated by dividing the total number of dwelling units by the total acreage of the tract, expressed in dwelling units per acre. Unless otherwise stated, maximum density shall be construed as gross density.

Density, Gross Residential. The number of dwelling units per acre in a Planned Residential Development, computed by dividing the number of dwelling units proposed by the number of acres in the development exclusive of areas to be devoted to commercial use.

Density, Net. The number of dwelling units per acre, calculated by dividing the total number of dwelling units for a given dwelling type by the number of developed acres so developed, inclusive of yard areas and parking spaces, but exclusive of greenway lands, interior streets, rights-of-way, and easements outside of yard area.

Developer. Any landowner, agent of such landowner or tenant with the written permission from a landowner, who makes or causes to be made an application for approval of a subdivision and/or land development.

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

Development Capacity, Maximum. The maximum density, measured in dwelling units per acre (du/ac) or maximum building/ lot coverage, of a tract of land in a designated receiving zone if developed to the extent allowed under its base density plus any allowable additional density permitted through the use of transferable development rights or other density bonuses. The difference between maximum development capacity and the base density represents the transfer capacity that the tract is permitted to accommodate using transferable development rights.

Development Plan. A proposal for the development of a Planned Residential Development, prepared in accordance with this Ordinance, including a plat of subdivision, location of various uses, all covenants relating to use, location and bulk of building and other structures, intensity of use or density of development, streets, ways and parking facilities, greenway land and public facilities. The phrase provisions of the development plan when used in this Article shall mean both the verbal and graphic materials referred to in this subdivision.

Development Rights. The right to construct a specified amount of development according to the West Vincent Township Zoning Ordinance.

Development Rights, Transferable (TDR). The attaching of development rights to specified lands which are desired by West Vincent Township to be kept undeveloped, but permitting those rights to be transferred from those lands so that the development potential which they represent may occur on other lands where more intensive development is deemed to be appropriate.

Disability Glare. The human eye's line-of-sight contact with a direct light source which causes a partial and temporary blindness.

Dish Antenna. A parabolic reflector, together with its supporting members and attachments, used or intended to receive radio or electromagnetic waves from an orbiting satellite.

Driveway. A private access strip, graded and usually hard surfaced, intended for use as a means of vehicular or pedestrian access to an individual dwelling or other structure.

Driveway, Common. A private driveway serving two (2) or more lots or properties, the use and maintenance of which is shared among the property owners.

Dry Space, Completely. A space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

Dry Space, Essentially. A space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.

Dwelling or Dwelling Unit. A building or entirely self-contained portion thereof containing complete housekeeping, sleeping and lavatory facilities, for occupancy as a residence by only one family (including any domestic servants living or employed on the premises) with no enclosed space (other than vestibules, entrance or other hallways or porches) in common with any other dwelling unit. This definition excludes units in a motel, boarding house, school dormitory, hospital and the like. Dwelling units may be classified, but not limited to the following types:

- A. **Single Family Detached Dwelling.** A building designed for and occupied exclusively as a residence for one (1) family, having four (4) yards and no common party wall with an adjacent building or dwelling. Where a garage is structurally attached to such building, it shall be considered a part of the dwelling and not an accessory building.
- B. **Single Family, Semi-Detached Dwelling.** A building designed for and occupied exclusively as a residence for one (1) family, that shares one common party wall on a lot line with another dwelling, and each dwelling has yard area on three (3) sides.
- C. **Two Family Dwelling.** A building designed for and occupied exclusively as a residence for two (2) families on the same lot but living independently of each other, including a duplex (one dwelling unit above the other), or a twin (one dwelling unit beside the other).

- D. **Multiple Family Dwelling.** A building or portion thereof containing or designed to contain three (3) or more dwelling units with or without common access facilities. Such dwellings may be arranged in any configuration, such as including but not limited to townhouses (single-family attached), quadraplexes (fourplex), apartment buildings, and other similar building types.
1. **Townhouse.** A building containing dwelling units separated by party walls on opposite sides, and each of which has only one dwelling unit from ground to roof, independent outside access, not more than two walls in common with adjoining units and greenway land or yard areas to the front and rear (interior units) or front, rear and one side (end units). Each unit can be referred to as a single family attached unit, particularly when separately owned.
 2. **Quadraplex.** A building containing four (4) dwelling units, each unit of which has greenway land or yard area on two non-parallel sides. Also called a fourplex.
 3. **Apartment.** A building containing three or more dwelling units separated by party walls, and which may have more than one dwelling unit from ground to roof, common outside accesses and hallways.
 4. **Multiplex.** A building containing three (3) to five (5) attached dwelling units. In general, all units have independent outside access. Units may be arranged in a variety of configurations: side to side, back to back, or vertically. A multiplex should have the appearance of a large single family detached unit.
- E. **Village Dwelling.** A single family detached dwelling on a single and separate lot with yards on all sides of the unit. It differs from other forms of detached housing in the lot size and placement on the lot. It is similar to houses found grouped in historic villages and towns.

Earth Disturbance (also Land Disturbance). Activity which exposes the topsoil or subsoil to erosion, including, but not limited to, the removal of cover vegetation, earthmoving, excavation, mining, timber harvesting, grubbing, removal of topsoil and grading.

Easements. An interest in land owned by another that entitles the holder to a specific limited use or enjoyment.

Educational Use. Land and/or buildings specifically designed, arranged and intended for the primary purpose of instruction and learning, including preschools, elementary and secondary schools, whether private or public, including schools relating to religious organizations and vocational schools.

Enlargement. An increase in or addition to the floor area of an existing building, and increase in the size of a structure, or an increase in that portion of a lot occupied by an existing use.

Environmentally Constrained or Sensitive Lands. Those areas subtracted from the total area of a tract to produce the "Adjusted Tract Acreage". See "Tract Acreage, Adjusted".

Essential Services. Uses necessary for the preservation of the public health and safety including, but not limited to, the erection, construction, alteration or maintenance of, by public utilities or governmental agencies, underground or overhead transmission systems, poles, wires, pipes, cables, fire alarm boxes, hydrants, or other similar services, and the equipment and appurtenances necessary for such systems to furnish an adequate level of public service, excluding solid waste transfer stations, communications towers and communications antennas, as defined herein.

Essentially Dry Space. A space that will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.

Extension. An increase in the amount of floor area used for an existing use within an existing building.

Family. Any number of individuals related by blood, marriage, or adoption, including foster children under the care of foster parents and handicapped individuals in a group home, or not more than five (5) unrelated individuals, excluding domestic help housed on the premises, living together as a single non-profit housekeeping unit and doing their cooking on the premises, excluding occupants of a club, fraternity house, lodge, residential club, boarding or rooming house.

Family Day Care. See "Day Care, Family".

Farm Building or Structure. Any building or structure used for agricultural use including the storing of agricultural equipment or farm produce or products, the housing of livestock or poultry, or the processing of dairy products. The term farm building or structure shall not include dwelling, but shall include a barn, silo, and accessory storage shed.

Feedlot. A confined area that is larger than one (1) acre, allowing no access to pasture, for feeding livestock or poultry, for holding livestock or poultry, for holding livestock or poultry temporarily for shipment.

Fence. A structure consisting of natural and/or man-made materials designed to enclose a developed or undeveloped area, an outdoor activity or serving as a screen between uses.

Film or Video Shoot: The commercial filming of scenes, locales, and/or actors for use in a commercial film or video production.

Flood. A temporary inundation of normally dry land areas.

Flood Insurance Rate Map (FIRM). The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

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

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

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

~~**Floodway:** The designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the floodway shall be capable of accommodating a flood of the base magnitude.~~

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

Floor Area. The enclosed total area within all buildings or structures as measured from the exterior of the building and including the sum of all floors and levels.

Floor Area, Habitable. The total area of all floors within a dwelling which are contained within walls and actually used for habitation, exclusive of unfinished basements, open porches, garages, attics, and accessory buildings and structures.

Floor Area, Gross Leasable. The total area of all floors within a building contained within walls which is available and suitable for commercial or industrial use. This term shall be exclusive of the floor area included in party and outside walls, overhangs, loading docks, elevator shafts, common hallways, and maintenance facilities.

Floor Area, Ground. The total enclosed area in the horizontal plane or floor of a building at grade or ground level. See also Building Footprint.

Floor Area Ratio. A relationship between the floor area of a building to the lot area, measured by dividing the total floor area in square feet of all buildings on a lot by the total land area in square feet of the lot.

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

Freeboard. A margin of safety, expressed in feet, above the base flood elevation.

Full Cut-Off. 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 the 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, Private. An accessory building, attached or detached from the principal building, used for the storage of motor vehicles owned and used by the owner or tenant of the premises, or for the storage of not more than two (2) motor vehicles owned and used by persons other than the owner or tenant of the premises.

Garage, Automobile Repair. A building providing commercial storage, service or repair of motor vehicles to the general public. The term shall include auto body repair shops.

Garage, Storage. A building, other than a private or public garage, limited to one story in height, used solely for the storage of motor vehicles (other than trucks), but not for the service or repair thereof nor for the sale of fuel, accessories, or supplies.

Gasoline Service Station. A building and lot which is used for the sale and dispensing of gasoline and other motor fuels and may provide services incidental to the day-to-day maintenance of motor vehicles and the traveling public (such as retail food sales or convenience store) but shall not include auto body repair and painting service or automobile sales. Any use which dispenses gasoline solely for the use of its own vehicles will not be deemed a gasoline service station.

General Consistency or Generally Consistent. That which exhibits consistency.

Geothermal Heat Pumps. Any mechanical system or installation for air conditioning or heating which utilizes ground or well water as a coolant or heat booster.

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

Greenhouse, Private. An enclosed structure used for the growing, raising or keeping of flowers and other plants.

Greenhouse, Commercial. An enclosed structure used for the growing, raising and/or selling of flowers or other plants.

Greenway Land. That portion of a tract that is set aside for the protection of sensitive natural features, farmland, scenic views, and other unique features. Greenway land may be accessible to the public, or it may be contained in areas of conservancy lots which are not accessible to the public.

Group Home. As defined by the Federal Fair Housing Amendments of 1988, as amended, a licensed dwelling providing supervised non-transient lodging or residential services for handicapped individuals or for individuals with disabilities, except for those whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others, in which some or all of the occupants are unrelated.

High Water Table Soils/Areas. Those soils or areas having a water table within one and one-half (1.5) feet of the surface or less for 90 days or more consecutive days in the year.

Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Highway Access Point. The location or place of egress and ingress to a street or highway created by a driveway, alley or other street.

Historic Site Inventory. The list of historic resources located in the Township and any maps which show the location of these resources, and which is updated from time to time by the Township Historical Commission.

Historical Commission. The West Vincent Township Historical Commission, or the West Vincent Township Environmental Advisory Council if no Historical Commission is created; an advisory board designated by the Board of Supervisors to deal with matters pertaining to any of the identified cultural and historic resources located in the Township and to administer any historic preservation provisions of this Ordinance.

Historic Resource. A structure, object, district or site identified as having historic significance in the Township Historic Sites Survey, the Pennsylvania Historic Resources File and/or the National Register of Historic Places.

Home Occupation. An accessory use conducted in a dwelling by the occupant involving an activity for compensation per provisions of Section 2209.

Homeowners Association. A nonprofit, private organization composed of property owners within a cluster development or planned residential development, operating under State guidelines for the purpose of administering to the needs of residents the maintenance of commonly-owned property and improvements.

Horizontal Illuminance. The measurement of brightness from a light source, usually measured in footcandles or lumens and which is taken through a light meter's sensor at a horizontal

position.

Hospital. An accredited general medical facility or institution within which the diagnosis, treatment and care of human ailments is performed primarily on an inpatient basis.

Hotel/Inn. A building arranged or used for temporary public lodging accommodations for compensation by tourists and transient guests.

Hub Height. The distance measured from the surface of the wind turbine tower foundation to the height of the Wind Turbine hub, to which the blade is attached.

Hydric Soils. Soils that are characterized by the presence of water and are therefore indicators of wetlands, as determined by the Soil Conservation Service, U.S. Department of Agriculture.

Identified Floodplain Area. The floodplain area specifically identified in this Ordinance as being inundated by the base flood.

Illuminance. Quantity of light measured in footcandles.

Impervious Cover. Any material impenetrable by precipitation and/or incapable of supporting vegetation, including, but not limited to, buildings, structures, stone and/or gravel driveways (except to the extent that such are excludible from the calculation of impervious coverage pursuant to other provisions of this Ordinance) and parking areas, swimming pools, cement lined ponds and paved areas. “Impervious coverage” is additionally referred to herein as “Ground Cover.”

Industrial Park. A grouping of three (3) or more industrial establishments developed according to a unified plan, and sharing common utilities and streets.

Institutional Use. A non-profit or public establishment involving building and grounds, including but not limited to schools, museums, places of worship, convents, retreats, nursing homes, school dormitories.

Junk Yard. An area of land with or without buildings used for storage outside of used and discarded materials including, but not limited to, waste paper, rags, metal, building materials, house furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The deposit or storage on a lot of two or more unlicensed, uninspected, wrecked or disabled vehicles, excluding usual farm equipment, or the major part thereof, is a junk yard. The storage of toxic wastes, radioactive materials, poisons, and other substances which are potentially harmful to man are excluded from this definition.

Kennel. The use of land, building, enclosed area, and/or structure having more than four (4) animals and/or an establishment under the Pennsylvania Dog Law operated for the purpose of trading, breeding, boarding, training or grooming customary household pets for compensation.

Laboratory. A building or group of buildings within which the principal uses are the facilities for scientific research, investigation, testing, and experimentation, but not including the manufacture of products for sale.

Land Development. Any of the following activities:

1. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - (i) a group of two (2) 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 tenants; or
 - (ii) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
2. A subdivision of land.
3. Certain land development shall be excluded from the definition of land development only when such land development involves:
 - a. the conversion of an existing single-family detached dwelling or single family semi-detached dwelling into not more than three (3) residential units, unless such units are intended to be a condominium; or
 - b. the addition of an accessory building, including accessory farm, residential and non-residential buildings, on a lot containing and subordinate to an existing principal building.

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 the land.

Landscaping. The planting of turf, trees, shrubs, and other appropriate vegetative materials and ground cover within the open areas of a lot other than for agricultural purposes, and including the maintenance and replacement thereof, for the purposes of erosion control, retention of precipitation, protection against the elements, promotion of human comfort and welfare.

Life Care Community. A planned development designed for the aged and/or infirm providing a continuum of care and services and consisting of dwelling units, community center, health and nursing center, personal service shops, Low Intensity and Medium Intensity Recreation areas and greenway land.

Light Trespass. Light emitted by a lighting fixture or installation, which is cast beyond the boundaries of the property on which the lighting installation is sited.

Lighting.

- A. **Diffused:** That form of lighting wherein the light passes from the source through a translucent cover or shade.
- B. **Direct or Flood:** That form of lighting wherein the source is visible and the light is distributed directly from it to the object to be illuminated.
- C. **Indirect:** That form of lighting wherein the light source is entirely hidden, the light being projected to a suitable reflector from which it is reflected to the object to be illuminated.

Loading Space. A portion of a building or land area within a lot accessible from a street or alley, for the temporary use of vehicles while delivering or receiving merchandise or materials.

Lot. A) 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; or B) A tract or parcel of land, regardless of size, held in single or joint ownership, not necessarily a lot or lots shown on a duly recorded plan, which is occupied or capable of being occupied by buildings, structures and accessory buildings, including such greenway lands as are arranged, designed, or required, which is intended for transfer of ownership, use, lease or improvements or for development, regardless of how it is conveyed. The term "lot" shall also mean parcel, plot, site or tract or any similar term.

Lot Area, Gross. The total area of land contained within the legal limits of the property lines of a lot, exclusive of any land area within a street right-of-way.

Lot Area/Size, Net. The acreage contained within the property lines of a lot, excluding the following areas:

- A. Any area within an existing street right-of-way;
- B. Any area comprising stormwater management basins, lakes, ponds, and/or on-lot berms;
- C. Any area overlain by the Flood Plain Conservation District as defined in Article XVI of this Ordinance;
- D. Areas of slope in excess of twenty-five percent (25%) as defined in Article XVII of this Ordinance;
- E. Wetlands as defined in Section 202 of this Ordinance;
- F. Any area comprising rights-of-way or easements for gas, oil, natural gas, electric or

communications transmission facilities, whether below or above ground, that do not serve the lot or lots traversed;

Where two or more of these conditions overlap, the single most stringent reduction factor shall apply in the calculation of net lot or tract area/size.

Lot Averaging. A development design option which allows some lots within a development to be larger or smaller than is otherwise required by a zoning district, provided the average lot size is equal to or greater than the requirements of the district and that no greenway land is created unless required by the Township Subdivision and Land Development Ordinance.

Lot, Corner. A lot bounded on at least two sides by streets, whenever the lines of such streets extended form an interior angle of one hundred thirty-five (135) degrees or less. All yards abutting streets shall be considered front yards, the remaining yards shall be treated as side yards except when uses otherwise allowed by right under this Ordinance are unreasonably excluded by the designation of more than one front yard. If there is a need to select one yard as a front yard, the Board of Supervisors shall select the front yard and that selection shall be binding.

Lot Coverage. The percentage of lot area covered by any and all impervious surfaces.

Lot Frontage. The lot dimension measured along the street line of any street abutting a lot.

Lot, Interior. Any lot which only has access to a street either by an easement or right-of-way and may be characterized as "landlocked"; or any lot which has limited frontage on a street through an accessway serving solely for access to interior lands ("flag-shaped").

Lot Line. A property boundary line of any lot held in single and separate ownership, except that, in the case of any lot abutting a street, the lot line for such portion of the lot as abuts such street shall be deemed to be the same as the street line, and shall not be the center-line of the street or any other line within the street line even though such may be the property boundary line or legal description of the lot.

Lot Line Change. A subdivision in which no increase in the number of lots is proposed or an annexation, as long as each lot is a conforming lot.

Lot Line, Front. The line separating the lot from the street line. In the case of an interior or "flag" lot, the front lot line shall be based on the lot line through which the driveway penetrates.

Lot Line, Rear. Any line, except the front lot line, which is parallel to, or within forty-five (45) degrees of being parallel to, and does not intersect, any street line.

Lot Line, Side. Any lot line which is not a front lot line or rear lot line.

Lot, Reverse Frontage. A lot extending between and having frontage on two generally parallel streets with vehicular access limited to one street. Access shall be from a local rather than a collector or arterial street, as defined in the Comprehensive Plan. In the case of a reverse frontage

lot, the front yard, as defined by this Ordinance for the purpose of prohibiting or regulating the location of accessory buildings and structures, shall be determined by the front door of the dwelling. If there is a dispute over which yard is the front yard, the Board of Supervisors shall determine the front yard and its decision shall be binding. Any accessory buildings or structures located in the remaining front yard shall be located based on the front yard setback of the applicable zoning district.

Lot Width. The horizontal distance between side lot lines at the building setback line and measured parallel to the street line. Where the street line is curved or angled, the lot width shall be measured as a straight line.

Lot Width, Average. The average horizontal distance between side lot lines measured at the building setback line and the rear lot line.

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

Lumbervard. The principal use of land and structures involving the loading and unloading, storage and sales of lumber and millwork materials.

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

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

Manufactured Home Lots or Site. A parcel of land in a manufactured home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single manufactured home, which is leased by the park owner to the occupants of the manufactured home erected on the lot.

Manufactured Home Pad. A concrete pad at least six (6) inches in thickness with at least six (6) tie-down rings to which the manufactured home shall be secured, and equal in length and width to the dimensions of the manufactured home to be placed thereon.

Manufactured Home Park or Subdivision. ~~a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. A parcel of land under single ownership, which has been planned and improved for the placement of two or more residential manufactured homes for non-transient use.~~

Master Development Plan. A plan or plans accompanied by written materials where such are necessary to describe, in graphic form and narrative form, the information required in a Master Development Plan conditional use application under Article XVIII A of this Ordinance.

Medical Center/Clinic or Facility. The use of land and/or a building for all of the following: examination, diagnosis, and treatment of ill or afflicted human outpatients by any of the following: physicians, dentists, and their supervised assistants.

Minerals. Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas.

Mini-Storage/Self-Storage Warehouse. A structure containing separate storage spaces of equal or varying sizes leased or rented on an individual basis.

Mixed Use. The utilization of a building or a lot for two (2) or more principal uses.

Mobile Home. See Manufactured Home.

Mobile Home Lots or Site. See Manufactured Home Lots or Site.

Mobile Home Pad. See Manufactured Home Pad.

Mobile Home Park. See Manufactured Home Park.

Motel. A building or group of buildings containing individual rooms or lodging accommodations for transients, each of which is provided with a separate exterior entrance and parking space, and offered principally for sleeping accommodations on a rental basis for automobile travelers.

Motor Home. A self-propelled vehicular structure designed to be used as a temporary dwelling for travel, recreational, or vacation uses.

Multimunicipal Planning Agency. A planning agency composed of representatives of more than one municipality and constituted as a joint municipal planning commission in accordance with Article XI of the Pennsylvania Municipalities Planning Code, or otherwise by resolution of the participating municipalities, to address, on behalf of the participating municipalities, multimunicipal issues, including, but not limited to, agricultural and greenway land preservation, natural and historic resources, transportation, housing and economic development.

Municipalities Planning Code ("MPC"). The Pennsylvania Municipalities Planning Code, Act No. 247 of 1968, reenacted and amended by Act No. 170 of 1988, as amended by Act 170 of 1988 and as it may be subsequently amended, 53 P.S. Sections 10101-11202.

Municipal Use. An activity carried out and maintained by the Township of West Vincent.

Museum. An institution devoted to procurement, care, study, display and exhibition of objects of lasting interest or value.

National Register Historic District. An area which has been designated as a National Register Historic District pursuant to the requirements of the National Park Service (e.g. - Birchrunville).

National Register Site. An individual site, building or structure which has been included in the National Register of Historic Places pursuant to the requirements of the National Park Service.

~~—— **New Construction.** Structures for which the start of construction commenced on or after September 31⁹, 1987⁵ and includes any subsequent improvements thereto.~~

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

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

- (8) The business may not involve any illegal activity.

Nonconforming Building/Structure. A structure or building, or part thereof, which does not conform to the applicable provisions or regulations of the zoning district in which it is located, where such structure or building lawfully existed prior to the enactment of this Ordinance or subsequent amendment thereto. Nonconforming structures shall include, but are not limited to, nonconforming buildings and signs.

Nonconforming Lot. A lot held in single and separate ownership which does not conform to one or more of the applicable area or bulk requirements of the zoning district in which it is located, where such lot lawfully existed prior to the enactment of this Ordinance or subsequent amendment thereto.

Nonconforming Use. A use, whether of land or of a structure, which does not comply with the applicable use provisions of the zoning district in which it is located, where such use was lawfully in existence prior to the enactment of this Ordinance or subsequent amendment.

Non-Participating Landowner. In the context of an application for a Wind Energy Facility, any landowner except those on whose property all or a portion of a Wind Energy Facility is located pursuant to an agreement with the Wind Energy Facility Owner or Operator.

Nursery.

- A. **Private Non-Commercial.** Land and any associated accessory buildings or structures used to raise flowers, shrubs, plants, or trees as a use accessory and incidental to a single family detached dwelling on the same lot.
- B. **Commercial Retail.** Land and related accessory buildings or structures used to raise flowers, shrubs, plants, or trees primarily for retail sale to the general public.
- C. **Wholesale.** Land and related accessory buildings or structures used to raise flowers, shrubs, plants, or trees primarily in large quantities or in bulk to retailers or contractors, rather than to consumers directly. Any retail sales to the general public shall be accessory and incidental to the wholesale operation.

Nursing Home, Skilled. A facility operated for the purposes of providing housing and nursing care to the invalid, infirmed, disabled or convalescent persons for compensation, provided such facility has obtained proper governmental licensure. The term “convalescent center” and “long term care facility” are included in this definition.

Object. A material thing of functional, aesthetic, cultural, historic or scientific value that may be, by nature or design, movable yet related to a specific culture, setting or environment (e.g. - Native American artifacts).

Obstruction. Any wall, dam, wharf, embankment, levee, dike, pile abutment, projection,

excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse or floodprone area, which may impede, retard, or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water or is placed where the flow of the water might carry the same downstream to the damage of life and property.

Off-Street Parking. A parking space or facility for motor vehicles located outside any street right-of-way.

~~———— **Base Flood.** A flood that, on the average, is likely to occur once every bases (i.e., that has one (1) percent chance of occurring each year, although the flood may occur in any year).~~

Outdoor Storage. The collection of man-made materials unprotected from the elements.

Parking Lot. An off-street, surfaced area designed solely for the parking of motor vehicles, including passageways and maneuvering space.

Parking Space. A reasonably level area outside a street right-of-way, available for the parking of one motor vehicle and consisting of an all-weather surface, either covered garage space or uncovered parking lot space, and which has access from a street, alley or driveway.

Party Wall. A common vertical or horizontal wall that separates two (2) buildings, structures, or dwelling units.

PennDOT. For the purpose of this Ordinance, the Pennsylvania Department of Transportation.

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

Phase. A separate or individual area or tract which is part of an overall development and which is to be developed according to a timetable for development over a period of time.

Place of Worship. A nonprofit use of land or a building or buildings as a place of worship, convent, monastery or similar religious institution, including rectory and parish houses for an organization solely or primarily used as a religious institution when located on the same premise.

Planned Office Park. A tract of land designed and developed from a single, unified plan involving the layout of lots, buildings and improvements together with a landscaping and greenway land plan in order to achieve a campus theme and efficient use of shared utilities and roads.

Planned Residential Development. An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, the development plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage and required greenway land to the regulations established in any one residential district created, from time to time, under

the provisions of the municipal zoning ordinance.

Planned Shopping Center. A tract of land held in single and separate ownership designed and developed from a single, unified plan for a combination of two (2) or more commercial uses.

Planning Commission. The Planning Commission of West Vincent Township.

Plat. The map or plan of a subdivision or land development, whether preliminary or final.

Plat, Recorded. The final plat, or engineering layout of streets and lots, easements, greenway lands and public grounds, which has been duly approved by all necessary officials and bodies, and recorded in the Office of the Recorder of Deeds of Chester County, Pennsylvania.

Pond. A natural or artificial body of water which retains water year-round. Artificial ponds may be created by dams or berms or may result from excavation. The shoreline of such water bodies shall be measured from the maximum condition rather than from the permanent pool if there is any difference. This definition shall not include swimming pools, garden ponds, spray irrigation treatment or storage lagoons, or industrial waste lagoons.

Porch. A roofed open area, which may be glazed or screened, attached to or part of and with direct access to or from a building. A porch is a room where the space enclosed may be heated or air conditioned and, if glazed, where the percentage of window area to wall area is less than fifty percent (50%).

Preservation or Protection. When used in connection with natural and historic resources, shall include means to conserve and safeguard these resources from wasteful or destructive use, but shall not be interpreted to authorize the unreasonable restriction of forestry, mining or other lawful uses of natural resources

Primary Conservation Area. See "Conservation Area, Primary".

Prime Agricultural Activities. Land used for agricultural purposes regardless of soil classification.

Prime Agricultural Land. Land used for agricultural purposes that contains soils of the first, second, or third class as defined by the United States Department of Agriculture Natural Resource and Conservation Services County Soil Survey.

Principal Building. A building in which is conducted the main and primary use of the lot on which it is located. With respect to single family residential uses and buildings (except those in conjunction with agricultural operations), there shall be no more than one (1) principal building per lot.

Principal Dwelling or Use. The single dominant or main use or dwelling on a lot.

Public Grounds/Facilities. Includes parks, playgrounds and other public areas, and the

sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities.

Public Notice. Notice published once a week for two successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

Public Utility Corporation. A corporation registered and regulated by the Pennsylvania Public Utility Commission.

Public Utility Operating Facilities. Buildings, structures, and facilities, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves, and all buildings and structures relating to the furnishing of utility services, such as electric, gas, telephone, water, sewer, and public transit, to the public.

Public Utility Transmission Tower. A structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines.

Receiving Zone. A zoning district in which concentrated development has been planned, where Transferable Development Rights may be applied and added to the base density.

Recreation, High Intensity. Indoor or outdoor leisure time facilities or uses that are commercial and more intense than Medium Intensity Recreational use due to their attributes pertaining to; the charging of membership and/or admission fees; the presence of a high number of participants and parking spaces; and a level of use or land disturbance of 50% or greater of the tract. Examples of high intensity outdoor recreation use include: go-cart tracks; motocross tracks; water slide parks; and amusement parks.

Recreation, Low Intensity. Indoor or outdoor leisure time facilities or uses of a noncommercial nature for walking, hiking, fishing, bird watching, nature study, and picnicking. Such uses shall be carried out with little disruption to the area in which they occur.

Recreation, Medium Intensity. Indoor or outdoor leisure time facilities or uses for active use by the public on a limited basis, utilizing no greater than 5% impervious cover of a tract, including for soccer, baseball, softball, football, rugby, tennis, swimming clubs, child playground facilities, as well as golf courses and driving ranges.

Recreation Facility, Commercial. A building or parcel of land designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, and which is operated as a business and open to the public for a fee.

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

temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational Vehicle Campground. A parcel or tract of land under single and separate ownership upon which two (2) or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

Recreational Vehicle Site. A plot of ground within a recreational vehicle park intended for the accommodation of either a recreational vehicle, tent, or other individual camping unit on a temporary basis.

Reduced Yard. A development design option which allows flexibility in required side and/or rear yard setback to create larger contiguous yard area, provided special criteria are met.

Regional Comprehensive Plan. The Phoenixville Regional Comprehensive Plan of 2008, as may be amended from time to time.

Regional Planning Agency. A planning agency that is composed of representatives of more than one county. Regional planning responsibilities shall include providing technical assistance to counties and municipalities, mediating conflicts across county lines and reviewing county comprehensive plans for consistency with one another.

Regional Planning Committee. A Planning Commission composed of representatives of multiple municipalities bound by an intermunicipality planning agreement that reviews member municipality zoning amendments and land development applications of regional significance for consistency with the Regional Comprehensive Plan.

Regulatory Flood Elevation. The base flood elevation plus a freeboard safety factor of one and one-half (1 1/2) feet.

Religious Use. A nonprofit use of land or a building or buildings as a place of worship, convent, monastery or similar institution.

Renewable or Alternative Energy Source. Any method, process or substance whose supply is rejuvenated through natural processes and, subject to those natural processes, remains relatively constant, including, but not limited to, biomass conversion, geothermal energy, solar and wind energy, hydroelectric energy, and excluding those sources of energy used in the fission and fusion processes.

Repair Garage Facility. A building and lot which is used for the repair of motor vehicles, whether mechanical or body-oriented, above and beyond customary services provided by a gasoline service station.

Repetitive Loss: Flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure.

Residential Conversion. The change in density and dwelling type of an existing residence, resulting in the creation of party walls and independent cooking, lavatory and sleeping facilities.

Restaurant. A building used for the purpose of furnishing or serving food and beverages for consumption to the public and which contains inside seating facilities.

Restaurant, Fast Food. An eating establishment where customers place their orders at a service area located indoors, but separate from seating facilities, and where food is served either at said seating facilities or is taken out for consumption off the premises.

Restaurant, Fast Food with Drive-In Service. As defined above, an eating establishment, but which also provides service to customers who remain seated in automobiles where customers are served either through an exterior window in the establishment or directly to parked automobiles on the premises.

Restrictive Covenant Agreement. A legal instrument which simultaneously places restrictions on future development on a specified tract of land in a designated Transferable Development Rights sending zone.

Retail Establishment. A commercial use comprising the sale of commodities and/or services directly to the general public, with limited wholesale activities only as an accessory and incidental use.

Retirement or Active Adult Community. A development of individual or multiple dwellings that may include a community center and is designed for adult individuals and/or couples who do not have resident dependent children younger than eighteen (18) years old. The residents thereof need not be actually retired from their occupation or employment.

Ridgeline. The line of intersection at the top of opposite slopes or sides of increasing contour lines or the boundary between watershed drainage areas, as the same are depicted on the Visual Resources Map of the Township Greenway land and Recreation Plan .

Right-of-Way. Land set aside for use as a street, other means of travel or for use by a utility.

- A. **Existing Right-of-Way.** The legal right-of-way, as established by the Township or Commonwealth of Pennsylvania or other appropriate governing authority, and currently in existence.
- B. **Ultimate or Future Right-of-Way.** The right-of-way deemed necessary by the Township or by other governmental agencies with jurisdiction within the Township to provide adequate width for future street or utility improvements.

Sanitary Landfill. A lot or portion of a lot used for the deposit and storage of refuse and in which all exposed refuse is covered by earth every day. A sanitary landfill shall be operated in

accordance with standards established by and shall be subject to inspection by the Pennsylvania Department of Environmental Protection.

Screening. The use of plant or landscaping materials, fencing, walls and/or earthen berms to aid in the concealment of such features as parking areas and vehicles within them, and to provide privacy between land uses which abut one another.

Seasonal High Water Table Areas. Areas having a water table within one and one-half (1.5) feet of the surface or less for ninety (90) or more consecutive days in the year.

Seasonal High Water Table Soils. Soils described as having a minimum depth to seasonal high water table of one and one half (1.5) feet or less as identified in Table 6 of the Soil Survey for Chester and Delaware Counties, as amended or revised.

Secondary Conservation Area. See "Conservation Area, Secondary".

Section. A geographical area or tract which is part of a proposed development which will be developed according to a timetable for development over a period of years.

Selective Clearing. The careful and planned removal of specific trees, shrubs, and plants using standards and protection measures under a forest management plan.

Sending Zone. A zoning district containing designated resources to be preserved in which Transferable Development Rights may be severed and sold or otherwise transferred in exchange for permanent restrictive covenants.

Sewage Service, Individual On-Site. A system for the disposal of sewage on the lot of which it originated by the use of cesspools, septic tanks, and/or other means as approved by the Chester County Health Department.

Sewage Service, Community. A system for the collection and disposal of sewage from more than one lot, owned in common and operated by the lot owners served or by the Township. The system is subject to the approval of the Chester County Health Department and the Pennsylvania Department of Environmental Protection.

Sewage Service, Public. An off-site system for treatment and disposal of sewage in which sewage is conveyed by interceptor to a publicly-operated treatment plant and disposed of through means approved by the Pennsylvania Department of Environmental Protection.

Shallow Soils. Those soils or areas where the depth to the bedrock from the ground surface is twenty (20) inches or less.

Shared Parking. A parking arrangement in which the parking requirement for two or more uses is proposed to be satisfied by the provision of fewer parking spaces than the sum of the minimum number of parking spaces which would otherwise be required for such uses under this Ordinance.

Sign. Any structure or part thereof, or any device attached to a building, including any letter, word, model, device, picture, symbol or representation intended as an announcement, direction or advertisement and may be either freestanding, attached to another structure or painted on the exterior wall of a building. Additional definitions can be found in Article XX, § 2002.

Sign, Advertising. A sign which offers services or goods produced or available somewhere other than on the lot on which the sign is located, including billboards.

Sign Area. The face of a sign including all lettering, wording, designs and symbols, together with background, whether open or enclosed, on which they are displayed, including the frame, but not including any supporting framework and bracing. Where a sign consists of individual letters, numbers, characters or symbols attached to a building, the area of the sign shall be considered to include a square or rectangular pattern as drawn at the outer limits of the letters, words, or representations.

Sign, Business. A sign which offers services or goods available on the lot on which the sign is located.

Sign, Directional. An informational sign indicating direction, entry, exit, loading or service areas, fire lanes, parking and other information incidental to the primary use and not itself advertising that use.

Sign, Official. A sign erected by the State, County, Township or other legally-constituted governmental body.

Single and Separate Ownership. The possession of real estate by one or more persons where vested interest is separate and distinct from that of any adjoining property.

Single-Family Garden Lot Development. A development consisting of either attached or detached single-family garden lots which, through flexible design standards, is designed to allow for maximum use of the individual lot areas. Such design flexibility shall include reduced internal road rights-of-way widths, the use of alleys or parking drives, and reduced lot areas and yard setbacks. When alleys are used for vehicular access to the dwelling units parking on the internal roadway shall be restricted to one side.

Site, Historic. The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical, cultural, or archaeological value regardless of the value of any existing building or structure.

Soils Too Permeable. Those soils in which the water percolation rate is greater than five (5) minutes per inch.

Special Exception. Permission, approval or authorization granted by the Zoning Hearing Board for particular uses in accordance with the provisions of Article XXVIII, in situations where

provision is made by terms of this Ordinance.

~~**Special Permit:** A special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located entirely in, or in a designated portion of, a floodplain.~~

~~**Special flood hazard area (SFHA).** An area in the floodplain subject to a one (1) percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH~~

Specified Anatomical Areas. Less than completely and opaquely covered human genitals, pubic region, buttocks; female breasts below a point immediately above the top of the areola; and/or human male genitals in a discernibly turgid state, even if completely or opaquely covered.

Specified Sexual Activities. Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, ejaculation, sexual intercourse, bestiality or sodomy; fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

Specimen Tree. A unique, rare, or otherwise specifically selected plant or tree considered worthy of conservation by the Township because of its species, size, age, shape, form, historical importance, or any other significant characteristic, including listing as a Species of Special Concern by the State of Pennsylvania and/or in the visual resource inventory of the Township Open Space and Recreation Plan; particularly as applied to trees over 20 inches dbh or as identified as such pursuant to the table in Section 2231.

Stable. A building or structure and surrounding enclosures wherein horses or other equine animals are housed for any purpose, and so constructed that animals cannot stray therefrom.

Stable, Commercial Boarding. A building or structure and surrounding enclosures wherein horses or other equine animals are housed primarily for purposes other than the landowner's personal recreational use.

Stable, Commercial Hack. A building or structure and surrounding enclosures wherein horses or other equine animals are housed for rental or other exchange of compensation on an hourly or per diem basis to members of the general public.

Stable, Horse Show. A building or structure and surrounding enclosures wherein horses or other equine animals are housed temporarily during events and shows conducted on horseshow grounds.

Stage. A section or sections of a development of which the applicant proposes to commence development at the same time, as part of a timetable for development over a period of years.

Stand-Alone Wind Energy System. A wind energy generation and/or conversion system with a rated capacity of 100 kW or less, the main purpose of which is to generate electricity for, and

to reduce, on-site consumption of utility power, consisting of a wind turbine, a tower, mounting frame and associated control or conversion electronics

State Land Use and Growth Management Report. A comprehensive land use and growth management report to be prepared by the Center for Local Government Services and which shall contain information, data and conclusions regarding growth and development patterns in this Commonwealth and which will offer recommendations to Commonwealth agencies for coordination of executive action, regulation and programs.

Storage. The deposit of goods, materials, vehicles or products intended for future disposition.

Stormwater Detention Basin/Facility. A structure designed to temporarily retard surface water runoff for a period of time sufficient to cause the deposition of sediment and to reduce the velocity and volume of surface flows leaving a site, thus preventing further erosion and sedimentation and potential flooding downslope.

Stormwater Retention or Recharge Facility. A structure designed for the permanent storage or groundwater recharge of surface water runoff.

Story. That portion of a building comprised between the surface of any floor and the surface of any floor or roof next above, exclusive of cellars and basements by their definition.

Street. A strip of land, including the entire right-of-way intended for use as a means of vehicular and pedestrian access. The word "street" includes avenue, boulevard, thoroughfare, road, highway, alley, lane and other ways used or intended to be used by vehicular traffic or pedestrians, whether public or private.

Street, Arterial. A street which serves high volumes of traffic at relatively high rates of speed, including controlled access bypasses and highways serving the region.

Street, Collector. A street which serves as access between residential areas and village centers within the Township and provides access to the arterial street network.

Street, Cul-de-Sac. A local access street intersecting another street at one end and terminating at the other end by a permanent vehicular turnaround.

Street, Local Access. A street which solely serves abutting properties and provides access to the collector street network.

Street Centerline. A line which is an equal distance from both street lines.

Street Line. The ultimate or future right-of-way line of a street dividing the legal limit of a public street from a lot, or in the case of a private street the line dividing a lot from a private street.

A.k.a. Street Right-of-Way.

Street, Marginal Access. A minor local access street, parallel and adjacent to an arterial street, but separated from it by a reserve strip, which provides access to abutting properties and control of intersections with arterial streets.

Street, Private. A thoroughfare serving two or more lots held in single and separate ownership and not dedicated or deeded to the Township.

Street, Public. A public thoroughfare which has been dedicated and deeded to the Township and which affords the principal means of access to the abutting property.

Street Right-of-Way. See Street Line.

Street, Single Access. A type of minor street which has only one (1) point of intersection with the public street network. Single access streets include cul-de-sacs and all variations of the cul-de-sac design.

Stripping of Topsoil. The removal of sod and topsoil from a tract or portion thereof.

Structure. Anything constructed or erected on, in or under the ground or attached to the ground, including, but not limited to, buildings, sheds, manufactured homes, fences, pools, tennis courts, roads, driveways, sidewalks, gas or liquid storage tanks that are principally above ground, and other similar items. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land.

Structural Alteration. Any substantial or significant change, rearrangement, addition to or diminution of the supporting or structural members of a building or other structure, such as bearing walls, columns, beams or girders; as well as any addition or reduction in the number, area or dimensions of doors or windows; or any change which could convert an existing building or structure into a different structure or adapt it to a different use; or the moving of a building or structure from one location to another.

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

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

Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvements of a structure, ~~the cost~~ of which the cost equals or exceeds fifty (50) percent of the

market value of the structure before the "start of construction" of the improvement. (~~“or repetitive loss” when repetitive loss language is used~~) This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not, however, include either:

1. 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
2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Swimming Pool, Private. A temporary or permanent structure, whether in-ground or above ground, not located within a completely enclosed building, containing or capable of containing water for swimming or wading with a minimum depth of two (2) feet. Farm ponds and storm water retention basins are not included in this definition unless specifically designed for swimming.

Swimming Pool, Public. Any open or enclosed structure, open to the general public for swimming or other water-related recreational activities, whether or not a fee is charged for admission or the use thereof.

Tenant House. A detached building whose primary use is secondary to that of the principal dwelling on the same lot and whose occupants are generally, but not necessarily limited to, employees and family members of the occupants of the principal dwelling or lessees of associated agricultural operations on that lot.

Theater. A building or part of a building devoted to the showing of moving pictures or theatrical productions on a paid admission basis.

Theater, Outdoor Drive-In. An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions, on a paid admission basis, to patrons seated in automobiles, or on outdoor seats.

Top of Bank – The point above a waterway which defines the maximum height of channel flow of a waterway. It is either determined visually or computed as a topographic elevation.

Tower. Any single or multi-purpose, non-residential and uninhabited, private or commercial structure terminating over thirty-five (35) feet from original ground level (height to include any apparatus mounted thereon) whether secured to another structure or mounted on its own in-ground foundation. Towers or structures specifically designed to receive or transmit satellite television or other transmissions are included in this definition even if they do not exceed thirty-five (35) feet in height.

Township. West Vincent Township, Chester County, Pennsylvania.

Tract. One or more contiguous lots assembled for the purpose of unified or planned development, including but not necessarily limited to planned residential development, shopping center, office park, industrial park, cluster development, or a mobile home park. Lots shall be determined to be contiguous even if separated by a road right-of-way or other easement or right-of-way.

Tract Acreage, Adjusted. Where density or intensity of development of a particular tract is based on "Adjusted Tract Acreage" (ATA) under this Ordinance, the ATA shall constitute all areas within the title lines of the tract, excluding the following weighted percentages of environmentally sensitive areas, rights of way and easements:

- a. All existing rights-of-way or easements for public or private streets;
- b. An area equivalent to 75 percent of any of the following areas:
 - (1) Any areas within a flood hazard district, subject to flooding in a 100-year storm and identified in Article XVI of this Ordinance;
 - (2) Submerged lands, riparian buffers and wetlands that are delineated under the criteria of the U.S. Army Corps of Engineers, and/or the PA Department of Environmental Protection as wetlands;
 - (3) All areas of steep slopes, designated as those being in excess of 25 percent as defined in Article XVII of this Ordinance;
 - (4) Areas within the rights-of-way of high-tension electrical transmission lines (69kV or greater) and pipelines.
- c. An area equivalent to 50 percent of seasonal high water table soils as defined herein.

Tract Area, Total. The land area contained within the boundaries of a tract, exclusive of the areas of such permanent easements as are associated with overhead power transmission lines and underground pipelines, and land within the right-of-way of existing public roads that are present on the land at the time of application for subdivision is made.

Tract Coverage. The percentage of an entire tract covered by any and all impervious surfaces. In the case of a planned or unified development, the percentage of lot area of all individual lots within the development and any common or public areas covered by any and all impervious surfaces.

Traditional Neighborhood Development. An area of land developed for a compatible mixture of residential units for various income levels and nonresidential commercial and workplace uses, including some structures that provide for a mix of uses within the same building. Residences, shops, offices, workplaces, public buildings, and parks are interwoven within the neighborhood so that all are within relatively close proximity to each other. Traditional neighborhood development is relatively compact, limited in size and oriented toward pedestrian activity. It has an identifiable

center and a discernible edge. The center of the neighborhood is in the form of a public park, commons, plaza, square or prominent intersection of two or more major streets. Generally, there is hierarchy of streets laid out in a rectilinear or grid pattern of interconnecting streets and blocks that provide multiple routes from origins to destinations and are appropriately designed to service the needs of pedestrians and vehicles equally.

Transferable Development Rights (TDR). The attaching of development rights to specified lands which are desired by West Vincent Township to be kept undeveloped, but permitting those rights to be transferred from those lands so that the development potential which they represent may occur on other lands where more intensive development is deemed to be appropriate.

Transferable Development Rights (TDR) Tract Area, Net. The adjusted area of a parcel in a designated sending zone, free of rights-of-way, restrictive easements and designated sensitive environmental resources. This calculation, measured in acreage, is used to calculate the number of development rights established for an eligible tract of land.

Unified Development. A development of land in accordance with Article XVIII A of this Ordinance.

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

Uplighting. Any light source that distributes illumination above a 90 degree horizontal plane.

U. Ratio. Uniformity ratio describing the average level of illumination in relation to the lowest level of illumination for a given area (e.g. - U. ratio equal to 4:1 indicates that the average level of illumination should be no more than 4 times the lowest level of illumination).

Use. The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained, or any activity, occupation, business, or operation conducted in a building or other structure.

Variance. Permission, approval or authorization granted by the Zoning Hearing Board, constituting a modification or deviation from the exact provisions of this Ordinance as applied to a specific property in accordance with the provisions of Article XXVIII.

Village. A relatively small clustered settlement with the following typical characteristics:

- often located at a crossroads or village center/square;
- small, compact development pattern;
- usually small or narrow lots;
- may include a mix of land uses (i.e. - commercial, office).

Historical villages are pre-twentieth century in origin, often dominated by older homes and structures, and with a central origin (e.g. - mill, general store, tavern, extended farmstead).

Village Cluster Development. A development design option which allows the minimum lot area and yard requirements to be reduced so that buildings and lots can be grouped together in a configuration intended to recreate traditional village settings and to preserve visual resources, provided that the remaining area is set aside and preserved as greenway land.

Visual Resources. Characteristic landscape elements when viewed from public streets or rights-of-way, including but not limited to those features identified on the Visual Resources Map in the West Vincent Township Open Space and Recreation and Plan including:

- upland areas of moderate topographical relief and broad agricultural landscapes.
- ridge lines of prominent topographical relief.
- valley floors hemmed in by ridge or upland areas.
- visually prominent wetlands and watercourses.
- clusters of buildings arranged to have the appearance of a single landscape unit.
- landscape rooms wherein vegetation, hills and ridge lines produce a narrow visual focus.

Wagering and Gambling Facilities. A commercial use which provides facilities or at which persons assemble for the purpose of any activity which involves lawful gambling or wagering including, without limitation, those facilities and activities for pari-mutual wagering on thoroughbred and/or harness horse races remote from any race track and governed by and licensed pursuant to the Race Horse Industry Reform Act, the Act of December 17, 1981, P.L. 435, as it may be from time to time amended, 4 P.S. subsection 325.101 et seq. Gambling and wagering shall include any activity, game, or device at which money or other valuable things may be played for, or staked or betted upon and in which, by the rules of the activity, game, or device a consideration is paid by the player or participant and a reward is paid to players or participants as a consequence of some element of chance. A commercial use otherwise permitted shall not constitute a gambling or wagering facility solely on account of the installation of facilities and devices pursuant to the State Lottery, the Act of August 26, 1971, P.L. 351, as amended, 72 P.S. subsection 3761-1 et seq.

Watercourse. A channel or conveyance of surface water having defined bed and banks, whether natural or artificial, with perennial or intermittent flow. The term shall also include water features defined as “Waters of the Commonwealth”.

Water Supply, Individual On-Site. A system for supplying and distributing water to a single dwelling or other structure from a source located on the same lot. The system shall be approved by the Chester County Health Department.

Water Supply System, Central. A system for supplying and distributing water from a common source or sources, available to all dwellings and structures within a franchise area. The system shall be approved by the Chester County Health Department, the Pennsylvania Department of Environmental Protection, and the Pennsylvania Public Utility Commission. The water supply source may be located on-site or off-site.

- A. **Community Water Supply System.** A centralized system for supplying and distributing water from a common source or sources to two (2) or more dwellings or structures within a single development, neighborhood, or area.
- B. **Public Water Supply System.** A system, owned and operated by a municipality, governmental agency or public utility, for supplying and distributing water from a common source or sources to dwellings and other structures generally not confined to a single development, neighborhood or area.

Waters of the Commonwealth. Rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs and other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of the Commonwealth of Pennsylvania.

Wetlands. Based on U.S. Army of Corps of Engineers and Pennsylvania Department of Environmental Protection regulations, those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

Wetlands Margin. The transitional area extending from the outer limit of a wetlands.

Wholesale Activities. A commercial activity comprising the sale of merchandise in large quantities or in bulk to retailers or contractors, rather than to consumers directly, including warehousing, loading and unloading, and shipping of such merchandise.

Wind Energy Facility. An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

Wind Energy Facility Operator. The entity responsible for the day-to-day operation and maintenance of a Wind Energy Facility.

Wind Energy Facility Owner. The entity or entities having an equity interest in a Wind Energy Facility, including their respective successors and assigns.

Wind Turbine. A Wind Energy System that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

Wind Turbine Height. The distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

Yard. An open area surrounding a building contained within a lot extending parallel to lot lines and street lines and measured at a distance perpendicular to lot and street lines.

- A. **Yard, Front.** A yard extending the full width of the front lot line and extending in depth from such lot line to the nearest portion of any building on the lot. In the case of an interior or "flag" lot or a reverse frontage lot, the front yard shall be determined by the yard through which the driveway traverses.
- B. **Yard, Rear.** A yard extending the full width of the lot along the rear lot line and extending in depth from the rear lot line to the nearest portion of any building on the lot.
- C. **Yard, Side.** A yard extending the full depth of the lot along a side lot line, between front and rear yards, and extending in width from such side lot line to the nearest portion of any building on the lot.

Zoning Hearing Board. The Zoning Hearing Board of West Vincent Township, Chester County, Pennsylvania.

Zoning Map. The duly approved Zoning Map of West Vincent Township, Chester County, Pennsylvania.

Zoning Officer. The officer or other designated authority charged with the enforcement of the Township Zoning Ordinance.

Zoning Ordinance. The Zoning Ordinance of West Vincent Township, Chester County, Pennsylvania.

ARTICLE XVI

FPC FLOOD-PLAIN CONSERVATION OVERLAY DISTRICT

SECTION 1601 STATUTORY AUTHORIZATION AND PURPOSE

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the West Vincent Board of Supervisors does hereby order and establish the provisions set forth in this Article.

In addition to the general goals listed in the statements of Purpose (Section 103) and Community Development Objectives (Section 104), it is the purpose of this District to:

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

SECTION 1602 APPLICABILITY

These provisions shall apply to all lands within the jurisdiction of West Vincent Township and shown as being located within the boundaries of any identified Floodplain Conservation District which are considered as a part of the official zoning map.

SECTION 1603 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection sought by the provisions of this Article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside any identified floodplain area, or that land uses permitted within such areas will be free from flooding or flood damages.

This Article shall not create liability on the part of the Township or any officer, ~~or~~ employee, or

appointed professional thereof for any flood damages that result from reliance on this Article or any administrative decisions lawfully made thereunder.

SECTION 1604 IDENTIFICATION OF FLOODPLAIN AREAS

The identified floodplain area shall be those areas of West Vincent Township, Chester County, classified as Special Flood Hazard Areas (SFHAs), as identified in the Chester County Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs), dated ~~September 29, 2006~~September 29, 2017, - as prepared for by the Federal Emergency Management Agency (FEMA), or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by West Vincent Township and declared to be a part of this ordinance.

SECTION 1605 DESCRIPTION OF FLOODPLAIN AREAS

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

- A. FW (Floodway Area) - the areas identified as "Floodway" in the AE Zone in the Flood Insurance Study prepared by the FEMA. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study.

- B. FF (Flood-Fringe Area) - the remaining portions of the base floodplain in those areas identified as an AE Zone in the Flood Insurance Study, where a floodway has been delineated.

The basis for the outermost boundary of this area shall be the base flood elevations as shown in the flood profiles contained in the Flood Insurance Study.

- C. FE (Special Floodplain Area) - the areas identified as Zone AE in the Flood Insurance Study, where base flood elevations have been provided, but no floodway has been delineated.

- D. FA (General Floodplain Area) - the areas identified as Zone A in the FIS for which no base flood elevations have been provided. When available, information from other Federal, State, and other acceptable sources shall be used to determine the base elevation, as well as a floodway area, if possible. When no other information is available, the base elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question. In lieu of the above, and at the discretion of the Board of Supervisors, the Township may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or

others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, and any other information shall be submitted in sufficient detail to allow a thorough technical review by the Township Engineer.

SECTION 1606 CHANGES IN IDENTIFICATION OF AREA

The identified floodplain area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency (FEMA). Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data.

SECTION 1607 BOUNDARY DISPUTES

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

SECTION 1608 ZONING MAP OVERLAY

The Floodplain Conservation District shall be an overlay to the existing underlying districts as shown on the official zoning map of the Township. For the purpose of this Article, the underlying base zoning district shall be designated RC Rural Conservation. If this Article should be declared inappropriate to any tract by reason of amendment, special exception, variance or any other order of the Board of Supervisors, Zoning Hearing Board or court of competent jurisdiction, the base zoning provisions applicable to such tract shall be deemed the governing provisions and shall be enforced independent of this Article.

SECTION 1609 DISTRICT PROVISIONS

A. Designation of the Floodplain Administrator.

The Township Zoning Officer is hereby appointed to administer and enforce this Article and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another

entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22. In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Building Permit Officer.

It shall be unlawful for any person, business, partnership, or corporation to undertake or cause to be undertaken any development within the floodplain unless a permit has been obtained from the ~~Floodplain Administrator~~Zoning or Building Permit Officer. In addition, the Township shall require copies of all necessary permits from those governmental agencies from which approval is required by Federal or State law. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channel or floodway of any water course or other drainage facility or system.

B. Permitted Uses

The following uses and activities shall be permitted within the Floodplain Conservation District provided that they are in compliance with the provisions of the underlying District and are not prohibited by any other Ordinance, and provided that they do not require structures, fill, or storage of materials and equipment:

1. Agricultural uses including cultivation and harvesting crops, and grazing and pasturing, excluding any structures normally associated with agricultural uses.
2. Horticultural uses including the raising and propagating of trees, shrubs, flowers, and other vegetative material, excluding sod farming, removal of topsoil and any structures.
3. Low to Medium Intensity Recreational uses including public and private parks, day camps, picnic groves, golf courses, hunting, fishing and boating clubs, excluding structures, recreational vehicle camp sites, or fences normally associated with such uses.
4. Forestry, lumbering and reforestation, excluding storage and mill structures.
5. Game farm, fish hatchery, hunting and fishing reserve, excluding structures.
6. Wildlife sanctuary, woodland preserve, arboretum, excluding structures.
7. Front, side or rear yards, and required lot area, for any District.
8. Non-impervious parking areas.
9. Open wire fences, or other types of open style fences.

B-C. Uses by Special Exception

1. New or replacement public or private utilities and facilities such as water, storm drainage, sewer, gas and electrical lines, provided that no acceptable alternative location exists and that such systems or improvements are designed, located, and constructed so as to be floodproofed or elevated one and one-half (1 1/2) feet above the base flood elevation.
2. No special exception shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the ~~one~~-base flood elevation.
3. All applications for approval by Special Exception shall be considered by the Zoning Hearing Board following the same procedures outlined for the Zoning Hearing Board for consideration of a Variance under Section 1611.

CD. Prohibited Uses

1. All structures and buildings with the exception of those specifically allowed in Section 1609~~BA~~ and ~~1609B~~1609C.
2. The filling of floodplains, removal of topsoil or damming or relocation of any watercourses except with the approval of the Board of Supervisors and the Department of Environmental Protection.
3. Sanitary landfill, dump, junk yard, outdoor storage of vehicles and/or materials including recreational vehicles.
4. On-site sewage disposal systems.
5. Fences which serve as obstructions to water flow, such as, but not limited to chain link, stockade and solid wood fences.

E. Definitions Limited to this Article

In addition to the definitions established in Section 202, and for the purposes of Article only, the following words, terms, and phrases shall have the meaning herein indicated:

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

Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Historic Structures. Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior or
 - ii. Directly by the Secretary of the Interior in states without approved programs.

New Construction. Structures for which the start of construction commenced on or after November 19, 1987 and includes any subsequent improvements thereto.

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

Start of construction. Includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a

manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

SECTION 1610 EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

A structure or use of a structure or premises located within the Flood Plain Conservation District which lawfully existed before the enactment of these provisions, but which is not in compliance with these provisions may be continued subject to the following conditions:

- A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the base flood.
- B. No expansion or enlargement of an existing structure shall be allowed within any FE area that would, together with all other existing and anticipated development, increase the base flood elevation more than one (1) foot any point.
- C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or floodproofed one and one-half (1.5) feet above the base flood elevation to the greatest extent possible.
- D. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be prohibited.
- E. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “repetitive loss” shall be undertaken only in full compliance with the provisions of this ordinance, unless this provision constitutes a taking of the structure or property.-

- F. The requirements of 34 PA Code Chapter 401-405, as amended and the 2003 IRC (Secs. R102.7.1, R105.3.1, R105.3.1.1 and Appendices E and J) or the latest revision thereof, and the 2003 IBC (Secs. 101.3, 3403.1 and Appendix G) or the latest revision thereof shall also be utilized in conjunction with the provisions of this section.

SECTION 1611 PROCEDURES

- A. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Bureau of Dams and Waterway Management. In addition, the Federal Emergency Management Agency and the Pennsylvania Department of Community and Economic Development shall be notified prior to any alteration or relocation of any watercourse.
- B. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- C. Within any AE area/district without a floodway, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the base flood more than one (1) foot at any point.
- D. Any new construction of a non-residential structure, or part thereof, granted as a variance and having a lowest floor which is not elevated to at least one and one-half (1.5) feet above the base flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended), or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.
- E. Fully and partially enclosed spaces below the lowest floor (including basement) are prohibited unless a variance is granted pursuant to Section 1611.F.12.
1. Any substantial improvement or new construction of an existing residential structure shall have the lowest floor elevated to at least one and a half feet above the base flood elevation.
 2. If any construction/development is permitted under this Article, it shall only be permitted where it is demonstrated that it will also strictly comply with all

requirements of this Section and other applicable ordinances, the applicable requirements of the National Flood Insurance Program regulations or 44 CFR 60.3(d) and the Pennsylvania Flood Plain Management Act of 1978 as amended and the Uniform Construction Act of 1999 as amended and the standards and specifications contained in 34 PA Code, Chapters 401-405.

F. **Variances:** In the event that a property owner can prove in proceedings before the Zoning Hearing Board as an appeal, that there is an unnecessary hardship of a unique nature imposed upon this property if they are prohibited from erecting a structure or building within the FPC Flood Plain Conservation District on their property, the Zoning Hearing Board will have the authority to grant relief by way of variance to erect a structure(s) or a building(s) on the property provided:

1. No variance shall be granted ~~for for the construction, enlargement or expansion of any structure used or intended to be used for any of the following the following obstructions and activities:~~

- a. Hospitals (public or private);
- b. Nursing homes (public or private);
- c. Jails or prisons; and
- d. The commencement of or any construction of a new manufactured home, manufactured home park, or manufactured home subdivision or substantial improvement to an existing manufactured home, manufactured home park or manufactured home subdivision.

~~New manufactured home parks and manufactured home subdivision, and substantial improvements to existing manufactured home parks.~~

2. No variance shall be granted for any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume or any amount of radioactive substance) of the following dangerous materials or substances on the premises:

- a. Acetone
- b. Ammonia
- c. Benzene
- d. Calcium carbide
- e. Carbon disulfide

- f. Celluloid
- g. Chlorine
- h. Hydrochloric acid
- i. Hydrocyanic acid
- j. Magnesium
- k. Nitric acid and oxides of nitrogen
- l. Petroleum products (gasoline, fuel oil, etc.)
- m. Phosphorus
- n. Potassium
- o. Sodium
- p. Sulphur and Sulphur products
- q. Pesticides (including insecticides, fungicides, and rodenticides)
- r. Radioactive substances, insofar as such substances are not otherwise regulated

3. A detailed on-site survey at the expense of the property owner is conducted by the Township Engineer, U.S.D.A. Soil Conservation Service, the U.S. Department of the Interior Geological Survey or U.S. Army Corps of Engineers, including as much of the following material as the Township Engineer shall deem necessary for a complete consideration of the matter by the Board.

- a. Plans in triplicate drawn to scale showing the nature, location, dimensions and elevations of the lot and existing and proposed uses; photographs showing existing uses and vegetation; soil types and other pertinent information.
- b. A series of cross-sections at 25-foot intervals along the lot shoreline, showing the stream channel or the lake or pond bottom, and elevation of adjoining land areas, to be occupied by the proposed uses, and high water information.
- c. Profile showing the slope of the bottom of the channel, lake or pond.

- d. Specifications for building materials and construction, flood proofing, fillings, dredging, grading, storage, water supply, and sanitary facilities.
 - e. Computation of the increase, if any, in the height of flood stages which would be attributable to any proposed uses.
4. The Zoning Hearing Board concludes that the requested variance will not substantially violate any of the objectives and the intent of this Ordinance.
 5. That the variance, if authorized, will represent the minimum variance that will afford reasonable relief to the property owner under the regulations of this Ordinance. If it should become necessary to grant any variance, the applicant shall be required to comply with all applicable requirements of the National Flood Insurance Program Regulations (60.3a. through 60.3d.), including the requirements for elevation, flood proofing, and anchoring.
 6. In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.
 7. Whenever a variance is granted, the Township shall notify the applicant in writing that:
 - a. The granting of the variance may result in increased premium rates for flood insurance.
 - b. Such variances may increase the risks to life and property.
 8. In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:
 - a. That there is good and sufficient cause.
 - b. That failure to grant the variance would result in exceptional hardship to the applicant.
 - c. That the granting of the variance will (i) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense, (ii) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable State or local ordinances and regulations.
 9. A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.

10. No variance shall be granted for any construction, development, use or activity within any AE area that would, together with all other existing and anticipated development, increase the base flood elevation more than one (1) foot at any point within the entire Township.
11. No variance shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the base flood.
12. Partially enclosed space below the lowest floor (excluding basement) to be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "partially enclosed space" also includes crawl spaces.

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

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

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the base flood.

G. **Building Permits**: Building permits shall be required before any construction, earth moving or disturbance, or development is undertaken within any identified floodplain area of the Township.

1. The ~~Floodplain Administrator Zoning Officer~~ shall issue a building permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this Ordinance and all other applicable codes and ordinances.
2. Prior to the issuance of any building permit, the ~~Floodplain Administrator Zoning Officer~~ shall review the application for the permit to determine if all other necessary government permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act

1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33 U.S.C. 1344. No permit shall be issued until this determination has been made.

3. **Application Procedures and Requirements.**

- a. Application for such a building permit shall be made, in writing, to the ~~Floodplain Administrator Zoning Officer~~ on forms supplied by the Township and in accordance with the procedures established in Article XXVII of this Ordinance.
- b. When any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for building permits shall provide all the necessary information in sufficient detail and clarity to enable the ~~Floodplain Administrator Zoning Officer~~ to determine that:
 - (1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
 - (2) All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
 - (3) Adequate drainage is provided so as to reduce exposure to flood hazards.
 - (4) Structures will be anchored to prevent floatation, collapse, or lateral movement;
 - (5) Building materials are flood-resistant;
 - (6) Appropriate practices that minimize flood damage have been used; and
 - (7) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
 - (7)
- c. Applicants shall file the following minimum information plus any other pertinent information as may be required by the ~~Floodplain Administrator Zoning Officer~~ to make the determination in paragraph b. above:

- (1) A completed building permit application form.
- (2) A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one-hundred (100) feet or less, showing the following:
 - (a) North arrow, scale, and date
 - (b) Topographic contour lines
 - (c) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet
 - (d) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development
 - (e) The location of all existing streets, drives, and other accessways
 - (f) The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities
 - (g) Site location including address
 - (h) Brief description of proposed work and estimated cost, including a breakout of the flood-related cost and the market value of the building before the flood damage occurred
- (3) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - (a) The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988
 - (b) The elevation of the base flood
 - (c) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood

(d) Detailed information concerning any proposed floodproofing measures

(4) The following data and documentation: A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with a base flood. Such statement shall include a description of the type and extent of floodproofing measures that have been incorporated into the design of the structure and/or the development.

4. **Review by County Conservation District**

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the ~~Floodplain Administrator Zoning Officer~~ to the County Conservation District for review and comment prior to the issuance of a building permit. The recommendations of the Conservation District shall be considered by the ~~Floodplain Administrator Zoning Officer~~ for possible incorporation into the proposed plan.

5. **Review of Application by Others**

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the ~~Floodplain Administrator Zoning Officer~~ to any other appropriate agencies and/or individuals, including, but not limited to, the Township Planning Commission and the Township Engineer, for review and comment.

H. **Special Requirements for Subdivisions:** All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in Identified Floodplain Areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision.

I. **Water and Sanitary Sewer Facilities and Systems:**

A. All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.

- B. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
- C. The design and construction provisions of the UCC and FEMA #348, “Protecting Building Utilities From Flood Damages” and “The International Private Sewage Disposal Code” shall be utilized.

SECTION 1612 NOTIFICATION

The owner of any property located within the FPC Flood Plain Conservation District must advise prospective purchasers and/or lessees that the lot is located either entirely or partially, as the case may be, in the floodplain.

Before settlement or change in use, as the case may be, the purchaser or lessee shall signify in writing that he has been advised that the premises lies partially or entirely in the floodplain and a signed copy of such signification shall be delivered to the Township by the owner.

SECTION 1613 ABROGATION AND GREATER RESTRICTIONS

This Article supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other Ordinance provisions shall remain in full force and effect to the extent that these provisions are more restrictive.

ARTICLE XXVII

ADMINISTRATION

SECTION 2701 APPLICATION OF REGULATIONS

Hereafter, no land shall be used or occupied, and no building or structure shall be erected, altered, demolished, used or occupied, except in conformity with this Ordinance, and as it may be from time to time amended. Nothing set forth in the Zoning Ordinance shall be construed or interpreted as being inconsistent with any State or Federal law that is preemptive of the Township’s zoning authority. To the extent of any inconsistency with a State or Federal law that is preemptive of the Township’s zoning authority, the preemptive State or Federal law shall control.

SECTION 2702 ADMINISTRATION

The provisions of this Ordinance shall be administered by the person(s) designated by the Board of Supervisors as the Zoning Officer and the Building Inspector.

SECTION 2703 ZONING OFFICER

The Zoning Officer shall have all the duties and powers conferred by the Zoning Ordinance in addition to those reasonably implied for that purpose. He shall not issue a permit or certificate in connection with any proposed erection, construction, alteration, extension, replacement and/or use of any building, structure, sign and/or land unless it first conforms with the requirements of this Zoning Ordinance and all other ordinances of the Township. The duties of the Zoning Officer shall include:

- A. Receive and examine all applications for permits for the erection, construction, alteration, extension, replacement and/or use of any building, structure, sign and/or land in the Township.
- B. Issue permits for uses, changes in use, signs, and authorized variances or special exceptions after approval by the Zoning Hearing Board or when directed by a court of competent jurisdiction in accordance with this Ordinance.
- C. Record and file all applications for permits, accompanying plans and documents, all permits and certificates issued, reports of inspections, notices, and orders issued. All information shall be matters of public record. All floodplain related records, including, but not limited to, finished construction elevation data, permitting, inspection and enforcement, shall be kept in perpetuity or for the lifetime of the structure.
- D. Report all violations of this Ordinance to the Board of Supervisors and issue orders to cease and desist to all violators.
- E. Maintain an official record of all business and activities associated with the administration of this Ordinance, including complaints of violations of any of the provisions of this Ordinance and of the action taken on each such complaint.
- F. Make site inspections as needed to fulfill the duties required by this Ordinance.
- G. Maintain an official copy of the Zoning Ordinance and map and all amendments thereto.
- H. Upon the request of the Board of Supervisors, Planning Commission, or the Zoning Hearing Board, present such bodies facts, records, and any similar information or specific requests to assist such bodies in reaching decisions.
- I. Any other related duties which may be required from time to time by the Board of Supervisors.

SECTION 2704 PERMITS ISSUED BY THE ZONING OFFICER

A. **Zoning or Use Permits**

A zoning or use permit shall be required prior to the initial use of land or structure, change in the use thereof, or the change in use or extension of a nonconforming use. It shall be unlawful for any person to use land or a structure or change the use thereof without a zoning or use permit duly issued therefore.

B. **Application for Zoning or Use Permits**

All applications for zoning permits shall be made to the Zoning Officer in writing on such forms furnished by the Township and shall include the following information:

1. Existing and proposed use of the building, structure or lot.
2. Evidence of receiving special exception or variance approvals for the proposed use or change, if applicable.
3. A title report on the property to ascertain the existence of any deed restrictions, covenants, easements, or other restrictions on the use or development of the property.
4. Any additional plans, documents and information as may be required to enable the Zoning Officer to ascertain compliance with this Ordinance.

C. **Sign Permits**

A sign permit shall be required prior to erection, alteration, or enlargement of any sign, sign structure or any portion thereof provided that all requirements of Article XX are met.

D. **Application for Sign Permits**

An application for a sign permit shall be made to the Zoning Officer according to the procedures contained in Section 2008 of this Ordinance.

E. **Issuance of Zoning and Sign Permits**

It shall be the duty of the Zoning Officer to either issue or deny issuance of a zoning or sign permit within fifteen (15) days of the filing of a completed application and payment of prescribed fees. The Zoning Officer shall issue a permit only upon his determination that the application is in compliance with the terms of this Ordinance. If the application or plans do not conform to the provisions of this Ordinance, the Zoning Officer shall deny such application in writing to the applicant, stating the reasons therefore.

F. **Building Permits**

A building permit shall be required prior to the erection, alteration, enlargement, or demolition of any building or other structure or portion thereof. It shall be unlawful for any person to commence work for the erection, alteration, enlargement, or demolition of any building or structure or portion thereof until a permit has been duly issued therefore.

G. **Application for Building Permits**

All applications for building permits shall be made to the Zoning Officer in writing on such forms furnished by the Township. An application for building permit shall be accompanied by an approved zoning permit, evidence of subdivision and/or land development approval including any conditions for approval thereof, erosion and sedimentation control plan, stormwater management plan, water and sewer permits, and any additional information as may be required to enable the Zoning Officer to ascertain compliance with the applicable Township codes and ordinances.

H. **Issuance of Building Permits**

1. It shall be the duty of the Zoning Officer to either issue or deny issuance of building permits within the time period prescribed by the applicable provisions of the UCC Uniform Construction Code. He shall issue a permit only upon his determination that the application is in compliance with the Township Zoning Ordinance and other applicable Township codes and ordinances.
2. Prior to the issuance of any building permits on lots or parcels created as part of an approved subdivision or land development plan, any proposed roads providing access to the site shall be improved to at least a gravel/stone surface or the base course completed as required by Section 612A.1 through A.5 of the Township Subdivision and Land Development Ordinance.
3. No building permit shall be issued for any building in any subdivision or land development until the final plans for the said subdivision or land development has been approved and recorded as provided for and until the terms of Section 513A of the Subdivision and Land Development Ordinance have been satisfied.
4. No building permit shall be issued until a copy of the title report to the lot has been submitted to the Township.
5. All markers as required by Section 603 of the Township Subdivision and Land Development Ordinance shall be installed prior to issuance of any building permit for a lot.
6. Where final subdivision or land development approval has been conditioned upon the submission and approval of individual lot grading plans for some or all of the lots, no building permit shall be issued for construction on any such lot until this condition has been complied with.

7. Buildings permits shall expire six (6) months from their date of issuance unless construction has commenced or an extension has been granted by the Board of Supervisors.

SECTION 2705 BUILDING INSPECTOR

The duties of the Building Inspector shall be:

- A. To examine all applications for permits to build, alter or demolish to determine compliance with the Township Building Code (UCC Uniform Construction Code) as adopted by the Township.
- B. To issue certificates of occupancy after satisfactory inspection of the building or premises is completed subject to changes or approval by the Board of Supervisors.
- C. To record and file all applications for permits and certificates and accompanying plans and documents and keep them for public record.
- D. To enforce the Township Building Code (UCC Uniform Construction Code) as adopted by the Township.

SECTION 2706 PERMITS ISSUED BY THE BUILDING INSPECTOR

- A. **Certificate of Occupancy** - It shall be unlawful for any person to initially occupy any new building, or any building which has undergone alterations, additions, or renovations, until a certificate of occupancy has been duly issued therefore. Such certificates shall also be required for the change in use, tenants or owners, or sale of any non-residential building or structure, as well as the occupancy of any building for which a building permit is required.
- B. **Application for Certificates of Occupancy** - Application for the certificate of occupancy shall be made to the Building Inspector on such forms furnished by the Township.
- C. **Issuance of Certificates of Occupancy**
 1. A certificate of occupancy for which application has been made shall not be issued until completion of the construction work authorized by the building permit and in the case of a lot created by subdivision, the placement of permanent monuments or pins as required by the Township Subdivision and Land Development Ordinance. Upon notification by the applicant that the construction work has been completed, the Building Inspector shall conduct a final inspection and shall either issue or deny the certificate of occupancy within fifteen (15) days of notification.

2. In the case of a lot or parcel created as part of an approved subdivision plan, no certificate of occupancy permit for any buildings on the lot shall be issued until the following activities have been completed and approved by the Township Engineer:
 - a. The placement of applicable monuments or corner pins as required by the Township Subdivision and Land Development Ordinance, and
 - b. The paving of any roads necessary to access the property with an all-weather surface (i.e., at least a binder course) in accordance with the standards of Section 612A.6 of the Township Subdivision and Land Development Ordinance.
3. It shall be the duty of the applicant for a building permit to secure the issuance of the required certificate of occupancy, by giving notice of completion as required in paragraph C.1 above, notwithstanding the fact that he may be constructing the building, structure, addition, or alteration for the use of another, and further to notify such proposed occupants of the requirements of this section prior to the transfer of ownership or commencement of leasehold of the property.

SECTION 2707 GENERAL PERMIT REQUIREMENTS

The following regulations shall apply to all permit applications:

A. Conformity

No permit or certificate shall be issued except in conformity with the regulations of this Ordinance, and subsequent amendments. Any permits issued on written order of the Zoning Hearing Board or by a court of competent jurisdiction shall be subject to any stipulation contained in that order, and shall comply with the remaining applicable provisions of this Ordinance and other Township codes and ordinances.

B. Responsibility

Applications for permits required under this Ordinance may be submitted by an owner or a designated representative, except that the responsibility for obtaining any required permit and compliance with the provisions of this Ordinance shall rest with the property owner.

C. Additional Evidence

In all instances in which the Zoning Officer or Building Inspector expresses a reasonable doubt as to the ability of a proposed use or structure to comply with all applicable provisions of this Ordinance, the applicant shall be required to furnish adequate evidence

in support of his application. The permit will be denied if such evidence is not presented.

D. **Denial of Permit**

If an application or plans do not conform to the provisions of this Ordinance and other applicable Township codes and ordinances, the Zoning Officer or Building Inspector shall deny such permit and forward such decision in writing to the applicant of his right to appeal to the Zoning Hearing Board per Section 2803A of this Ordinance in the event such application is denied.

E. **Temporary Permits**

1. Upon request of an applicant, a temporary certificate of occupancy may be issued before the entire work covered by the building permit shall have been completed, provided such uncompleted portion or portions may be used and/or occupied safely prior to full completion of the work required without endangering life or public welfare.
2. A temporary zoning or use permit or certificate of occupancy shall be required for such temporary uses as circuses, outdoor concerts, festivals and carnivals, flea markets, temporary religious or other public or quasi-public purposes, and similar temporary uses and/or occupancy. Any tents or canopies used or erected shall be fire retardant. All applications for such temporary uses shall indicate the date of the event; any rain dates; hours of operation; expected number of attendees or participants; type of Township services required (e.g., traffic control, special police, etc.); and verification of county, state, or federal approvals (e.g., Chester County Health Department, Pennsylvania Department of Labor and Industry).
3. Such temporary permits or certificates shall be for the period of time to be determined by the Zoning Officer or Building Inspector, but in no case for a period exceeding six (6) months.

F. **Official Application**

No application is considered complete and official until all necessary documents have been filed and all fees have been paid to the Township.

G. **Display of Permits**

A building permit, when issued, shall be displayed conspicuously upon the premises during the entire period of construction. Zoning permits, sign permits, and certificates of occupancy need not be displayed, but shall be maintained on the premises and available for public inspection.

H. **Revocation of Permits**

The Zoning Officer or Building Inspector may revoke a permit or approval issued under the provisions of the Zoning Ordinance in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in the Zoning Ordinance.

I. **Changes**

After the issuance of a building permit by the Zoning Officer, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Zoning Officer. Requests for any such change shall be in writing, and shall be submitted by the applicant to the Zoning Officer for consideration.

SECTION 2708 ENFORCEMENT

The Zoning Ordinance shall be enforced by the Zoning Officer of the Township. The Building Inspector shall enforce the Township Building Code (UCC Uniform Construction Code) as adopted by the Township. Whenever a violation of this Zoning Ordinance or Township Building Code 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 in regard to zoning and sign violations and the Building Inspector in regard to building and occupancy violations. The Zoning Officer or Building Inspector shall record properly such complaint, immediately investigate and take action thereon as directed by the Supervisors and as permitted by this Ordinance, the Township Building Code, and the Second-Class Township Code.

SECTION 2709 SCHEDULE OF FEES

The Board of Supervisors shall establish by resolution a schedule of fees, charges and expenses for permits, appeals to the Zoning Hearing Board, curative amendment hearings and other matters pertaining to the administration of this Ordinance. Said schedule of fees shall be available from the Township Secretary/ Treasurer and Zoning Officer and application for permits or hearings shall be considered incomplete until payment in accordance therewith has been made.

SECTION 2710 MUNICIPAL LIABILITY

The granting of any permit under this Ordinance by the Township Zoning Officer or Building Inspector shall not constitute a guarantee or warranty of any kind by the Township or its officials, ~~and employees,~~ or appointed professionals as to any manner of injury resulting from such use, erection, alteration, or extension, and shall create no liability upon or cause of action against such officials, ~~-or employees,~~ or appointed professionals for damages or injury that may occur.

SECTION 2711 CONDITIONAL USES

Where permitted within the district regulations of this Ordinance, conditional uses shall comply with the following procedures:

A. Application

An application for conditional use approval shall be accompanied by three (3) copies of the proposed plans showing the size and location of the proposed use, all existing and proposed buildings and all proposed accessory facilities, including roads, access drives, parking areas, and natural features within five hundred (500) feet of the subject property, and all tax parcels and owners' names within five hundred (500) feet of the subject property. In addition, the application shall be accompanied by such information in graphic and/or narrative form, to demonstrate compliance with all applicable standards to be met. Feasibility of water supply, sanitary sewage disposal, and storm drainage control should be demonstrated but need not be fully engineered.

Conditional use approval shall be required for any new uses; new construction; and the addition, enlargement, or change in use or the increase in the level of activity or area of a previously approved conditional use.

As part of the application for conditional use approval, the applicant may be required to provide the following additional information as deemed appropriate by the Township Engineer or Board of Supervisors:

1. Site photos
2. Soils report, and a stormwater management feasibility report
3. Cross sections of streams or floodplains, high water table elevation, topographic profiles
4. Specifications and design for building materials, construction methods, any floodproofing, and building elevations
5. Specifications and design of cut and fill areas, grading, and landscaping
6. A description of utilities, and a water supply and sanitary sewage facilities feasibility report
7. Erosion and sedimentation controls, computation of any increase in flood heights or run-off characteristics
8. Listing of all required federal, state, and local permits required

9. Engineer certified design for foundations, floodproofing, and associated requirements
10. Traffic study, including existing and projected traffic volumes (peak hour and total daily), trip generation for proposed use, and existing and projected levels of service for roads and intersections surrounding the subject property.

B. Procedure

1. A conditional use application shall be filed with the Township Secretary/Treasurer on such forms as may be prescribed by the Board of Supervisors, accompanied by the required fee.
2. The Board of Supervisors shall schedule and hold a public hearing on the application within sixty (60) days of filing unless the applicant waives or extends the time limitation in writing or on the record at a public hearing. Public notice shall be given in accordance with Section 2902B or as otherwise required by the Pennsylvania Municipalities Planning Code.
3. At least forty-five (45) days prior to the date of hearing, one (1) copy of the application and supporting material shall be furnished to the Township Planning Commission, and any other agencies or consultants deemed appropriate by the Board of Supervisors, together with a request that such agencies submit recommendations regarding the proposed conditional use. Lack of compliance with this subsection shall not be a basis for failing to hold a hearing as required by the Pennsylvania Municipalities Planning Code, but may be a basis for dismissal of a conditional use application at such hearing.
4. Notice of the conditional use application shall be forwarded by regular mail to the owner and the occupant of every lot within five hundred (500) feet from any lot line of the lot in question, provided that failure to give notice as required by this paragraph shall not invalidate any action taken by the Board of Supervisors.
5. The Board of Supervisors shall render a decision within forty-five (45) days after the public hearing (or last public hearing, if more than one is necessary to fully evaluate the proposal).
6. Notice of the conditional use decision shall be provided pursuant to the Municipalities Planning Code. In addition, the Township Board of Supervisors, an applicant, or any landowner or successor in interest of a property subject to or affected by the conditional use decision may publish notice of the decision, once each week for two successive weeks in a newspaper of general circulation, and the said notice shall contain: the name of the applicant, the street address or location of the subject property, the file number or docket number of the decision (if any), a brief description of the nature of the decision, the date upon which the

decision is issued, the address of the Township building where the full text of the decision may be reviewed by members of the public, and a statement that the publication is intended to provide notification of a decision and that any person claiming any right to challenge the validity of the decision must bring a legal action within thirty (30) days of the publication of the second notice and if such notice is published by an entity other than the Township Board of Supervisors, then proof of publication shall be provided to the Township for retention in the Township records, however, failure to comply with the filing of the proof of publication shall not invalidate any notice. Additionally, if conditional use approval is granted by the Board of Supervisors, such decision and its conditions may be recorded with the County Recorder of Deeds office. If recorded, a copy of the deed shall be filed with the Township.

7. In the event of approval, if the applicant fails to obtain the necessary building permits within twelve (12) months of the date of approval, or commence work within an additional six (6) months, it shall be deemed that the applicant has withdrawn or abandoned the application, and all conditional uses, permits, and provisions granted shall be null and void; except that the Board of Supervisors may grant, upon application, an extension.
8. Where the application for conditional use approval is part of a subdivision or land development plan, the conditional use application shall be filed prior to preliminary plan approval. The Township shall not be required to grant any preliminary plan approval until such time that the conditional use application is approved. In the event that the conditional use is granted, the conditional use and any associated conditions attached by the Board of Supervisors shall be noted on the preliminary and final plans.
9. Any appeal must be filed pursuant to the Pennsylvania Municipalities Planning Code.

C. **Standards for Review of Proposed Conditional Use**

To allow adequate evaluation of any conditional use application by the Board of Supervisors, the applicant shall provide any information necessary to ensure that:

1. The proposed use is consistent with the purposes of the Article wherein it is permitted and is consistent with the overall purpose of the zoning ordinance.
2. The proposed use shall meet all of the specific standards and regulations for eligibility which appear in the section of this Ordinance authorizing the proposed conditional use.
3. The proposed use and its location are consistent with the Comprehensive Plan, the Township Act 537 Sewage Facilities Plan, and the infrastructure required to service the area, including the logical extension of public services and utilities.

4. The use will not adversely affect the health, safety, or general welfare of the Township.
5. The proposed use is consistent with the general nature of surrounding uses and will not conflict with existing uses on neighboring properties, and will be maintained in a manner which will protect the character and property values of the surrounding area.
6. The proposed use will provide for safe and adequate access to roads and public utilities and will not create excessive demands on existing streets, services, utilities, stormwater controls, or adversely affecting surrounding properties or the area in general.
7. Any construction will be accomplished using sound design and engineering principles and will not adversely affect existing uses in the area.
8. The proposed use will incorporate proper landscaping, screening, parking, signage, and buffering in accordance with the applicable provisions of this Ordinance.
9. The standards set forth in Section 2807, for the review of special exception applications, shall be met.

The Board of Supervisors may impose such conditions as it deems necessary to ensure compliance with the above standards including, but not limited to the satisfaction of all the applicable requirements and provisions of the Township Subdivision and Land Development Ordinance, and all other Township codes and ordinances, and other regulatory governmental agencies, and may require any impact statements per Section 403I of the Township Subdivision and Land Development Ordinance.

SECTION 2712 MEDIATION OPTION

- A. Parties to proceedings authorized in this Article and Articles XXVIII and XXIX of this Ordinance may utilize mediation as an aid in completing such proceedings. In proceedings before the Zoning Hearing Board, in no case shall the Zoning Hearing Board initiate mediation or participate as mediating party. Mediation shall supplement, not replace, those procedures in this Article and Articles XXVIII and XXIX once they have been formally initiated. Nothing in this Section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.
- B. Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. Parties selecting the mediation option shall, with assistance from a mediator as appropriate, develop terms and conditions for:

1. Funding mediation. The cost of the mediation shall be shared equally by the parties, unless otherwise agreed.
 2. Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.
 3. Identifying all parties and affording them the opportunity to participate.
 4. Completing mediation, including time limits for such completion.
 5. Suspending time limits otherwise authorized in the Pennsylvania Municipalities Planning Code, provided there is written consent by the mediating parties, and by an applicant, the Board of Supervisors, or the Zoning Hearing Board if either is not a party to the mediation.
 6. Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.
 7. Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the Board of Supervisors or Zoning Hearing Board.
- C. No offers or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

SECTION 2713. REVIEW FEES FOR PROFESSIONAL CONSULTANTS

A. Definitions

1. An “applicant” is an individual or entity that has submitted an application for a conditional use.
2. “Professional consultants” include, but are not limited, architects, attorneys, certified public accountants, engineers, geologists, land surveyors, landscape architects or planners.
3. “Review fees” are all fees of professional consultants that are in connection with an application for a conditional use that is related to, but not directly part of, a subdivision and land development application, which are otherwise recoverable under 53 P.S. § 10503. For example (but not limited to), if conditional use approval is required in order for the applicant to proceed with the applicant’s subdivision or land development, then “review fees” as herein defined shall apply. Review fees include all reasonable and necessary charges by the municipality’s professional consultants for review and report to the Township that are not

otherwise reimbursed to the Township or otherwise imposed on an applicant. The review fees of professional consultants shall not be excessive and shall not include fees charged to the Township that were incurred in the course of an appeal of a decision on a conditional use or special exception application. Such expenses shall be reasonable and in accordance with the ordinary and customary charges charged by the municipality's professional consultant for similar services in the community. In no event shall the fees exceed the rate or cost charged by the professional consultant to the municipality for comparable services when fees are not reimbursed or otherwise imposed on applicants.

B. Purpose

The purpose of this section is to codify the existing state law, which requires applicants to reimburse the Township for review fees of professional consultants incurred in connection with conditional use applications which are submitted in conjunction with, in contemplation of, or related to the submission of a subdivision and/or land development application.

A. Fees

An applicant who submits an application for a conditional use in connection with or related to a pending or future application for subdivision or land development approval shall reimburse all review fees incurred by the Township, and, at the discretion of the Township, shall submit an escrow deposit at the time of the application. The escrow deposit shall be in an amount established by the Township's fee schedule, and shall be processed in the same manner as escrow deposits required under West Vincent Township Subdivision and Land Development Ordinance Section 1202(B). All decisions on conditional uses shall expressly be conditioned on or shall make provision for the payment of the review fees by the applicant.

D. Procedure

The Township shall submit an itemized bill for the review fees of professional consultants to the applicant, identifying the person performing the services, the date and the time spent for each task. The Township shall also provide applicant with a final itemized bill for review fees subsequent to a final decision on an application for a conditional use. Any review fees incurred subsequent to the decision, including inspections and other work necessary to satisfy the conditions of the approval, shall be charged to the applicant as a supplement to the final itemized bill.

In the event that the applicant disputes such review fees, the applicant shall pay such fees and notify the Township and the professional consultant of the basis of the objections to the bill, in writing, no later than forty-five (45) days after the date of transmittal of the bill to the applicant. The failure of an applicant to dispute a bill within 45 days of its transmittal shall serve as a waiver of the applicant's right to further contest the bill and an applicant shall pay the same.

In the event that the Township's professional consultant and the applicant cannot agree on the amount of review fees that are reasonable and necessary, the applicant and Township shall follow the procedures for dispute resolution set forth in 53 P.S. § 10510(g).

E. Severability

In the event that any provision of this section is declared to be unconstitutional, invalid or illegal by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of the section.

ARTICLE XXX

ENFORCEMENT REMEDIES AND PENALTIES

SECTION 3001 CAUSES OF ACTION

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 Ordinance or any regulations made pursuant thereto, the Zoning Officer or the Board of Supervisors, or any aggrieved owner or tenant of real property who shows that his/her property or person will be substantially affected by the alleged violation, in addition to other remedies provided by law, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Township at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Board of Supervisors. No such action may be maintained until such notice has been given to the Board of Supervisors. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this section.

SECTION 3002 ENFORCEMENT NOTICE

If it appears to the Township that a violation of this Ordinance has occurred, the Zoning Officer or the Board of Supervisors shall initiate enforcement proceedings by sending an enforcement notice as follows:

- A. The enforcement notice shall be sent to the owner of record of the parcel on which the alleged violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
- B. An enforcement notice shall state at least the following:

1. The name of the owner of record and any other person against whom the Township intends to take action.
2. The location of the property in violation.
3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this 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 thirty (30) days of receipt of the enforcement notice.
6. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

SECTION 3003 ENFORCEMENT REMEDIES

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon conviction thereof in a civil enforcement proceeding, pay a judgment of not less than two hundred dollars (\$200.00) and not more than five hundred dollars (\$500.00) plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation is continued 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 this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Township.