

# **NEWLIN TOWNSHIP ZONING ORDINANCE**

Last updated March 11, 2013

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1999 Newlin Township Zoning Ordinance with 2013 Amendments

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## ARTICLE 1 - GENERAL PROVISIONS

### SECTION 101 AUTHORITY

- A. General Authority to Adopt and Amend Zoning.** The Township Board of Supervisors, pursuant to the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended by Act 170 of 1988, and as it may be further amended, hereby enacts this Ordinance as the Township Zoning Ordinance of 1999.
- B. Penalties for Non-Compliance.** In accordance with the Pennsylvania Municipalities Planning Code, violations of this Ordinance may be punishable by civil penalties.

### SECTION 102 APPLICABILITY

- A. General Applicability.** All uses of land, including but not limited to a change in lot dimension, a change of use, the erection of a structure, the occupation of a structure, or the disturbance of soils, are permitted only when such activities are in accordance with this Ordinance. The regulations of this Ordinance shall be the minimum necessary to promote the health, safety and welfare of the residents of the Township, and shall apply uniformly to each land use class or type of structure within particular districts. This Ordinance shall not apply to the normal and customary maintenance or properties.
- B. Specific Applicability.** No building, structure, part of a structure of building, or land shall be hereafter used, erected, constructed, reconstructed, moved, or structurally altered except in accordance with all of the regulations specified for the zoning district in which it is located. No building or structure shall hereafter be erected or altered:
1. to exceed the height or bulk standards established by this Ordinance;
  2. to accommodate or house a greater number of families as allowed by this Ordinance;
  3. to occupy a greater percentage of lot area as allowed by this Ordinance;
  4. to have narrower or smaller front, side or rear yards or other open spaces as required by this Ordinance. No part of any minimum yard, minimum open space area, or off-street parking or loading space required in connection with any building or land use shall, for the purpose of complying with this Ordinance, be included as part of any yard, open space, or off-street parking or loading space similarly required for any other building or land use. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth in this Ordinance. Yards or lots created after the effective date of this Ordinance shall meet the minimum standards established herein.
- C. Municipal Uses Shall Comply with this Ordinance.** The provisions of this Ordinance shall apply to all municipal properties and uses of land, and to all bona-fide governmental agencies, authorities, and emergency services.
- D. Zoning Map.** All areas within the Township are subject to the general and specific provisions contained in this Ordinance and as identified in the Zoning Map, as it may be amended.

## SECTION 103 HOW TO USE THIS ORDINANCE

- A. Lists of Permitted Uses of Land and Dimensional Requirements.** This Ordinance lists the uses of land that may be allowed in the Township, as well as dimensional requirements, and utilizes a zoning map to show areas within the Township where such land uses are permitted. If a particular use of land is not specifically identified as a permitted use, conditional use or special permit use, it shall be considered to be prohibited, except as provided in Sections 103 B.4, 5 or 6 of this Ordinance below.
- B. How Land Uses are Regulated.** A particular use of land may be allowed or regulated in six ways:
1. As a permitted use. Each zoning district contains a list of land uses that are permitted within the district. In these cases, the land use is generally not subject to any additional regulations except for general regulations contained in Article 5 of this Ordinance.
  2. As a special exception. Each zoning district contains a list of land uses that have the potential to become local nuisances if not properly regulated. Therefore, these land uses are permitted by special exception, which may be granted by the Zoning Hearing Board if it finds that the proposed land use complies with additional regulations listed in Article 6 of this Ordinance. The Zoning Hearing Board will hold a public hearing on the proposed special exception, and may impose reasonable conditions in addition to those that are listed in Article 6.
  3. As a conditional use. Each zoning district contains a list of land uses, which have the potential to become general public nuisances if not properly regulated. Therefore, these land uses are permitted by conditional use, which may be granted by the Board of Supervisors if it finds that the proposed land use complies with additional regulations listed in Article 7 of this Ordinance. The Board of Supervisors will hold a public hearing on the proposed conditional use, and may impose reasonable conditions in addition to those that are listed in Article 7.
  4. By variance. If a particular site contains unique conditions that cause unnecessary hardships or practical difficulties in conforming to this Ordinance, a land use that is not specifically permitted by this Ordinance, and that is not shared elsewhere within the Unionville Area, may be allowed by the Zoning Hearing Board as a variance. A public hearing will be held for the appellant to present the conditions to be reviewed in support of his appeal for a variance.
  5. By approval of the Zoning Hearing Board as a land use that is substantially similar to permitted uses. This Ordinance does not address all possible land uses that may be appropriate for a particular zoning district. Some land uses, which are not otherwise addressed by this Ordinance, are shared elsewhere in East Marlborough or West Marlborough Townships, thereby implementing the Unionville Area Regional Comprehensive Plan. Some land uses, which are not otherwise addressed by this Ordinance, may be substantially similar to other land uses that are allowed as permitted uses or as special exception uses in which case the applicant may apply to the Zoning Hearing Board for a determination that the proposed land use is substantially similar to another permitted or special exception land use. The Zoning Hearing Board shall hold a public hearing and may allow the proposed land use, with or without conditions, if it determines that the land use is substantially similar to another permitted land use or special exception use within the same zoning district.



This shall not be construed to be an appeal for a variance, and this option shall apply to all zoning districts.

6. As a pre-existing, non-conforming use. Properties in the Township that were developed prior to the adoption of this Ordinance (or its amendment, if such amendment renders such pre-existing uses as non-conforming) may be continued to be occupied and used, but may not be expanded to a degree that exceeds limitations contained in this Ordinance.
- C. **Zoning Officer Shall Administer the Ordinance.** The Newlin Township Zoning Officer shall apply this Ordinance with the strictest interpretation as is reasonable. If any uncertainty regarding the intent of this Ordinance exists, the Zoning Hearing Board shall interpret the intent of this Ordinance.
- D. **Computation of Time.** If there is any question regarding the length of any review time regarding any provision of this Ordinance, all time shall be computed from the date of the receipt of a complete application by the Township Secretary, Zoning Officer, or other individual so authorized to accept applications by the Board of Supervisors.

## SECTION 104 INTENT

- A. **General Intent.** In accordance with the Pennsylvania Municipalities Planning Code, it is the intent, purpose and scope of this Ordinance to protect and promote the public safety, health, and morals, to facilitate coordinated development, to provide for the general welfare by guiding the development and protection of various amenities and conveniences, to promote future governmental, economic, practical, social and cultural facilities, to provide for development and growth, as well as to improve governmental processes and functions, to guide uses of land and structures, types and locations of streets, public areas and other facilities, to promote the conservation of energy through the use of land planning practices and the effective utilization of renewable energy resources, to promote the proper density of population, vehicle parking and loading areas, and to prevent the overcrowding of land, blight, danger, and congestion in travel and transportation, to prevent loss of life, health, or property, where possible, from flood, fire, panic, or other dangers, and to minimize land use conflicts as may presently exist or which may be foreseen.
- B. **No Repeal of Other Laws.** Except where specifically provided to the contrary, it is not intended by this Ordinance to repeal, abrogate, annul, or in any way to impair or interfere with any rules, regulations, or permits previously adopted or issued pursuant to law relating to the use of buildings, structures, shelter or premises; nor is it the intent of this Ordinance to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction on the use of a building or premises, or requires larger open spaces than are imposed or required by other statute, ordinance, rule, regulation or permit, or by any easement or agreement, the provisions of this Ordinance shall prevail.

## SECTION 105 STATEMENT OF COMMUNITY GOALS AND OBJECTIVES

- A. **General Goals and Objectives.** This Ordinance is enacted in accordance with a comprehensive land planning program, which includes the Newlin Township Open Space, Recreation and Open Space Plan of 1994, the Unionville Area Regional Comprehensive Plan and **Landscapes**, the 1996 Chester County Comprehensive Plan. Consideration has been given to the character of the Township and its various parts, and

the suitability of these parts for various uses. This Ordinance is enacted to support the following general goals and objectives:

1. To preserve and promote open space and the Township's rural character.
2. To preserve and protect the Township's extensive areas of environmentally sensitive lands and to preserve its ecological balance.
3. To meet the Township's responsibilities for accepting its fair share of development within the context of protecting site-specific environmentally sensitive lands.
4. To prevent damage and loss of life from flooding, water pollution (both surface and subsurface), and other dangers.
5. To protect the Township's potable water resources.
6. To preserve property values and prevent conflict between adjacent incompatible land uses.
7. To implement the provisions of the Township's Open Space, Recreation and Environmental Resources Plan of 1994, as it may be amended, including its recommendations for Greenways.
8. To permit and regulate locally oriented commercial activities.
9. To implement the Unionville Area Regional Comprehensive Plan, specifically the sharing of land uses across the region.

## **SECTION 106 ESTABLISHMENT OF ZONING REGULATIONS**

- A. Purpose.** The Township hereby establishes regulations for the use and development of lands according to zoning districts, each of which is based on an assessment of the general ability of the resources of each district to support certain land uses at appropriate densities.
- B. Establishment of Zoning Districts.** The boundaries of zoning districts are hereby established as described in this Ordinance.

## **SECTION 107 ZONING DISTRICTS**

The following districts are established:

- A. Flexible Rural Development**
- B. Flood Plain Conservation Overlay**
- C. Steep Slope Conservation Overlay**
- D. Village Overlay**
- E. Airport Overlay**

The entire Township is constituted within the Flexible Rural Development District, and this District is not mapped. The Flood Plain Conservation and Steep Slope Conservation Overlay districts are not mapped, but apply to areas that meet the definitions of flood plains and steep slopes in this Ordinance. The Village Overlay district, applicable to Embreeville and Mortonville villages, is mapped in the Appendix to this Zoning Ordinance, Village Overlay Districts. The Airport Overlay district applies to the G. O. Carlson Airport, including the Chester County G. O. Carlson Airport Surface Areas illustrated in the Appendix to this Zoning Ordinance.

## **SECTION 108                      INTERPRETATIONS OF BOUNDARIES**

The entire Township is designated as Flexible Rural Development, except within the limits of the 100-year floodplain and areas over 20% slope, which shall be deemed to be overlay districts as determined in Article 4 and Section 613 of this Ordinance. The requirements of the Floodplain and Steep Slope overlay districts shall be in addition to and shall supersede the requirements of the underlying district when they are inconsistent.

## **SECTION 109                      SUMMARY TABLES**

Tables 16 and 17 are summaries of land use regulations and bulk and lot standards according to the Township's zoning districts. These Tables are to be used for convenient reference purposes only. In the event of a contradiction or ambiguity between Tables 16 or 17 and other parts of this Ordinance, the text of the Ordinance shall prevail.

## ARTICLE 2 – DEFINITIONS

### SECTION 200 GENERAL TERMS

**A. Interpretation of Terms.** The following rules of construction and interpretation shall be used in this Ordinance.

1. The word "lot" shall be construed to include the words "plot" or "parcel."
2. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged," or "designed to be" prior to the words or phrase "used" or "occupied."
3. The words "building or structure" shall be construed as if followed by the words "or parts thereof."
4. Words in the singular may imply the plural, and the plural may imply the singular.
5. Words in the present tense may imply the future tense.
6. The masculine gender includes the feminine and neuter.
7. The word "person" shall be construed to include a partnership, corporation, association, trust, estate, or any legally recognized entity as well the officers of any corporation and the members of any partnership.
8. The word "shall" is mandatory; "should" and "may" are advisory.
9. References to ordinances, codes, rules, regulations, plans, maps, governmental bodies, commissions, and agencies apply to ordinances, codes, rules, regulations, plans, maps, governmental bodies, commissions, and agencies of the Township or the Commonwealth of Pennsylvania, as the case may be, unless the context indicates that another reference is intended.
10. All words and phrases shall have their common meanings unless the context indicates otherwise, or where such meanings as taken literally would be inconsistent with the intended meaning with the context of the section or where a more specific interpretation is included in the Pennsylvania Municipalities Planning Code.
11. Common terms are grouped alphabetically according to their root word.

## **SECTION 201                      DEFINITIONS**

The following terms shall have the corresponding meanings:

**ABANDONMENT** - The relinquishment of a use without the manifest intention to resume it.

**ACCESSORY DWELLING**- A subordinate single-family dwelling located on the same lot with and of a nature customarily incidental and subordinate to, a principal dwelling.

**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.

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

**ADJUSTED TRACT AREA** - See Tract Area, Adjusted.

**ADMINISTRATIVE OFFICE** - An establishment primarily engaged in management and general administrative functions such as executive, personnel, finance, and sales activities.

**AGRICULTURE, INTENSIVE** - Agricultural uses involving the accelerated processing or production of agricultural products which are likely to emit frequent, reoccurring odors or noises considered obnoxious to a residential environment including but not limited to mushroom production, chickenhouses, feedlots, facilities for the accelerated growth or raising of animals, commercial swine barns, and poultry houses. (Also known as a Concentrated Animal Operation.)

**AGRICULTURE, NON-INTENSIVE** - The cultivation of soil and the raising and harvesting of products of the soil, including nurseries, horticulture, commercial greenhouses, forestry, and the raising of animals and poultry not to exceed a combined total of 1000 pounds of animal weight per acre (equivalent animal units), and excluding intensive agriculture.

**AGRICULTURAL RELATED BUSINESS** - An establishment primarily engaged in the following activities: soil preparation services, crop services, landscaping, horticultural services, large-animal veterinary or other animal services, farm labor and management services, feed, seed and fertilizer stores, sale and repair of farm machinery and farm vehicles, stables, aquaculture, or apiaries.

**AIRPORT, PERSONAL USE** - An area for landing and take-off of aircraft (including ultra-lights and balloons, but not including helicopters) which is restricted solely for non-commercial use, is not conducted for financial return, and at which commercial flight operations are not conducted.

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

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

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

**ANTENNA, COMMERCIAL COMMUNICATIONS** - A structure that includes a transmitting or receiving facility, or relay tower and support structures and accessory buildings that is licensed by the Federal Communications Commission for the specified purpose of television, radio, telephone

or other communications beyond that which would be used for normal personal or residential use. Such uses shall include a cellular, television, radio, or microwave tower.

**ANTENNA HEIGHT** - The vertical distance measured from grade to the highest point of the support structure or antenna, whichever is higher. If the support structure is on a grade, then the lowest grade shall be used in calculating the height.

**ANTENNA, MICROWAVE DISH** - A parabolic earth-based reflector, together with its pedestal and any other attachments and parts thereof, commonly referred to as a "dish antenna," used or intended to receive microwaves, radio waves, or electromagnetic waves from an overhead satellite.

**ANTENNA, RADIO OR TELEVISION** - A device, either freestanding or attached to a building, used for receiving frequency signals, including television and radio antennae and which is not used for commercial purposes. Such devices shall also include ham and citizen band radio antennae used by amateur radio operators.

**ANTENNA SUPPORT STRUCTURE** - Any pole, telescoping mast, tower, tripod, or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.

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

**APPLICATION FOR DEVELOPMENT** - Every application, whether preliminary or final, required to be filed and approved prior to the start of construction or development, including, but not limited to an application for a building permit, for the approval of a subdivision plat or plan, or for the approval of a development plan.

**AQUACULTURE** - The controlled cultivation of aquatic plant and animal species.

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

**BASE SITE AREA** - The portion of a total tract that results after all existing and proposed road and utility rights-of-way are deducted.

**BED AND BREAKFAST** - A building occupied by a resident innkeeper containing eight or fewer guest rooms for the temporary lodging of guests for compensation and providing to the guests such lodging services as housekeeper service and accessory eating and drinking facilities limited to the serving of breakfast.

**BILLBOARD** - A sign that directs attention to a business, commodity, service or entertainment not conducted, sold or offered upon the premises where the sign is located.

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

**BOARD OF SUPERVISORS** - The Board of Supervisors of Newlin Township.

**BUFFER** - An area that provides year-round visual isolation and/or sound attenuation between uses, through such means as vegetative plantings, earthen berms, depressions, fences, walls, etc.

**BUILDING** - Any permanent structure having enclosed walls and roof, including manufactured homes and trailers used for human habitation.

**BUILDING, ACCESSORY** - A structure that is subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building.

**BUILDING COVERAGE** - The ratio of the total ground floor area of all buildings on a lot to the total area of the lot on which they are located.

**BUILDING HEIGHT** - The vertical measurement of a building from the mean level of finished grade surrounding the building, to the highest point of the roof, excluding the chimney and/or mechanical equipment above the roof.

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

**BUILDING SETBACK LINE** – A line which designates the minimum distance between any building or structure and the adjacent street right-of-way or property line, as measured horizontally and at a right angle from any point formed by the intersection of a vertical building wall with the ground, to the street right-of-way or property line, whichever is closer. This line shall include patios, and covered porches, but not open steps.

- A. Front Yard Building Setback Line** - The line parallel to the public or private street right-of-way line at a distance equal to the minimum depth of the front yard as designated in this Ordinance, also referred to as “required front yard.” All yards adjacent to a public or private street right-of-way shall be considered to be front yards.
- B. Side Yard Building Setback Line** - The line parallel to the side lot line and equal to the minimum depth of the side yard as designated in this Ordinance, also referred to as “required side yard.”
- C. Rear Yard Building Setback Line** - The line parallel to the rear lot line and equal to the minimum depth of the rear yard as designated in this Ordinance, also referred to as “required rear yard.”

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

**BUSINESS OFFICE** - An office where a particular kind of business is transacted or a service is supplied and shall be limited to offices for management, consulting, record keeping, and clerical work of a commercial, industrial, mercantile, or service enterprise.

**CALIPER** - The diameter of a tree trunk measured at a point six inches above ground level if the resultant measurement is not more than four inches. If more than four inches, the measurement shall be made at a point 12 inches above ground level.

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

**CELL SITE** - A tract or parcel of land that contains the commercial communication antenna, its support structure, accessory buildings, and parking, and may include other uses associated with, and ancillary to, commercial communication transmission.

**CEMETERY** - Land used or intended for the burial of the dead, including mausoleums and mortuaries when operated in conjunction with the cemetery and within its boundaries.

**CLEAR CUTTING** - The felling of all trees on a tract of land, or any portion thereof, at one time.

**CLEAR SIGHT TRIANGLE** - An area of unobstructed vision at a street intersection, defined by lines of sight between points at a given distance from the intersection down the centerlines of the street.

**CLUB or LODGE** - A building utilized as a private club or social organization offering restaurant or bar privileges for members.

**COMMERCIAL** - A use of land, or improvements thereto, for the purpose of engaging in retail, wholesale or service activities for profit.

**COMMERCIAL COMMUNICATIONS ANTENNA** - A device used to receive and/or transmit wireless communication or radio signals (commonly referred to as “antenna” within the context of wireless communication facilities).

**COMMERCIAL COMMUNICATIONS ANTENNA SUPPORT STRUCTURE** - A tower, pole, mast, tripod, and associated cables or guy wires used to support the structure (commonly referred to as “tower” within the context of wireless communication facilities).

**COMMERCIAL COMMUNICATIONS ANTENNA SUPPORT STRUCTURE HEIGHT** - The vertical distance of a Commercial Communications Antenna Support Structure measured from the average undisturbed grade around the structure to the highest point of the structure, including its antenna.

**COMMERCIAL USE, NEIGHBORHOOD** - Commercial uses, located in Embreeville and Mortonville villages, intended primarily for the use of local residents. Neighborhood commercial uses include retail businesses for the sale of food, drugs, flowers, household goods, newspapers, stationary, art supplies, fine art sales, and tobacco; and personal service uses, including barber or beauty shops, tailor shop, photographic studios, shoe repair, and similar types of businesses, but shall not include convenience stores as defined elsewhere in this ordinance.

**COMMUNITY WASTEWATER TREATMENT SYSTEM** - A sewage disposal facility designed to serve a specific number of users in a particular development and which is permitted by the Pennsylvania Department of Environmental Protection and the Chester County Health Department, but which shall not include experimental permitting, and which is owned and operated by a private entity which may include a PUC-chartered entity limited to serve the particular development.

**COMMUNITY WATER TREATMENT SYSTEM** - A potable water supply facility designed to serve a specific number of users in a particular development and which is permitted by the Pennsylvania Department of Environmental Protection and the Chester County Health Department, and which is owned and operated by a private entity which may include a PUC-chartered entity limited to serve the particular development.

**COMPLETELY DRY SPACE** - A space that will remain totally dry during flooding, which is designed to prevent the passage of water and water vapor.

**COMPREHENSIVE PLAN** - The Township Comprehensive Plan of 1996, as it may be amended.

**CONSTRAINED LAND** – The sum of land features, each of which is multiplied by a density factor set forth in this ordinance.

**CONSERVANCY LOT** – An undeveloped, privately owned lot comprising part of an area of open land.

**CONSERVATION AREAS, PRIMARY** - Natural features of the highest importance, including the one hundred year floodplains, wetlands, and slopes over 20%.

**CONSERVATION AREAS, SECONDARY** - Natural and cultural resources that are identified by an applicant for land development in consultation with the Newlin Township Planning Commission according to the procedures identified in the Newlin Township Subdivision and Land Development Ordinance and which do not include primary conservation areas.

**CONSERVATION LANDS** - Areas within a development site that are identified as containing significant environmental features and on which development is prohibited.



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

**CONVENIENCE STORE** - A retail activity designed to serve a local market which involves, but is not limited to, any of the following uses: delicatessen, food market, sales of automotive fuel, or video tape rental.

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

**CONVERSION, RESIDENTIAL** - The subdivision of a single family detached dwelling into two or more dwelling units.

**CUL-DE-SAC** - A single access street intersecting another street at one end and terminated at the other by a vehicular turn-around, built to Newlin Township public street standards for vehicular traffic flow.

**DAY CARE** - Day Care shall include the following:

- A. Commercial Adult Day Care** - A commercial facility where daytime supervision is provided for adults.
- B. Commercial Child Day Care Center** - A facility which exclusively provides supplemental parental care and/or instruction to children who are not related to the caregiver or operator; where tuition, fees, or other forms of compensation are charged; and which is licensed or approved to provide child care by the Commonwealth of Pennsylvania.
- C. Home Day Care** - A major home occupation in which a private residence is used for the care and supervision of between four to six children or adults, not related to the caregiver.

**DENSITY, GROSS** - The total land area divided by the total number of dwellings to be housed thereon, expressed in dwelling units (DU) per acre.

**DENSITY, NET** - The number of dwelling units per acre, including yards, off-street parking and driveway facilities directly serving those dwellings, but excluding common open spaces, permitted commercial uses, public streets, and other public grounds and rights-of-way.

**DEPARTMENT OF HEALTH** - The Department of Health of the Commonwealth of Pennsylvania or of Chester County, or their representative having jurisdiction in Newlin Township.

**DEVELOPER** - Any landowner, agent of such landowner, tenant with permission of such landowner, or equitable owner, who makes or causes to be made an application for a subdivision or land development. Also "applicant."

**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 PLAN** - The provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities.

**DIAMETER (of plant materials)** - The diameter of a tree trunk measured at grade.

**DISCONTINUANCE** - The cessation of the use of property evident from the continuous lack of maintenance or occupancy.

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

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

- A. Single-Family Detached.** A building designed for and occupied exclusively as a residence, containing one set of cooking, sleeping and bathroom facilities and having no common or party wall with an adjacent dwelling, and having yards on all sides. Where a private garage is structurally attached to such building, it shall be considered as a part of the building.
- B. Single-Family Semi-Detached (twin).** A building designed for and occupied exclusively as a residence, containing two individual dwellings separated by a vertical common or party wall and having yards on all but one side.
- C. Duplex.** A building designed for and occupied exclusively as a residence, containing two dwellings, in an "over and under" arrangement, separated by a horizontal common or party wall and having yards on all sides.
- D. Single-Family Attached (townhouse).** A building designed for and occupied exclusively as a residence, containing three but not more than eight dwellings each accommodating one family and which are attached by a vertical common party wall and which have side yards adjacent to each end unit.
- E. Multi-Family.** A building designed for and occupied exclusively as a residence, containing three or more dwellings, but which does not meet the definition of a "townhouse".

**DWELLING UNIT** - A single living space for one family, excluding individual rental units in a motel, rooming house, tourist home, institutional home, dormitory, and the like.

**EASEMENT** - An interest in land owned by another that entitles the holder of the easement to a specific use or enjoyment of the land.

**EASEMENT, CONSERVATION** - A voluntarily derived set of use restrictions placed on a parcel of land in perpetuity, through which no positive or appurtenant rights are conveyed to the grantee.

**EATING ESTABLISHMENT** - A place of business open to the public that dispenses prepared food and non-alcoholic drink.

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

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

**ELECTRIC SUBSTATION** - Buildings or structures and equipment erected and used for the purposes of transmission, switching or transforming of electrical current between customers and the utility company facilities, not including the storage of materials, trucks, repair facilities or housing of repair crews.

**ENGINEER, TOWNSHIP** - A professional engineer, licensed by the Commonwealth of Pennsylvania, and duly appointed as the engineer for the Township of Newlin, Chester County.

**ENVIRONMENTALLY SENSITIVE AREAS** - Those areas of land the disturbance of which would contribute significantly to the degradation of environmental conditions or amenities. Environmentally sensitive areas include, but are not limited to, the natural resources identified in Section 304 C (Table 4) of this Ordinance.

**EROSION**--The process by which soils, vegetation, and man-made materials on the earth's surface are worn away by action of water, wind, frost or a combination of such by natural forces

**ESSENTIALLY DRY SPACE** - A space which will remain dry during flooding, except for the passage of some water vapor or minor seepage, and which is designed to be substantially impermeable to the passage of water.

**FAMILY** - "Family" shall include the following:

- A. A single person occupying a dwelling unit;
- B. Two or more persons related by blood, marriage, or adoption occupying a dwelling unit, including not more than one boarder, roomer, or lodger;
- C. The occupants of a group home; or
- D. Not more than four unrelated persons occupying a dwelling unit, living together, excluding a rooming or boarding house, fraternity house, dormitory, or transitional housing.

**FENCE OR WALL** - Any freestanding and uninhabited structure that is erected to secure or divide a property from another, or part of a property from the remaining part of the same property.

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

**FLOOD** - A temporary inundation of normally dry land.

**FLOOD, BASE** - The flood which has been selected to serve as the basis upon which the flood plain management provisions of this Ordinance have been prepared. For the purposes of this Ordinance, the Base Flood shall be the One Hundred-Year Flood. (See **FLOOD, ONE HUNDRED YEAR.**)

**FLOOD ELEVATION, BASE** - The One Hundred Year Flood elevation. Within the Approximated Flood Plain, the Base Flood Elevation shall be established as a point on the boundary of the Approximated Flood Plain that is nearest to the site in question.

**FLOOD ELEVATION, REGULATORY** - The One Hundred-Year Flood elevation, plus a freeboard safety factor of one and one-half feet.

**FLOOD FRINGE** - The remaining portions of the one hundred-year floodplain in those areas in the Flood Insurance Study where a floodway has been delineated. The basis for the outermost boundary of this area shall be the 100-year flood elevations as shown in the flood profiles contained in the Flood Insurance Study.

**FLOOD, ONE HUNDRED YEAR** - The highest level of flooding that, on the average, is likely to occur once every 100 years; that is, that has a one percent chance of occurring each year as delineated by the Federal Flood Insurance Agency Maps developed in the Flood Insurance Program (see also **BASE FLOOD**).

**FLOOD PLAIN AREA - (also IDENTIFIED FLOODPLAIN AREA)** A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby river, stream, or watercourse; and/or any area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD PLAIN, APPROXIMATED** - The areas identified as Zone A in the Flood Insurance Study for which 100-year flood elevations have been provided. When available, information from other Federal State, and other acceptable sources shall be used to determine the one hundred-year elevation, as well as a floodway area, if possible. When no other information is available, the one hundred-year elevation shall be determined by using a point on the boundary of the identified floodplain area that is nearest the construction site in question.

**FLOOD PLAIN SOILS** - See **ALLUVIAL SOILS**

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

**FLOODWAY** - The designated area of a floodplain required to carry and discharge floodwaters of the 100-year flood.

**FLOODWAY** - The areas identified as "Floodway" in the Flood Insurance Study prepared by FEMA. The term shall also include floodway areas that 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.

**FLOOR AREA, GROSS** - The sum of the gross horizontal areas of all floors of a building measured from the exterior face of exterior walls, or from the centerline of the wall separating two buildings, but not including interior parking spaces, interior loading space for motor vehicles, or any interior space where the floor-to-ceiling height is less than six feet.

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

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

**FORESTRY** - The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting, and selling trees for commercial purposes, which does not involve any land development.

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

**GARAGE, PRIVATE** - An accessory building or part of a principal building used for the storage of motor vehicles owned and used by the owner or tenant of the premises, and for the storage of not more than two motor vehicles owned and used by persons other than the owner or tenant of the premises.

**GARAGE, PUBLIC PARKING** - A building other than a private garage, used for the commercial storage or parking of motor vehicles.

**GARAGE/YARD SALE** - The temporary display and sale of goods and craft items on a residentially used property.

**GREENHOUSE, COMMERCIAL** - A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature or humidity can be regulated for the commercial cultivation of plants or produce.

**GREENWAY** – Lands permanently protected as conservation areas by a perpetual easement that complies with Section 170 (h) of the Federal Internal Revenue Code of 1986, as amended.

**GREENWAY LAND** – That portion of a tract that is set aside for the protection of sensitive natural resources, farmland, scenic views, and other unique features.

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

**GROUP HOME** - A licensed community-based living arrangement functioning as a single household and providing rehabilitation service and which provides residential services to persons who, due to age, disability or handicap, are not able to live without professional care or supervision. Group homes shall not include alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration. (See also **TRANSITIONAL HOUSING**)

**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 RESOURCE (or Structure)** - Any structure, parcel, or site that is:

- A. Listed individually on the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminary 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 with historic preservation programs that have been approved by the Secretary of the Interior;
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - 1. By an approved state program as determined by the Secretary of the Interior; or
  - 2. Directly by the Secretary of the Interior in states without approved programs, or
- E. Any building, site or parcel identified as having historic or cultural value in either the Chester County Newlin Township Historic Resource Atlas of 2010, the Unionville Area Regional Comprehensive Plan Chapter 4 of 2011 or the Newlin Township Open Space, Recreation and Environmental Resources Plan of 1994, and all locations listed in the National Register of Historic Places.

**HOME OCCUPATION (NON-PROFESSIONAL)** - An activity conducted for profit by persons residing on the premises that is clearly subordinate to the residential use of the property, which typically involves a trade, the storage of goods or materials, manufacturing, or the use of commercially registered vehicles, and which does not fall within the definition of Professional Home Occupation.

**HOME OCCUPATION (PROFESSIONAL)** - An activity conducted for profit by persons residing on the premises which is typically of a professional nature such as an attorney, engineer, architect, member of the clergy, and similar professions, and which do not fall within the definition of a Non-Professional Home Occupation.

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

**HORTICULTURE** - The cultivation of fruits, vegetables, flowers, or ornamental plants.

**IMPERVIOUS SURFACES** - Areas or materials, such as buildings, structures, and paved areas, which are impenetrable by liquid and which are incapable of allowing groundwater recharge or absorbing precipitation and liquids.

**ITE TRIP GENERATION RATES** - Vehicle trips generated for a particular size of land use published by the Institute of Transportation Engineers, ITE Trip Generation Manual, latest edition.

**JUNK** - Any worn out, cast off, discarded or stored material including unregistered vehicles, machinery, and equipment or material ready for destruction or which has been collected for salvage or conversion to another use.

**KENNEL** - The use of land, buildings or structures for the purpose of breeding, boarding, training or grooming customary household pets for compensation, or the maintenance of four or more dogs that are more than six months old on a single lot or contiguous lots under single ownership or lease.

**LABORATORY** - A building or group of buildings in which are located facilities for scientific research, investigation, testing and experimentation, but not including the manufacture of products for sale.

**LAND DEVELOPMENT** - "Land development" includes any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
  - 1. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants; or
  - 2. The division or allocation of space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups or other features.
- B. A subdivision of land.
- C. The definition of land development shall not include the following activities:
  - 1. The conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium;

2. The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building;
3. The addition or conversion of buildings or rides within the confines of an enterprise that constitutes an amusement park. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the proper authorities.

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

**LANDSCAPE (or planting) SCREEN** - Plantings arranged or placed so as to divert attention from and obstruct at least 50% of an otherwise clear view of an use or activity during all seasons of the year, as outlined by this Ordinance.

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

**LIVE/WORK UNIT** – A single dwelling unit consisting of both a commercial/office and a residential component that is occupied by the same resident. The live/work unit shall be the primary dwelling of the occupant.

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

**LOT** - A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit, excluding any area within a public street right-of-way.

**LOT AREA** - The area contained within the lot lines of an individual parcel, excluding any street and railroad rights-of-way and common open space.

**LOT, CORNER** - A lot bounded by two or more intersecting streets or at the point of change in direction of a single street when the interior angle of which is not greater than 135 degrees.

**LOT COVERAGE** - The ratio of the total ground floor area of all impervious surfaces to the total area of the lot on which they are located.

**LOT, FLAG** - A lot which provides access to a public road by a driveway which passes through a portion of the lot that does not meet minimum lot width requirements.

**LOT LINE** - A property boundary line of any lot held in single and separate ownership exclusive of a street right-of-way. When a recorded lot includes a lot line that is coincident with a street centerline, the lot line shall be construed to be coincident with the right-of-way line instead.

**LOT LINE, "BUILD-TO"** - A dimension from a lot line to which a structure shall abut.

**LOT LINE, FRONT** - The lot line abutting and coinciding with a street right-of-way line; in the case of a corner lot, each street on which the corner lot abuts shall be considered a front lot line and the remaining lots shall be deemed to be rear yard lines.

**LOT LINE, REAR** - A lot line opposite and most distant from the front lot line; if the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to

be a line ten feet in length within the lot, parallel to and at the maximum possible distance from the front lot line. In the case of a corner lot, see "Yard, Front."

**LOT LINE, SIDE** - Any lot boundary that is not a front or rear lot line.

**LOT, MOBILE HOME** - A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

**LOT WIDTH** - The distance between the two opposite side lot lines, or between the rear lot line and the front lot line in the case of a corner lot, measured at the minimum front yard setback line, and parallel to the street line.

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

**MANUFACTURED HOME** - A transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. Also includes park trailers, travel trailers, recreational and similar vehicles that are placed on a site for more than 180 consecutive days.

**MINIMUM BUILDABLE AREA** - That area of a lot that has no development restrictions. The minimum buildable area shall not include the area of any required setbacks (except driveways which cross yards), buffers, natural features with one 100% protection as specified in Section 304C (Table 4) and the portion of other protected natural features that may not be developed or intruded upon.

**MINOR REPAIR** - The replacement of existing work with equivalent materials for the purpose of routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting egress; nor shall minor repairs include addition to, alteration or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

**MIXED USE** - The use of a building or a lot for two or more principal uses.

**MOBILE HOME** - A transportable, single-family dwelling intended for permanent occupancy contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

**MOBILE HOME PARK (also MANUFACTURED HOME PARK)** - A parcel of land under single ownership which has been planned and improved for the placement of mobile homes for non-transient use, consisting of two or more manufactured or mobile home lots for non-transient use.

**MUNICIPAL USE** - Any building, structure, facility, complex, area, or use, provided, constructed, or maintained by the municipal government of Newlin Township.

**NEW CONSTRUCTION** - Structures for which the start of construction commences on or after December 19, 1979, and includes any subsequent improvements thereto.



**NONCONFORMING LOT** - A lot or site which does not comply with the applicable dimensional regulations, including those related to site area, lot area, and lot width, in this Ordinance or amendments hereafter enacted where such lot was lawfully in existence prior to enactment of this Ordinance or amendments.

**NONCONFORMING SIGN** - Any sign lawfully existing at the time of the passage of this Ordinance that does not conform in use, location, height, or size to the regulations of Article 9, Sign Regulations.

**NONCONFORMING STRUCTURE** - A structure which does not comply with the applicable dimensional regulations, including those relating to density, impervious surfaces, building coverage, building height, and setbacks in this Ordinance or amendments hereafter enacted where such structure was lawfully in existence prior to enactment of this Ordinance or amendment.

**NONCONFORMING USE** - A use, whether of land or of a structure, which does not comply with the applicable use provisions of this Ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

**NURSERY** – An open or enclosed place where plants are propagated and then grown until such time as they are placed in permanent locations or sold.

**NURSING HOME OR CONVALESCENT HOME** - A building or series of buildings for the housing and care of persons in need of specialized care and attention, but which does not necessarily meet hospital level of services.

**OPEN SPACE, COMMON** - A parcel or parcels of land or an area of water, or a combination of land and water, within a development site, designed and intended for the use and enjoyment by residents of such development. Common open space shall be substantially free of structures, but may contain such improvements as are in the finally approved development plan, and shall not include individually owned private yards, streets, and off-street parking areas unless provided in conjunction with a recreational facility.

**OPEN SPACE PLAN** - The Newlin Township Open Space, Recreation and Environmental Resources Plan of 1994, as it may be amended.

**OPEN SPACE RATIO** - Total open space area divided by total site area.

**PARENT TRACT** - A tract or parcel of land in single and separate ownership as of the date of adoption of this Ordinance.

**PARKING SPACE** - A space located off the public right-of-way designed and designated for the transient storage of a motor vehicle.

**PERSONAL SERVICE ESTABLISHMENT** - A building in which limited services consistent with neighborhood needs are offered to the general public. Examples of such services include, but are not limited to: barber and beauty shops, pharmacies, dry cleaning and tailoring shops, shoe repair shops, travel agencies, or photocopy shops.

**PLAN, AS-BUILT** - A final plan showing actual and correct dimensions and locations of all streets, structures, improvements, and other constructed improvements.

**PLAN, EXISTING CONDITIONS** - A plan submitted as part of a preliminary and/or final subdivision or land development plan application, which includes a natural features inventory and analysis, conservation areas, and manmade features.

**PLAN, FINAL** - A subdivision or land development plat prepared under the provisions of Article V of the Pennsylvania Municipalities Planning Code and the Newlin Township Zoning Ordinance and the Newlin Township Subdivision and Land Development Ordinance, as may be amended.

**PLAN, SKETCH** - A drawing submitted to the Township for review and discussion prior to the application for preliminary plan approval, indicating the general location of a site's prominent environmental features including tree masses, scenic vistas, historic elements, and conceptual layout of a subdivision or land development. Sketch plans are voluntarily prepared and do not constitute an application for a plan approval.

**PLAN, YIELD** - A calculation and drawing that establishes a theoretical conceptual maximum development density of a particular parcel, which reflects a realistic layout that shows a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands, floodplains, steep slopes, easements, areas for utilities, and any other site element required in the Newlin Township Zoning Ordinance or Subdivision and Land Development Ordinance. The yield plan is not to be considered a preliminary plan.

**PLANNING COMMISSION** - The Planning Commission of Newlin Township.

**PLAT** - The map or plan of a subdivision of land, whether preliminary or final.

**PLAT, RECORDED** - The final plat, or engineering layout of streets and lots, easements, common open space 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.

**POTENTIAL DEVELOPMENT AREAS** - Portions of a site or parcel that are appropriate for development and which are exclusive of conservation areas.

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

**PROFESSIONAL OFFICE** - The office of a member of a recognized and lawful profession maintained for the conduct of that profession, including, but not limited to, dentists, doctors, chiropractors, attorneys, and accountants.

**PROTECTED AREA** - Areas within a site that contain sensitive environmental conditions that are to be protected, fully or partially, from development.

**PUBLIC GROUNDS** - Parks, playgrounds and other public areas and the sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities.

**PUBLIC HEARING** - A formal meeting held pursuant to public notice by the governing body, intended to inform and obtain public comment prior to taking action.

**PUBLIC MEETING** - A forum held pursuant to notice under the act of July 3, 1996 (P.L. 388 No. 84), known as the "Sunshine Act."

**PUBLIC NOTICE** - Notice published once each week for two successive weeks in a newspaper of general circulation in Newlin Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall be not more than 30 days and the second publication shall be not less than seven days from the date of the hearing.

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

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

**QUARRYING/MINING** - Removal of sand, clay, gravel, topsoil, groundwater or similar commercial extractive operations including borrow pits or excavations for removing material for fill operations.

**RECREATION, ACTIVE** - Those leisure time activities which require physical alteration to the area in which they are performed. Such areas are intensively used and include, but are not limited to, playgrounds, ball courts and swimming pools, excluding amusement parks.

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

- A. Built on a single chassis;
- B. Not more than 400 square feet, measured at the largest horizontal projections;
- C. Designed to be self-propelled or towed by a light-duty truck;
- D. Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use; and
- E. Is legally registered by a state department of motor vehicles.

**RECREATION, OUTDOOR** - A leisure time facility designed and equipped for the conduct of sports activities, including swimming, tennis and other court games, baseball and other field sports, playground and other outdoor activities, but excluding amusement parks, go-cart tracks, shooting ranges and other activities which generate noise objectionable to a residential environment.

**RECREATION, PASSIVE** - Leisure time uses which can be carried out with little alteration or disruption in the area in which they are performed. Such uses include, but are not limited to hiking, biking, and picnicking.

**RECREATION USE, INDOOR** - The use of a building or part thereof for indoor sports such as bowling, tennis, racquetball, squash, indoor basketball, indoor swimming, and those sports activities usually conducted indoors, but excluding target shooting or any other activities that create loud noises or which may be dangerous or disturbing to surrounding residents.

**RECYCLING CENTER** - An activity that accumulates material such as paper, glass, aluminum, and plastic that is no longer useful for its original purpose. The materials are then transported off the premises to be manufactured into a new product, or a place for the collection and storage of materials suitable for recycling into usable products.

**REFORESTATION** - The restocking of an area with trees.

**RELIGIOUS USE** - A nonprofit use of land or a building as a place of worship, convent, monastery or similar religious institution, including rectory and parish house.

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

**RESTAURANT** - A facility serving food and beverages prepared for consumption on the premises, and providing table or sit-down service, but not including outdoor curb service.

**RETAIL SERVICES** - Establishments providing services or entertainment, as opposed to products, to the general public, real estate and insurance, personal service establishments, motion pictures, amusement and recreation service, educational and social services, museums and galleries.

**RETAIL STORE/TRADE** - Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods such as, but not limited to, hardware store, pharmacy, magazine or bookstore, florist, or clothing store.

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

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

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

**ROOMING HOUSE** - A dwelling in which weekly or monthly sleeping accommodations are provided for rent to more than two but less than ten persons, whether or not the serving of meals is included.

**SCREEN (OR LANDSCAPE SCREEN)** - Vegetative materials such as shrubs and trees (which may incorporate a berm) that shall grow to form a continuously growing, dense evergreen six-foot tall visual barrier within five years of planting.

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

**SEDIMENTATION** - The process by which mineral or organic matter is accumulated or deposited by moving wind, water, or gravity. Once this matter is deposited it is usually referred to as "sediment"

**SELECTIVE CUTTING** - The felling of certain, but not all trees in an area for the purposes of:

- A. removing dead, diseased, damaged, mature or marketable timber;
- B. improving the quality of a tree stand or species; or
- C. meeting personal domestic needs.

**SETBACK, LOT** - The minimum building line measured along a line parallel to a lot line.

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

**SEWAGE DISPOSAL SYSTEM** - "Sewage disposal systems" include the following:

- A. **Individual** - The disposal of sewage from one dwelling unit by use of septic tanks or other safe and healthful means, approved by the Chester County Health Department.
- B. **Central/Community Collection and Treatment (Centralized)** - A sanitary sewage system which carries sewage from individual sources by a system of pipes to one or more common treatment and disposal facilities, either on-site or off-site, and approved by the Pennsylvania Department of Environmental Protection.

**C. Public Sewer System (Centralized)** - An off-site system for collection, treatment, and disposal of sewage in which sewage is conveyed to a common treatment facility, and disposed through means and approved by the Pennsylvania Department of Environmental Protection.

**SIGHT DISTANCE** - The maximum extent of unobstructed vision (in a vertical or horizontal plane) along a street from a vehicle located at any given point on the street, as defined by the Pennsylvania Department of Transportation.

**SIGN** - Any permanent or temporary structure or part thereof or any device attached, painted or represented, directly or indirectly, on a structure or other surface that displays or includes any letter, word, insignia, flag, or representation used as or which is in the nature of an advertisement, announcement, visual communication, direction, or which is designed to attract the eye or bring the subject to the attention of the public.

**SIGN AREA** - The area of the smallest rectangle, triangle, or circle that will encompass all elements of the sign, such as letters, figures, symbols, designs, or other display. The area shall not include any structural component, borders, or framing, unless it is in the form of a symbol or contains advertising elements.

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

**SIGN - (BUSINESS SIGN)** - A sign which directs attention to any commercial, industrial or professional activity occurring on the premises on which the sign is located, but not including a home occupation sign.

**SIGN - (SITE IDENTIFICATION SIGN)** - A sign used to identify the name and display information about the individual, organization, agency, institution, or similar development located on the premises on which the sign is located, but not including a business sign.

**SIGN - (SPECIAL EVENT SIGN)** - A temporary sign that carries information about a transitory event such as an auction, flea market, festival, carnival, or similar event, but not including any business sign or "for-sale" signs.

**SINGLE AND SEPARATE OWNERSHIP** - The ownership of property by any person, partnership, or corporation, in which ownership is separate and distinct from that of any adjoining property.

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

**SOILS, ALLUVIAL (FLOOD PLAIN)** - Areas subject to periodic flooding as listed in the Soil Survey of Chester and Delaware Counties, Pennsylvania, U.S. Department of Agriculture, Soil Conservation Service, May 1963.

**SOILS, PRIME AGRICULTURAL** - Soils with US Soil Conservation Service agricultural capability units I, II, and III.

**SOLID WASTE** - All refuse including garbage and trash, and all solid material which is putrescible and originating from the preparation, cooking and consumption of food and market produce.

**STEEP SLOPES** - Those areas of land where the grade is 20% or greater.

**STORAGE** - The keeping of new or used products, merchandise, materials, equipment or vehicles for a continuous period greater than eight hours. Excluded from this definition are the following:

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

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

**STORMWATER** – Any precipitation, but usually rainfall, which is sufficient to flow on any natural or impervious surface creating erosion and sedimentation; frequently termed “runoff”.

**STORMWATER MANAGEMENT** -The management and/or control of stormwater, erosion and sedimentation through the implementation of controls as required by either the Township Subdivision/Land Development Ordinance or Stormwater Management Checklist.

**STREET** - A public (dedicated) or private (undedicated) right-of-way intended for use as a means of vehicular and pedestrian circulation to provide access to more than one lot. The word "street" includes thoroughfare, avenue, boulevard, court, drive, expressway, highway, lane, alley, road, or similar terms. Streets are classified in the Newlin Township Comprehensive Plan as:

- A. **Local Access** - Those streets used primarily to provide access to abutting properties.
- B. **Minor Collector** - Those streets which, in addition to giving limited access to abutting properties, intercept local or collector streets, carry considerable volumes of traffic to community facilities and to major traffic arteries.
- C. **Major Collector** - Those streets serving large volumes of comparatively high-speed and long distance traffic and includes facilities classified as main and secondary highways by the Pennsylvania Department of Transportation.
- D. **Lane** - A street serving a single development.

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

**STREET LINE** - The legal right-of-way line of a street dividing a lot from the boundary of a public or officially plotted street.

**STREET, PRIVATE** - A lane not deeded or dedicated to the Township.

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

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

**STRUCTURAL ALTERATION** - Any change in, or addition to, the supporting or structural members of a building or other structure, such as the bearing walls, partitions, columns, beams or girders, or any change which could convert an existing building or other structure into a different structure, or adapt it to a different use, or which, in the case of a nonconforming building or other structure, would prolong the life of such building or other structure.

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

**STRUCTURE** - Anything constructed or erected on or attached to the ground including, but not limited to buildings, sheds, manufactured homes, and other similar items.

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

**SUBDIVISION** - The division or redivision of a lot, tract or parcel of land by any means, into two 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, easement of access or residential dwellings shall be exempted.

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

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

**SUBSTANTIAL IMPROVEMENT** - Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure to an extent or amount equaling 50% or more of the market value of the structure before the start of construction of the improvement. "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either of the following:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- B. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**SURFACE RUNOFF** - That part of precipitation that passes over the surface of the soil.

**SWIMMING POOL** - An enclosure, designed to be filled with water, permanently constructed or portable, with sides having a depth of more than 18 inches below the level of the immediate surrounding grade, or an above surface pool having a depth of more than 30 inches, designed, used, and maintained for swimming and recreation.

**TELEPHONE EXCHANGE OFFICE** - A building and its equipment used for the transmission and exchange of telephone or radio telephone messages between subscribers and other business of a telephone company.

**TOPSOIL** - Natural and friable loam containing sufficient nitrogen, phosphorus, and potassium to support plant growth and extending in depth to the extent of penetration of feeder roots of the prevailing native grasses.

**TOWNSHIP** - The Township of Newlin, Chester County, Pennsylvania.

**TRACT AREA, ADJUSTED** - The total area within a lot, exclusive of roads and rights-of-way, steep slopes, floodplains and wetlands, water courses, rock outcrops, and as identified in Table 3 of the zoning ordinance.

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

**TRAILER** - A drawn vehicle, not self-propelled, which is permitted on the highways when properly licensed.

**TRANSFER STATION** - A facility where municipal solid waste is delivered for the purpose of consolidating the material into larger vehicles for transport to a final disposal site or processing facility.

**TRANSITIONAL HOUSING** - Living arrangements for up to five unrelated individuals that do not meet the definition of "family" or "group home." Transitional housing may include a licensed community-based facility which provides lodging, rehabilitation, or meals to clients where supervision is provided seven days a week, 24 hours a day, or is staffed continuously by the provider whenever the structure is occupied.

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

**TREE HARVESTING OPERATION** - The uprooting or removal of more than four trees per acre from any lot for the purpose of allowing or encouraging the natural regeneration or preservation of a tree stand on a lot which has a gross area prior to any subdivision or land development of more than three acres and which is undertaken in compliance with an approved woodland management plan.

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

**TURF GRASS** - Cultivated lawn grasses capable of being mowed to form a dense matting of roots and stems, other than the native, wild grasses or weeds.

**TRACT AREA (ADJUSTED)** - Land within a lot or parcel exclusive of constrained areas, as defined in this Ordinance.

**TRACT AREA (GROSS)** - The total amount of land within a lot or parcel.

**UNIFIED RESIDENTIAL DEVELOPMENT** - An area of minimum contiguous size to be planned, developed, operated, and maintained as a single entity and containing one or more residential clusters and areas of permanently maintained open space.

**USES (Also LAND USES)**- Any purpose for which a building or other structure or tract of land may be designed, arranged, intended, maintained or occupied, or any activity, occupation, business, or operation carried on in a building or other structure on a tract of land.

**USE, ACCESSORY** - A use of land or structure on the same lot with it, and of a nature customarily incidental and subordinate to the principal land use or structure.

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

**USE, CONDITIONAL** - A use which is generally not appropriate to a particular zoning district as a whole, but which may be suitable in certain places 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 comments from the Planning Commission.



**USE, SPECIAL EXCEPTION** - A use which is not permitted as a right, but which, when deemed suitable, with or without the imposition of conditions or restrictions under applicable standards, may be allowed by the Zoning Hearing Board after public hearing.

**VARIANCE** - A modification of the regulations of this Ordinance granted by the Zoning Hearing Board on grounds of physical conditions or unnecessary hardship, not self-imposed, pursuant to the provisions of this Ordinance and Act 247.

**VISUAL SCREEN** - A wall, fence, plantings, earth works, or combinations thereof, which are arranged or placed so as to divert attention from and obstruct at least 50% of an otherwise clear view of an use or activity during all seasons of the year, as outlined by this Ordinance.

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

**WATERCOURSE** - A stream, creek, run, or other body of running water with a defined bed and banks in which water flows in a definite direction or course, either continuously or intermittently, as depicted on the most current edition of the applicable U.S.G.S. Quadrangle Map.

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

**WATER SUPPLY** - "Water supply" shall include the following:

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

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

**WETLAND** - Those areas that are inundated and 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, including swamps, marshes, bogs, and similar areas. Any area meeting the official wetland definition of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection, as amended, shall be considered a wetland for the purposes of this Ordinance. In the event the definition of a wetland accepted by the U.S. Army Corps of Engineers conflicts with the definition of a wetland accepted by the Pennsylvania Department of Environmental Protection, the more restrictive definition shall apply.

**WOODLAND** - A plant community predominantly of healthy trees and other woody vegetation, well stocked and growing more or less closely together. Specifically, woodlands consist of one-quarter acre or more of continuous wooded land where the largest trees measure at least six inches diameter at breast height (dbh). The woodland shall be measured from the dripline of the outer

trees. Woodlands are also a grove of trees forming one canopy where 10 or more trees measure at least six inches dbh.

**WOODLAND MANAGEMENT PLAN** - A description, by means of text and maps, of proposed actions involving the removal of trees from a tract of land, prepared by a qualified individual with demonstrable expertise in forest management, and documenting measures to be taken to: protect water quality; minimize impacts from skid trails and logging roads, land areas, and the tree removal process; and ensure site restoration.

**VARIANCE** - A modification of the regulations of this Ordinance granted by the Zoning Hearing Board on grounds of physical conditions or unnecessary hardship, not self-imposed, pursuant to the provisions of this Ordinance and Act 247.

**WIRELESS COMMUNICATION FACILITY** - The Commercial Communications Antenna, Commercial Communications Antenna Support Structure, Wireless Communications Equipment Building, parking areas, and other facilities, structures and equipment involved in receiving or transmitting wireless communications or radio signals on a site.

**WIRELESS COMMUNICATIONS EQUIPMENT BUILDING** - A structure or cabinet that contains equipment involved in receiving or sending wireless communications.

**YARD** - An open area around the periphery of a lot; a yard extends inward from and parallel to lot lines and street lines, and is measured as a distance perpendicular to lot and street lines.

**YARD, FRONT** - The required open space between the front set back line and the street right-of-way line projected along the full width of the lot. In the case of a corner lot, the yards extending along all streets shall be deemed to be front yards and the remaining yards shall be rear yards.

**YARD, REAR** - The required open space extending the full width of the lot along the rear lot line at a specified depth from such rear lot line.

**YARD, SIDE** - The required open space extending the full depth of the lot along a side lot line extending a specified depth from such side lot line.

**YIELD CALCULATION** - The conceptual calculation for a particular site that results after all protected areas are deducted from the gross site area.

**ZONING HEARING BOARD** - The Zoning Hearing Board of the Township of Newlin, Chester County, Pennsylvania.

**ZONING OFFICER** - The individual charged with the enforcement of the provisions of the Newlin Township Zoning Ordinance.

**ZONING ORDINANCE** - The Zoning Ordinance of Newlin Township, as adopted and amended from time to time.

## ARTICLE 3 - FLEXIBLE RURAL DEVELOPMENT REGULATIONS

### SECTION 301 PURPOSES

**A. Purposes.** In conformance with the Pennsylvania Municipalities Planning Code, the purposes of this Article, among those of Section 104 of this Ordinance and others, are as follows:

1. To conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodplains and wetlands, by setting them aside from development;
2. To provide greater design flexibility and efficiency in the provision of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for development;
3. To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of disturbance of steep slopes;
4. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups and residential preferences, so that the Township's "fair share" population may be accommodated;
5. To implement the Township's policies to conserve a variety of irreplaceable and environmentally sensitive resources and lands as set forth in the 1994 Newlin Township Open Space, Recreation and Environmental Resources Plan, including provisions for reasonable incentives to create a Greenway system for the benefit of present and future residents;
6. To implement adopted land use, transportation, and community policies, as identified in the 2011 Unionville Area Regional Comprehensive Plan.
7. To protect areas with productive agricultural soils for continued or future agricultural use, by conserving areas of land large enough to allow for efficient farm operations;
8. To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity;
9. To provide for the conservation and maintenance of open land to achieve the above-mentioned goals and for active or passive recreational use by residents;
10. To provide multiple options for landowners in order to minimize the adverse effects of development on sensitive environmental resources such as wetlands, floodplains, and steep slopes, and limit disturbance to natural or cultural features such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls;
11. To provide standards reflecting the varying circumstances and interests of individual landowners and the individual characteristics of their properties; and

12. To conserve scenic views and elements of Newlin's rural character, and to minimize perceived development density by limiting views of new development from existing roads.

**B. Specific Intent of the Residential Development Options.** In order to achieve these purposes in developing residential properties, this Article provides for flexibility in designing residential subdivisions by allowing three "by-right" development options, as well as through the special exception and conditional use options, as summarized below:

1. **Option One: Residential Development at a Neutral Density and Providing Basic Open Space Conservation,** allowing for residential uses at a relatively low residential density. Greenway lands (see definition of "Greenway" in Article 2 of this Ordinance) shall comprise approximately half the tract. Lots shall be flexibly designed and may utilize either individual or central wells and sewage treatment facilities.
2. Reserved.
3. **Option Three: Development of Estate Lots,** allowing the development of houselots in rural settings at low gross densities, where homes and streets are located carefully to minimize impacts on resource lands.
4. **Option Four: Development of Country Properties and Farmettes,** at very low densities appropriate for rural areas, with flexible design standards.
5. Reserved.
6. **Freestanding Non-Residential Developments.** Several non-residential uses are permitted through the Special Exception Use process (refer to Article 6 of this Ordinance) and through the Conditional Use process (refer to Article 7 of this Ordinance). Such developments may occur primarily in the Village Overlay District.

**C. Open Space Percentages.** Section 304 of this Ordinance specifies maximum development densities and minimum open space percentages.

## **SECTION 302 GENERAL REGULATIONS**

The design of all new subdivisions in the Flexible Rural Development District shall comply with the following minimum standards:

- A. Site Suitability.** As demonstrated by the Existing Conditions/Site Analysis Plan, the conceptual Preliminary Plan, and the detailed Final Plan, (required to be performed as specified in the Newlin Township Subdivision and Land Development Ordinance), all tracts shall be suitable for supporting development in terms of environmental conditions, size, and configuration.
- B. Ownership.** The tract of land may be held in single and separate ownership or in multiple ownership. However, when a tract is held in multiple ownership, it shall be developed as a single entity with common undivided authority, with a single applicant.
- C. Combining the Design Options.** The various layout and density options described in this Article may be combined, based upon the demonstration by the applicant that such a combination would better meet the intent of this Ordinance, as compared with applying a single development option to the tract.

- D. Intersections and Access.** Subdivisions containing less than 15 dwellings shall not include more than one roadway entrance onto public roadways.
- E. Sensitive Area Disturbance.** Disturbance of the environmentally sensitive areas shown on the Existing Conditions/Site Analysis Plan shall be limited according to the provisions of this Article. Demonstration by the applicant that these features will be protected shall be a prerequisite to approval of both the detailed Preliminary Plan and the Final Plan as required in the Newlin Township Subdivision and Land Development Ordinance.
- F. Community Wastewater Systems.** In developments that are proposed to be served by community wastewater disposal systems, the selection of a wastewater treatment technique shall be based upon Newlin Township's "Ordered List of Preferred Alternative Types of Community Wastewater Systems" contained in the Appendix to this Ordinance and any applicable Township sewage facilities plan.

## **SECTION 303 USE REGULATIONS**

Land in the Flexible Rural Development District may be used for the following purposes:

- A. Single-Family Detached Dwellings.**
1. On tracts six acres or more. Single-family detached dwellings are permitted under the provisions of Sections 304 and 305 of this Ordinance.
  2. On tracts less than six acres existing on the date of adoption of this ordinance. Single-family detached dwellings are permitted under the provisions of **Option 1** found in Sections 304 and 305 of this Ordinance or under the provisions of Section 311 of this Ordinance.
- B. Greenway Land.** Greenway lands comprising a portion of a residential development are permitted, as specified above and according to requirements of Sections 306, 307 and 308 of this Ordinance. Greenway land may contain:
1. Agricultural uses, including pasture land, horticultural, wholesale nurseries, and the raising of crops, and related buildings.
  2. Woodlots, arboreta, and other similar silvicultural uses.
  3. Woodland preserve, game preserve, wildlife sanctuary, or other similar conservation uses.
  4. Municipal or public uses; public park or recreation area; governmental or public utility building or use; not to include business facilities, storage of materials, trucking or repair facilities, the housing of repair crews, municipal sanitary landfills. Utility buildings shall be set back 60 feet from any front, side or rear lot line of any residential lot.
- C. Agricultural Uses.** Agricultural uses, including horticultural, wholesale nurseries, and the raising of crops, related buildings, and other uses listed in Section 303 B.1-3 of this Ordinance above, not including intensive agricultural activities.

**D. Accessory Uses.**

1. Accessory dwelling units (ADU) (including elder cottages and tenant houses) proposed in **Options 3 and 4** subdivisions (**Estate Lots and Country Properties**), subject to the following provisions:
  - a. The accessory dwelling unit shall be located within the principal dwelling unit or in existing or new outbuildings (such as barns, stables, carriage houses, garages, and spring houses) and shall be designed to harmonize with the appearance of the principal dwelling.
  - b. There shall be a maximum of one ADU on any legal building lot in an Option 3 subdivision, provided all performance standards of this ordinance are met.
  - c. There shall be a maximum of one ADU on any legal building lot in an Option 4 subdivision less than 10 acres, and a maximum of two ADUs on any legal building lot containing ten or more acres in an Option 4 subdivision, provided all performance standards of this ordinance are met.
  - d. The gross floor area in the first ADU shall not exceed 1200 sf. In the second ADU, where permitted, the maximum area shall be 900 sf. However, on lots exceeding 15 acres, the second ADU may take the form of a tenant house containing up to 2,000 sf. of floor space. Under this section, existing historic accessory buildings more than 75 years old that exceed these floorspace limits may be permitted by the Board to be used as ADUs without having to meet the dimensional setback requirements of this ordinance.
  - e. Building permits for ADUs shall not be issued until the applicant demonstrates to the Board that a restrictive easement has been placed on the subject property prohibiting future enlargement of the ADUs, or the creation of additional ADUs beyond the limits described above. Issuance of permits for ADUs shall be contingent upon County Health Department approval for any on-site septic sewage disposal systems needed.
  - f. The accessory dwelling shall not be permitted to have an additional accessory building, such as a garage.
  - g. A residential or agricultural tract larger than ten acres existing on the date of adoption of this ordinance is permitted two accessory dwelling units, in conformance with this Section. Approval of an accessory dwelling unit in addition to the principal dwelling unit, shall be contingent upon such tract being deed restricted, with enforcement by the Township, against any further dwelling units.
  - h. For ADUs in new structures, rear and side yard requirements shall be the same as for the new principal structures.
2. Professional home occupations in attached or detached dwellings.
3. Garden sheds, swimming pools for use by the occupants of the dwelling, and similar individual recreational facilities.

**E. Special Exception Uses.**

**Village Overlay District.** Special Exception Uses in the Village Overlay district, according to the conditions of Section 532 of this Ordinance.

2. Other Special Exception Uses as specified in Article 6 of this Ordinance.
- F. Conditional Uses.** Conditional Uses are permitted as specified in Article 7 of this Ordinance.

## SECTION 304 DIMENSIONAL STANDARDS AND DENSITY DETERMINATION

### A. Dimensional Standards for Option 1: Neutral Density and Basic Conservation.

Table 1 - Dimensional Standards for Option 1 Subdivisions	
Regulation	Standard for Option 1: Neutral Density and Basic Conservation
Maximum density	1 dwelling per 80,000 sf as determined through the Adjusted Tract Acreage approach or yield plan described in Section 304 C of this Ordinance
Minimum street frontage	100 ft
Minimum lot area	15,000 sf
Minimum lot width at building setback line	80 ft
Minimum front Yard*	25 ft
Minimum rear Yard*	25 ft
Minimum side Yard*	30 ft separation for principal buildings, with no side yard less than 10 ft (5 ft for accessory structures)
Maximum impervious coverage	20 % per individual lot
Maximum height	35 ft
Minimum Greenway land	50% of Adjusted Tract Area plus 100% of Constrained Land
*The applicant is urged to consider variations in the principal building position and orientation, but shall observe these minimum standards	

1. Minimum Required Greenway Land:
  - a. Greenway land shall not be used for residential lots, except as provided in Subsection 304 A.1.b below.
  - b. **Conservancy lots** in single and separate ownership composed of not less than 10 acres, conforming to the standards for **Option 4** subdivisions found in Section 304 E (Table 6), may occupy up to 80% of the Greenway land, with the remainder deeded to a homeowners' association, land trust, or the Township, or subject to an open space easement. The Greenway land within each conservancy lot remains subject to the standards for Greenway land in Section 306 of this Ordinance. Greenway land shall not be used to accommodate additional dwellings in excess of the maximum density as calculated in Section 304.C of this Ordinance.
2. Design of Option 1 Subdivision: The developer shall design lots according to the provisions of the "four-step" process identified in the Newlin Township Subdivision and Land Development Ordinance.

[illegible]

**C. Density Determination For Option 1 Subdivisions.** Applicants shall choose between the following two methods of determining the maximum permitted residential density in Option 1 as follows:

1. Adjusted Tract Acreage Approach: Determination of the maximum residential density or maximum number of permitted dwelling units on any tract shall be based upon the Adjusted Tract Acreage. The Adjusted Tract Acreage shall be determined by multiplying the acreage within the categories described below by the "density factor" for that category of land feature. The areas of constrained land calculated using Table 3 shall be deducted from the gross tract area. If a portion of the tract is underlain by more than one natural feature subject to a deduction, that acreage shall be subject to the most restrictive deduction only.

<b>Land Feature</b>	<b>Density Factor</b>
All areas within the rights-of-way of existing public streets or highways, or within the rights-of-way for existing or proposed overhead or underground rights-of-way of utility lines, electrical transmission lines, railroads, trail and access easements	100%
All area under existing private streets	100%
Floodplains and watercourses (non-wetland portion of the 100-year floodplain - refer to Article 4 for floodplain designation regulations)	100%
Steep slopes over 20% (measured prior to site disturbance)	100%
Floodways, watercourses and stormwater management facilities	100%
Wetlands	95%
Areas of rock outcrop and boulder fields over 1000 sf	90%
Moderately steep slopes between 15% - 20% (measured prior to site disturbance)	50%

2. Yield Plan Approach: The maximum number of permitted dwelling units on any tract, may be based upon the density resulting from a Yield Plan. Yield Plans shall meet the following requirements:
  - a. Yield Plans shall be prepared as conceptual layout plans in accordance with the standards of the Township Subdivision and Land Development Ordinance, showing proposed lots, streets, rights-of-way, and other pertinent features. Although it must be drawn to scale, it need not be



based on a field survey. It must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands, floodplains, steep slopes, existing easements or encumbrances and, if no public sewers are available, the suitability of soils for subsurface sewage disposal.

- b. Yield Plans shall reflect the dimensional standards for 80,000 sf lots when **Option 1** is chosen, found in Table 4 in Subsection d below. The Yield Plan shall identify the site's primary and secondary resources as identified in the Existing Features/Site Analysis Plan as required by the Newlin Township Subdivision and Land Development Ordinance, and demonstrate that the primary resources could be protected in the development process, by allocating this area to proposed single-family dwelling lots which conform to the density factory of the chosen option.
- c. On sites not served by central sewage disposal, density shall be further determined by evaluating the number of homes that could be supported by individual soils-based septic systems on conventional lots. Based on the primary and secondary resources identified as part of the inventory, observations and analysis conducted during an on-site visit of the property, the Township shall select a 10% sample of the lots considered to be marginal for on-lot sewage disposal. The applicant shall provide evidence that these lots meet the standards for an individual soils-based septic system. Should any of the lots in a sample fail to meet the standard for individual soils-based septic system, those lots shall be deducted from the yield plan and a second 10% sample shall be selected by the Township and tested for compliance by the applicant. This process shall be repeated until all lots in a given sample meet the standard for an individual septic treatment system.
- d. The following dimensional standards shall be used in the development of Yield Plans for **Option 1** subdivisions:

<b>Table 4 - Yield Plan Dimensional Standards for Options 1 Subdivisions</b>	
<b>Regulation</b>	<b>Yield Plan Standard for Option 1: Neutral Density</b>
Minimum lot area	80,000 sf
Minimum lot width at building setback line	175 ft
Minimum front yard setback	40 ft
Minimum rear yard setback	60 ft
Minimum side yard setback	40 ft
Minimum combined side yard setbacks	100 ft

- D. Dimensional Standards for Option 3 Subdivisions: Estate Lots.** The standards in Table 5 below shall be used in the development of **Option 3** subdivisions:

<b>Table 5 - Dimensional Standards for Option 3 Subdivisions</b>	
<b>Regulation</b>	<b>Standard for Option 3: Estate Lots</b>
Maximum density	1 dwelling per 4 acres (adjusted tract acreage)
Minimum lot area	1 acre
Minimum lot width at building setback line	150 ft
Minimum front yard*	40 ft from the right-of-way of existing Township roads <del>but</del> 40 ft from the right-of-way of new subdivision streets, lanes, or common driveways (where applicable)
Minimum rear yard*	60 ft minimum for principal buildings and 10 ft for accessory buildings (except that accessory buildings with a ground floor area exceeding 500 sf shall conform to the setback requirements for principal structures)
Minimum side yards (each)	50 ft
Maximum impervious coverage	5% of entire tract
Maximum height	35 ft
*The applicant is urged to consider variations in the principal building position and orientation, but shall observe these minimum standards	

1. Lot Shapes. Lot shapes shall not be irregular except as allowed for "flag lots," and lots shall not have a lot depth to width ratio exceeding 5:1 unless such lots are deed restricted from the development of more than one dwelling each. The minimum lot size shall be one contiguous acre in subdivisions of two or more principal dwelling units, provided that the maximum tract density as determined by the adjusted tract acreage is not exceeded.
2. Deed restrictions for Lots More than 2 Acres. All lots created under **Option 3** that are larger than two acres shall be permanently limited by a deed restriction that prevents future subdivision. A note shall be placed on the Final Plan stating the restriction and identifying the lots.
3. "Four-Step" Design of Option 3 Subdivisions Not Required. The developer of Option 3 Subdivisions shall not be required to follow the provisions of the "four-step" process identified in the Newlin Township Subdivision and Land Development Ordinance, but shall provide an Existing Resources and Site Analysis Plan.

**E. Dimensional Standards for Option 4 Subdivisions: Country Properties and Farmettes.** The following standards shall be used in the development of **Option 4** subdivisions:

<b>Table 6 - Dimensional Standards for Option 4 Subdivisions</b>	
<b>Regulation</b>	<b>Standard for Option 4 Subdivisions: Country Properties and Farmettes</b>
Maximum tract density	1 dwelling per 10 gross acres
Minimum lot area	1 acre
Minimum lot width at building setback line	200 ft
Minimum front yard	40 ft from the right-of-way of existing Township roads, but 40 ft from the right-of-way of new subdivision streets, country lanes, or common driveways (where applicable)
Minimum side yard (each)	50 ft

Minimum rear yard	60 ft minimum for principal buildings and 10 ft for accessory buildings (except that accessory buildings with a ground floor area exceeding 500 sf shall conform to the setback requirements for principal structures)
Maximum impervious coverage	4% of entire tract
Maximum height	35 ft

1. **Lot Shapes.** Lot shapes shall not be irregular except as allowed for "flag lots", and lots shall not have a lot depth to width ratio exceeding 5:1 unless such lots are deed restricted from the development of more than one dwelling each. The minimum lot size shall be one contiguous acre in subdivisions of two or more principal dwelling units, provided that the maximum tract density as determined by the adjusted tract acreage is not exceeded.
2. **"Four-Step" Design of Option 4 Subdivisions Not Required.** The developer of Option 4 Subdivisions shall not be required to follow the provisions of the "four-step" process identified in the Newlin Township Subdivision and Land Development Ordinance, but shall provide an Existing Resources and Site Analysis Plan.
3. To encourage the use of this development option, the Board of Supervisors may consider an applicant's request for a waiver for street width and bituminous surface in accordance with Section 409 of the Subdivision Ordinance.

## SECTION 305 DESIGN STANDARDS FOR OPTION 1 SUBDIVISIONS

- A. **Residential Lots Shall Avoid Primary Conservation Areas.** Residential lots shall not encroach upon Primary Conservation Areas as identified in the Newlin Township Subdivision and Land Development Ordinance.
- B. **Setback Requirements.** Setbacks in **Option 1** subdivisions shall be as follows:

Table 9 - Option 1 Subdivisions - Setback Requirements	
Land Feature	Setback
All external road ultimate rights-of-way	100 ft
All other tract boundaries	50 ft
Buildings or barnyards containing livestock	100 ft
Active recreation areas such as courts or playing fields but not including tot lots	150 ft

- C. **Views of Dwellings.** Views of dwellings from exterior roads and abutting properties should be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the requirements of the Newlin Township Subdivision and Land Development Ordinance.

- D. Access from Interior Streets.** Dwellings should generally be accessed from interior streets, rather than from roads bordering the tract.
- E. Orientation Towards Conservation Land.** Not less than 75% of the lots shall directly abut or face conservation land or Greenway land across a street.

## **SECTION 306 GREENWAY LAND USE AND DESIGN STANDARDS**

Protected Greenway land in all subdivisions shall meet the following standards:

### **A. Uses Permitted on Greenway Lands.**

1. Conservation of open land in its natural state (i.e., woodland, fallow field, or meadow);
2. Agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, associated buildings, including residences that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial hog and chicken livestock operations.
3. Pastureland or areas for horses. Equestrian facilities shall not occupy more than 50% of the minimum required Greenway land.
4. Silviculture, in keeping with established standards for selective harvesting and sustained-yield forestry.
5. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar passive recreational uses, specifically excluding wheeled vehicles (except for agricultural vehicles), and rifle ranges.
6. Active non-commercial recreation areas, such as playing fields, playgrounds, and courts, provided such areas do not occupy more than half of the minimum required Greenway land or five acres, whichever is less. Playing fields, playgrounds, and courts shall not be located within 100 ft of abutting properties. Parking facilities for the same shall also be permitted, and they should be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than ten parking spaces.
7. Water supply and sewage disposal systems and stormwater detention areas designed, landscaped, and available for use as an integral part of the Greenway.
8. Easements for drainage, access, sewer or water lines, or other public purposes.
9. Underground utility rights-of-way. Aboveground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required Greenway land.

### **B. Greenway Design Standards.**

1. Greenway lands shall be laid out in general accordance with the Newlin Township Open Space, Recreation and Environmental Resources Plan to ensure that an interconnected network of open space (within and surrounding the tract) will be provided. The required Greenway land consists of a mixture of Primary Conservation Areas (PCAs), all of which must be included, and Secondary Conservation Areas (SCAs) as required in the Township Subdivision and Land

Development Ordinance. PCAs comprise those areas listed in Section 304 C. 1 (Table 3) as being subtracted from the total parcel acreage to produce the "Adjusted Tract Acreage". SCAs should include special features of the property that would ordinarily be overlooked or ignored during the design process. Examples of such features are listed and described in the Greenway Design Review Standards in the Newlin Township Subdivision and Land Development Ordinance.

2. Greenway land should generally remain undivided and may be owned and maintained by a homeowners association, land trust, another conservation organization recognized by the Township, or by a private individual as a conservancy lot. Not less than 30% of the land comprising the "Adjusted Tract Acreage" shall be available for the common use and passive enjoyment of the subdivision residents. These ownership options may be combined so that different parts of the Greenway land may be owned by different entities.
3. Not more than five percent of the total tract acreage in any of the options may be subject to the Township's public land dedication requirement.
4. Where a proposed development adjoins public parkland, a natural Greenway buffer not less than 150 ft deep shall be provided within the development along its common boundary with the parkland, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for street or trail construction or for safety purposes). Where this buffer is not forested, the Township may require vegetative screening to be planted, or that it be managed to encourage natural forest succession.
5. Greens.
  - a. Two percent of the required open space shall be in greens when the average lot size is 15,000 sf or more.
  - b. Three percent of the required open space shall be in greens when the average lot size is less than 15,000 sf.
  - c. Greens shall be 5,000 to 20,000 sf in area and shall be created and maintained as the open space around which dwellings are arranged. Dwellings shall face the green with the front façade of the dwelling.
6. At least 50 percent of the dwellings shall face the required open space, with the front façade of the dwelling, either directly or across the street.

**C. Other Requirements.**

1. No portion of any building lot may be used for meeting the minimum required Greenway land. However, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum required Greenway land.
2. Pedestrian and maintenance access, excluding lands used for agricultural or horticultural purposes in accordance with Section 303 C of this Ordinance, shall be provided to Greenway land in accordance with the following requirements:
  - a. Each neighborhood shall provide one centrally located access point for each 15 lots, not less than 35 ft in width.

- b. Access to Greenway land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.
3. All Greenway areas that are not wooded or farmed shall be landscaped in accordance with the Township Subdivision and Land Development Ordinance.
4. The applicant shall provide a plan for the long-term management of the Greenway.

#### **SECTION 307 PERMANENT GREENWAY PROTECTION STANDARDS**

- A. **In Option 1 Subdivisions.** In **Option 1** subdivisions, required Greenway land shall be subject to permanent conservation easements prohibiting future development and which defines the range of permitted activities. A list of permitted uses of Greenway lands is contained in Section 306 A of this Ordinance.
- B. **In Option 4 Subdivisions (Country Properties).** In Option 4 Country Property applicants shall place a restrictive conservation easement preventing future subdivision of the newly created parcels. The Township may review the proposed easements and, if offered by the applicant, may accept them, but shall have no obligation to do so.

#### **SECTION 308 DEDICATION OF GREENWAY LAND FOR PUBLIC USE**

- A. **Land Dedication for Public Recreational Use and the "Fee-In-Lieu" Alternative.** The following standards shall apply to new subdivisions:
  1. Applications for Ten or More Dwellings. Applicants for residential developments shall dedicate to the Township not less than five percent of the gross tract acreage of each proposed development for use as public recreational facilities subject to the provisions of Section 503(11) of the Pennsylvania Municipalities Planning Code. Such land shall be suitable for active and/or passive recreation, with not less than 50% of the land suitable for active recreation use, where such facilities are required by the Newlin Township Open Space, Recreation and Environmental Resources Plan.
  2. Alternatives. In lieu of the dedication of land, the applicant may choose between two alternatives in Section 308 A. 2. a. and b. below:
    - a. The applicant may offer a dedication of land allowing recreational usage exclusively by the residents of the proposed subdivision. Such land areas shall be permanently protected through a conservation easement enforceable by the Township and/or a land trust, prohibiting future non-recreational (or commercial recreational) uses.
    - b. The applicant may offer to pay a fee to the Township instead of any dedication of recreational land. The Township may accept this fee upon determination that the provision of land would not result in a public benefit.
    - c. The decision whether to accept a fee-in-lieu offer by the applicant shall lie with the Township. The amount of the fee shall be based upon the fair market value of land that is similar in area, location and in other attributes to land which would otherwise have been dedicated by the

developer to satisfy the provisions of this Section. The determination of fair market value shall be made by a person familiar with land values in the Township, and who is mutually acceptable to the Township and to the applicant. Such fees shall be based on actual land values at the time of development of the applicant's parcel. All such fees collected shall be deposited in an interest-bearing account identifying the specific recreation facilities for which the fee was received. Upon request of any person who paid any fee under this Section, the Township shall refund such fee, plus interest accumulated thereon from the date of payment, if the Township had failed to utilize the fee paid for the purposes set forth in this Section within three years from the date such fee was paid.

3. Option 1 subdivisions. In **Option 1** subdivisions with not more than 10 dwellings, where the Township determines that there would be no specific public benefit accruing from a public dedication (as described above), the recreational land that is part of the requirement for undivided open space shall be designated for private shared recreational usage among the subdivision lot owners, pursuant to a Homeowners' Association approved by the Board of Supervisors.

## **SECTION 309 DISCRETIONARY DENSITY BONUSES**

Additional density may be permitted when the Township Supervisors determine that one of the following public benefits will occur:

- A. Public Usage of Greenway Land.** The Township may allow a density bonus not to exceed one dwelling unit per five acres of Greenway land that becomes publicly accessible and available (including active and passive recreation areas, spray irrigation areas, municipal buildings, etc.) The decision to accept an applicant's offer to dedicate Greenway land to public usage within a proposed subdivision shall be at the discretion of the Township, when it determines that a public benefit will occur.
- B. Endowment for Greenway Maintenance.**
1. Density Bonus. The Township may allow a density bonus up to 10% to facilitate the creation of a permanent fund to offset continuing costs of maintaining Greenway land (involving activities such as mowing, removing exotic species, meeting insurance premiums and local taxes, etc.), and costs associated with active or passive recreation facilities. Expenditures from this fund should be restricted to disbursements of interest so that the principal may be preserved. The minimum amount of the fund shall be adequate to ensure continued maintenance of the Greenway lands and the amount shall be determined by an agency, firm, or organization with experience in managing conservation land and recreational facilities and which is acceptable to the Township.
  2. Cost of Maintaining Greenway Lands. Greenway land that is not accessible by the subdivision residents is not required to be included when estimating ongoing maintenance costs. (Such lands would typically include areas designated on the Final Plan for future agricultural, horticultural, silvicultural, or equestrian uses, which may be leased or sold to another party for those express purposes, and which are protected from future development by a permanent conservation easement.)
- C. Provision of "Least-Cost" Housing.** A density increase is permitted where the applicant provides on-site or off-site housing opportunities for low- or moderate-income families. For each such new "least - cost" housing unit provided under this Section, one

additional building lot or dwelling unit shall be permitted, not to exceed an increase of 15%. When off-site "least-cost" housing provision is proposed, the Township shall require evidence that these units will be available not later than the time at which the applicant's proposal is completed, or at the first phase of the development, whichever first occurs. The "least-cost" housing cost shall be determined by the Chester County Department of Housing and Community Development.

- D. Implementation.** These density bonuses may be implemented by reducing the amount of required Greenway land by not more than 10%, reducing the minimum lot area requirements by not more than 10%, or by a combination of these approaches, at the discretion of the Township.

## **SECTION 310 OWNERSHIP AND MAINTENANCE OF GREENWAY LAND AND COMMON FACILITIES**

- A. Restrictions on Greenway Land.** No development shall be permitted in Greenway land or open space areas at any time, except for those uses listed in Section 306 of this Ordinance.

- B. Ownership Options.** Ownership of common facilities may be in the forms listed below (however, Greenway land shall be initially offered for dedication to the Township.) Common facilities shall not be transferred to another entity except for transfer to another form of ownership permitted under this Section, provided that there is no change in the common facilities or in the open space ratio of the overall development:

1. Fee Simple Dedication to the Township. The Township may, but shall not be required to, accept any portion of the common facilities, provided that:
  - a. There is no cost of acquisition to the Township and,
  - b. The Township agrees to and has access to maintain such facilities.
2. Condominium Association. Common facilities may be controlled through the use of condominium agreements. Such agreements shall be in accordance with the Pennsylvania Uniform Condominium Act of 1980, as amended. All open land and common facilities shall be held as a "common element."
3. Homeowners' Association. Common facilities may be held in common ownership by a homeowners' association, subject to all of the provisions for homeowners' associations set forth in applicable State regulations. In addition, the following standards shall be met:
  - a. The owner or applicant shall provide the Township with a description of the organization of the proposed association, including its by-laws and all documents governing ownership, maintenance, and use restrictions for common facilities.
  - b. The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development.
  - c. Membership in the association shall be automatic and mandatory for all purchasers of dwelling units therein and their successors in title, who shall have joint and undivided interests in any common areas.



- d. The association shall be responsible for maintenance and insurance of common facilities.
  - e. The by-laws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in his dues. Such dues shall be paid with all accrued interest before the lien may be lifted.
  - f. Written notice of any proposed transfer of common facilities by the association or the assumption of maintenance of common facilities must be given to all members of the association and to the Township not less than 30 days prior to such event.
  - g. The association shall have adequate staff to administer, maintain, and operate such common facilities.
4. Private Conservation Organization or the County. With permission of the Township, an owner may transfer either fee simple title of the open space or easements on the open space to a private non-profit conservation organization or to the County, provided that:
- a. The conservation organization is acceptable to the Township and is a bona fide conservation organization intended to exist indefinitely.
  - b. The conveyance contains appropriate provisions for proper reverter or re-transfer in the event that the organization becomes unwilling or unable to continue to execute its functions.
  - c. The Greenway land is permanently restricted from future development through a conservation easement and the Township is given the ability to enforce these restrictions.
  - d. A maintenance agreement acceptable to the Township is established between the owner and the organization.
  - e. A satisfactory maintenance agreement shall be reached between the owner and the Township.
5. Dedication of Easements to the Township. The Township may, but shall not be required to, accept easements for public use of any portion of the common land or facilities. In such cases, the facility remains in the ownership of the condominium association, homeowners' association, or private conservation organization while the easements are held by the Township. In addition, the following regulations shall apply:
- a. There shall be no cost of acquisition to the Township.
  - b. Such easements for public use shall be accessible to the residents of the Township.
6. Non-Common Private Ownership. Not less than 80% of the required Greenway land may be included within one or more large "conservancy lots" of not less than 10 acres provided the open space is permanently restricted from future development through a conservation easement, except for those uses listed in Section 306 of this Ordinance, and that the Township is given the ability to enforce these restrictions.

- C. Maintenance.** Unless otherwise agreed to by the Township, the cost and responsibility of maintaining common facilities and Greenway land shall be borne by the owner, condominium association, homeowners' association, or conservation organization.
1. Plan for Maintenance of Greenway Lands. The applicant shall, at the time of preliminary plan submission, provide a plan for the maintenance of Greenway lands and operation of the common facilities in accordance with the following requirements:
    - a. The plan shall define ownership;
    - b. The plan shall establish necessary regular and periodic operation and maintenance responsibilities for the various kinds of open space (i.e., for lawns, playing fields, meadow, pasture, cropland, woodlands, etc.);
    - c. The plan shall estimate staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the Greenway land and operation of any common facilities on an ongoing basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs;
    - d. At the Township's discretion, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common public facilities according to the applicable provisions of the Pennsylvania Municipalities Planning Code; and,
    - e. Any changes to the maintenance plan shall be approved by the Board of Supervisors.
  2. Township Maintenance of Greenway Lands. In the event that the organization established to maintain the Greenway lands and the common facilities, or any successor thereto, fails to maintain all or any portion thereof in reasonable order and condition, the Township may assume responsibility for maintenance, in which case any escrow funds may be forfeited and any permits may be revoked or suspended, according to applicable provisions of the Pennsylvania Municipalities Planning Code.
  3. Township Corrective Action. The Township may enter the premises and take corrective action, including maintenance. The costs of such corrective action may be charged to the property owner, condominium association, homeowners' association, conservation organization, or individual property owners who constitute a condominium or homeowners' association and may include administrative costs and penalties, according to applicable provisions of the Pennsylvania Municipalities Planning Code. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the Township in the office of the Prothonotary of Chester County.

**SECTION 311                      DESIGN STANDARDS FOR TRACTS CREATED PRIOR TO  
JANUARY 1, 1999**

For proposals not defined as a land development and for proposed land development as permitted in Section 303.A.2, improvements to the tract shall be regulated according to the following standards:

**A. Bulk and Lot Requirements.**

**Table 10 - Bulk and Lot Requirements for Tracts Created Prior to the Effective Date of this Ordinance**

<b>Regulation</b>	<b>Single-Family Detached Dwellings</b>	<b>All Other Uses *</b>
Minimum lot size	2 acres	2 acres
Minimum lot width at building setback line	175 ft	175 ft
Minimum front yard	60 ft	60 ft
Minimum side yard (each)	60 ft	60 ft
Minimum rear yard	60 ft	60 ft
Maximum building coverage	5 %	5 %
Maximum height	35 ft	35 ft, except 100 ft for agricultural uses
Minimum setback for accessory structures	15 ft	20 ft

\* In case of conflict with other sections in this ordinance, the most restrictive standards shall apply.

**SECTION 312 LOT ADD-ON PLANS**

Land may be transferred between two adjoining parcels for the intent of enlarging one of the parcels, subject to the following conditions:

- A.** No additional lots shall be created.
- B.** The provisions of Sections 303 - 310 of this Article shall not apply.
- C.** The “Four-Step” Design process shall not be required.
- D.** No parcel shall be reduced in size below any applicable requirement of this Ordinance.
- E.** All residential parcels shall meet the requirements of Section 311. If either parcel is an existing non-conforming lot, the non-conformity shall not be farther exceeded through the lot add-on.

**SECTION 313 INCREMENTAL (PERIODIC) SUBDIVISIONS**

Notwithstanding the provisions of other Sections in this Ordinance to the contrary, not more than one non-farm residential lot may be subdivided from any parent tract within any consecutive five year period, subject to the following conditions:

- A.** The tract from which the new lot is created shall not be less than 10 acres prior to the subdivision.
- B.** The new lot shall not be less than two acres in size.
- C.** Lots may be created for agricultural purposes at any time, provided that no lots shall be less than 50 acres.
- D.** The provisions of Sections 303 - 310 of this Article shall not apply.
- E.** The “Four-Step” Design process shall not be required.

## SECTION 314

## STORMWATER MANAGEMENT

Any structure proposed to be constructed in excess of 1000 square feet must comply with the Stormwater Checklist and the stormwater calculation requirements in the Subdivision/Land Development Ordinance. The checklist is prepared by the Township Engineer, approved by the Board of Supervisors and may be amended as necessary.

# ARTICLE 4 - FLOOD PLAIN CONSERVATION OVERLAY DISTRICT

## SECTION 401

## FLOOD PLAIN CONSERVATION OVERLAY DISTRICT

**A. Purpose.** In addition to the general goals listed in the Statement of Intent, Section 104 of this Ordinance, and Community Development Objectives, Section 105, the purpose of this Overlay District is:

1. To promote the general health, welfare, and safety of Newlin Township residents.
2. To reduce financial burdens imposed on the community, its government and its individuals by preventing excessive development in areas subject to periodic flooding.
3. To require all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage through the use of appropriate construction practices.
4. To regulate uses, activities, and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.
5. To restrict or prohibit certain land uses, activities, and development from locating within areas subject to flooding.
6. To comply with the provisions of the National Flood Insurance Program and the Pennsylvania Flood Plain Management Act (Act 1978 - 166).

**B. General Provisions.** The provisions of this Article shall apply to all areas of the Township located within the boundaries of any Flood Plain Conservation Overlay District, as established by Section 401 B. 4 herein.

1. **Compliance.** No structure shall be constructed and no existing structure shall be enlarged, converted, relocated or structurally altered, and no area shall be graded, filled, or excavated, in any Flood Plain Conservation Overlay District except in full compliance with the terms and provisions of this Article and other applicable regulations.
2. **Permit Required.** A zoning permit shall be required for all activities which include, but are not limited to, constructing, demolishing, or moving buildings or other structures, paving, filling, grading, excavation, mining, dredging or drilling operations, or the storage of materials and equipment, provided, however, that those structures, land uses, and water uses lawfully existing prior to the adoption of this Ordinance shall not be required to comply with this Article unless expansions

or exterior additions are proposed, or compliance is necessary to correct a serious and substantial threat to public health, safety, or property.

3. 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 the use of normal and customary engineering methods of study. Floods that exceed the levels anticipated in this Article may occur on rare occasions, and floodwater heights may be increased by man-made or natural causes. In such events, areas outside identified flood plains and land uses permitted within such areas may be subject to flooding or flood damage, regardless of the adherence to the standards of this Article.

The adoption of this Article and Ordinance, the granting of a permit, or the issuance of any administrative decision under this Ordinance shall not constitute a representation, guarantee, or warrant by Newlin Township or by any official, agent or employee thereof, of the practicability or safety of any structure or land use with respect to damage from flooding, collapse, erosion or otherwise, and shall create no liability upon or cause of action against such public body, official, agent or employee for any damage that may result pursuant thereto or as a result of reliance on this Article or Ordinance.

4. Determination of Areas in District. The Flood Plain Conservation District shall include all areas subject to inundation by the waters of the 100 Year Flood and subdistricts as determined in Section 401 B below. The source of this delineation shall be the Flood Insurance Study for the Township of Newlin, Chester County, Pennsylvania, as prepared by the Federal Emergency Management Agency, Federal Flood Insurance Administration, dated November 20, 1996, Community-Panel Numbers 541, 539, 607, 2706, 2708, and 2738 (or the most recent revision thereof as issued by the Federal Emergency Management Agency (FEMA)).

- a. The Flood Plain Conservation Overlay District shall be composed of three subdistricts as follows:

- 1) Floodway. The areas identified as "Floodway" in the Flood Insurance Study (FIS) prepared by FEMA. The term shall also include floodway areas that have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the FIS.
- 2) Flood Fringe. The remaining portions of the 100 year floodplain in those areas in the FIS where a floodway has been delineated. The basis for the outermost boundary of this area shall be the 100 year flood elevations as shown in the flood profiles contained in the FIS.
- 3) Approximated Flood Plain (F-3).
  - a) The areas identified as Zone A in the FIS for which the 100 year flood elevations have been provided. When available, information from other Federal State, and other acceptable sources (including those listed in Section 401 B. 4. a. 3) b) of this Ordinance shall be used to determine the one hundred year elevation, as well as a floodway area, if possible. When no other information is available, the 100 year elevation shall be determined by using a point on the boundary of the identified floodplain area that is nearest the construction site in question.

In lieu of the above, the Township may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Township.

b) In addition to the sources listed in Section 401B.4. of this Ordinance, the following data may be used to determine the approximated flood plain or additional floodplain areas for the purposes of this Ordinance:

- i. Corps of Engineers - Flood Plain Information Reports.
- ii. U.S. Geological Survey - Flood-Prone Quadrangles.
- iii. USDA Soil Survey of Delaware and Chester Counties - Alluvial soils types.
- iv. DEP flood control investigations.
- v. Known high water marks from past floods.

b. In the event of a dispute concerning the actual boundary of the Flood Plain Conservation District, the Zoning Officer shall make an initial determination. Such determination by the Zoning Officer may be appealed to the Zoning Hearing Board. The burden of proof in such an appeal shall rest with the appellant. All revisions to the boundaries of the Flood Plain Conservation District are subject to the review and approval of the Federal Insurance Administrator for the National Flood Insurance Program in accordance with its rules and regulations.

**C. District Boundary Change.** The delineation of the Flood Plain Conservation District boundary may be revised and modified by the Board of Supervisors where there are changes through natural or man-made events and where the effects of those changes have been documented and/or recommended by the U.S. Army Corps of Engineers, Philadelphia District, the Federal Flood Insurance Administration, or FEMA. All such changes shall be subject to the review and approval of the Administrator of the National Flood Insurance Program.

**D. Uses Permitted By-Right.** The following uses and no others are permitted within the Flood Plain Conservation District, provided they are conducted in accordance with the provisions of the Clean Streams Law of Pennsylvania, Act 349 of 1937, as amended, the Rules and Regulations of the Pennsylvania Department of Environmental Protection, all other applicable provisions of this Ordinance and other local, state and federal regulations:

1. Passive agricultural uses.
2. Woodland preserve, game preserve, wildlife sanctuary or other conservation use.

3. Municipal or public use, including recreational areas.
4. Uses accessory to those permitted by the underlying zoning district, including yards and parking, provided no impervious materials are used.

**E. Special Exception Uses.** The following uses may be permitted upon the issuance of a special exception by the Zoning Hearing Board as provided in this Ordinance, provided they are conducted in accordance with the provisions of the Clean Streams Law of Pennsylvania, Act 349 of 1937, as amended, the Rules and Regulations of the Pennsylvania Department of Environmental Protection, all other applicable provisions of this Ordinance and other local, state and federal regulations. In issuing any special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance:

1. Dams, culverts, impoundment basins, and bridges approved by the Pennsylvania Department of Environmental Protection and the U.S. Army Corps of Engineers, where applicable.
2. Utilities and public facilities including streets, storm sewers and sewage treatment plants.
3. Modifications to structures existing as of the date of adoption of this Ordinance.
4. Adaptive reuse of an existing building or structure in accordance with the underlying zoning district.

**F. Non-Conforming Uses and Existing Structures in the Flood Plain Conservation District.** All uses or structures in the Flood Plain Conservation Overlay District lawfully existing on the effective date of this Article that do not conform with the provisions of this Article shall be deemed to be nonconforming. Such nonconforming uses or structures may be continued, maintained, repaired, and flood-proofed, except as otherwise prohibited in this Article. Such nonconforming uses or structures may be improved to comply with current Pennsylvania or Township health, safety or sanitary code specifications that are solely necessary to assure safe living conditions, subject to the following conditions:

1. No expansion or enlargement of an existing structure and/or use shall be allowed within any floodway that would cause any increase in flood heights.
2. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure and/or use to an extent or amount of 50% or more of its market value shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
3. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure and/or use to an extent or amount of less than 50% of its market value, shall be elevated and/or floodproofed to the greatest extent possible.
4. When improvements are proposed for any mobile home that otherwise exists lawfully in the Floodplain District, the mobile home shall be:
  - a. placed on a permanent foundation,
  - b. elevated so that the lowest floor of the dwelling is not less than one and one-half feet above the elevation of the 100 Year Flood, and
  - c. anchored to resist flotation, collapse, or lateral movement.

**G. Abandonment.** Notwithstanding provisions in Article 10 of this Ordinance to the contrary, no abandoned nonconforming use or structure shall be re-established, repaired, or re-occupied except in conformance with this Article. The Township may require the removal of any abandoned nonconforming use or structure, upon a determination that the use or structure constitutes a threat to public safety.

**H. Prohibited Uses.** The following uses shall be prohibited within any designated Flood Plain Conservation Overlay District, and shall not be eligible for variance consideration:

1. Hospital.
2. Nursing home.
3. Jail.
4. Mobile home or mobile home park or any substantial improvement to an existing mobile home park.
5. Junk yard.
6. Cemeteries.
7. The production or storage of any of the following materials or substances, or any activity requiring maintenance of a supply of more than 550 gallons, or other comparable volume of such materials or substances, or any amounts of radioactive substances insofar as such substances are not otherwise regulated:
  - 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. Sulfur and sulfur products;
  - q. Pesticides (including insecticides, fungicides, poisons and pesticides);
  - r. Other hazardous or toxic materials similar to those listed above.

**I. Flood Plain Conservation District General Design and Construction Regulations.** The following standards shall apply to all new construction, including additions or improvements, and development within the Flood Plain Conservation Overlay District.

1. No increase in flood heights. No new construction and/or development shall be permitted within any floodway area that may cause any increase in flood heights.
2. Proximity to watercourses. Where permitted within any identified flood plain area, no new construction or development shall be located within the area measured 50 ft landward from the top-of-bank, whichever is greater, of any watercourse, unless a permit is obtained from the Department of Environmental Protection, Bureau of Dams, Waterways, and Wetlands.
3. Changes to Watercourses. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Township, and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Bureau of Dams, Waterways and Wetlands. In addition,



the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development shall be notified prior to any alteration or relocation of any watercourse.

4. Elevation of residential structures. Where permitted within any identified Flood Plain Conservation District, the elevation of the lowest floor (including basement) of any new construction or substantial improvement of a residential structure, including an existing mobile home, shall be one and one half feet or more above the 100 Year Flood elevation. In addition, the mobile home shall be placed on a permanent foundation.
5. Elevation or flood-proofing of non-residential structures. Where permitted within any identified Flood Plain Conservation Overlay District, the elevation of the lowest floor (including basement) of any new construction or substantial improvement of non-residential structure shall be 1 1/2 feet or more above the 100 Year Flood elevation or be flood-proofed up to that height.
6. Flood-proofing of non-residential structures. Any non-residential structure, or part thereof, having a lowest floor which is not elevated to at least 1 1/2 feet above the 100 Year Flood elevation, shall be flood-proofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the publication entitled, "Floodproofing Regulations," published by the U.S. Army Corps of Engineers (June 1972 as amended), or in accordance with an equivalent standard approved by the Township Engineer. All plans and specifications for such floodproofing shall be accompanied by a statement sealed by a registered professional engineer or architect who states that the proposed design and methods of construction are in conformance with the above referenced standards.
7. Space below the lowest floor.
  - a. Fully enclosed space below the lowest floor (including basement) is prohibited.
  - b. Partially enclosed space below the lowest floor (including basement) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "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:
    - 1) A minimum of two openings having a net total area of not less than square inch for every square foot of enclosed space.
    - 2) The bottom of all openings shall be no higher than one foot above grade.
    - 3) Openings may be equipped with screens, louvers, etc. or other covering or devices provided that they permit the automatic entry and exit of floodwaters.
8. Fill. Where fill is used, it shall:
  - a. Extend laterally at least 15 ft beyond the building line from all points.

- b. Consist of soil or small rock materials only - sanitary landfills or construction and demolition debris shall not be permitted.
  - c. Be compacted to provide the necessary permeability and resistance to erosion, scouring or settling.
  - d. Have a slope with a ratio no greater than one foot vertical to three feet horizontal.
  - e. Be used to the extent to which it does not adversely affect adjacent properties, and does not extend closer than 10 ft to any lot line.
- 9. Drainage facilities. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall insure proper drainage along streets and appropriate channels or pipe, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- 10. Water and Sanitary Sewer Facilities and Systems. All water and sanitary facilities and systems shall conform to the following:
  - a. All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damage 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. No part of any on-site sewage system shall be located within any identified flood plain area, except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it or contamination from it, during a flood.
- 11. Other Utilities. All other utilities, such as gas lines, electrical and telephone systems, shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.
- 12. Streets. The finished elevation of all new streets shall not be below the Regulatory Flood Elevation.
- 13. Storage. All materials that are buoyant, flammable, explosive, or, in time of flooding, could be injurious to human, animal or plant life, and not listed in Section 401 H. of this Ordinance, Prohibited Uses, shall be stored at or above the Regulatory Flood Elevation and/or be floodproofed to the maximum extent possible.
- 14. Placement of Buildings and Structures. All buildings and structures shall be designed, located and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.
- 15. Anchoring.
  - a. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral

movement and shall be constructed in accordance with the Township building code.

- b. All air ducts, large pipes, storage tanks and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

16. Floors, Walls and Ceilings.

- a. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
- b. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" grade or similar water-resistant variety.
- c. Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
- d. Window frames, doors and other components at or below the Regulatory Flood Elevation shall be made of metal or other water-resistant material.

**J. Application Requirements for Building Permits.**

- 1. Zoning Officer Determination Required. If any proposed construction or development is located entirely or partially within any identified flood plain area, applicants for building permits shall provide all the necessary information in sufficient detail and clarity to enable the Zoning Officer to determine that:
  - a. All such proposals are consistent with the need to minimize flood damage and conform to the requirements of this and all other applicable codes and ordinances.
  - b. All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage.
  - c. Adequate drainage is provided so as to reduce exposure to flood hazards.
- 2. Required Information. Applicants shall file the following minimum information plus any other pertinent information (e.g., any or all of the technical information contained in Section 401. M. 5 of this Ordinance) as may be required by the Zoning Officer to make the determination as required in Section 401. J. 1 of this Ordinance:
  - a. A completed building permit application form.
  - b. A plan of the entire site, clearly and legibly drawn at a scale of one inch equals 100 ft or less, showing the following:
    - 1) North arrow, scale and date.
    - 2) Topographic contour lines.
    - 3) All property and lot lines including dimensions and the size of the site expressed in acres or square feet.

- 4) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development.
  - 5) The location of all existing streets, drives, and other accessways.
  - 6) The location of any existing bodies of water or watercourses, identified flood plain areas, and, if available, information pertaining to the floodway, and the flow of water, including direction and velocities.
- c. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
- 1) The proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929.
  - 2) The elevation of the 100 Year Flood.
  - 3) Profiles and elevations of buildings and streets showing the 100 year flood.
  - 4) Detailed information concerning any proposed floodproofing measures.
- d. The following data and documentation:
- 1) A document, sealed by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the 100 Year 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.
  - 2) Detailed information needed to determine compliance with Section 901 H. 1 of this Ordinance, including:
    - (a) The amount, location and purpose of any dangerous materials or substances that are intended to be used, produced, stored or otherwise maintained on the site.
    - (b) A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 401. H of this Ordinance, during a 100 Year Flood.
  - 3) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
  - 4) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
  - 5) A description of the proposed use.

**K. Application Requirements for Special Exceptions.**

1. Required Information. Applications for Special Exceptions shall conform to the requirements of Section 1209 of this Ordinance. In addition, the Zoning Hearing Board shall consider the following factors:
2. Review Factors. In reviewing applications for special exceptions, the Zoning Hearing Board shall consider all relevant factors and procedures contained in other sections of the Zoning Ordinance, as well as the following:
  - a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - b. The danger that materials may be swept onto other lands or downstream to the injury of others.
  - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
  - e. The importance of the services provided by the proposed facility to the community.
  - f. The requirements of the facility for a waterfront location.
  - g. The availability of alternate locations for the proposed use that are not subject to flooding.
  - h. The compatibility of the proposed use with existing development and development anticipated in the future.
  - i. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
  - j. The safety of access to the property in times of flood of ordinary and emergency vehicles.
  - k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  - l. Such other factors which are relevant to the purposes of this Ordinance.
2. Supplemental Technical Review. The Zoning Hearing Board may refer any application and accompanying documentation pertaining to any request for special exception to the Township Engineer for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.
3. Conditions for Approving Special Exceptions. Special exceptions shall only be issued after the Zoning Hearing Board has determined that the granting of such will not result in:
  - a. Any increase in flood heights.

- b. Additional threats to public safety.
- c. Extraordinary public expense.
- d. The creation of a nuisance.
- e. The defrauding or victimization of the public.
- f. Any conflict with local laws or ordinances.

**L. Variances within the Flood Plain Conservation District.** If compliance with any of the requirements of this Ordinance would result in an unnecessary hardship for a prospective builder, developer, or landowner, the Zoning Hearing Board may, upon appeal, grant relief from the strict application of the requirements.

1. Variance Requirements. Appeals for variances shall be considered by the Zoning Hearing Board in accordance with the following:
  - a. No variance shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the 100 Year Flood elevation, cause additional threats to public safety, extraordinary public expense, defraud or victimize the public, conflict with any other applicable laws, ordinances, or regulations, or jeopardize the flood insurance program of the Township.
  - b. Except for a possible modification of the freeboard requirements, no other revisions or modifications shall be granted.
  - c. If granted, a variance shall involve only the least modification necessary to provide relief.
  - d. 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.
  - e. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:
    - 1) The granting of the variance may result in increased premium rates for flood insurance.
    - 2) Such variance may increase the risks to life and property.
  - f. In reviewing any request for a variance, the Zoning Hearing Board shall consider, but not be limited to the following:
    - 1) That there is good and sufficient cause.
    - 2) That failure to grant the variance would result in unnecessary hardship to the applicant.
    - 3) That the request meets the criteria for the granting of a variance as required by Section 1204. G of this Ordinance.

- g. The Zoning Hearing Board shall maintain a complete record of all variance requests and related actions. In addition, a report of all variances granted during the year shall be included in the annual or biennial report to the Federal Insurance Administration.
- h. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the 100 Year Flood.

**M. Appeal Requirements for Variances.** In addition to the requirements of Article 12 of this Ordinance, appellants for variances shall provide five copies of the following items:

- 1. A written request including a completed building permit application form and describing the proposed activity or construction and estimated cost.
- 2. A map drawn at a scale of one inch equal to not more than 1000 ft, showing the site location.
- 3. A plan of the entire site, clearly and legibly drawn at a scale no smaller than one inch equals 100 ft, showing the following:
  - a. North arrow, scale and date.
  - b. Topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of not more than two feet.
  - c. All property and lot lines and rights-of-way including dimensions, and the size of the site expressed in acres or square feet.
  - d. The location of all existing streets, drives, and other accessways, and parking areas, with information concerning widths, pavement types and construction, and elevations.
  - e. The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development.
  - f. The location of the flood way and flood fringe boundary lines, information and spot elevations concerning the 100 Year Flood and Regulatory Flood elevations, and information concerning the flow of water including direction and velocities.
  - g. The location of all proposed buildings, structures, utilities, and other improvements.
  - h. Any other information which the municipality considers necessary for adequate review of the application.
- 4. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:
  - a. Sufficiently detailed architectural or engineering drawings including floor plans, sections, and exterior building elevations, as appropriate.

- b. For any proposed building, the elevation of the lowest floor (including basement) and, as required by the Township, the elevation of any other floor.
  - c. Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the 100 Year Flood.
  - d. Detailed information concerning any proposed floodproofing measures.
  - e. Cross-section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths.
  - f. Profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades.
  - g. Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and other utilities and facilities.
5. The following data and documentation:
- a. Certification from the applicant that the site upon which the activity or development is proposed is owned by the applicant or the client he represents or in which the applicant has a demonstrated equitable interest.
  - b. A statement sealed by a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the 100 Year Flood.
  - c. A statement, sealed by a registered professional engineer, architect, or other qualified person, which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a 100 Year Flood, including a statement concerning the effects such pollution may have on human life.
  - d. A statement sealed by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects that the proposed development will have on the 100 Year Flood elevations and flows.
  - e. A statement, sealed by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the 100 Year Flood elevations and flows.
  - f. The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development," if necessary.
  - g. Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control.
  - h. Any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 166.



- i. An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a 100 Year Flood.

## **ARTICLE 5 - SUPPLEMENTAL REGULATIONS**

### **SECTION 500 PURPOSE**

The provisions of this Article shall apply to all land uses, developments, and structures in Newlin Township, regardless of district, and shall be considered to be additional conditions or restrictions to any other provisions of this Ordinance. To the extent anything contained in this Article conflicts with any other provision of this Zoning Ordinance, the most stringent and restrictive provision shall apply.

### **SECTION 501 ACCESS TO BUILDINGS**

All buildings shall be situated on a lot adjacent to a public right-of-way, or with suitable access to an improved private access road, and all buildings shall be so located as to allow safe access by emergency vehicles.

### **SECTION 502 ACCESSORY APARTMENT ON LOTS TWO ACRES OR MORE**

Accessory apartments may be permitted on lots two acres or more, subject to the following conditions:

- A. Location.** One accessory apartment may be located within the principal structure or in a separate or detached structure as an accessory use to the principal dwelling on the lot.
- B. Setbacks.** All yard setback requirements shall be met.
- C. No Subdivision.** The accessory apartment shall not be subdivided from the parent tract.
- D. Parking.** Not less than one off-street parking space shall be provided for the apartment, in addition to the spaces required by Article 8 of this Ordinance for the principal residence. No additional front yard areas shall be used for parking.
- E. Sewage Disposal.** The Chester County Health Department shall inspect and approve the proposed method of sewage disposal.
- F. Owner-Occupancy.** The owner of the lot shall live on the parcel or in the apartment on a permanent basis.

### **SECTION 503 ACCESSORY STRUCTURES**

The following regulations shall apply to all detached non-agricultural structures unless such structures are constructed as part of a development approved under the provisions of Article 3 or Section 502 of this Ordinance:

- A. Detached Garages**
  - 1. Maximum capacity is three vehicles

2. Maximum height is 20 ft
3. Temporary structures are not permitted
4. No garage shall be within 10 ft of all property lines and shall not be placed in any required front yard
5. No dwelling shall be located within any garage, except as permitted in this Ordinance

**B. Sheds and other accessory structures**

1. Maximum height is 10 ft
2. Minimum distance between buildings and/or other structures shall be 10 ft
3. No structure shall be located within any required yard
4. No dwelling shall be permitted within any accessory structure
5. Accessory structures shall not occupy more than 25% of any yard

**SECTION 504 AIRPORT DISTRICT OVERLAY ORDINANCE**

**A. Purposes.** The purposes of this section are to create an airport district overlay that:

1. Considers safety issues around the G. O. Carlson Airport.
2. Regulates and restricts the heights of constructed structures and objects of natural growth, creates appropriate zones, establishing the boundaries thereof and providing for changes in the restrictions and boundaries of such zones.
3. Creates the permitting process for use within said zones and provides for enforcement, assessment of violation penalties, an appeals process, and judicial review.

**B. Relation to Other Zoning Districts.** The Airport District Overlay shall not modify the boundaries of any underlying zoning district. Where identified, the Airport District Overlay shall impose certain requirements on land use and construction in addition to those contained in the underlying zoning district.

**C. Definitions.** The following words and phrases when used in this ordinance shall have the meaning given to them in this section unless the context clearly indicates otherwise.

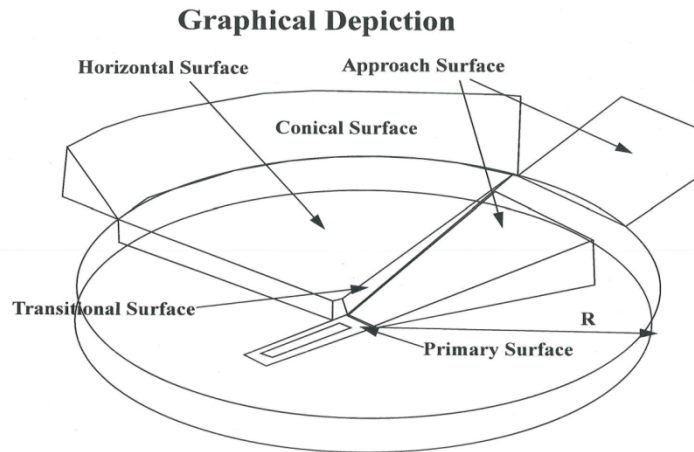
**Airport Elevation:** The highest point of an airport's useable landing area measured in feet above sea level. The airport elevation of the G. O. Carlson Airport is 660 feet MSL.

**Airport Hazard:** Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined in 14 CFR Part 77 and 74 Pa. Cons. Stat. §5102.

**Airport Hazard Area:** Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Ordinance and the Act 164 of 1984 (Pennsylvania Laws Relating to Aviation).

**Approach Surface (Zone):** An imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of the runway based on the planned approach. The inner edge of the approach surface is the same width as the primary surface and expands uniformly depending on the

planned approach. The approach surface zone, as shown on Figure 1, is derived from the approach surface.



**Figure 1.**

**Conical Surface (Zone):** An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally to one (1) foot vertically for a horizontal distance of 4,000 feet. The conical surface zone, as shown on Figure 1, is based on the conical surface.

**Department:** Pennsylvania Department of Transportation.

**FAA:** Federal Aviation Administration of the United States Department of Transportation.

**Height:** For the purpose of determining the height limits in all zones set forth in this Section and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

**Horizontal Surface (Zone):** An imaginary plane 150 feet above the established airport elevation that is constructed by swinging arcs of various radii from the center of the end of the primary surface and then connecting the adjacent arc by tangent lines. The radius of each arc is based on the planned approach. The horizontal surface zone, as shown on Figure 1, is derived from the horizontal surface.

**Larger Than Utility Runway:** A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

**Nonconforming Use:** Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Zoning Ordinance or an amendment thereto.

**Non-Precision Instrument Runway:** A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

**Obstruction:** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth by this Zoning Ordinance.

**Precision Instrument Runway:** A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

**Primary Surface (Zone):** An imaginary surface longitudinally centered on the runway, extending 200 feet beyond the end of paved runways or ending at each end of turf runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The primary surface zone, as shown on Figure 1, is derived from the primary surface.

**Runway:** A defined area of an airport prepared for landing and takeoff of aircraft along its length.

**Structure:** An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

**Transitional Surface (Zone):** An imaginary surface that extends outward and upward from the edge of the primary surface to the horizontal surface at a slope of seven (7) feet horizontally to one (1) foot vertically (7:1). The transitional surface zone, as shown on Figure 1, is derived from the transitional surface.

**Tree:** Any object of natural growth.

**Utility Runway:** A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

**Visual Runway:** A runway intended solely for the operation of aircraft using visual approach procedures.

- D. Establishment of Airport Zones:** There are hereby created and established certain zones within the Airport District Overlay Ordinance, defined in Section 504 C. and depicted on Figure 1, and illustrated on Chester County G. O. Carlson Airport Surface Area Map, included in the Appendix and hereby adopted as part of this ordinance, which include:

- 1. Approach Surface Zone**
- 2. Conical Surface Zone**
- 3. Horizontal Surface Zone**
- 4. Primary Surface Zone**
- 5. Transitional Surface Zone**

- E. Permit Applications.** As regulated by Act 164 and defined by 14 Code of Federal Regulations Part 77.13(a) (as amended or replaced), any person who plans to erect a new structure, to add to an existing structure, or to erect and maintain any object (natural or manmade), in the vicinity of the airport, shall first apply to the Federal Aviation Administration (FAA) for review and clearance approval, providing the Township with documentation in compliance with 14 Code of Federal Regulations Part 77 Subpart B (FAA Form 7460-1 as amended or replaced); and shall notify the Department's Bureau of Aviation (BOA) by submitting PENNDOT Form AV-57 to obtain an obstruction review of the proposal at least 30 days prior to commencement thereof. However, any person who plans to erect said structure or object of a height less than or equal to thirty-five (35) feet, shall be exempt from the requirements of this Zoning Ordinance Section 504. The FAA

clearance approval and the Department's BOA response must be included with this permit application for it to be considered complete. If the FAA issues a clearance approval and if the Department's BOA returns a determination of no penetration of airspace, the permit request should be considered in compliance with the intent of this Overlay Ordinance. If the FAA does not issue a clearance approval or if the Department's BOA returns a determination of a penetration of airspace, the permit shall be denied, and the project sponsor may seek a variance from such regulations as outlined in Section 504 F. No permit is required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure.

**F. Variance.** Any request for a variance shall include documentation in compliance with 14 Code of Federal Regulations Part 77 Subpart B (FAA Form 7460-1as amended or replaced). Determinations of whether to grant a variance will depend on the determinations made by the FAA and the Department's BOA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space. In particular, the request for a variance shall consider which of the following categories the FAA has placed the proposed construction in:

1. No Objection - The subject construction is determined not exceed obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination a variance shall be granted.
2. Conditional Determination - The proposed construction/alteration is determined to  
create some level of encroachment into an airport hazard area which can be effectively mitigated. Under this determination, a variance shall be granted contingent upon implementation of mitigating measures as described in Section 504 I.- Obstruction Marking and Lighting.
3. Objectionable - The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance shall be denied and the reasons for this determination shall be outlined to the applicant.
4. Such requests for variances shall be granted where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the intent of this Section 504 of the Zoning Ordinance.

**G. Use Restrictions.** Notwithstanding any other provisions of this Zoning Ordinance, no use shall be made of land or water within the Airport District Overlay in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise endanger or interfere with the landing, takeoff or maneuvering of aircraft utilizing the G. O. Carlson Airport.

**H. Pre-Existing Non-Conforming Uses:** The regulations prescribed by this Zoning Ordinance Section 504 shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a non-conforming use. No non-conforming use shall be structurally altered or permitted to grow higher, so as to increase the non-conformity, and a non-conforming use, once substantially abated (subject to the underlying zoning ordinance,) may only be reestablished consistent with the provisions herein.

- I. **Obstruction Marking and Lighting.** Any permit or variance granted pursuant to the provisions of this Zoning Ordinance Section 504 may be conditioned according to the process described in Section 504 F. to require the owner of the structure or object of natural growth in question to permit Newlin Township, at its own expense, or require the person requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety.
- J. **Violations and Penalties.** Any violation of Zoning Ordinance Section 504 is subject to the Enforcement, Penalty and Remedy provisions in Section 1303 of this Zoning Ordinance.
- K. **Appeals.** Procedures for relief from the literal provisions of this Zoning Ordinance Section 504 shall be followed as set forth in Zoning Article 11 – Hardship Relief.
- L. **Conflicting Regulations.** Where there exists a conflict between any of the regulations or limitations prescribed in this Zoning Ordinance Section 504 and any other regulation applicable to the same area, the more stringent limitation or requirement shall govern and prevail.
- M. **Severability.** If any of the provisions of this Zoning Ordinance Section 504 or the application thereof to any person or circumstance are held invalid, such invalidity shall not affect other provisions or applications of the Zoning Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Zoning Ordinance Section 504 are declared to be severable.

## **SECTION 505                      ANIMAL SHELTERS**

Animal shelters for domesticated animals owned by the occupant of a lot may be maintained for non-commercial purposes in any district, provided the shelter is suitably enclosed, yard set back requirements are maintained, and is no closer than 50 ft to any dwelling, other than that of the occupant. The forgoing provision shall not apply to agricultural activities or typical dog houses.

## **SECTION 506                      BED AND BREAKFAST ESTABLISHMENT (on lots not less than five acres)**

Bed and breakfast establishments shall be permitted as accessory uses to single-family dwellings on lots not less than five acres, subject to the following provisions.

- A. **Location within Single-Family Dwellings.** The bed and breakfast facility shall be permitted only within a single-family detached and owner-occupied dwelling or existing dwellings accessory thereto on the same property as the owner-occupied dwelling.
- B. **Principal Use Not to Change.** At any time when a bed and breakfast facility is operated, the principal use of the property upon which it is operated shall remain that of a single-family dwelling.
- C. **Maximum Tenancy.** The length of stay for any guest shall not exceed seven uninterrupted days.
- D. **Meals.** Meals that are served by the facility shall consist of breakfast only and shall be provided only for the guests of the establishment. The owner/operator of the facility shall

comply with all federal, state, and local requirements for the preparation, handling and serving of food as well as other applicable health and regulatory mandates.

- E. Amenities for the Use of Guests Only.** All amenities provided for guests, including but not limited to, swimming pool, tennis courts and the like shall be limited to the sole use of the resident owner and the guests of the bed and breakfast facility.
- F. Guest Register Required.** The resident owner shall maintain a guest register that shall contain the names, addresses and length of stays of all guests. The owner for not less than three years shall maintain this register.
- G. Compliance with Other Applicable Regulations.** All bed and breakfast facilities shall comply with all rules, regulations and requirements of the Chester County Health Department. Prior to the issuance of a use and occupancy permit for the facility, evidence shall be supplied to the Township certifying that the proposed bed and breakfast facility is in accordance with all rules and regulations of the Chester County Health Department.
- H. Smoke Detectors Required.** Each bed and breakfast facility shall be equipped, at a minimum, with one smoke detector in each guest room, which does not rely on internal batteries, and one fire extinguisher per floor or sleeping area. All equipment shall be maintained in good operating conditions at all times.
- I. Parking.** Not less than one on-site parking space shall be provided for each guest room and for each employee. Not less than two parking spaces shall be provided for the owners of the facility. No parking space shall be located within any required front yard. All parking spaces shall comply with all Township and State regulations. No on-street parking shall be permitted for any bed and breakfast facility.
- J. Sign.** Not more than one sign shall be permitted for each bed and breakfast facility, not to exceed four square feet in area per side and shall be set back not less than three feet from the roadway right-of-way upon which the facility fronts. The sign shall contain no information other than the identification of the premises as the named bed and breakfast facility.
- K. Permits Required.** The Zoning Officer is authorized to issue a permit for the bed and breakfast facility upon demonstrated compliance with all the requirements of this Section and with all other applicable regulations. Permits shall be valid for a period of one year unless the permit is revoked due to a violation of any applicable condition or regulation, due to misrepresentation of facts made to the Township of other violation of the provisions of this Section of other applicable regulation.
- L. Permit Renewal Process.** Not less than 30 days prior to the expiration of the permit for the bed and breakfast, the operator shall make a request in writing for the renewal of the permit to allow the continuation of the facility. Upon such request, the Zoning Officer shall inspect the premises to determine compliance with the provisions of this Section and all other applicable regulations, and shall renew the permit for one additional year. Upon the determination of the Zoning Officer that a violation exists or that the facility is not in compliance with the provisions of this Section, the facility shall immediately cease operations and shall not resume until the violation is corrected as determined by the Zoning Officer, whereupon the Zoning Officer shall renew the permit for one additional year.
- M. Application Fee.** Application and renewal fees shall be as specified in the current Newlin Township fee schedule.



- N. Limitations on Other Uses.** The provisions of this Section are intended to apply to traditional bed and breakfast establishments, and shall not be construed to permit any facility which provides any type of unassociated ancillary activities or functions. Specifically, but not inclusively, a bed and breakfast facility shall not be utilized for the provision of space or facilities for weddings, receptions, parties, and recreational or social functions.

## **SECTION 507 BUILDING SET BACK LINES**

- A. Building Set Back Lines.** Building set back lines are established for all roadways, subject to the minimum set back requirements as shown in Table 11, except for developments designed according to the provisions of Options 1, 3, or 4 in Article 3 of this Ordinance. Setbacks shall be measured from the street right-of-way.

<b>Table 11 - Building Setback Lines</b>		
<b>Road</b>	<b>Functional Classification</b>	<b>Setback</b>
Apple Grove Road	Local Access	50 ft
Beagle Road	Local Access-unpaved	50 ft
Brandywine Creek Road	Local Access	50 ft
Brandywine Drive	Local Access	50 ft
Brandywine Creek Road (between Harvey's Bridge and Embreeville Road)	Local Access	50 ft
Cannery Road	Local Access	50 ft
Chestnut Hollow Lane	Local Access	50 ft
Embreeville Road (PA 162)	Minor Collector	60 ft
Garnet Lane	Local Access	50 ft
Glenhall Road	Local Access	50 ft
Green Valley Road	Local Access	50 ft
Groundhog College Road	Local Access-unpaved	50 ft
Harvey's Bridge Road	Local Access	50 ft
Hilltop View Road	Local Access-unpaved	50 ft
Indian Hanna Road	Local Access-unpaved	50 ft
Kelsall Road	Local Access-unpaved	50 ft
Laurel Road	Local Access	50 ft
Lost Trail Road	Local Access-unpaved	50 ft
Marlboro Road	Local Access	50 ft
Marlboro Spring Road	Local Access	50 ft
Oak School Road	Local Access-unpaved	50 ft
Powell Road	Local Access	50 ft
Stargazers Road	Local Access	50 ft

Strasburg Road	Major Collector	60 ft
Warpath Road	Local Access	50 ft
Wawaset Road (PA 842)	Minor Collector	60 ft
Wheatland Drive	Local Access	50 ft
Youngs Road	Local Access	50 ft
All other roads not listed	Local Access	50 ft

**B. Yard Reductions.** A required front yard may be reduced to form a more consistent setback pattern in an area that is predominately developed, according to the following guidelines:

1. The reduction shall be equal to the average set back of existing buildings on the same side of the street.
2. Adequate sight distances shall be preserved, in accordance with the Newlin Township Subdivision and Land Development Ordinance.

**C. Flag Lots.** A dwelling on a flag lot may be situated facing in any direction, provided that front, side and rear yards shall be provided as if the dwelling actually faces its front yard and the street, and provided that the dwelling is not less than 250 ft from any public right-of-way. Not more than one flag lot shall be created per parcel.

#### **SECTION 508 CELLULAR COMMUNICATION FACILITIES ON EXISTING FACILITIES**

Cellular communications facilities which are not more than 25 ft in height when attached to existing facilities and less than 500 sf in floor area shall be permitted as accessory uses, subject to the following standards:

- A. Location.** Cellular communication facilities may be co-located on top of existing electrical transmission towers, barns, smokestacks, silos, steeples and similar structures as accessory uses, provided that such facilities do not extend more than 25 ft above the top of the existing structure.
- B. Structures.** Structures serving cellular communication facilities containing equipment and associated facilities not exceeding 500 sf or 10 ft in height, and driveways or access facilities shall be permitted by as accessory uses.
- C. Freestanding Facilities.** Facilities that exceed any of the limitations in this Section, and freestanding facilities (including cable-stabilized structures), shall be allowed by special exception according to the provisions of Section 608 of this Ordinance.

#### **SECTION 509 COMMERCIAL and INDUSTRIAL PERFORMANCE STANDARDS**

All commercial and industrial uses of land shall comply with the following standards:

- A. Noise.** No commercial or industrial use of land shall cause an increase in noise that exceeds any applicable standard set by the Pennsylvania Department of Environmental Protection (DEP) or the United States Environmental Protection Administration (EPA).

- B. Smoke.** No commercial or industrial operation shall emit any smoke that exceeds any applicable standard set by the DEP or EPA.
- C. Dust and Dirt.** No commercial or industrial operation shall release any airborne dust, dirt or fly ash which exceeds any applicable standard set by the DEP or EPA.
- D. Odor.** No commercial or industrial operation shall emit odorous gases or matter that is perceptible at any point along a lot line that exceeds any applicable standard set by the DEP or EPA.
- E. Toxic Gases, Petroleum Products, Pesticides, Herbicides, and Similar Noxious Substances.** No commercial or industrial operation shall release any toxic gas or hazardous material or waste into the environment which exceeds any applicable standard set by the DEP or EPA.
- F. Vibration.** No commercial or industrial operation shall cause vibration that is perceptible at any point along a lot line that exceeds any applicable standard set by the DEP or EPA.
- G. Glare, Heat, and Radiation.** No commercial or industrial operation shall produce heat, glare or other radiation which is perceptible at any point along the lot line which exceeds any applicable standard set by the DEP or EPA.
- H. Waste Products.** Waste products shall be stored within enclosed buildings or in containers adequate to prevent the spread or attraction of vermin, and prevent the carrying of material by the wind. No liquid or solid waste or material, including any material of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous elements, shall be discharged at any point into any sewage disposal system, watercourse, lake, or into the ground, except in accordance with standards approved by the DEP or other applicable regulatory department or agency.
- I. Fuel Storage.** All fuel storage areas shall comply with applicable regulations of the Pennsylvania State Fire Marshall and/or the Pennsylvania State Police.
- J. Agricultural Uses Exempted.** All lawful agricultural activities shall be exempt from Township provisions.

#### **SECTION 510 COUNTRY PROPERTY ACCESSORY DWELLING UNITS IN OPTION 4 SUBDIVISIONS**

Country property accessory dwelling units (including elder cottages and tenant houses proposed in **Option 4** subdivisions) shall be subject to the following conditions:

- A. Location and Construction.** Accessory dwelling units in principal residences or in new traditional outbuildings (such as barns, stables, carriage houses, and spring houses) shall be designed to harmonize with vernacular rural buildings in the municipality's historic landscape.
- B. Maximum Number.** There shall be a maximum of one accessory dwelling unit (ADU) on any building lot less than 10 acres in an **Option 4** subdivision, and a maximum of two ADUs on any building lot containing 10 or more acres in an **Option 4** subdivision, provided all performance standards of this ordinance are met. No additional ADUs shall be created.

- C. Gross Floor Area.** The gross floor area in the first ADU shall not exceed 900 sf. In the second ADU, where permitted, the maximum area shall be 750 sf. However, on lots exceeding 15 acres, the second ADU may take the form of a tenant house containing up to 2000 sf of floor space. Under this section, existing historic accessory buildings more than 75 years old that exceed these floor space limits may be permitted by the Township to be used as ADUs without having to meet the dimensional setback requirements of this ordinance.

## **SECTION 511                      DISPLAY AND SALE OF FARM PRODUCTS**

- A. On-Site Production.** All products sold must be produced on the premises or on agricultural lands.
- B. Setbacks.** Any structure that is used for the display or sale of farm products shall be set back not less than 50 ft from all street right-of-way lines.
- C. Parking.** Adequate and safe off-street parking shall be provided for employees and customers.

## **SECTION 512                      DRIVEWAYS**

- A. Paving.** All driveways shall be constructed with dustless surfaces or paved with a minimum of two inches of compacted asphalt except where the public road is unpaved. Driveways shall be paved for distances of not less than 30 ft from where they abut public roads, and all driveways shall be paved for those portions exceeding grades of eight percent.
- B. Location.** No driveway shall be located less than 15 ft from any adjoining lot, except where a driveway meets a roadway, driveways in Option 5 subdivisions, or where joint driveways are utilized.
- C. Maximum Usage.** Single driveways shall not serve more than two lots.
- D. Maximum Grade.** Driveways shall not exceed a slope of five percent within 25 ft of a public road, and shall not exceed 15% for all other places.

## **SECTION 513                      ERECTION OF MORE THAN ONE PRINCIPAL BUILDING ON A LOT**

A building, structure, lot, or premises shall be permitted only one principal use. A building, structure, lot, premises, or use may not be altered, partitioned or subdivided in any manner for the purpose of creating an additional principal use.

- A. Opportunities in the Village Overlay District.** A second principal use shall be permitted in the Village Overlay District, by Special Exception, as an adaptive reuse of an historic structure in accordance with Section 614 and the following:
1. A second residential dwelling unit.
  2. A non-residential use in Section 532 C. 2.

**SECTION 514 FORESTRY AND TIMBER HARVESTING**

- A. Applicability.** The following requirements shall apply to all timber harvesting activities, provided, however, that the normal and routine removal or maintenance of trees by a homeowner, as well as timber removal activities resulting from storms or from other damage and necessary for purposes of preserving safety, shall be exempted from these regulations.
- B. Erosion and Sedimentation Control Plan.** An erosion and sedimentation control plan shall be prepared for each tree harvesting operation. The Soil Conservation Service shall approve the plan.
- C. Erosion Control Plan.** An Erosion and Sedimentation Control Plan shall be filed with the Township not less than 30 days prior to the start of the harvesting operation and a copy of the plan shall be available at the site.
- D. Procedures and Requirements.** The following requirements shall apply to all harvesting operations:
1. No clear cutting of trees of more than six inches in diameter measured at four feet above grade shall be permitted within 25 ft of ridge lines (measured vertically), or which expose such ridge lines to view from public roadways not less than 2000 ft from the site, shall be permitted.
  2. No tops or slash shall be left within 25 ft of any public thoroughfare.
  3. Felling or skidding across any public thoroughfare is prohibited without written permission by either the Township or the Pennsylvania Department of Transportation, whichever is responsible for the thoroughfare.
  4. All soil and debris washed or carried onto public streets during tree harvesting operations shall be cleaned daily. The applicant shall be responsible for the restoration of any property that may be damaged due to erosion caused by the timber harvesting operation.
  5. Upon the conclusion of any timber harvesting operation, all litter, trash, discarded equipment, and similar items shall be removed from the site before the operator vacates the site.
  6. Upon the completion of any logging operation, the area shall be reseeded in compliance with the Erosion and Sedimentation Control Plan.
  7. All clear-cut areas shall be reclaimed by methods such that the area does not increase sedimentation and stormwater runoff.
  8. The applicant shall be responsible for repairing berms and/or shoulders on public roads that may be damaged due to the timber harvesting operation.
- E. Bonding.** Road bonding for timber harvesting shall comply with PennDOT regulations Chapter 189, found in Publication 221, "Posting and Bonding of Municipal Bonds."
- F. Admission to the Site.** The Township may enter onto the site to ensure compliance with the provisions of this Section and with the Erosion and Sedimentation Control Plan.

## **SECTION 515 GARAGE OR YARD SALES**

An owner or occupant of a parcel may conduct garage or yard sales as accessory uses to dwellings for periods not to exceed a total of seven days per parcel per each year. Such sales may include personal property, but shall not include articles on consignment, and no stocking of inventory shall be permitted. No public right-of-way areas shall be used during the garage sale.

## **SECTION 516 HEIGHT AND YARD LIMIT EXCEPTIONS**

Typical architectural elements and mechanical facilities associated with permitted structures such as belt courses, bay windows, roof overhangs, chimneys, antennas, flagpoles, air handling equipment, utility poles, and similar facilities, may project above the maximum height or yard set back limits established in zoning districts, subject to the following:

- A. Horizontal Elements.** Horizontal architectural elements may project into required yards not more than two inches per one foot of provided yard depth.
- B. Vertical Elements.** Vertical elements may project above the maximum height limit provided that the element is set back from all lot lines a distance not less than 150% of its height.

## **SECTION 517 HOME OCCUPATIONS - PROFESSIONAL**

Professional home occupations may be permitted as accessory uses to single-family detached dwellings subject to the following conditions:

- A. Exterior Changes.** No changes to the exterior of the dwelling shall be permitted, which would have the effect of altering its character as a single-family dwelling. The professional home occupation shall only be conducted within a single-family dwelling or in an accessory building. The accessory structure shall be set back from all lot lines not less than 50 ft. An area corresponding to not more than 25% or 600 sf, whichever is less, of the gross square footage of the dwelling, including all floors and habitable basement areas, but excluding attic space, shall be devoted or used for the professional home occupation.
- B. Limitation on Employees.** Not more than two employees not in residence in the dwelling shall be permitted.
- C. No Outside Storage.** No products or materials used in the professional home occupation shall be stored outside unless screened and shall meet the minimum yard set back regulations.
- D. Vehicle Use.** No vehicles, except for typical automobiles or pick-up trucks, shall be used in the occupation.
- E. Equipment Use.** No machinery or equipment except for typical office equipment shall be used.
- F. No Tractor-Trailer Deliveries.** No deliveries by tractor-trailer shall be permitted.
- G. No Adverse Effects.** The occupation will not result in any noise, electromagnetic interference to radio or television signals, odor, or septic discharge that are significantly different from those of typical dwellings.

- H. **No Subdivision.** The professional home occupation structure shall not be subdivided from the parent parcel.
- I. **Parking.** Not less than two parking spaces shall be provided for the professional home occupation, in addition to the parking spaces provided for the dwelling. No required minimum front yard areas shall be used for parking in addition to those spaces existing prior to the application for the professional home occupation. Tandem parking spaces in driveways may be used to meet off-street parking requirements. Parking for the professional home occupation shall be located in side or rear yard areas or in garages.
- J. **Permit Required.** Before any building is used for as a professional home occupation, the applicant shall receive a permit from the Zoning Officer, which shall state that it is issued subject to the applicant complying with the conditions of this Section.

#### **SECTION 518 JUNK OR DISCARDED MATERIALS**

No parcel shall be used for the deposit or storage of junk or discarded materials unless authorized pursuant to this Ordinance.

#### **SECTION 519 LANDSCAPING**

All applicants for zoning permits for land uses other than agriculture or other than residential developments containing less than five dwellings or residential lots shall submit to the Township a landscape plan for the site, prepared according to the provisions of the Newlin Township Subdivision and Land Development Ordinance.

#### **SECTION 520 LIGHTING**

The amount light trespass cast onto an adjacent parcel shall not exceed 0.1 vertical foot-candles at the property line. Lighting fixtures shall not direct glare towards any other lots and shall not cast disabling glare towards any public right-of-way.

#### **SECTION 521 LOT SIZE REDUCTIONS**

No lot, even though it may consist of one or more adjacent parcels or lots of record, shall be reduced in size such that any minimum required yard area, bulk, or other requirement of this Ordinance are not maintained.

#### **SECTION 522 MOBILE HOMES AND MANUFACTURED HOUSING (individual units)**

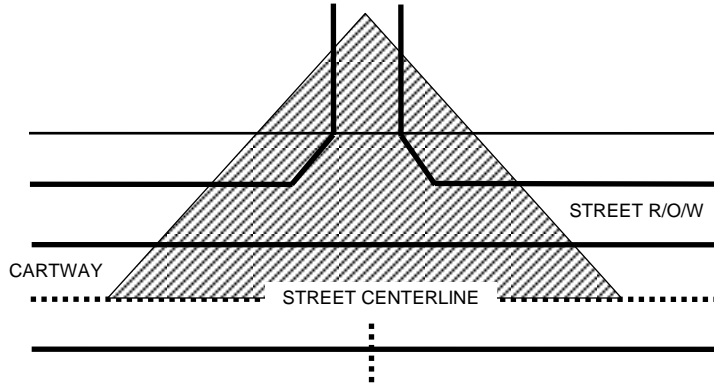
Individual mobile homes shall be considered to be single family detached dwellings if they conform with the bulk and lot requirements pertaining to single-family dwellings, and to the following:

- A. **Foundations.** All mobile homes shall be securely fastened to foundations that will resist heaving, settling, shifting, or other movement due to frost action, inadequate drainage, high winds, or other similar forces acting upon the structure. Foundations shall be constructed as specified by the manufacturer of the mobile home, but not less than one tie-down shall be provided for each 10 ft along the perimeter of the dwelling.

- B. Wheels Removed.** All wheels, hitches, tongues, and facilities used for the transportation of the home shall be removed.
- C. Construction.** The construction of all mobile homes shall conform with the requirements of Act 69 of the General Assembly of the Commonwealth of Pennsylvania, enacted May 11, 1972, as may be amended, as well as any other applicable state or federal laws or regulations regarding mobile homes.
- D. Base Enclosures.** The base of the mobile home shall be surrounded by concrete block, vinyl, decorative wood siding, or similar manufactured material, extending from the bottom of the dwelling to grade, and shall be constructed to inhibit decay and shall resist penetration by vermin.
- E. Mobile Home Parks.** Mobile home parks shall comply with the regulations pertaining to mobile home parks in the Newlin Township Subdivision and Land Development Ordinance and the Newlin Township Mobile Home Park Ordinance.
- F. Sewage Disposal Inspections.** The County Health Department shall inspect and approve the proposed method of sewage disposal.

#### **SECTION 523 OBSTRUCTION TO VISION AT STREET INTERSECTIONS**

A clear sight triangle shall be maintained at all street intersections according to the Pennsylvania Department of Motor Vehicles. See diagram below.



#### **SECTION 524 POLLUTION CONTROL**

No building or structure shall be erected, altered or used, and no lot or premises may be used for any activity that is noxious, injurious or offensive by reason of dust, smoke, refuse, odor, gas, fumes, noise, vibration, electronic interference, radiation, illumination, use or production of hazardous materials or hazardous wastes or similar substances or conditions such that any regulation of the Pennsylvania Department of Environmental Protection or United States Environmental Protection Agency are violated. These provisions shall not apply to the agricultural activities. Persons who burn materials in open areas shall first inform the Fire Department of the proposed burning activity, and no open fire shall be unattended.



## SECTION 525

## PROHIBITED USES AND REMOVAL OF NUISANCES

- A. General.** Any activity, use of land, trade or process that may be in any way dangerous, noxious or injurious to public health, safety or welfare, such that any regulation of the Pennsylvania Department of Environmental Protection or United States Environmental Protection Agency is violated, are specifically prohibited.
- B. Certain Activities Constitute Nuisances.** The storage or parking of wrecked, junked, stripped or abandoned vehicles, or the storage, placement or accumulation of wrecked, discarded, or abandoned machinery, equipment, household appliances, debris or waste materials of any kind or description, or parts thereof, shall occur only when such items are stored within an enclosed building or stored out of sight from the public right-of-way on which the property abuts, or is otherwise authorized in conjunction with a business properly operated pursuant to this Ordinance and other laws of the Township.
- C. Notice to Remove Property.** If the Township finds that a violation of this Article exists, the Township shall notify the owner of the property on which the violation exists, or the owner of the vehicle or other discarded or abandoned item, or both, of this violation. The owner of the item(s) and the owner of the property on which the item(s) are stored, shall be ordered to correct the violation within 30 days of such notice.
- D. Service of Notice to Remove Property.** Notice shall be given by personal service or by certified mail to the last known address of the violator. In the event that, on diligent search, the address of either the property owner or the owner of the vehicle or other items cannot be determined, the posting of the notice on the property, vehicle, item, structure or area immediately adjacent to the vehicle or item, shall constitute sufficient notice.
- E. Request for Hearing.** Within 30 days after notice, the affected party may request a hearing with the Supervisors by filing a written request with the Secretary. The 30 day period for compliance set out in this Article is suspended from the date of request for a hearing to the date of the hearing. After the hearing, the Supervisors shall affirm, withdraw, or modify the notice.
- F. Effect of Failure to Request Hearing.** If a hearing is not requested, the parties affected shall remove the vehicle or items from the property in accordance with the notice and order.
- G. Notice of Hearing.** On proper request, a hearing on the matter shall be held within a reasonable time, and where more than one party is involved, it shall be the duty of the party requesting the hearing to notify the Secretary of the names and addresses of all other affected or interested parties.
- H. Authority for Township to Remedy Violations at the Expense of the Defaulting Property Owner.** If the violation shall not have been remedied within the period as required by the order, the Township may remedy the violations and charge the costs thereof to the real property owner on whose property the violation is located. The cost shall, after a proper demand and refusal or a failure to pay after 30 days, constitute a lien on the property at such time as the Solicitor shall thereafter file it.

## SECTION 526

## ROADSIDE SALES AND FARM PRODUCE STANDS

Produce and other products of local farms may be sold at roadside stands. Off-street parking areas shall be provided as required in Article 8 of this Ordinance and not more than one sign shall

be permitted, as regulated in Article 9 of this Ordinance. No sign or stand shall obstruct vision along the street.

**SECTION 527 (Reserved)**

**SECTION 528 SATELLITE ANTENNAS**

All satellite receiving antennas over four feet in diameter or height shall conform with all applicable yard setback regulations for principal uses, and shall not be located in the front of any principal building, unless applicable provisions of the Federal Communications Commission would be violated.

**SECTION 529 STEEP SLOPE CONSERVATION OVERLAY DISTRICT**

**A. Purposes.** The purposes of this Section are as follows:

1. To promote the public health, safety and welfare by the protection of steep slope areas and by encouraging the retention of open space.
2. To permit only those uses of steep slope areas which are compatible with the conservation of natural conditions and which maintain stable soil conditions by minimizing disturbances to vegetation and by restricting the regrading of steep slope areas.
3. To limit soil erosion and the resultant destruction of the land, siltation of streams and damage to property.
4. To protect low-lying areas from flooding by limiting the increase in stormwater runoff caused by grading of steeply slope areas, changes of ground cover or the erection of structures on steeply slope areas.
5. To maintain the ecological integrity and habitat value of steeply sloped areas.
6. To allow the continuing replenishment of groundwater resources and the maintenance of springs.

**B. General Provisions.**

1. Compliance with these Provisions. No area within the Steep Slope Conservation Overlay District shall hereafter be used without full compliance with the terms of this Section and other applicable regulations.
2. Overlay. The Steep Slope Conservation Overlay District shall be deemed to be an overlay on any zoning district now or hereafter enacted. The physical limits of this District are not graphically shown on the Zoning Map.
3. Additional Requirements to Underlying District. In those areas of the Township where the Steep Slope Conservation Overlay District applies, the requirements of the Overlay District shall be in addition to and supersede where inconsistent with the requirements of the underlying zoning district.

4. Changes to Steep Slope Boundary - Effect on Underlying District. If the boundaries of the Steep Slope Conservation Overlay District are changed as a result of legislative or administrative actions or judicial decision, the zoning requirements applicable to the area in question shall revert to the requirements of the underlying zoning district without consideration of this Section.
5. Changes to Underlying Zoning District - Effect on Steep Slope Overlay District. For any parcel or any part thereof on which the Steep Slope Conservation Overlay District is an overlay, should the underlying zoning classification(s) be changed as a result of legislative or administrative actions or judicial decision, such change(s) in classification shall have no effect on the boundaries of the Steep Slope Conservation Overlay District.
6. Preservation of Other Restrictions. It is not intended by this Section to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Section imposes greater restrictions, the provisions of this Section shall prevail.
7. Municipal Liability. Any determination that a proposed use complies with this Section or any approval of a subdivision or land development plan or any issuance of a building or zoning permit within or near the Steep Slope Conservation Overlay District shall not constitute a representation, guaranty or warranty of any kind by the Township, or by any official or employee thereof, of the practicability or safety of the proposed use and shall create no liability upon the Township, its officials or employees. This Section does not imply that areas outside the Steep Slope Conservation Overlay District or land uses permitted within said district will always be totally free from the adverse effects of erosion.

**C. Designation and Interpretation of Overlay District Boundary.**

1. The Steep Slope Conservation Overlay District consists of slopes of greater than 20%. In any application for subdivision and/or land development, or when otherwise required by this Ordinance, where the tract includes areas of Steep Slopes, the applicant shall, using two-foot contours, delineate slopes greater than 20%. Further, the applicant shall use an actual field topographic survey or aerial survey as the source of contour information and the basis for depicting Steep Slopes.
2. This Section shall apply only to those Steep Slopes that exist for three or more consecutive two-foot intervals and which are greater than 1000 sf in area. Isolated areas of land over 20% slope that are less than 1000 sf in area or that are not continuous over three two-foot contour intervals, must be shown on the plan, but are not subject to the restrictions of this Section. Land slopes over 20% may not be averaged with areas of less than 20% for the purpose of reducing the area of Steep Slopes. Small areas of less than 20% slope occurring in the midst of larger areas of steeply sloping ground shall be considered a part of the Steep Slopes.
3. Boundary interpretation and appeal procedure.
  - a. Each application for construction or land disturbance within the Steep Slope Conservation Overlay District shall be submitted in accordance with Section 528 E below.
  - b. Any area of the Steep Slope Conservation Overlay District that falls within the tract shall be identified on the site plan through shading.

- c. Where an interpretation is needed as to the exact location of the boundaries of the district in relation to a given parcel, the Township Engineer shall make an initial determination. Any person seeking such a determination shall submit a topographic survey of the property with Steep Slopes delineated. The Township Engineer shall make a written report of the results of his initial determination, a copy of which shall be provided to the Board of Supervisors. The cost of these determinations shall be borne by the applicant.
  - d. Any person aggrieved by any such determination of the Township Engineer or other decision under this Section may appeal to the Zoning Hearing Board.
1. Exemptions to the provisions of this Section when no disturbance is proposed. Applications that are subject to the provisions of the Steep Slope Conservation Overlay District may identify such steep slope areas in approximate terms and without meeting the provisions of Section 529 E.1 of this Ordinance, provided that no disturbance shall occur within the steep slope areas, as well as within a 35-foot wide buffer surrounding such areas.

Notwithstanding the provisions of Section 529 C.4 above, the Township Engineer may require applicants to comply with the provisions of Section 529 E.1 where the Township Engineer determines that such information is necessary due to unusual geological, topographic or other physical circumstances.

**D. Permitted Uses.** The following are the only uses permitted in the Steep Slope Conservation Overlay District. Such uses also shall be in compliance with the base zoning district.

1. Uses permitted by right. Uses permitted by right shall be as follows:
- a. Parks and outdoor recreational uses.
  - b. Logging and woodcutting, where such activity is limited to highly selective removal of trees and when conducted in conformity with conservation practices approved by the Soil Conservation District or the County Conservation District, and subject to the provisions of Section 514 of this Ordinance. A sedimentation and erosion control plan shall be submitted to the Township.
  - c. Agricultural uses when conducted in conformity with conservation practices, including minimum tillage methods, approved by the Soil Conservation Service or the County Conservation District.
  - d. Grading for the minimum portion of a driveway necessary to access a single-family dwelling when it can be demonstrated that no other routing that avoids slopes exceeding 20% is feasible.
  - e. Yard areas of any permitted building, so long as such building is itself not within the Steep Slope Conservation Overlay District, except where permitted by special exception.
2. Uses by Special Exception. The following uses shall be permitted in the Steep Slope Conservation Overlay District as a special exception when authorized by the Zoning Hearing Board. In making its determination, the Board shall give

particular consideration to the criteria and standards in paragraph F below. In granting any Special Exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed below, as it may deem necessary to implement the purposes of this Ordinance, and subject to the provisions of Section 613 of this Ordinance.

- a. Single-family detached dwelling on construction sites not exceeding 20%.
- b. Any road necessary to provide primary or emergency access to a use permitted by this Section, when no practical alternative exists in an area of lesser slope.
- c. Sealed public water supply wells, where approved by all regulatory agencies.
- d. Sanitary or storm sewers where approved by all regulatory agencies.
- e. Extractive uses, including borrow pits, when operated in accordance with recognized conservation practices and, as applicable, where approved by all regulatory agencies.
- f. Septic systems where permitted under the regulations of the DEP and the County Health Department.

**E. Administration.** The following requirements shall apply:

- 1. Required materials. Before a permit is issued for any construction or land disturbance activity, the following material shall be submitted for review to the Township Engineer. No approval or building permit shall be authorized by the Zoning Officer, and no special exception shall be granted by the Zoning Hearing Board, without the Township Engineer's review of this material and his recommendation thereon:
  - a. An earthmoving plan that indicates existing grades with field run or aerial contour lines at two-foot intervals and proposed grades within the area of any proposed activity, disturbance or construction. All areas within the Steep Slope Conservation Overlay District shall be shaded accordingly.
  - b. A site plan indicating existing and proposed structures, impervious surfaces, storm drainage facilities and retaining walls. The site plan shall also locate and identify existing vegetation and ground cover within the Steep Slope Conservation Overlay District, as well as proposed landscaping material.
  - c. Architectural plans, elevations and sections.
  - d. A statement, signed and sealed by a registered architect or engineer, explaining the building methods to be used in overcoming foundation and other structural problems created by Steep Slope conditions, and which shall also indicate how and by what means watersheds will be preserved and how and by what means soil erosion and excessive surface water runoff shall be curtailed.

- e. Plan, profile and typical cross-sections of any proposed street, emergency access or driveway, with the seal of a registered professional engineer thereon.

**F. Additional Criteria.**

1. Steep Slope Lots. Each lot containing steeply sloped land shall contain no less than 50% of the minimum required lot area after the exclusion of all steeply sloped ground as defined herein. Criteria for stabilization and compaction of excavated and/or filled areas shall be in accordance with acceptable engineering standards and shall be subject to the approval of the Township Engineer.
2. Grading to be minimized. All grading shall be minimized, and shall be undertaken in accordance with all applicable Township Ordinances and regulations. No grading shall be undertaken within any area of the Steep Slope Conservation Overlay District, except where approved in conjunction with a use permitted under the terms of this Section.
3. Finished Slopes. Finished slopes of all cuts and fills shall not exceed 33% unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately to prevent erosion.
4. Total Impervious Surfaces. The total amount of impervious surface that may be installed or maintained shall not exceed 50% of the maximum amount of impervious surface permitted in the underlying base zoning district.

**SECTION 530 SWIMMING POOLS, TENNIS COURTS, AND OTHER RECREATIONAL ACCESSORY STRUCTURES**

- A. **Location.** No swimming pool (surface or above-ground), tennis court, or recreational structure shall be located within any minimum yard. All swimming pools with depths of more than two feet shall be enclosed by a permanent fence of not less than four feet in height, and which contains a self-locking gate. Fences shall be designed and constructed in such a way as to discourage climbing or unauthorized access.
- B. **Lighting.** Exterior lighting shall not be directed towards adjoining properties.
- C. **Isolation Distances From Sewage Disposal Facilities.** No pool, tennis court or other recreational facility shall be placed less than 10 ft from any septic field or tank.

**SECTION 531 TRAILERS, MOTOR HOMES, RECREATIONAL VEHICLES, AND SIMILAR FACILITIES**

Trailers, motor homes, recreational vehicles, and similar facilities shall be regarded as accessory structures, and shall conform to all applicable setback requirements of this Ordinance.

**SECTION 532 VILLAGE OVERLAY DISTRICT**

- A. **Purposes.** The purposes of this Section are as follows:

1. To preserve the historic development patterns of the Township.

2. To implement the Unionville Area Regional Comprehensive Plan (2011) Future Land Use Plan.
3. To provide for small-scale non-residential uses that complement the villages.
4. To encourage the adaptive reuse of historic structures in the villages.

**B. General Provisions.**

1. Compliance with these Provisions. No area within the Village Overlay District shall hereafter be used without full compliance with the terms of the Section and other applicable requirements.
2. Overlay. The Village Overlay District shall be deemed to be an overlay on any zoning district now or hereafter enacted. The physical limits of this District are graphically shown on the map in Appendix 6.
3. Boundaries. The boundaries of the Village Overlay District shall follow the property line boundaries as designated on the maps in the Appendix 6.
4. Additional Requirements to Underlying District. In those areas of the Township where the Village Overlay District applies, the requirements of the Overlay District shall be in addition to and supersede the requirements of the underlying zoning district.
5. Changes to Village Overlay Boundary – effect on Underlying District. If the boundaries of the Village Overlay District are changed, as a result of legislative or administrative actions or judicial decision, the zoning requirements applicable to the area in question shall revert to the requirements of the underlying zoning district without consideration of this Section.
6. Changes to the Underlying Zoning District – Effect on Village Overlay District. For any parcel or any part thereof on which the Village Overlay District is an overlay, should the underlying zoning classification be changed as a result of legislative or administrative actions or judicial decision, such change(s) in classification shall have no effect on the boundaries of the Village Overlay District.
7. Preservation of Other Restrictions. It is not intended by this Section to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However where this Section imposes greater restrictions, the provisions of this Section shall prevail.

**C. Permitted Uses.** The following are the only uses permitted in the Village Overlay district. Such uses shall also be in compliance with the base zoning district.

1. Uses permitted by right. Uses permitted by right shall be as follows:
  - a. All uses permitted by right in the Flexible Rural Development District, Sections 303 A. – C.
2. Uses by Special Exception. The following uses shall be permitted in the Village Overlay District as a special exception when authorized by the Zoning Hearing Board. In granting any Special Exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition those expressed below, as it may deem necessary to implement the purposes of this Ordinance, and subject to the provisions of Section 614 of this Ordinance.

- a. Accessory apartments on less than 2 acres, in accordance with Section 602.
- b. Bed and breakfast establishments on less than 2 acres, as an adaptive reuse of an historic structure, in accordance with Sections 607 and 614.
- c. A second principal dwelling, as an adaptive reuse of an historic structure, in accordance with Sections 513 and 614.
- d. Artist studio, as an adaptive reuse of an historic structure, in accordance with Sections 605 and 614.
- e. A live/work unit, in accordance with Section 616.
- f. Neighborhood commercial uses, as an adaptive reuse of an historic structure, in accordance with Sections 619 and 614.
- g. Antique store, as an adaptive reuse of an historic structure, in accordance with Sections 604 and 614.
- h. In the Mortonville section of the Village Overlay district, retail services in accordance with Section 624.
- i. In the Mortonville section of the Village Overlay district, Restaurant, as an adaptive reuse of an historic structure, in accordance with Sections 623 and 614.

#### **SECTION 533                      WASTE STORAGE FACILITIES**

Dumpsters and similar waste storage facilities, excluding sanitary sewage facilities, shall be subject to the following standards:

- A. Commercial Facilities.** All nonresidential facilities shall provide appropriate outdoor waste storage facilities, and shall be routinely emptied.
- B. Screening.** All waste storage facilities shall be screened or landscaped, and shall be fully enclosed to limit animal access and wind-blown waste.
- C. No Parking Spaces to be Used.** No required parking areas may be occupied by any waste storage facility.
- D. Location.** No facilities shall be located in any front yard.



## ARTICLE 6 - SPECIAL EXCEPTION USE REGULATIONS

### SECTION 600 PURPOSE, STANDARDS AND CONDITIONS

- A. Control of Potential Adverse Effects.** This Ordinance has established a list of land uses that possess characteristics that may result in adverse effects on adjoining properties if not properly controlled and regulated. The Zoning Hearing Board is empowered to authorize these land uses, contingent upon meeting certain safeguards, standards and conditions that are intended to limit any potential adverse effects from such uses. These standards shall supersede any standard or regulation contained elsewhere in this Ordinance, and shall be regarded as conditions that are necessary for the approval of any Special Exception.
- B. Compliance with Special Standards.** The applicant shall demonstrate compliance with these standards and must furnish evidence as may be necessary to demonstrate such compliance. The burden of proof shall rest with the applicant, and the Zoning Hearing Board may reject any purported evidence or proof offered in support of an application if the Board finds that the evidence or proof is not compelling or adequate. All Special Exceptions uses shall also comply with the standards for uses in the zoning district in which the Special Exception is to be established, unless provisions in this Article require different standards, in which case the more stringent standards shall apply. These standards shall be continually complied with.
- C. Additional Conditions.** In granting any Special Exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed below, as it may deem necessary to implement the purposes of this Ordinance.
- D. Use of Experts.** In hearing and deciding upon applications for any Special Exception, the Zoning Hearing Board may call upon any experts or authorities it may deem necessary to assist it in arriving at a fair and impartial determination.
- E. Fees.** Fees for hearing and deciding upon Special Exceptions shall be assessed in accordance with a fee schedule adopted by the Board of Supervisors.
- F. Referral to the Planning Commission.** All applicants for Special Exceptions are requested to attend a meeting of the Township Planning Commission, to allow the Planning Commission to make recommendations to the Zoning Hearing Board.

### SECTION 601 APPLICATION PROCEDURES

All applications for Special Exceptions shall comply with the requirements of Article 1205 of this Ordinance.

### SECTION 602 ACCESSORY APARTMENT ON LOTS LESS THAN TWO ACRES

- A. Village Overlay District.** Accessory apartments may be permitted in accordance with the standards in Section 502.

**B. FRR District.** Accessory apartments shall meet the following standards:

1. **Location Requirements.** Temporary housing units for elderly family members or persons with disabilities may be permitted as accessory residential dwellings on a lot containing not more than one other single-family detached dwelling. They may be freestanding, semi-detached, or be located within existing structures.
2. **Location within Principal Structure.** As an alternative to 1., above, the accessory apartment may be located within the principal structure or be semi-attached to the principal structure.
3. **Occupancy Limitations.** Not more than two occupants shall occupy of the apartment.
4. **Owner-Occupancy.** The owner of the parcel shall live on the parcel or in the apartment on a permanent basis.
5. **Termination of Occupancy.** The occupation of the apartment shall terminate upon the sale of the parcel, vacancy, or the failure to comply with any of the provisions in this Section.
6. **Parking.** Not less than one off-street parking space shall be provided for the apartment, in addition to the spaces required by Article 8 of this Ordinance for the principal residence. The parking space shall not be located on any additional front yard area.
7. **Apartment Size.** The apartment shall have a maximum floor area of 600 sf.
8. **Setbacks.** All yard setbacks shall be met.
9. **Removal.** Vacant apartments shall be removed completely within 120 days, and no apartment shall be re-used for other uses.
10. **Sewage Disposal.** The Chester County Health Department shall inspect and approve the proposed method of sewage disposal.
11. **Inspections.** The Township Zoning Hearing Board may require periodic inspections of the premises to ensure compliance with these provisions.

**SECTION 603 ANIMAL HOSPITAL, VETERINARY FACILITY, KENNEL**

- A. **Lot Size.** Kennels shall not be less than five acres.
- B. **Setbacks for Exterior Structures.** No outdoor facility shall be located within any required yard, and no outdoor enclosure shall be within 100 ft of any lot line or 300 ft from any residential area.
- C. **Screening.** The Township may require screening around exterior kennels and exterior facilities.
- D. **Control of Nuisances.** A plan for controlling noise, odor, sanitation, and waste disposal shall be provided.
- E. **Licenses.** The applicant shall provide copies of all required licenses.

- F. Sewage Disposal.** The Chester County Health Department shall inspect and approve the proposed method of sewage disposal.
- G. Occupancy of Agricultural Soils.** The facility shall be located on not more than 25% of prime agricultural soils.

#### **SECTION 604                    ANTIQUE STORE**

The following conditions shall apply to antique stores:

- A.** The antique store shall be permitted only as an adaptive reuse of an historic structure in the Village Overlay District and in accordance with Section 614.
- B.** The antique store shall contain no more than 1,500 gross square feet of floor area.
- C.** The antique store shall provide one parking space per 500 gross square feet of floor area.

#### **SECTION 605                    ARTIST STUDIO**

The following conditions shall apply to artist studios:

- A.** The artist studio shall be permitted only as an adaptive reuse of an historic structure in the Village Overlay District and in accordance with Section 614.
- B.** The artist studio shall employ not more than three (3) persons.
- C.** Where instructional classes are provided, the use shall be limited to one (1) class at a time with not more than ten (10) students in the class and not more than two (2) instructors.
- D.** The artist studio shall provide one parking space per 500 gross square feet of floor area.

#### **SECTION 606                    BARN OR STABLE FOR HORSES ON LOTS LESS THAN FIVE ACRES**

- A. Accessory to Single-Family Dwellings.** Barns or stables for recreational use of horses may be permitted on lots occupied by single-family detached dwellings.
- B. Lot Size.** Not less than two acres of pasture land shall be provided for the first horse, and not less than one acre shall be provided for each additional horse. Pasture areas shall be fenced.
- C. Location Criteria.** No barn or stable shall be located within any minimum front yard.
- D. Floor Area.** The floor area shall not exceed 750 sf.
- E. Height.** The height of the barn or stable shall not exceed 20 ft or the height of the principal building, whichever is the lesser.
- F. Setbacks.** The barn or stable shall be set back not less than 100 ft from all lot lines.

- G. Waste.** No manure or waste shall be stored within 50 ft of any lot line and shall be removed not less than once each 14 days.

**SECTION 607 BED AND BREAKFAST ESTABLISHMENT (on lots less than five acres)**

Bed and breakfast facilities on lots less than five acres may be permitted as special exceptions by the Zoning Hearing Board, which shall apply the standards and conditions in Section 506 of this Ordinance.

**SECTION 608 CELLULAR COMMUNICATION FACILITIES**

- A. Purpose and Intent.** The purpose of this Section and its standards is to permit the use, construction and siting of wireless communication facilities according to the characteristics of such facilities and subject to the provisions of the Federal Telecommunications Act of 1996. These regulations are intended to:

1. Accommodate the need for wireless communications facilities while regulating the number and location of such facilities in order to ensure the proper and efficient provision of wireless communication services,
2. Limit potential adverse visual effects of such facilities by imposing design, location, screening, landscaping standards, and encouraging the cooperative co-location of facilities on existing structures.
3. Insure the structural integrity of communication facilities through compliance with applicable industry standards.
4. promote the health, safety and welfare of the Township's residents.

- B. Applicability.** The provisions of this Section shall apply to commercial cellular communication facilities exceeding 150 ft in height, freestanding facilities, antennas that exceed 25 ft in height when placed above existing structures, and facilities which do not meet the standards of Section 508 of this Ordinance.

- C. Standards.** Commercial communications facilities shall comply with the following standards:

1. Maximum Height. No commercial communications antenna shall exceed 150 ft above the average undisturbed ground elevation unless the applicant demonstrates to the Zoning Hearing Board that a greater height is necessary to provide satisfactory service. The applicant shall demonstrate to the Zoning Hearing Board that the proposed height is the minimum necessary to provide adequate service,
2. Setbacks. Towers, or anchor points of any cable support or guy wire supporting a freestanding tower, shall be set back from all lot lines not be less than 40% of the proposed total height of the tower and antenna. When a tower is proposed to be located adjacent to a residential area, school, or other occupied structure, the set back shall not be less than 100% of the total height of the tower and antenna unless the applicant demonstrates that in the event of a collapse, no portion of the tower would fall outside a diameter equal to 40% of the total height.

3. Freestanding Facilities. No freestanding commercial communications tower or antenna shall be permitted unless the applicant demonstrates to the Zoning Hearing Board that either no other existing electrical tower, silo, smokestack, other communication tower, or other similar tall structure within 5000 ft of the proposed antenna is available and adequate for use to support the antenna, or that the owners of such tall structures have denied the applicant permission to place an antenna upon such structure. The applicant shall submit letters or documents to demonstrate that he has made a good-faith effort to achieve such a shared use of the existing tall structure. The Zoning Hearing Board may deny an application when the applicant has not made, or cannot demonstrate, a good-faith effort to avoid the construction of a commercial communications facility support structure or a commercial communications antenna through the use of co-location efforts.
4. Support Facilities. The applicant shall demonstrate that any other proposed structures, such as wireless communications equipment buildings, equipment sheds, parking facilities, etc., are the smallest such facilities that are necessary to provide adequate service.
5. Safety. The applicant shall demonstrate that the proposed facility shall be designed and constructed in accordance with all applicable industrial construction standards for such structures, including standards of the Electronics industry Association, American National Standards Institute, and Electrical Industry Association. The applicant shall submit documentation showing that the facility shall not cause any danger to nearby persons or property, and shall not cause any significant interference with nearby radio or television reception.
6. Screening and Fencing. The Zoning Hearing Board may require that the applicant install screening and fencing around any facility to limit the visual effects of the structure and to prevent unauthorized access. Existing vegetation around the site should be preserved.
7. Visual Mitigation. The Zoning Hearing Board shall determine whether the proposed facility:
  - a. is compatible with the surrounding area,
  - b. will preserve the rural character of its area, including forested areas,
  - c. will not cause an unusual visual intrusion onto nearby areas, and
  - d. will not cause adverse effects on neighboring property values.

When the Zoning Hearing Board finds that one or more of these conditions may not be met by the applicant, the Board may require towers and antennas to use construction techniques, colors, and materials that are intended to mimic the appearance of a tree or other natural plant material, including simulated tree branches or similar measures, or other common structures such as silos, flagpoles, or steeples. Equipment cabinets or other at-grade facilities may be required to be placed underground.

8. Co-Location. The Zoning Hearing Board may require a freestanding facility to be constructed so as to accommodate the future location of additional communication facilities and users upon it, including other commercial wireless communication providers, police, ambulance, fire or other similar users.
9. Licensing. If the applicant is a commercial wireless communications company, it must demonstrate that it is licensed by the Federal Communications Commission (FCC) and provide the Zoning Hearing Board with copies of all applicable

applications, permits, approvals, licenses, and conditions imposed as part of other permits or licenses. The applicant shall provide the Zoning Hearing Board with copies of all applicable federal regulations and a schedule of estimated FCC inspections.

10. Lighting and Signs. Antennas and support structures shall comply with all Federal Aviation Administration (FAA) regulations. No artificial lighting shall be provided unless required by the FAA or by the Zoning Hearing Board. No glare shall be allowed to be cast past the immediate area occupied by the facility. No signs are permitted except as may be required by the FCC, FAA, other governmental agency, or for safety purposes.
11. Inspections. The applicant shall submit to the Township Secretary copies of annual inspections of the facility by an independent professional engineer as required by the ANSI-EIA-TIA-222-E Code.
12. Removal upon Termination of Use. The applicant shall provide to the Zoning Hearing Board a plan for the removal of the facility upon its disuse for any period exceeding six months, including methods for paying for such removal.

#### **SECTION 609 DAY CARE FACILITY FOR MORE THAN SIX CHILDREN**

- A. **Licenses.** Copies of applicable licenses or permits from the State of Pennsylvania shall be provided to the Township.
- B. **Play areas.** All outdoor play areas shall be enclosed. Outdoor play areas shall not be located within the front yard and must be set back not less than 25 ft from all property lines. The Township may require screening.
- C. **Drop-off and Pick-Up Areas.** Drop-off and pick-up areas shall be arranged so that children do not have to cross traffic lanes on or adjacent to the site.
- D. **Employee Parking.** Off-street parking shall be provided for each employee. No additional front yard areas shall be used for parking spaces.
- E. **Signs.** Not more than one two-sided sign may be permitted, not to exceed four square feet, and shall not be lighted.

#### **SECTION 610 EXPANSION OF NON-CONFORMING USES**

- A. **Limited Expansions Allowed.** Any lawful non-conforming use of land or structures, and any use contained therein, may be expanded or extended upon approval of the Zoning Hearing Board subject to the following limitations:
  1. A non-conforming use of open land may be extended not more than 500 ft in any direction on the same lot from the existing non-conforming use, or expanded to an area equal to not more than 50% of the existing non-conforming use, whichever is the lesser.
  2. A building may be expanded to an area not to exceed 50% of the previous usable floor area devoted to the non-conforming use of the building (including the creation of additional floors).

3. All expansions or extensions of non-conforming uses or structures shall abut existing current non-conforming uses or structures (i.e., no expansion shall be physically separated from the existing non-conformity).
  4. Yard set back, building height, and parking regulations for the zoning district in which the non-conformity is located, shall be complied with.
  5. No expansion shall occupy a flood plain, except in conformance with this Ordinance.
  6. The expansion shall not create any new non-conformities, except when authorized by this Ordinance.
  7. Any expansion permitted by this Section shall not occur on another lot which does not already not contain the same non-conformity.
  8. Any non-conformity that is expanded to the limits established above shall occur not more than once.
  9. The expansion shall be harmonious with surrounding properties, including but not limited to the enclosure of principal and accessory uses, height, signs, architectural design, and setbacks.
- B. Additional Conditions Imposed by Board.** The Board may impose conditions to minimize potential adverse effects of the expansion, including but not limited to landscaping, screening, modifications on hours of operation, setbacks, etc.
- C. Further Expansions allowed by the Zoning Hearing Board.** Proposed expansions that exceed any of the limitations listed in Section 610 A of this Ordinance may be granted at the discretion of the Zoning Hearing Board by variance.

#### **SECTION 611 FARM MACHINERY SERVICE AND REPAIR**

- A. Intent.** Farm machinery service and repair facilities are intended to support agricultural land uses. Repairs shall be limited primarily to agricultural equipment. However, incidental repairs shall not be subject to this Section.
- B. Fuel Storage.** All fuel usage and storage on the premises shall comply with applicable State regulations pertaining to use and storage of fuels and flammable liquids.
- C. Area.** Not more than two acres shall be devoted to the operation.
- D. Screening.** All service shall be conducted in an enclosed structure, or in a rear yard, or in a screened area. The Township may require landscaping.
- E. Exterior Storage.** All exterior storage (including vehicles) within 200 ft of a residential area shall be screened.

#### **SECTION 612 FARM RELATED BUSINESS**

- A. Intent.** Farm businesses provide at-home employment opportunities that are intended to supplement family income, especially during non-growing seasons. The farm business opportunity is intended to enhance and preserve the agricultural viability of the parent

tract, it shall be a secondary use of part of the parent tract, and it shall not become the primary use on the parcel. The primary use of the parcel should remain an agricultural use. Therefore, the applicant must provide evidence that the proposed use is important to local farming and is specifically sized to primarily serve local users. Farm-related businesses shall meet the standards and conditions in this Section.

For the purposes of this Ordinance, farm-related businesses may involve the following types of uses. Other uses may be permitted if the applicant demonstrates that the proposed farm-related business would primarily serve the local farming community.

1. facilities for agricultural-related manufacturing, storage, sales, repair and service of agricultural equipment, vehicles (including carriages and buggies), or supplies.
  2. blacksmith or carpentry shops, farrier, harness making
  3. butcher shops, when conforming to State and Federal regulations
  4. veterinary activities that primarily involve farm animals, stables, and kennels
  5. agricultural-related processing or assembly of materials
- B. Coverage.** The maximum lot coverage of a farm related business shall not exceed two acres of the parent parcel, including all structures, buildings, parking and outdoor storage, and shall not exceed a total of 4000 sf of building space.
- C. Site Area.** The applicant shall demonstrate that the size of the site is the minimum needed to conduct the farm-related business.
- D. Access.** Farm-related businesses shall front on at least one major or minor collector road, or the applicant shall demonstrate to the Zoning Hearing Board that adjacent roadways can accommodate anticipated traffic.
- E. Paving.** The Township may require a paved apron or a gravel scraping area to prevent tracking of mud or manure onto any public roadway.
- F. Length of Driveway.** The length of access drives shall be sufficient to accommodate stacking of delivery and customer vehicles.
- G. Proximity to Residential Areas.** Farm-related business structures or parking lots shall not be located within 200 ft of any residential area.
- H. Screening.** Except for the display of farm equipment for sale, outdoor storage of supplies, materials and products shall be screened from adjoining residential areas. The Zoning Hearing Board may require the use of screening at parking areas
- I. Signs.** Notwithstanding Article 9 of this Ordinance to the contrary, not more than one outdoor sign shall be permitted for a farm-related business, not to exceed 16 sf. The Board may limit lighting if the sign is within 300 ft of a residential area.
- J. Hazards.** If a proposed farm-related business presents a fire hazard, emits smoke, dust or other air pollutants, noise, light and glare, or creates a nuisance as a result of the hours of operation, the Board may attach such other reasonable conditions as deemed appropriate.
- K. Storage.** No outside storage areas shall be located closer than 100 ft to any property line. All such storage shall be screened from roads and residences (except dwellings located on the parcel).



- L. Mobile Homes.** No mobile home used for non-residential purposes or trailer may be utilized as part of the farm business, unless screened from view from adjacent areas.
- M. Residence of Owner.** At least one owner or operator of the farm business shall reside on the premises. The owner shall be the operator of the business.
- N. No Subdivision.** No portion of the farm related business shall be subdivided from the parent parcel.
- O. Conversions.** Any building constructed for the use of the farm occupation shall be of the nature that it can be converted to only a permitted agricultural use or removed from the property if the farm occupation is discontinued.

**SECTION 613 FLOOD PLAIN CONSERVATION AND STEEP SLOPE DISTRICT  
SPECIAL EXCEPTION USES**

- A. General Standards and Criteria.** In deciding upon applications for special exception uses in the Flood Plain Conservation or Steep Slope District, the Zoning Hearing Board shall also evaluate and determine whether the following standards and criteria have been complied with:
  - 1. That danger to life and property due to increased flood heights, velocities, or frequencies caused by encroachments, and landslide are minimized.
  - 2. That a minimum of flood water or material will be carried downstream or downhill.
  - 3. That the proposed land use requires a waterfront, flood plain, or steep slope location.
  - 4. That reasonable alternatives which do not involve encroachment into the flood plain or steep slope area do not exist.
  - 5. That the proposed use is compatible with existing and anticipated developments.
  - 6. That the proposed use is compatible with the Township Comprehensive Plan.
  - 7. That access to the site by emergency vehicles during times of flood, collapse of foundation, of other emergency, is preserved.
  - 8. That the anticipated area, height, depth, velocity, pressure, frequency, duration, rate of rise, and sediment load in floodwaters is compatible with the proposed use.
  - 9. That the proposal will not unduly alter the course of natural water flow.
  - 10. That the natural, scenic, and aesthetic values of the proposed site will be preserved.
  - 11. That important archaeological sites, historic sites or structures, endangered flora or fauna, or other especially valuable land uses, will be preserved.
  - 12. That a minimum of potential danger, damage, or injury to all adjoining parcels will result.
  - 13. That the proposed land use will not cause:
    - a. a significant increases in flood heights,

- b. a significant threats to public safety,
- c. an extraordinary potential public expense,
- d. the creation of nuisances, or
- e. a conflict with any law or regulation.

**B. Required Plans.** In hearing and deciding upon special exceptions to be granted or denied under the provisions of this Article, the burden of proof shall fall upon the applicant. The Zoning Hearing Board may require the applicant to provide such reasonable plans, specifications, studies, and other information as may be necessary for the Board to arrive at a fair, impartial, and informed determination. Such required information may include, but is not necessarily limited to, the following:

- 1. Plans drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, erosion control, and their relationship to the location of the floodway or steep slope areas.
- 2. Typical cross-sections of the channel, elevations of land areas on both sides of the channel, and of the areas to be occupied by structures, high water information.
- 3. A plan view showing elevations or contours, pertinent structures, fill or storage elevations, the size, location, and arrangement of proposed structures, the locations of streets, water supply facilities, soil types and other similar information.
- 4. Profiles of the slope and of any proposed driveway serving a steep slope area.
- 5. Specifications of building materials and construction, flood proofing or slope stabilization measures, filling, grading, storage of materials, channel improvement, and similar facilities.

**C. Historic Structures.** The Zoning Hearing Board may waive any of the requirements of this Section for any structure listed on the National Register of Historic Places or the Pennsylvania Register of Historic Sites and Landmarks.

**D. Flood Plain Conservation District Permitted Uses-Specific Regulations.** The following uses may be permitted in the Flood Plain Conservation District, subject to any pertinent regulations:

- 1. Bridges, culverts, and approaches, subject to the review and/or approval by the Chester County Planning Commission, the Delaware River Basin Commission, and the Pennsylvania Department of Environmental Protection, if required. If not required, the proposed improvements shall then meet the minimum pertinent requirements for such uses as established by the Pennsylvania Department of Transportation. The proposed structure shall be designed to allow the unrestricted passage of waters of maximum flood elevation below and through it, without any significant upstream or downstream increase in water surface elevation.
- 2. Fish hatcheries.

3. Extraction of minerals, excluding topsoil, subject to all applicable regulations of the Pennsylvania Department of Environmental Protection and the US Army Corps of Engineers.
4. Implement or tool sheds, provided that no vehicles or hazardous materials may be stored on the site.
5. Water-oriented uses, such as docks, piers, wharves, marinas, boat liveries, launching ramps, and similar uses, provided that all Pennsylvania Department of Environmental Protection regulations are met.
6. Parking lots, loading areas, and driveways, provided that no vehicles or materials are stored on the floodplain areas.

## **SECTION 614 HISTORIC STRUCTURES - ADAPTIVE RE-USE**

- A. Intent.** Newlin Township contains many structures that are historically important, represent a locally important architectural style, or represent an important link to the Township's past. Owners of these structures may desire to adapt them to modern uses instead of demolishing them or altering them in order to comply with various yard, bulk and lot regulations contained in this Ordinance, which could result in the elimination of their historical value. Therefore, the Board may adjust any yard, bulk or setback regulation in this Ordinance in the interest of adapting a historic structure to a modern use, subject to the provisions in this Section.
- B. Applicability.** The provisions of this Section shall apply to the sites and structures meeting the definition of Historic Resource in Article 2. Where an historic resource is not identified in the documents listed in the definition, an applicant may submit an Historic Resource Survey Form, available from the Pennsylvania Historical and Museum Commission. The Zoning Hearing Board may determine that the resource is of national, state or local significance, making the resource eligible for the adaptive re-use standards herein.
- C. Adjustments to Standards.** The provisions of this Ordinance may be adjusted to implement the purposes of this Article. Any adjustment to the provisions of this Ordinance shall be necessary to allow the cost-effective and practical use of a historically or architecturally significant structure. The appellant shall demonstrate that the structure is important in terms of its history or architectural style, and he shall also show that the structure cannot be made to conform to the provisions of this Ordinance without a significant reduction in its historic or architectural value.
- D. Minimum Adjustments.** Any adjustment to the provisions of this Ordinance shall be the minimum necessary to meet the intent of Section 614 A above. This Section shall not apply to any structure within the 100-year floodplain.
- E. Conditions.** The Board may impose conditions on the grant of any adjustment to the provisions of this Ordinance, such as requiring adherence to a particular architectural style, the use of screening, limitations on the use, etc.
- F. Basis for Denials of Requests for Adjustments.** The Board may deny any request for adjustment to the provisions of this Ordinance on the basis of excessive congestion, traffic, population density, or danger due to fire, flood, structural integrity, or other danger.

- G. Conditions for Increase in Population or Lot Count.** This provision shall not be used to increase population density or lots unless such increase is necessary to preserve the integrity of the structure and shall result in some benefit to the neighborhood.
- H. Variances.** The use of this Section shall not be construed to represent an appeal for a variance, unless requested by the appellant.

#### **SECTION 615 HOME OCCUPATION - NON-PROFESSIONAL**

- A. Location.** The non-professional home occupation shall only be conducted within a building used for residential purposes or in an accessory building, and no products utilized in the non-professional home occupation shall be stored outside unless screened. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- B. Setbacks.** All outdoor areas occupied by the activity shall be set back not less than 100 ft from all lot lines.
- C. Area.** An area representing not more than 25% of the total square footage of the dwelling, including all floors and habitable basement areas but excluding attic space, shall be devoted or used for the non-professional home occupation.
- D. Employees.** No more than two persons other than persons residing in the dwelling shall be employed on-site in the non-professional home occupation.
- E. No Subdivisions.** The non-professional home occupation structure shall not be subdivided from the parent parcel.
- F. No Alterations.** No alterations to the exterior front facade of the dwelling shall be permitted, the effect of which would establish that the building is being used for purposes other than a dwelling.
- G. Parking.** Not less than two parking spaces shall be provided for the non-professional home occupation, in addition to the parking spaces provided for the dwelling. Notwithstanding provisions in Article 8 of this Ordinance to the contrary, "stacked" or tandem parking spaces in driveways may be used to meet off-street parking requirements. Parking for the non-professional home occupation shall be located in side or rear yard areas or in garages; no additional front yard areas shall be used for parking. Commercial vehicles may be placed in side yard areas or on existing driveways. In such cases, the Township may require the use of screening. Notwithstanding the above, refrigerator trucks or other vehicles that operate machinery that is audible at any lot line for periods exceeding two hours when stationary, shall be set back not less than 200 ft from all lot lines.
- H. Sewage Disposal Inspections.** The Township may require that the Chester County Health Department approve the method of sewage disposal.
- I. Periodic Reinspections.** The Township may require periodic re-inspection to ensure continued compliance with all applicable conditions.

#### **SECTION 616 LIVE/WORK UNIT**

The following conditions shall apply to live/work units:

- A. Live/work units shall be permitted only in the Village Overlay District.
- B. The commercial component of the livework unit may be occupied by any use permitted in Section 532 C. 2.
- C. The residential and commercial spaces shall be occupied by the same tenant, and no portion of the live/work unit may be rented or sold separately.
- D. Residential areas are permitted above, to the side, or in the back of the commercial component, provided that there is internal access between the residential and commercial space.
- E. The commercial component shall be designated on the plan submitted to the Zoning Hearing Board. Should the commercial component cease to remain in use, said component may be converted to a residential use, occupied by the same tenant.
- F. No more than two employees (excluding residents of the dwelling unit) shall work or report to work on the premises, and the employment of any persons who do not reside in the live/work unit shall comply with all applicable building code requirements.
- G. The external access for the commercial component shall be oriented to the street and should have at least one external entrance/exit separate from the living space. The entrance to the commercial component shall be located on the ground level.
- H. The live/work unit shall be required to provide parking for the commercial use in accordance with Article 8. The dwelling unit may share parking with the commercial use.
- I. The residential component of a live/work unit shall occupy a minimum of 40% of the usable square floor area of the combined commercial/office and residential components.

**SECTION 617                      MANURE PROCESSING, HAULING, SOIL AND SLUDGE COMPOSTING, AND SIMILAR ACTIVITIES**

- A. **Setbacks.** All facilities (except for garages) shall be located not less than 200 ft of any lot line. No vehicles shall be parked or maintained less than 100 ft from any lot line.
- B. **Screening.** The Township may require screening.
- C. **Control of Nuisances.** A plan, acceptable to the Zoning Hearing Board, for controlling noise, odor, and waste disposal, shall be provided.

**SECTION 618                      MASS OUTDOOR GATHERING**

Cumulative gatherings of more than 300 people per site shall be subject to the following conditions:

- A. **Not More than Three Events Per Year.** Mass outdoor gatherings shall be periodic and shall not exceed three events per year, which shall not exceed two days each, and shall be accessory to a primary permitted use.

- B. Control of Nuisances.** The applicant shall prepare a plan for the orderly control of parking, litter, noise, lighting, traffic, emergency access, sanitation, automobile and pedestrian movement.
- C. Hours of Operation.** The Township may impose reasonable limitations on hours of operation.
- D. Removal of Structures.** All structures shall be completely removed within seven days of the conclusion of each event.
- E. Access.** Access shall be from a major or minor collector road.

#### **SECTION 619 NEIGHBORHOOD COMMERCIAL USES**

Uses meeting the definition of neighborhood commercial uses shall be permitted in the Village Overlay District. The following conditions shall apply to neighborhood commercial uses:

- A.** When an adaptive use of an historic structure is employed, the neighborhood commercial uses may occupy up to 3,500 gross square feet of floor area.
- B.** New buildings housing neighborhood commercial uses may occupy up to 2,000 gross square feet of floor area.
- C.** Parking shall be provided at a rate of one space per 500 gross square feet of floor area.
- D.** Parking for uses located in new structures shall be located to the side or rear of the building.

#### **SECTION 620 NON-CONFORMING PRE-EXISTING LOTS**

- A. Plot Plan Required.** Lots that are in single and separate ownership, which are not more than one acre in size, may be permitted to be developed with single-family dwellings, subject to the following conditions:
  - 1. The applicant shall submit an accurate plot plan drawn to a suitable scale, showing the location of all existing improvements or other man-made feature.
  - 2. The plot plan shall show for all proposed improvements, including structures, finished grading, locations for any drainage facility, driveway, well and septic field.
  - 3. The plot plan shall show the locations of all existing structures, wells and septic fields within 50 ft of the parcel.
  - 4. The applicant shall demonstrate that driveway grades shall be adequate to provide safe access to the site during periods of adverse weather conditions.
- B. Conditions.** The Zoning Hearing Board shall determine whether or not the proposed construction upon or use of the lot may endanger the health, safety or welfare of future occupants of the lot or others, including but not limited to interference with neighboring wells by the proposed septic system of the diversion or concentration of storm water.

**SECTION 621                      OPTION 3 SUBDIVISION – ESTATE LOTS**

- A.      Wooded Areas and Steep Slope Areas.** Option 3 developments shall be limited to areas where at least one-third of the site is wooded, and where the average topography is not less than 10%.
- B.      Driveways.** Not more than two driveways that provide access to an Estate Lot shall be located within 100 ft. of each other.
- C.      Screening.** The Township may require the use of landscaping or other screening to limit the visibility of proposed structures.

**SECTION 622                      PLACE OF WORSHIP AND RELATED USES**

- A.      Lot Size.** The lot area shall not be less than four acres.
- B.      Access.** Access shall be from a major or minor collector road.
- C.      Parking Setbacks.** All off-street parking areas shall be set back at least 50 ft from all lot lines.
- D.      Screening of Parking Areas.** The Township may require screening of parking areas.
- E.      Regulations for Associated Facilities.** Residences, rectories, educational facilities, day care, and other facilities associated with places of worship shall conform to the following requirements:
  - 1.      All accessory residential uses shall be located upon the same lot or directly adjacent to a lot containing a house of worship.
  - 2.      All educational or day care uses shall be adjacent to or located upon the same lot as a house of worship.
  - 3.      Outdoor play areas shall not be located within the front yard, shall be set back 25 ft from all property lines, and shall be fenced.
  - 2.      Passenger "drop-off" areas shall be provided and arranged so that passengers do not have to cross traffic lanes on or adjacent to the site.

**SECTION 623                      RESTAURANTS**

Restaurants shall be permitted in the Mortonville section of the Village Overlay District, as an adaptive reuse of an historic structure, in accordance with Section 614 and the following:

- A.      Restaurants may occupy up to 3,500 gross square feet of floor area.**
- B.      Applicants shall demonstrate adequate provisions for delivery and trash removal. Trash areas shall be screened in accordance with Section 409 M. 4. of the Subdivision and Land Development Ordinance.**
- C.      Parking shall be provided at a rate of one space per 150 gross square feet of floor area. Shared parking may be employed.**

## **SECTION 624 RETAIL SERVICES**

Uses meeting the definition of Retail Services shall be permitted in the Mortonville section of the Village Overlay District. The following conditions shall apply to retail service uses:

- A. When an adaptive use of an historic structure is employed, the retail service uses may occupy up to 3,500 gross square feet of floor area.
- B. New buildings housing retail service uses may occupy up to 2,000 gross square feet of floor area.
- C. Parking shall be provided at a rate of one space per 500 gross square feet of floor area.
- D. Parking for uses located in new structures shall be located to the side or rear of the building.

## **SECTION 625 RIDING SCHOOL, HORSE BOARDING FACILITY**

Commercial riding schools and horse boarding facilities shall be subject to the following conditions:

- A. **Lot Size.** The minimum lot size shall not be less than ten acres. Not less than two acres of pasture land shall be provided for the first horse, and not less than one acre shall be provided for each additional horse. Pasture areas shall be fenced.
- B. **Manure Area Setbacks.** No manure may be stored or piled within 100 ft of any residential property (except that of the owner).
- C. **Parking.** Not less than one off-street parking space shall be provided for each stall.
- D. **Control of Nuisances.** The applicant shall provide a plan for the control of noise, odors, and litter.
- E. **Applicability.** These provisions shall not apply to horses kept for non-commercial use, for farming activities, or for private transportation.

## **SECTION 626 RIVER-RELATED RECREATIONAL USES**

- A. **Intent.** This provision is intended to permit the limited use of areas near the Brandywine Creek for river-related recreational uses, while protecting the waterfront area and ensuring the long-term viability of such activities.
- B. **Minimum Lot Size.** The minimum lot size shall be two acres.
- C. **Permitted Uses.**
  - 1. Water-related recreational activities such as boating or swimming facilities, docks, and related facilities, except fueling activities. No motorized boats or vehicles shall be permitted on the water.
  - 2. Retail establishments occupying 1,500 square feet or less of floor area, serving water-related recreational activities. Sit down restaurants, nightclubs and taverns shall not be permitted. No alcoholic beverages shall be sold.



3. Outdoor sales areas shall be considered part of the floor area of the retail establishment. The Board may require fencing and screening of such areas.
- D. **Lighting.** The applicant shall submit a lighting plan to the Township containing a layout of all proposed and existing luminaires.
  - a. The Board may limit the use of lighting within 200 ft from the nearest residential parcel.
  - b. In addition to the standards in Section 520, the Board may require that directional luminaires such as floodlights and spotlights be shielded and directed to avoid output onto neighboring residences.
- E. **Reuse to Other Uses.** The Board may require the proposed use to be designed such that it may be reused for a permitted use upon the termination of the proposed use.
- F. **Control of Nuisances.** The Board may require the applicant to provide a plan for controlling noise, litter, parking, trespassing, sanitation, safe access and egress, and traffic.
- G. **Access.** Access shall be from a major or minor collector road.
- H. **Landscaping.** The Board may require landscaping and screening of any parking, loading and storage areas.

#### SECTION 627 SUBSTITUTION OF NON-CONFORMING USES

- A. **No Increase in Detrimental Effects.** No non-conforming use shall be permitted to be substituted with a different non-conforming use unless the Board determines that the proposed replacement use shall not be more detrimental to the neighboring properties and uses than the existing non-conforming use, and shall not represent a greater degree of non-conformity. The proposed use shall not generate higher levels of noise, smoke, glare, or other potential nuisance or safety hazard off or on the property than the existing non-conforming use.
- B. **No Increase in Traffic.** The proposed non-conforming use shall not result in increases in traffic.
- C. **Control of Adverse Effects.** The Board may impose conditions on the proposed non-conforming use to limit potential adverse effects on adjoining areas. Such conditions may include, but need not be limited to, limitations on hours of operation, setback requirements, limitations on the physical extent of the proposed use, or other modifications to the conduct of the proposed non-conforming use.
- D. **Landscaping.** The Board may require landscaping.

#### SECTION 628 USES NOT SPECIFICALLY PROVIDED FOR, AND USES SUBSTANTIALLY SIMILAR TO OTHER PERMITTED OR SPECIAL EXCEPTION USES

- A. **Purpose.** A particular use may be allowed in a district if the use is not materially different from other permitted uses. Such uses may be permitted only if the applicant demonstrates that:

1. The proposed use is not materially different from other permitted uses or special exception or conditional uses allowed in the same district.
2. The proposed use shall not create adverse effects to a degree materially greater than other permitted uses or special exception uses allowed in the same district.
3. The proposed use is not provided for as a shared use in another municipality as part of the Unionville Area Regional Comprehensive Plan and The Unionville Region Intergovernmental Cooperative Implementation Agreement For Regional Planning.

**B. Conditions.** If the proposed use is similar to a use that is permitted by right in the same district, the Zoning Hearing Board may allow the use, provided the preceding requirements in this Section are met. If the proposed use is similar to a use permitted by special exception, the Zoning Hearing Board may allow the use, provided the preceding requirements in this Section are met, as well as subject to the conditions expressed for the special exception use that are most similar to the proposed use. If the proposed use is similar to a use permitted by conditional use, the Board of Supervisors may allow the use, provided the preceding requirements in this Section are met, as well as subject to the conditions expressed for the conditional use that are most similar to the proposed use. The preceding provisions shall not be construed as a variance.

## ARTICLE 7 - CONDITIONAL USES

### SECTION 700 PURPOSE, STANDARDS AND CONDITIONS

- A. Control of Potential Adverse Effects.** This Ordinance has established a list of land uses that possess characteristics that may result in adverse effects on adjoining properties if not properly controlled and regulated. The Board of Supervisors is empowered to authorize these land uses, contingent upon meeting certain safeguards, standards and conditions that are intended to limit any potential adverse effects from such uses. These standards shall supersede any standard or regulation contained elsewhere in this Ordinance, and shall be regarded as conditions that are necessary for the approval of any Conditional Use.
- B. Compliance with Special Standards.** The applicant shall demonstrate compliance with these standards and must furnish evidence as may be necessary to demonstrate such compliance. The burden of proof shall rest with the applicant, and the Board of Supervisors may reject any purported evidence or proof offered in support of an application if the Board finds that the evidence or proof is not compelling or adequate. All Conditional Uses shall also comply with the standards for uses in the zoning district in which the Conditional Use is to be established, unless provisions in this Article require different standards, in which case the more stringent standards shall apply. These standards shall be continually complied with.
- C. Additional Conditions.** In granting any Conditional Use, the Board of Supervisors may attach such reasonable conditions and safeguards, in addition to those expressed below, as it may deem necessary to implement the purposes of this Ordinance.
- D. Use of Experts.** In hearing and deciding upon applications for any Conditional Use, the Board of Supervisors may call upon any experts or authorities it may deem necessary to assist it in arriving at a fair and impartial determination.
- E. Fees.** Fees for hearing and deciding upon Conditional Uses may be assessed in accordance with a fee schedule adopted by the Board of Supervisors.
- F. Hearings.** The Board of Supervisors shall hold a hearing on all applications for Conditional Uses, following the procedures in Article 12 of this Ordinance.
- G. Referral to the Planning Commission.** All applicants for Conditional Uses are requested to attend a meeting of the Township Planning Commission, to allow the Planning Commission to make recommendations to the Township Supervisors.

### SECTION 701 CAMPGROUND

- A. Lot Area.** The lot area shall not be less than 20 acres.
- B. Location.** Not more than 20% of the area may be located upon prime agricultural soils.
- C. Setbacks.** All camp sites shall be set back not less than 100 ft from all lot lines.
- D. Density.** Not more than eight campsites per gross acre shall be permitted.

- E. Parking.** Not less than one parking space per campsite shall be provided.
- F. Circulation.** Roadways shall be composed of dustless surfaces such as gravel or asphalt.
- G. Recreation Areas.** All outdoor recreation areas shall be set back not less than 100 ft from all lot lines and shall be screened from adjoining residential properties.
- H. Refuse.** All sanitary and refuse collection facilities shall be set back not less than 200 ft from any lot line. Such facilities shall be screened from adjoining residential properties unless natural features or vegetation are present.
- I. Retail Uses.** Campgrounds may include accessory retail or service facilities for the exclusive use of the campground's registered guests and their visitors. All accessory commercial uses and related parking shall be screened from adjoining residential parcels and shall be set back not less than 200 ft from all lot lines.
- J. Access.** All campgrounds containing more than 100 campsites shall have vehicular access to a major or minor collector road.
- K. Signs.** Not more than one two-sided sign is permitted per roadway frontage, not to exceed eight square feet per side.
- L. Coverage.** Roadways, camp sites, or impervious surfaces may cover not more than five percent of the site.
- M. Other Regulations.** All applicable Pennsylvania Department of Environmental Protection regulations shall be met. The Chester County Health Department shall approve proposed methods of sewage disposal.
- N. Permanent Structures.** Campgrounds are not to be used for permanent habitation. Permanent structures (or any structure used for more than 90 continuous days) may be used for recreational, storage, or administrative functions.
- O. Plan for Controlling Nuisances.** The applicant shall submit a plan for controlling noise, stormwater runoff, light, litter, traffic, and trespassing. Events such as concerts or outdoor activities that involve music or amplified sounds shall be set back not less than 500 ft from any residential area.
- P. Maximum Road Grade.** Maximum road grades shall be 10%.
- Q. Maximum Slope.** No areas with slopes greater than 15% shall be disturbed.
- R. Screening.** The Township may require screening at the periphery of the parcel.

## SECTION 702

## COMMERCIAL ACTIVITIES EXISTING PRIOR TO DECEMBER 2012


- A. Manufacturing, Warehousing and Commercial Storage, Laboratories.** The following conditions shall be applied to manufacturing, warehousing and commercial storage, and laboratory uses existing (on the date of the ordinance amendment); after that date, such uses are no longer permitted in Newlin Township, thereby implementing the Unionville Area Regional Comprehensive Plan:

1. Location and dimensional criteria:
  - a. Dimensional standards for manufacturing, warehousing, commercial storage and laboratory activities are listed in Table 13:

<b>Table 13 - Dimensional Standards for Manufacturing, Warehousing, Commercial Storage and Laboratory Activities</b>	
<b>Regulation</b>	<b>Standard</b>
Minimum lot size	Four acres
Minimum street frontage	500 ft
Minimum lot width at building line	400 ft
Minimum yard regulations	Front: 60 ft Side: 40 ft Rear: 60 ft
Maximum impervious coverage	15%
Maximum height	35 ft

- b. Access shall be from a major or minor collector road (identified in Table 11).
  - c. Screening, landscaping and a greenbelt shall be provided according to the applicable provisions of the Newlin Township Subdivision and Land Development Ordinance. Waste storage facilities shall be screened.
  - d. Parking shall be provided according to Article 8 of this Ordinance, and shall not be located within the greenbelt as required in the applicable provisions of the Newlin Township Subdivision and Land Development Ordinance.
  - e. Lighting shall not be directed towards adjacent lots.
  - f. All roof-mounted machinery shall be screened from view from adjacent lots.
  - g. The Township may require the applicant to perform a transportation impact analysis according to the applicable provisions of the Newlin Township Subdivision and Land Development Ordinance.
  - h. The applicant shall provide a plan for controlling noise, waste disposal, litter, odors, air pollution, and for addressing any deficiencies identified in the transportation impact analysis.
  - i. The Township may require the applicant to demonstrate that the activity's anticipated water use shall not adversely affect nearby wells.

**SECTION 703 INTENSIVE AGRICULTURAL USES**

- A. Fencing.** All grazing areas shall be fenced.
- B. Manure Setbacks.** No manure storage shall be located less than 300 ft of any lot line.
- C. Nutrient Management Plan.** The Township shall require the provision of a nutrient management plan.
- D. Long-Term Disposal of Manure.** The applicant shall demonstrate that an adequate site for the disposal of manure is available on a long-term basis.
- E. Setbacks.** Poultry houses and facilities for the housing of swine or hogs shall be not less than 500 ft to any residential structure, except any such structure located on the same premises, and shall be not less than 300 ft to any property line or street right-of-way.

**SECTION 704 NURSERY AND GARDEN MATERIAL SALES**

- A. Minimum Lot Size.** Minimum lot size shall be two acres.
- B. Setbacks.** No storage of plants or materials shall be located within 25 ft of any lot line or road. No structure shall be within 100 ft of any lot line.
- C. Vehicle Setbacks.** No motorized vehicles or equipment (i.e., backhoe, dump trucks, forklifts, etc.) shall be used within 75 ft of any lot line, except for property maintenance.
- D. Screening.** The Township may require screening to limit adverse effects on residential areas.
- E. Access.** All facilities involving sales areas of more than 10,000 gross square feet (both indoors and outdoors) shall have access to a major or minor collector road.
- F. Parking.** Parking shall be provided according to the provisions of Article 8 of this Ordinance.

**SECTION 705 SUPPLEMENTAL COMMERCIAL ACTIVITIES**

- A. Intent.** Newlin Township historically has included a number of non-agricultural land uses within the areas that had subsequently been zoned for agriculture. In some cases, these activities have supported the agricultural uses by providing supplemental income or services. In the interests of providing opportunities for limited supplemental income for agricultural areas, certain non-agricultural activities are therefore permitted, subject to the provisions of this Section.
- B. Permitted Uses.** Supplemental commercial activities may include light manufacturing, machinery or electronic repair, materials processing, office facilities, research facilities, mini-warehouses, and similar activities, provided that the aggregate floor area of the activity shall not exceed 1000 sf. However, when an existing structure is used, there shall be no floor area limit or set back requirements. Taverns, bars amusement arcades, and nightclubs are not supplemental commercial activities.

- C. Number of Commercial Activities Per Site.** Not more than one supplemental commercial activity is permitted per parcel. No supplemental commercial activity shall be permitted on parcels of less than 10 acres.
- D. No Subdivision.** The commercial activity shall not be subdivided from the parent parcel at any time.
- E. No Additional Construction.** If an existing structure is used which exceeds 1000 sf of floor area, there shall be no construction of new facilities on the site for a period of two years.
- F. Lighting.** Lighting shall not exceed the minimum amount necessary to maintain safety. No pole- or building-mounted lights exceeding 15 feet above grade are permitted.
- G. Screening.** The Board may require all facilities to be screened.
- H. Conversion to Permitted Uses.** All structures shall be designed and constructed such that they can be converted to a permitted use upon the termination of the commercial activity without excessive reconstruction or expense.
- I. Retail Sales Limitation.** Not more than 200 sf of the site shall be used for retail sales. Restaurants or taverns shall not be permitted.
- J. Proximity to Residential Areas.** Supplemental commercial activities shall not be located within 300 ft of any residential area.
- K. Storage of Materials.** The Township may require that outdoor storage of supplies, materials and products be screened from adjoining roads and properties. The display of farm equipment for sale shall be excluded from this provision.
- L. Signs.** Notwithstanding provisions in Article 9 of this Ordinance to the contrary, not more than one outdoor sign shall be permitted for each business, not to exceed 16 sf. The Township may limit the use of lighting of signs located within 100 ft of an off-site residential structure.
- M. Control of Nuisances.** The Township may require the applicant to provide a plan for controlling noise, odors, traffic, vehicular movements, and hours of operation.
- N. Utilities.** The Township may require approval of sewage disposal facilities by the Chester County Health Department.

## ARTICLE 8 - PARKING REGULATIONS

### SECTION 800 PURPOSE

It is the purpose of these requirements to provide for adequate off-street parking and loading facilities for each use of land. Minimum requirements are based on the anticipated demand for parking created by each land use. These requirements shall apply to all districts, unless superseded in other sections of this Ordinance.

### SECTION 801 DESIGN REQUIREMENTS FOR PARKING SPACES

- A. **Size.** The size of a parking space for one passenger vehicle shall be not less than 200 sf of unobstructed space, and shall be not less than 10 ft wide.
- B. **Access.** Except on residential lots, parking facilities shall be designed so that a vehicle may enter and exit the parking space without requiring the moving of any other vehicle; i.e., "stacked," or "tandem" parking spaces shall not be used to meet minimum parking requirements. Access drives shall not be considered to satisfy minimum parking requirements, except for driveways at single-family dwellings. All driveways shall be constructed to permit vehicles to drive forwards into the road, instead of backing onto the road. Facilities providing more than 20 spaces in one location shall provide separate "in" and "out" lanes.
- C. **Surface.** Parking facilities shall be constructed with an erosion-resistant surface such as macadam, stone, concrete, or similar material. Unless superseded in other parts of this Ordinance, all parking at commercial and retail facilities requiring more than 20 parking spaces shall be constructed with either a concrete or bituminous material.
- D. **Location on Same Lot and Separation from Lot Lines.** All required parking spaces shall be located on the lot containing the land use for which it is providing parking, except as modified in Section 801 E below. Parking areas or driveways in residential areas shall not be located within five feet of a lot line, except when abutting a public roadway, or when a joint-use driveway is used. Parking or driveways at non-residential districts shall not be within ten feet of a lot line. These distances shall not apply where a driveway abuts or provides access to a roadway.

Accessory garages shall comply with the provisions of Section 503 of this Ordinance.

- E. **Location on Other Lots.** Parking spaces may be placed on a lot located adjacent to the property for which it is providing parking spaces, subject to the following:
  - 1. No required parking spaces shall be located more than 500 ft from the land use for which parking is being provided, and convenient and safe pedestrian access shall be provided between the lots.
  - 2. The applicant shall demonstrate long-term control over the off-site parking area, such as by lease, ownership, or other similar agreement.
  - 3. No off-site parking area shall be located in a Floodplain-Conservation Overlay district.



4. The same off-site parking space shall not be allocated to more than one user at a time, unless the applicant demonstrates that the demands for the off-site parking space do not occur at the same times.
5. The Township may require screening along all lot lines abutting residential areas.

## **SECTION 802 OFF-STREET LOADING AND UNLOADING SPACE**

Adequate off-street loading and unloading space shall be provided on the same premises for every use that involves the delivery or shipment of goods or other materials in bulk. This space shall be arranged so as not to interfere with the normal movement of traffic on the site and on the roadway. No roadway space shall be used for loading or unloading for any non-residential use.

## **SECTION 803 STORAGE OF VEHICLES**

Vehicles or trailers without current inspection stickers shall not be stored on any property for a period of more than 30 days, unless stored in an enclosed building. This shall not apply to agricultural vehicles or implements or vehicles undergoing non-commercial restoration.

## **SECTION 804 MAXIMUM NUMBER OF DWELLINGS SERVED BY A COMMON DRIVEWAY**

Not more than two dwellings shall share a common driveway from a public road.

## **SECTION 805 MINIMUM PARKING REQUIREMENTS**

- A. Required Minimum Parking.** Not less than the following amounts of off-street parking areas shall be provided according to Table 14:

<b>Table 14 - Minimum Parking Requirements</b>	
<b>Land Use or Activity</b>	<b>Minimum Parking Spaces</b>
Auditorium, place of assembly, and similar facility	One per each three seats or one per each 50 sf of gross floor area, whichever is greater
Bed and breakfast, guest room house,	One per unit
Campground	One per campsite
Dwelling	Two per dwelling
Farm business or occupation	Five per business or occupation
Group home, lifecare facility and	One and one-half

related facility	per dwelling or bed
Home occupation	Two per occupation
Office and similar commercial facility	One per each 400 gross sf of floor area
Recreation facility - interior	One per 1000 sf
Recreation facility - exterior	One per 40,000 sf
Restaurant	One per each 100 gross sf of floor area
Retail facility	One per each 200 gross sf of floor area
School and similar facility	One and one-half per each instruction room
Uses not specifically mentioned	Adequate space to accommodate the daily average number of vehicles expected to use the facility

## ARTICLE 9 - SIGN REGULATIONS

### SECTION 900 PURPOSE

The purposes of this Article are to provide for signs as a means of effective visual communication, regulate existing and proposed outdoor signs, promote comprehensive planning policies, promote the safety of pedestrians and vehicle traffic, protect property values, create a more attractive and harmonious economic and business climate and protect the physical appearance of the community. It is further intended to reduce unnecessary visual distractions and obstructions in order to promote the public health, safety, and welfare. Special attention is focused on the potential for visual obstructions and hazards at intersections and driveways.

### SECTION 901 SIGN AREA AND HEIGHT

**A. Area.** The area of a sign shall be calculated as described below. For the purposes of applying the provisions of this Article, parcels which are comprised of one or more individual lots of record or which are parts of a combined group of businesses operating under one corporation or association, or are part of a single land use, shall be regarded as a single parcel or lot.

1. When the sign is a separate unit, the area shall include any borders, framing, trim, decorative attachments, background, and space between elements; it shall not include any supporting structure unless the structure is illuminated, is in the form of a symbol, or contains advertising elements.
2. When the sign is applied to a wall or otherwise has no definite edges, the area shall include all color, artwork, or other means used to differentiate the sign from the surface upon which it is applied.
3. When a single sign structure has more than one face with the same message, and no two faces are more than three feet apart at any point, the area shall be computed by determining the greatest total area of all sign faces visible from any single location.
4. When a sign is required to display a street address, such area shall not be counted towards calculating the sign area.

**B. Dimensions and permit requirements.** Maximum sign dimensions and permit requirements are shown in Table 15 below. Signs used internally on a lot that provide directions, price information, building identification, and similar types of information that do not primarily involve advertising, shall be exempted from these regulations:

Table 15 - Sign Requirements						<b>Legend:</b> <b>Y: Sign is permitted. Application is necessary.</b> <b>N: Sign is permitted. No application is necessary.</b>	
Type of Sign <sup>1</sup>	Permit Requirement	Height	Area	Setback from ROW	Maximum Number per lot	Limitations	Lighting
Billboard	Yes	10 ft	72 sf	10 ft from street ROW and 50 ft from all other lot lines	1 per each 1000 ft of frontage and not less than 500 ft from another billboard	May not exceed the greater of 10 ft in height over the cartway elevation or 15 ft above grade below the sign	Permitted when not less than 200 ft from any adjacent residential area
Business advertising (off-premises)		10 ft above cartway elevation	16 sf	The greater of 50 ft or the minimum front yard setback	1 per road frontage		Not permitted
Business identification		8 ft		The greater of 30 ft or min. front yard setback	1	May contain no other advertising	Permitted when not less than 150 ft from any adjacent residential area
Contractor Development or	No	6 ft	6 sf	10 ft		Allowed only on the premises where the work is being conducted. Shall be removed not more than 14 days after the completion of work.	Not permitted
Development or center (containing three or more units)	Yes	10 ft	32 sf	The greater of 30 ft or min. front yard setback	1, or not more than 2 if separated by not less than 500 ft	1 sign at each entrance if separated by 500 ft (but not more than 2 signs)	Permitted when not less than 150 ft from any adjacent residential area

<sup>1</sup> Signs may be freestanding or attached to a structure. Each permitted sign may have two faces.

Type of Sign <sup>2</sup>	Permit Requirement	Height	Area	Setback from ROW	Maximum Number per lot	Limitations	Lighting
Election	No	6 ft	6 sf	10 ft, but must be off right-of-way and may not obstruct sight distance	No limit on number per parcel	May not be placed more than 21 days prior to the election, and must be removed not more than 2 days afterwards	Not permitted when within 200 ft of any adjacent residential area
Farm Product (farm stands)			4 sf	10 ft	No more than 2 signs per 100 ft of frontage per roadway shall be permitted, and shall not exceed 4 signs per site.	Signs shall be placed only on the parcel to which they refer	Not permitted
Garage sales (on residential parcels)		4 ft	8 sf	10 ft, and must be off right-of-way and may not obstruct sight distance	1 per road frontage	May not be placed more than 7 days prior to the event, and must be removed not more than 2 days afterwards	
Home occupation (class I or class II)			4 sf		1 per site (one additional 1 sf wall-mounted sign is permitted)	Sign may be 6 sf for Class I home occupations	
Real estate or rental				Must be off right-of-way and may not obstruct sight distance	1 per 200 ft of road frontage and only placed on parcel for sale or rent, or 1 per frontage	May not be placed more than 21 days. "Open House" signs must be removed not more than 24 hours after event	
Site identification		8 ft	16 sf	The greater of 10 ft or the minimum front yard setback	1 freestanding sign and 1 at the building	May contain no other advertising	Permitted when not less than 100 ft from any adjacent residential area

<sup>2</sup> Signs may be freestanding or attached to a structure. Each permitted sign may have two faces.

Type of Sign <sup>3</sup>	Permit Requirement	Height	Area	Setback from ROW	Maximum Number per lot	Limitations	Lighting
Special event (off-site)	Yes	6 ft	16 sf	10 ft, and must be off right-of-way and may not obstruct sight distance	1 per road frontage	May not be placed more than 7 days prior to event; removed not more than 2 days after event	not permitted
Special event (on-site)	No		10 sf				
Other signs: type not specified	Yes	4 ft	4 sf	10 ft	1		

<sup>3</sup> Signs may be freestanding or attached to a structure. Each permitted sign may have two faces.

**C. General Regulations.** The following regulations shall apply to all signs, in addition to any specific regulations in other parts of this Article.

1. Character of the Neighborhood to be Reflected. All signs shall reflect the general character of its neighborhoods, and shall be constructed of durable materials and be maintained in good repair.
2. Address Required. All signs shall clearly display the street name and number.
4. No Floodplain Signs. No permanent signs are permitted within the 100 year floodplain.
5. Illumination. All illuminated signs or lighting devices shall employ only lights emitting a constant intensity, and no sign shall be illuminated by, or contain flashing, intermittent, rotating, or moving light or lights, except to show the time and/or temperature. In no event shall an illuminated sign or lighting device be so placed or directed as to permit light or illumination to be directed towards a public roadway so as to create glare or reflection that may constitute a traffic hazard or nuisance. Signs shall be lighted only when the activity is open for business or in operation. The Township may require the applicant to provide "catalog cuts" of lighting fixtures and mounting equipment, location, spacing and aiming angles of fixtures, plots of proposed illumination intensities, nuisance and disabling glare control methods and devices, illumination on-off cycles, and anticipated light levels on adjacent parcels. Sign lights shall be pointed downwards.
6. Projecting Signs. No sign shall project more than 18 inches beyond the face of any building. No sign shall obstruct access to any window or door, or ventilation to any building.
7. Damaged Signs. Dilapidated or damaged signs shall be promptly repaired. Signs constituting a hazard shall be repaired or removed within 24 hours of notice by the Township.
8. Animated Signs. Signs or devices that are moving, fluttering, rotating, spinning, audible, or are otherwise animated, (except for clocks and thermometers) are prohibited.
9. Pedestrian Traffic. No sign shall be placed in any position that may present a hazard to vehicular or pedestrian traffic, and no sign suspended above areas where pedestrians may walk shall provide a clearance of less than eight feet.
10. Signs Prohibited in the Right-of-Way. No sign or supporting structure, including temporary signs or sandwich-type or wheeled signs, except for official traffic or public utility signs, shall be permitted within any public right-of-way.
11. Confusion with Official Signs. No sign shall imitate any traffic control or other official sign by containing the words "stop", "yield", "danger", etc., or by using red, amber, or green lights in such a way as to cause confusion by pedestrians or motorists.
12. Religious Signs. Religious signs, symbols, and devices shall comply with all applicable provisions of this Article.
16. No Utility Pole or Tree Placement. No sign shall be placed on any utility pole or tree.

17. Government Signs. Signs of any government or public utility shall comply with these regulations except when exempted due to a superseding government regulation.

## **SECTION 902 NON-CONFORMING SIGNS**

Non-conforming signs that lawfully existed and were continuously maintained prior to the effective date of this Ordinance may continue to be utilized. However, notwithstanding the provisions of Article 10 of this Ordinance such signs shall not be expanded and shall comply with the provisions of this Article upon their removal or damage to an extent of more than 50% of their value as established prior to such damage.

## **SECTION 903 GENERAL SIGN REGULATIONS RELATING TO ADULT ENTERTAINMENT ESTABLISHMENTS**

No person shall place or cause to be placed or maintained in such a location as can be viewed by persons on any public street, any sign, photograph, picture, image, or other graphic representation, which depicts in whole or in part any illustration pertaining to any activity determined to be pornographic by any court of applicable jurisdiction.

## **SECTION 904 CLEAR SIGHT TRIANGLE - NO SIGNS PERMITTED**

No sign exceeding two feet above surrounding grade may be placed in the sight triangles as determined by the Newlin Township Subdivision and Land Development Ordinance, or the area as determined below, whichever is greater.

- A. Near Driveways.** No sign exceeding 30 inches in height shall be located within a triangle formed by an unobstructed line of sight between points not less than 50 feet from the intersection of the centerline of the street and the driveway, nor in any position where it may endanger vehicular or pedestrian traffic.
- B. Near Intersections.** No sign exceeding 30 inches in height shall be located within a triangle formed by an unobstructed line of sight between points not less than 100 feet from the centerline of each intersecting street, nor in any position where it may endanger vehicular or pedestrian traffic.



## **ARTICLE 10 - NON-CONFORMING USE REGULATIONS**

### **SECTION 1000 PURPOSE**

It is the intent of this Article to allow, with conditions, the continuance of existing uses of land and structures which, as of the effective date of this Ordinance, do not meet the bulk, use, or other standards established by this Ordinance.

### **SECTION 1001 ABANDONMENT OF STRUCTURES OR USES**

- A. Re-establishment of Non-Conforming Uses.** Except as provided below, no non-conforming use or structure shall be reestablished after it has been intentionally discontinued, inoperative, vacated, or abandoned, except in conformity with the provisions of this Ordinance.
- B. Hazards.** Certain non-conforming uses that are deemed to be hazardous to the public health or welfare of the citizens of the Township may be required by the Board of Supervisors to be removed within a reasonable time.
- C. Non-Conforming Use of Open Land.** All non-conforming signs, billboards, junkyards, storage areas, and other non-conforming uses of open land, when discontinued for a period of one year or damaged or deteriorated to an extent of 60% of replacement costs, shall not be continued, repaired, or reconstructed, except in compliance with this Ordinance.
- D. Demolition.** The act of demolishing, razing or removal of a structure or as defined in the International Property Maintenance Code, latest edition.
- E. Unsafe Structure and Equipment.** A structure that is dangerous to the health, life, property or the safety of the public or occupants. A structure that contains unsafe equipment or is so damaged, dilapidated, structurally unsafe that partial or complete collapse is possible or as defined in the International Property Maintenance Code, latest edition.

### **SECTION 1002 CONTINUANCE OF NON-CONFORMING USES OF LAND, STRUCTURES, OR LOTS**

Except as otherwise provided in this Article, any use of land, structure, or lot that lawfully existed at the time of enactment of this Ordinance may be continued, even though the use, structure or lot does not conform with the provisions of this Ordinance.

### **SECTION 1003 EXPANSION OF NON-CONFORMING USES OR STRUCTURES**

Any lawful non-conforming use of land or structures, and any use contained therein, may be expanded or extended upon approval of the Zoning Hearing Board as a Special Exception subject to the provisions of Section 610 of this Ordinance.

**SECTION 1004 RESTORATION OF DAMAGED NON-CONFORMING STRUCTURES OR USES**

A non-conforming structure or use which is partially damaged or entirely destroyed may be rebuilt and occupied for the same use as before the damage occurred, provided the reconstructed structure or use is not larger or more intensive than the damaged structure or results in new non-conformities, and provided that a good-faith effort is made to commence reconstruction within one year after the initial damage, and is completed not more than one year later. However, no structures within the Floodplain - Conservation Overlay District shall be reconstructed unless such structures are otherwise permitted within the District.

**SECTION 1005 SUBSTITUTION WITH ANOTHER NON-CONFORMING USE**

The Zoning Hearing Board may allow a non-conforming use or structure to be substituted with another non-conforming use or structure as a Special Exception, subject to the provisions of Section 627 of this Ordinance.

**SECTION 1006 LOT SIZE REDUCTIONS PROHIBITED**

No parcel, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot areas per dwelling unit, lot width, or other requirements of this Ordinance, are not maintained.

**SECTION 1007 DISTRICT CHANGES**

Whenever the boundaries of a district are changed so as to transfer an area from one zoning district to another district, the regulations pertaining to each district as amended shall apply to all existing non-conforming uses or structures contained within the district.

**SECTION 1008 NON-CONFORMING LOTS OF RECORD**

Any non-conforming lot of record held in single and separate ownership on the date of enactment of this Ordinance or any amendment thereto which rendered such lot non-conforming and continuously held in single and separate ownership thereafter may be developed for any use permitted in the district in which the non-conforming lot is located, provided that such development complies with all setback, coverage, bulk, height and other requirements.

**SECTION 1009 REGISTRATION**

- A. Upon Order by the Supervisors.** Upon order of the Board of Supervisors, the Zoning Officer shall prepare a list of non-conforming lots, structures and uses, and shall revise it as necessary.
- B. By Request of the Owner.** The owner or tenant of a use, structure or lot that becomes non-conforming due to the adoption of this Ordinance, but which is otherwise lawful, may request that the Zoning Officer register the non-conforming use. This registration shall state the nature of the non-conformity and specify the extent to which the non-conformity may be continued, as determined by the Zoning Officer.

## **ARTICLE 11 - HARDSHIP RELIEF**

### **SECTION 1100 PURPOSE**

This Article establishes the procedures for appeals to the Zoning Hearing Board for relief from the literal provisions of this Ordinance.

### **SECTION 1101 RELIEF FROM THE PROVISIONS OF THIS ORDINANCE**

- A. Granting Relief from the Determination of the Zoning Officer.** In recognition that certain uses of land may be safely permitted without detriment to the general welfare, the Zoning hearing Board may judge and either approve, approve with conditions, or disapprove, applications that the Zoning Officer may not permit.
- B. Allowing Certain Uses Due to Hardship.** Except as modified herein, it is the intent of the Article to make provisions for certain uses which would be consistent with the intent, or standards, for a given district, but which would not be allowed due to some unavoidable limitation of an existing lot to fully meet an established standard.

### **SECTION 1102 VARIANCES**

- A. Findings.** The Zoning Hearing Board may grant a variance in cases of practical difficulties or unnecessary hardships in complying with this Ordinance, provided the following findings are made where relevant in a given case. The burden of proof shall rest with the applicant, who shall meet the following criteria:
1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size, or shape, or exceptional topographic or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions generally created by the provisions of this Zoning Ordinance in the neighborhood or district in which the property is located.
  2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
  3. That such unnecessary hardship has not been created by the applicant.
  4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
  5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

- B. Conditions and Safeguards.** In granting any variance, the Board may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this Ordinance. The Board shall require that adequate on- or off-site water and sewage disposal facilities are available for the use intended.
- C. Expiration of Variances.** Unless otherwise specified by the Board or by law, a variance shall expire if the applicant fails to obtain a zoning permit within six months from the date of authorization thereof by the Zoning Hearing Board or by the court if such variance has been granted after an appeal, or fails to complete any erection, construction, reconstruction, alteration or change in use authorized by the variance within one year from the date of authorization thereof by the Zoning Hearing Board, or by the court if such variance has been granted after an appeal. The Zoning Hearing Board, upon written application and for reasonable cause shown may extend the approval for an additional period of up to one year.

## **SECTION 1103 APPLICATION PROCEDURES**

- A. Requirements for All Appeals.** An appeal or challenge to the validity of an ordinance shall be made on forms provided by the Township and shall include:
1. The name and address of the appellant.
  2. The name and address of the parcel's owner.
  3. A brief description and location of the real estate affected.
  4. The grounds for the appeal or challenge to the validity of an Ordinance.
  5. The application fee as established by the Board of Supervisors.
- B. Plan Required for Appeals to Bulk or Lot Standard.** An appeal for a variance to any bulk or lot standard of this Ordinance shall be accompanied by a plan, drawn to a suitable scale, showing the items necessary to identify the extent of the relief that is requested from this Ordinance. The Plan shall include the following data, when applicable:
1. The location of all buildings,
  2. Parking areas and capacity data, traffic access and circulation, easements and rights-of-way,
  3. Open spaces, yard areas, fences, buffer areas, landscaping, sidewalks, curbs,
  4. Ground floor plans and elevations of proposed structures.
  5. Names and addresses of adjoining property owners and an indication of the land uses of adjacent lots
  6. Written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance and how the requested relief meets the requirements of Section 1102 A of this Ordinance.
  7. All floodplains, watercourses, wetlands, culverts, bridges, and other similar features.
  8. Proposed grading plans, including cross-sections.

9. Signs and lighting facilities including extent of lighted areas.
  10. Size and intensity of use data, including the number of dwellings, floor area of non-residential structures, acreage.
  11. Zoning district and bulk and lot data.
  12. Site topography at adequate scale.
  13. All easements and rights-of-way.
- C. Narrative Required for Appeals to a Use Standard.** An appeal for a variance to any land use standard of this Ordinance shall be accompanied by a written narrative describing the necessity for the variance and how the requested relief meets the requirements of Section 1102 A of this Ordinance.

## ARTICLE 12 - BOARDS AND AGENCIES

### SECTION 1200 PURPOSE

This Article establishes the formation, functions, and procedures to be used by the various boards and agencies that are necessary to implement this Ordinance, in accordance with the provisions of the Pennsylvania Municipalities Planning Code.

### SECTION 1201 BOARD OF SUPERVISORS

- A. **Creation and Membership.** The Board of Supervisors is elected by popular vote in accordance with provisions established by the Commonwealth of Pennsylvania.
- B. **Organization.** The Board consists of a chairperson, a vice-chairperson, and a third member.
- C. **Function.** The Board of Supervisors shall administer the affairs of the Township, including the responsibility for adopting, enacting, and enforcing the provisions of this Ordinance, as it may be amended.

### SECTION 1202 PLANNING COMMISSION

- A. **Creation and Membership.** The Newlin Township Planning Commission shall be continued, which shall have five appointed members who shall serve without compensation, but may be reimbursed for necessary and reasonable expenses upon approval of the Board of Supervisors.
- B. **Appointment.** Members of the Planning Commission shall be appointed by resolution of the Board of Supervisors. The term of each of the members of the Planning Commission shall be for four years, or until a successor is appointed and qualified.
- C. **Vacancies, Increases and Reductions in Membership.** The chairperson of the Planning Commission shall promptly notify the Board of Supervisors concerning vacancies, and such vacancies shall be filled for the unexpired term. Should the Board of Supervisors determine to increase the number of members of the existing Planning Commission, the additional members shall be appointed as provided in this Subsection. If the Board of Supervisors shall determine to reduce the number of members of the existing Planning Commission, such reduction shall be effectuated by allowing the terms to expire and by making no new appointments to fill the vacancy. Any reduction or increase in membership shall be by ordinance.
- D. **Residency Required, Removal of Members.** Members of the Planning Commission shall be residents of the Township. At least three of the five members of the Planning Commission shall be designated as citizen members who shall not be officers or employees of the Township. Elected or appointed officials of the Township shall not, by virtue of their service on the Planning Commission, forfeit their right to exercise the powers, perform the duties or receive the compensation for the Township offices held by them during such membership. Any member of the Planning Commission, once qualified and appointed, may be removed from office for malfeasance, misfeasance, or

nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member requests it in writing. Any appointments to fill a vacancy created by a removal of a member shall be only for the balance of the unexpired term.

- E. Organization.** The Planning Commission shall elect its own chairperson and vice chairperson and create and fill such other offices as it may determine. Officers shall serve annual terms and may succeed themselves.
- F. Rules, Records and Reports.** The Planning Commission shall maintain a full record of its business and shall annually make a written report of its activities to the Board of Supervisors. Interim reports may be made as often as necessary, or as requested by the Board of Supervisors.
- G. Funding.** The Planning Commission may, with the consent of the Board of Supervisors, accept and utilize any funds, personnel, or other assistance made available by the Township, County, the Commonwealth, or the Federal government or any of their agencies, or from private sources.
- H. Required Functions.** The Planning Commission shall, at the request of the Board of Supervisors, have the power and shall be required to:

  - 1. Prepare an amendment to the Newlin Township Comprehensive Plan, and present it for the consideration of the Board of Supervisors.
  - 2. Maintain and keep on file records of its actions. All records and files of the Planning Commission shall be in the possession of the Board of Supervisors.
  - 3. The Planning Commission, at the request of the Board of Supervisors, may:

    - a. Make recommendations to the Board of Supervisors concerning the adoption or amendment of an official map.
    - b. Prepare and present to the Board of Supervisors amendments to the Zoning Ordinance, and make recommendations to the Board of Supervisors on proposed amendments.
    - c. Prepare, recommend, and administer subdivision and land development and planned residential development regulations.
    - d. Prepare and present to the Board of Supervisors a building code and housing code and make recommendations concerning proposed amendments.
    - e. Prepare and present to the Board of Supervisors an environmental study.
    - f. Prepare and present to the Board of Supervisors a water study, which shall be consistent with the State Water Plan and any water resources plan adopted by any applicable river basin commission.
    - g. Promote public interest in, and understanding of, comprehensive planning.
    - h. Make recommendations to governmental, civic and private agencies, and individuals as to the effectiveness of any such proposals presented by any such persons.
    - i. Hold public hearings and meetings.
    - j. Present testimony before any board.
    - k. Require from other departments and agencies of the Township such available information as it relates to the work of the Planning Commission.

- l. In performance of its official functions, enter upon any land to make examinations and surveys with the consent of the owner.
- m. Prepare and present to the Board of Supervisors a study regarding the feasibility and practicality of using renewable energy sources.
- n. Review the Zoning Ordinance, Subdivision and Land Development Ordinance, official map and other such ordinances and regulations governing the development of land no less frequently than its reviews of the Comprehensive Plan.
- o. Conduct such other acts or make such studies as may be necessary to fulfill the duties and obligations imposed by this ordinance and the Pennsylvania Municipalities Planning Code.

## **SECTION 1203            ZONING HEARING BOARD**

- A. Creation.** A Zoning Hearing Board composed of three residents of the Township is hereby created. Members shall hold no other office in the Township.
- B. Appointment.** The Zoning Hearing Board shall be appointed by resolution of the Board of Supervisors. Zoning Hearing Board members shall serve for five year terms that shall be so fixed that the term of office of no more than one member shall expire each year. The Board of Supervisors may, at its discretion, appoint by resolution between one and three alternate members to the Zoning Hearing Board. Such alternate members shall have the right to participate in all hearings of the Zoning Hearing Board but shall be entitled to vote only as provided in Article IX of the Pennsylvania Municipalities Planning Code.
- C. Vacancies.** Zoning Hearing Board shall promptly notify the Board of Supervisors of any vacancies that shall occur, and appointments to fill such vacancies shall be only for the unexpired portion of the term.
- D. Residency Required, Removal of Members.** Members of the Zoning Hearing Board shall be residents of the Township. Any member of the Zoning Hearing Board may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors taken after the member has received fifteen days advance notice of the intent of the Board of Supervisors to take such a vote. A hearing shall be held in connection with the vote if the member shall request such hearing in writing.
- E. Organization.** The Zoning Hearing Board shall elect from its membership its officers, who shall serve annual terms as such and may succeed themselves.
- F. Conduct of Hearings.** For the conduct of any hearing and the taking of any action, a quorum shall be not less than two members. If by reason of absence or disqualification of a member, a quorum is not reached, the Chairperson of the Zoning Hearing Board may designate alternate members to participate and vote upon designated applications in accordance with the regulations contained in Article IX of the Pennsylvania Municipalities Planning Code. Any alternate members of the Zoning Hearing Board shall continue to serve on the Board in all proceedings, including the matter or case for which the alternate was initially appointed, until the Zoning Hearing Board has made a final determination. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.
- G. Hearing Officer.** The Board may also appoint a hearing officer from its membership to conduct any hearing on its behalf, and the parties may waive further action by the Zoning



Hearing Board as provided in Section 908 of the Pennsylvania Municipalities Planning Code.

- H. **Rules, Forms and Records.** The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure, consistent with the ordinances of the Township and the laws of the Commonwealth. The Zoning Hearing Board shall keep full public records of its business, which records shall be the property of the Township Board of Supervisors, and shall submit a report of its activities to the Board of Supervisors as requested by the Board of Supervisors.
- I. **Expenditures for Services.** Within the limits of funds appropriated by the Board of Supervisors, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Zoning Hearing Board may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors. Alternate members of the Zoning Hearing Board may receive compensation, as may be fixed by the Board of Supervisors, for the performance of their duties when designated as alternate members pursuant to Section 906 of the Pennsylvania Municipalities Planning Code.

#### **SECTION 1204 ZONING HEARING BOARD'S FUNCTIONS**

The Zoning Hearing Board shall have the following functions and duties:

- A. **Hear Substantive Challenges to the Validity of any Land Use Ordinance.** The Board shall hear and render final decisions concerning substantive challenges to the validity of any land use ordinance in accordance with Article IX of the Pennsylvania Municipalities Planning Code, which shall be raised by an appeal taken within 30 days after the effective date of said land use ordinance.
- B. **Hear Appeals from a Determination of the Zoning Officer.** The Zoning Hearing Board shall hear and render final decisions concerning appeals from a determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or the failure to act on the application therefor, the issuance of any notice of violation or cease and desist order or the registration or refusal to register any non-conforming use, structure or lot.
- C. **Hear Appeals from a Determination of the Municipal Engineer or Zoning Officer Regarding a Flood Hazard Ordinance.** The Zoning Hearing Board shall hear appeals from a determination by the municipal engineer or the Zoning Officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.
- D. **Grant Appeals Regarding Storm Water, Erosion Control, and Similar Regulations.** The Zoning Hearing Board shall hear appeals from the determination of the Zoning Officer or Municipal Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relates to development not involving Article V or VII applications of the Municipalities Planning Code.
- E. **Grant Special Exceptions.** The Board shall hear and decide requests for special exceptions in accordance with stated standards and criteria as provided for in this Ordinance.
  - 1. Expiration of Special Exception Approvals. Unless otherwise specified by the Board or by law, a special exception shall expire if the applicant fails to obtain a

zoning permit within six months from the date of authorization thereof by the Board or by the court if such special exception has been granted after an appeal, or fails to complete any erection, construction, reconstruction, alteration or change in use authorized by the special exception approval within one year from the date of authorization thereof by the Board, or by the court if such special exception has been granted after an appeal.

2. Extensions of Special Exception Approvals. For good cause, the Board may, upon application in writing stating the reasons therefore, extend either the six month or 12 month period. Should the appellant or application fail to obtain the necessary permits with said three months' period, or having obtained the permit should he fail to commence work thereunder within such six month period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn or abandoned his appeal or his application, and all provisions, variances and permits granted to him shall be deemed automatically rescinded by the Board.

**F. Grant Variances.** The Board shall hear appeals for variances where it is alleged that the provisions of the Ordinance inflict unnecessary hardship or practical difficulty in complying with the literal terms of the Ordinance. An application for a variance shall state:

1. The name and address of the applicant.
2. The name and address of the owner of the real estate to be affected by such proposed variance.
3. A brief description and location of the real estate to be affected by such proposed change.
4. A statement of the section of this Ordinance under which the variance, or exception requested, may be allowed, and reasons why it should be granted.
5. A statement of the section of this Ordinance under which the variance may be allowed, and reasons why it should be granted.

**G. Variances - Findings Required.** The Board may grant a variance, provided the following findings are made where relevant in a given case. (The burden of proof shall rest with the applicant. The Board may require the applicant to provide a copy of any recorded subdivision plan and deed to the property).

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size, or shape, or exceptional topographic or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions generally created by the provisions of this Zoning Ordinance in the neighborhood of or district in which the property is located.
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That such unnecessary hardship has not been created by the applicant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or

permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- H. **Conditions Imposed on Variances.** In granting any variance, the Board may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this Ordinance. The Board shall require that adequate on- or off-site water and sewage disposal facilities are available for the use intended.
- I. **Expiration of Variances.** Unless otherwise specified by the Board or by law, a variance shall expire if the applicant fails to obtain a zoning permit within six months from the date of authorization thereof by the Board or by the court if such variance has been granted after an appeal, or fails to complete any erection, construction, reconstruction, alteration or change in use authorized by the variance approval within one year from the date of authorization thereof by the Board, or by the court if such variance has been granted after an appeal. The Board, upon written application and for reasonable cause shown may extend the approval for an additional period of up to one year.
- J. **Other Matters.** The Zoning Hearing Board shall hear and render final decisions in any other matter for which the Zoning Hearing Board shall have been granted jurisdiction by Article IX of the Pennsylvania Municipalities Planning Code or this Ordinance.
- K. **Limits on Filing Appeals.** No person shall be allowed to file any proceeding with the Board later than 30 days after any application for development, preliminary or final, has been approved by an appropriate Township officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.
- L. **Effect of Appeals Pending Before the Zoning Hearing Board.** An appeal to the Zoning Hearing Board shall stay all proceedings in the furtherance of the appealed action, unless the Zoning Officer certifies to the Zoning Hearing Board that by reason of facts stated in the appeal a stay would cause imminent peril to life and property. In such a case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by a court of competent jurisdiction.

## SECTION 1205 ZONING HEARING BOARD HEARING PROCEDURES

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements:

- A. **Hearing Place and Date.** The Zoning Hearing Board shall fix a reasonable time (not more than 60 days from the filing of a complete application with the Township) and place for the public hearing and shall give notice thereof stating the time and place of the hearing and the particular nature of the matter to be considered, as follows:
  1. By publishing notice thereof once each week for two successive weeks in a newspaper of general circulation in the Township. The first publication shall be not more than 30 days and the second publication shall be not less than seven days from the date of the hearing.

2. By mailing a notice thereof to the applicant.
  3. By mailing a notice thereof to the Zoning Officer, the Township Secretary, and to every person or organization who shall have registered with the Zoning Hearing Board for the purposes of receiving such notices.
  4. By posting notice conspicuously on the affected tract of land at least one week prior to the hearing.
- B. Hearing Within 60 Days.** The hearing shall be held within 60 days, or as required by the Pennsylvania Municipalities Planning Code.
- C. Conduct of Hearing.** The hearing shall be conducted by the Zoning Hearing Board, or the Board may appoint any member as a Hearing Officer. The decision or, where no decision is called for, the findings shall be made by the Zoning Hearing Board, but the parties may waive decision or findings by the Board and accept the decision or findings of the Hearing Officer as final.
- D. Parties to the Hearing.** The parties to the hearing shall be the Applicant, the Township, any person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any other person including civic or community organizations, permitted to appear by the Board. The Zoning Hearing Board shall have power to require that all persons who wish to be considered as parties to enter appearances in writing on forms provided by the Board for that purpose.
- E. Powers of the Chairman.** The Chairperson or Acting Chairperson of the Zoning Hearing Board or the presiding Hearing Officer shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and submission of documents requested by the parties.
- F. Representation by Counsel.** The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- G. Rules of Evidence.** Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- H. Stenographic Records.** The Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or Hearing Officer, or shall be paid by the person appealing from the decision of the Board if such appeal is made. In either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.
- I. Communication with Other Parties.** The Zoning Hearing Board or Hearing Officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from its Solicitor, unless the parties are afforded an opportunity to contest the materials so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party of his representative unless all parties are given an opportunity to be present.

- J. Decision Within 45 Days.** Zoning Hearing Board or Hearing Officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or Hearing Officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provision of this Ordinance or of any act, rule or regulation shall contain a reference to the provision relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a Hearing Officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the Hearing Officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or to render a decision as herein above provided, the Zoning Hearing Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner provided above. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- K. Final Decision.** A copy of the final decision, or where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Zoning Hearing Board no later than the last day of the hearing, the Board shall provide by mail or otherwise brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

## **SECTION 1206                      TIME LIMITATIONS FOR APPEALS**

- A. Time Limits for Appeals to Enforcement Notices or Notices of Violation or Denials.** Appeals from the denial of an application by the Zoning Officer or from the issuance of a notice of violation and/or cease and desist order shall be made within 30 days of the denial of said permit or issuance of said violation and/or cease and desist order.
- B. No Appeal After 30 Days.** No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after any application for development, preliminary or final, has been approved by the Board of Supervisors or later than 30 days after a permit has been issued by the Zoning Officer if such proceeding is designed to secure reversal or limit the approval or the permit in any manner unless such person alleges and proves that he had not notice, knowledge or reason to believe that such approval has been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.
- C. Filing Fee.** No appeal shall be considered filed with the Board unless any applicable filing fee has been paid.

## **SECTION 1207                    APPEALS FROM THE DECISION OF THE ZONING HEARING BOARD**

Any party aggrieved by any decision of the Board may appeal to the Court of Common Pleas of Chester County or other court of competent jurisdiction in the manner provided by the laws of the Commonwealth of Pennsylvania and the Pennsylvania Municipalities Planning Code.

## **SECTION 1208                    ZONING OFFICER**

- A.     The Zoning Officer.** The provisions of this Zoning Ordinance shall be administered and enforced by a Zoning Officer, to be appointed by the Board of Supervisors and serve for a term of one year, who shall not hold any elected office in the Township. The Zoning Officer shall meet the qualifications as may be established by the Township, and shall demonstrate, to the satisfaction of the Township, a working knowledge of municipal zoning.
- B.     Deputy Zoning Officer.** The Zoning Officer may be provided with assistance of such persons as the Board of Supervisors may direct. If designated by the Board of Supervisors, the Deputy Zoning Officer shall exercise all the powers of the Zoning Officer during the temporary absence or disability of the Zoning Officer.
- C.     Duties of the Zoning Officer.** The duties of the Zoning Officer shall include, but not be limited to, the following:
1.     Process Applications and Permits. The Zoning Officer shall receive, examine, and process all applications for zoning permits and/or certificates of use and occupancy for the erection, construction, alteration, repair, extension, replacement, relocation, conversion, use, change of use, and/or occupancy of land, buildings, structures, signs and/or landscaping in the Township. The Zoning Officer shall record and file all applications for permits and accompanying plans and comments and keep them for public record.
  2.     Inspections. The Zoning Officer may, and if requested by the Board of Supervisors or the permit holder, shall make at least one inspection during the progress of the work for which a zoning permit has been issued. Thereafter, he may at his discretion, make such inspections during the conduct of work for which a permit has been issued. Upon completion of the work and before issuance of a Certificate of Use and Occupancy, he shall make a final inspection of the property to assure compliance with all provisions of this Zoning Ordinance and all other applicable Township and County Ordinances and applicable statutes and regulations.
  3.     Inspect Non-conforming Uses, Buildings and Lots. Upon request by the Supervisors, the Zoning Officer shall inspect non-conforming uses, buildings and lots, attend to the registration of existing non-conforming uses, buildings, and lots and keep a record of such non-conforming uses, buildings and lots as a public record.
  4.     Maintain Official Records. It shall be the duty of the Zoning Officer to maintain and be responsible for all pertinent records on zoning matters in the Township. These records shall include, but not be limited to, all applications received, copies of all permits and certificates issued, copies of orders and findings of the Zoning Hearing Board, written complaints of alleged violations, records of all inspections made, a copy of the current zoning map, and all other pertinent information. The records of the Zoning Officer shall be available for use and

inspection by any interested party during normal office hours. Upon request by Supervisors, the Zoning Officer shall submit to the Board of Supervisors a written report of all zoning permits and certificates of use and occupancy issued and all notices of violations and stop work orders issued or recommended as requested by the Board of Supervisors.

5. Present Evidence and Testimony. Upon the request of the Board of Supervisors or the Zoning Hearing Board, the Zoning Officer shall present to such bodies facts, records, and any similar information on specific requests to assist such bodies in reaching their decisions.
6. Investigate Complaints Regarding Violations. The Zoning Officer may, and when in receipt of a signed written complaint stating fully the cause and basis thereof, shall investigate alleged violations of the Zoning Ordinance. If a signed written complaint is received, said investigation shall be completed within 15 days of receipt of said complaint. A written report of all investigations shall be prepared and properly filed and a copy shall be sent to the Board of Supervisors. If, after investigation, the Zoning Officer determines that a violation has occurred, he shall take action as provided this Zoning Ordinance.
7. Enforce the Zoning Ordinance. The Zoning Officer shall have all of the duties and powers conferred upon him by the Zoning Ordinance and the Municipalities Planning Code. The Zoning Officer shall administer this Ordinance in accordance with its literal terms and shall not have the power to permit any construction or use which does not conform to this Zoning Ordinance and all other applicable Township and County Ordinances and applicable statutes and regulations.

## **SECTION 1209                      SPECIAL EXCEPTION AND CONDITIONAL USE APPLICATION PROCEDURES**

- A. Applications.** Applications for special exceptions and conditional uses shall be submitted on forms provided by the Township.
- B. Plans.** A plan to scale for the proposed development shall be submitted. The plan shall show all pertinent information necessary to determine if the proposal complies with the provisions of this Ordinance. The following information shall be provided for both applications for special exceptions and conditional uses:
  1. location of all buildings,
  2. parking areas and capacity data, traffic access and circulation, railroad and other easements and rights-of-way,
  3. open spaces, yard areas, fences, buffer areas, landscaping, sidewalks, curbs,
  4. Ground floor plans and elevations of proposed structures,
  5. Names and addresses of adjoining property owners and an indication of the land uses of adjacent lots,
  6. Written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance,

7. All floodplains, watercourses, wetlands, culverts, bridges, and other similar features,
  8. Proposed grading plans, including cross-sections,
  9. Signs and lighting facilities including extent of lighted areas,
  10. Size and intensity of use data, including the number of dwellings, floor area of non-residential structures, acreage,
  11. Zoning district and bulk and lot data,
  12. Site topography at adequate scale,
  13. All easements and rights-of-way.
- C. Referral to the Planning Commission.** The plan shall be referred to the Planning Commission for review, which may direct a member to appear before the Zoning Hearing Board or Board or Supervisors to present a recommendation.
- D. Review Criteria.** The applicant shall have the burden of proof to demonstrate compliance with the following:
1. The proposed use shall be consistent with the purpose and intent of this Ordinance and shall not be detrimental to the health, safety or welfare of the neighborhood.
  2. The proposed use shall not injure or detract from the use or enjoyment or character of adjoining or nearby properties or cause land deterioration or potentially decrease the value of surrounding properties.
  3. The proposed use shall not substantially change the character of the property's neighborhood and shall meet the requirements of its district.
  4. Adequate necessary public utilities are available to serve the proposed use, such as schools, fire, police and ambulance protection, potable water, etc.
  5. For development within the Floodplain - Conservation District, that the application complied with those requirements listed in Section 401 I of this Ordinance, and that the development is necessary for location within a floodplain.
  6. The proposed development is consistent with the Newlin Township Comprehensive Plan and the 1994 Newlin Township Open Space, Recreation and Environmental Resources Plan.
  7. All other applicable provisions of this ordinance and other applicable State and federal regulations are met.
  8. Screening and landscaping requirements of this Ordinance are met.
  9. The proposal will not be objectionable to nearby properties due to noise, odor, vibration, smoke, truck traffic, pollution of groundwater, air, or other environmental resources, or due to any other potential nuisance or safety hazard.
  10. Traffic congestion shall not be increased.



- E. CONDITIONS.** The Zoning Hearing Board (when approving Special Exceptions), and the Board of Supervisors (when approving Conditional Uses) may attach such reasonable conditions and safeguards, in addition to those expressed in Articles 6 and 7 of this Ordinance, as they may deem necessary to implement the purposes of this Ordinance. Such conditions shall be enforceable by the Township and shall be considered to be as regulations imposed by the Zoning Ordinance.
- F. USE OF EXPERTS.** In hearing and deciding upon applications for either Special Exception or Conditional Use, the Zoning Hearing Board or the Board of Supervisors may call upon any experts or authorities it may deem necessary to assist it in arriving at a fair and impartial determination.
- G. FEES.** Fees for hearing and deciding upon applications may be assessed in accordance with a fee schedule adopted by the Board of Supervisors.
- H. HEARINGS.** The Zoning Hearing Board and Board of Supervisors shall hold a hearing on all applications for Special Exceptions and Conditional Uses, as applicable, following the procedures in Article 1205 of this Ordinance.

## ARTICLE 13 - ADMINISTRATION AND ENFORCEMENT

### SECTION 1300 GENERAL

Except as expressly exempted, the following procedures for the administration and enforcement of this Ordinance shall apply uniformly throughout Newlin Township.

### SECTION 1301 ZONING PERMITS

- A. Requirement for Securing a Zoning Permit.** It shall be unlawful to commence the excavation for or the construction or erection of any building or structure, including an accessory building, or to commence the moving or alteration of any building or structure, including an accessory building, until the Zoning Officer has issued a zoning permit for such work, as regulated below. A zoning permit shall be obtained from the Zoning Officer for the following:
1. For any erection, construction, alteration, extension, replacement, relocation, or conversion of any building or structure (except signs), excluding accessory structures not exceeding 200 square feet.
  2. For the change in use of any building, structure, sign and/or land.
  3. No Zoning Permit shall be required for routine repairs or maintenance of any building, structure or land, provided such repairs do not change the use, alter the exterior dimensions of the building or structure or otherwise violate the provisions of this Ordinance or any other applicable statute or regulation.
- B. Application for Zoning Permit.** The application for a zoning permit shall be submitted, in such form as the Zoning Officer may prescribe, by the owner or lessee or any building, structure or land or the agent of either, provided, however, that if the application is made by a person other than the owner or lessee, it shall be accompanied by a written authorization from the owner or lessee designating the agent and authorizing the work. The full name and address of the applicant and the landowner, if different, shall be stated on the application. If the applicant is a corporation, the names and addresses of the officers of the corporation shall be included on the application. A fee as established by the Board of Supervisors shall accompany the application.
- C. Description of the Work.** The application shall contain a description of the proposed work and/or use and occupancy of the building, structure and/or land and any other information required by the Zoning Officer to determine compliance with the Zoning Ordinance and other applicable Township and County ordinances, statutes and regulations. The application shall be accompanied by plans, drawn to scale, showing the actual dimensions and shape of the lot, the size and location and dimensions of the proposed use, building or alteration, distance from existing lot lines and street right-of-way lines, parking areas, and other pertinent information. All required fees as established by the Board of Supervisors shall accompany the application.
- D. Approval or Disapproval of Application.** The Zoning Officer shall issue or refuse the application within 60 days after filing. No zoning permit shall be issued unless the applicant presents the Zoning Officer with proof that any applicable subdivision and/or

land development approval has been granted, a sewage permit has been issued by the County Health Department for the lot, any applicable driveway permits or a Highway Occupancy Permit issued by the Department of Transportation of the Commonwealth of Pennsylvania has been issued in order that access may be gained to the lot and all other required Township or County approvals and permits have been granted or issued. The Zoning Officer shall mark the application as either approved or disapproved and shall return one copy of the application to the applicant as soon as practical. The other copy shall be retained by the Zoning Ordinance for the Township files. If disapproved, the Zoning Officer shall attach a statement to the application explaining the reasons for such disapproval and informing the applicant of his right to appeal to the Zoning Hearing Board.

- E. Issuance and Posting of Permits.** Upon approval of the application by the Zoning Officer, the Zoning Officer shall issue a zoning permit placard that shall be visibly posted on the site of operations during the entire time of construction. The zoning permit shall expire one year from the date of issuance, provided that it may be extended at the discretion of the Zoning Officer for six month periods not to exceed a total of one year.
- F. Rights of Permit Holders.** The zoning permit shall be a license to proceed with work described on the approved application. The Zoning Officer may revoke a permit or approval issued under the provisions of this Zoning Ordinance in the case of any false statement or misrepresentation of fact in the application on which the permit or approval was based, or if the permit was issued in error, or if work is not undertaken in accordance with the permit or for any other proper cause. Permit holders shall proceed with work at their own risk and subject to the rights of aggrieved parties to appeal the issuance of the zoning permit as authorized by the Pennsylvania Municipalities Planning Code.
- G. Temporary Permit.** A temporary permit may be authorized by the Zoning Hearing Board for a non-conforming structure or use which it deems necessary to promote the proper development of the community, provided that such non-conforming structure or use shall be completely removed upon expiration of the permit without cost to the Township. Such permits shall be issued for a specified period of time not to exceed one year, and may be renewed annually for an aggregate period not exceeding three years.
- H. Payment of Fees.** No permit to begin work for the erection, construction, alteration, repair, extension, replacement, and/or use of any building, structure, sign and/or land for construction or use shall be issued until the fees prescribed by the Board of Township Supervisors shall be paid to the Zoning Officer. The payment of fees under this Section shall not relieve the applicant or holder of said permit from payment of other fees that may be required by this Ordinance, or any other Ordinance or law.

## **SECTION 1302 CERTIFICATE OF USE AND OCCUPANCY**

- A. Certificate of Use and Occupancy Required.** It shall be unlawful to use and/or occupy any structure, building, sign or land or portion thereof for which a zoning permit is required until a certificate of use and occupancy has been issued by the Zoning Officer. The Zoning Officer shall not issue a certificate of use and occupancy unless he has inspected said structure, building or land and has ascertained compliance with all provisions of the Zoning Ordinance and all other applicable Township and County ordinances, statutes and regulations. The application for issuance of a certificate of use and occupancy shall be made at the same time an application for a zoning permit is filed with the Zoning Officer as required herein. The application for a certificate of use and occupancy shall be in such form as the Zoning Officer may prescribe. The application shall contain the intended use and/or occupancy of any structure, building, sign, and/or land or portion thereof, for which a permit is required.

- B. Issuance.** Upon the receipt of written notification that the work for which a zoning permit has been issued has been completed, the Zoning Officer shall inspect the premises within 10 days to determine whether the work has been performed in accordance with the approved application and other applicable Township and County ordinances, statutes and regulations. If the Zoning Officer is satisfied that the work has been completed in accordance with the approved application and applicable ordinances, statutes and regulations, the Zoning Officer shall issue a certificate of use and occupancy to the permit holder for the use indicated on the approved application. A copy of the certificate of use and occupancy shall be retained by the Zoning Officer as part of the official record. If the Zoning Officer finds that the work has not been performed in accordance with the approved application, the Zoning Officer shall refuse to issue the certificate of use and occupancy and, in writing, give the reasons therefor and inform the permit holder of his rights to appeal to the Zoning Hearing Board.
- C. Temporary Certificate of Use and Occupancy.** Upon written request of a holder of a Zoning Permit, the Zoning Officer may issue a temporary certificate of use and occupancy for a structure, building, sign and/or land, or portion thereof, before the entire work covered by the zoning permit shall have been completed. Such portion or portions may be used and/or occupied prior to full completion of work, provided that the public health, safety or welfare is not endangered.

The Zoning Officer may also issue a temporary certificate of use and occupancy for such temporary uses as tents, trailers, and buildings on construction sites, use of land for public or semi-public purposes, or for other temporary use and/or occupancy or for occupancy before the entire work covered by the permit shall have been completed, provided that such portion or portions may be used and/or occupied safely prior to full completion of the work without endangering life of public welfare. Such temporary certificates of use and occupancy shall be for a period of time to be determined by the Zoning Officer, but in no case shall any temporary certificates of use and occupancy be issued for more than six months. The applicant shall completely remove the structure or use authorized by the temporary certificate of use and occupancy upon expiration of the permit without cost to the Township.

## **SECTION 1303                      ENFORCEMENT, PENALTY AND REMEDY**

- A. Violations.** The construction, alteration, maintenance or use of any structure, building, sign, land, or landscaping; or the change of use, area of use, percentage of use or displacement of the use of any structure, building, sign, land or landscaping without first obtaining a zoning permit; or the use of any building, structure, sign or land without receipt of a certificate of use and occupancy; or the failure to comply with any other provision of the Ordinance; or the violation of any conditions imposed upon the grant of a special exception or variance by the Zoning Hearing Board or a conditional use by the Board of Supervisors or by a court of competent jurisdiction if a special exception, variance or conditional use is granted by such court are hereby declared to be violations of this Zoning Ordinance.
- B. Enforcement Notice.** If it appears to the Zoning Officer that a violation of this Zoning Ordinance exists, the Zoning Officer shall send an enforcement notice (also known as a "Notice of Violation and Cease and Desist Order") to the owner of record of the lot on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that lot, to any other person requested in writing by the owner of record, and to any person against whom the Township may bring an enforcement action. The enforcement notice shall contain the name of the owner of record and any other persons against whom the Township may take action, the location

of the property in violation, the specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance, the date before which steps for compliance must be commenced and that date before which the steps must be completed, that the recipients of the enforcement notice have the right to appeal to the Zoning Hearing Board within 30 days, and that a failure to comply with the notice within the time specified, unless extended by an appeal to the Zoning Hearing Board, constitutes a violation with sanctions provided in this Ordinance. However, in no case shall the person so served abandon the premises in such a condition so as to create a hazard or menace to the public safety, health, morals or welfare. Said premises shall be placed in such condition as the Zoning Officer shall direct.

- C. Enforcement Action.** If the enforcement notice is not complied with promptly within the time specific in paragraph B above, the Zoning Officer shall institute in the name of the Township any appropriate action or proceeding at law or in equity to prevent, restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the structure, building, sign, landscaping or land in violation of the provisions of this Ordinance or the order of direction made pursuant thereto. The Board of Supervisors may also direct the Zoning Officer or Township Solicitor to institute a civil enforcement proceeding before a district justice.
- D. Penalties.** Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance shall, upon being found liable for such violation in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500.00 plus all court costs, including the reasonable attorneys' fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the district justice. 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 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 attorneys' fees collected for the violation of this Ordinance shall be paid over to the Township for the general use of the Township. 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.
- E. Remedies.** In case any building, structure, sign or landscaping is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure, sign or land is used; or any hedge, shrub, tree, or other growth is maintained in violation of this Ordinance or to any of the regulations made pursuant thereto, or any conditions imposed upon the grant of a special exception or variance by the Zoning Hearing Board or upon the grant of a special exception or variance by the Zoning Hearing Board or upon the grant of a conditional use by the Board of Supervisors; then in addition to any other remedies provided by law, any appropriate action or proceeding may be instituted or taken to prevent or restrain such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to prevent any illegal act, conduct, business or use in and about such premises.
- F. Other Actions.** The imposition of the penalties herein prescribed shall not preclude the Township Solicitor from instituting appropriate action to prevent unlawful erection or construction or to restrain, correct or abate a violation or to prevent illegal use or occupancy of any structure, building, sign, land, and/or premises or to stop an illegal act,

conduct, business, use or occupancy of a structure, building, sign, and/or land in or about any premises.

## **SECTION 1304            AMENDMENTS**

- A. Procedure for Amendments.** The Township Supervisors may from time to time, after public notice and hearing as hereinafter prescribed, amend, supplement, change, or repeal this Ordinance. Any amendment, supplement, change or repeal may be initiated by the Township Planning Commission, the Supervisors or by a petition to the Board of Supervisors. Such amendment, supplement, change or repeal shall be submitted to the Township Planning Commission and to the County Planning Commission, the Board of Supervisors or by a petition to the Supervisors. Such amendment, supplement, change or repeal shall be submitted to the Township Planning Commission and to the County Planning commission for their recommendations and shall be specifically found by the Supervisors to be in accordance with the spirit and intent of the formally adopted portions of the Comprehensive Plan before final action shall be taken by the Supervisors.
- B. Amendments Initiated by the Township Planning Commission.** When an amendment, supplement, change or repeal is initiated by the Township Planning Commission, the proposal shall be presented to the Township Supervisors, which shall then proceed in the same manner as with a petition to the Township Supervisors which has already been reviewed by the Township Planning Commission. The Supervisors shall at least 30 days prior to the date of the hearing on the proposed amendment submit the amendment to the Chester County Planning Commission for its review and recommendations.
- C. Amendment Initiated by the Board of Township Supervisors.** When an amendment, supplement, change or repeal is initiated by the Township Supervisors, it shall submit the proposal to both the Township Planning Commission and the County Planning Commission for review and recommendations at least 30 days prior to the date fixed for the public hearing to consider the amendment, supplement, change or repeal.
- D. Curative Amendment Initiated by Landowner.** When a landowner desires to challenge on substantive grounds the validity of the ordinance or map or any provision thereof, said landowner may submit a curative amendment to the Township Supervisors with a written request that this challenge and proposed amendments be heard and decided as provided in Sections 609.1 and 1004 of the Pennsylvania Municipalities Planning Code, as amended. The Supervisors shall commence a hearing thereon within 60 days of the request. The curative amendment and challenge shall be referred to the planning commission as provided in Section 609 of the Municipalities Planning Code and notice of the hearing thereon shall be given as provided in Section 610 and in Section 916.1 of the Municipalities Planning Code. The Supervisors may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment that will cure the challenged defects. The Supervisors shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:
1. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities
  2. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map
  3. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features

4. The impact of the proposed use of the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts
  5. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
- E. Procedure for Petition.** The petition for amendment, supplement, change or repeal shall contain as fully as possible all the information requested by the Zoning Officer and shall be signed by at least one record owner of the property in question whose signature shall be notarized attesting to the truth and correctness of all the facts and information presented in the petition. A fee as established by the Township Supervisors shall be paid upon the filing of such petition for change and for the purpose of defraying the costs of the proceedings prescribed herein.
- F. Referral to Township Planning Commission and County Planning Commission.** After receipt of the petition by the Township Supervisors, said petition shall be presented to the Township Planning Commission and to the Chester County Planning Commission for review and recommendations at least 30 days prior to the public hearing. A report of said review, together with any recommendations, shall be given to the Township Supervisors in writing within 30 days from the date of the public hearing. If the Township Planning Commission and/or the County Planning Commission shall fail to file such a report within the time and manner specified, it shall be conclusively presumed that such Planning Commission has approved the proposed amendment, supplement, change or repeal.
- G. Public Notice and Hearing.** The Township Supervisors shall fix a time and place for a public hearing at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in one newspaper of general circulation in the Township once each week for two successive weeks, the first publication shall be not more than 30 days and the second publication shall not be less than seven days prior to the date of said hearing. Publication shall include the full text or title and summary of the proposed amendment.
- E. Authentication of the Official Zoning Map.** Whenever there has been a change in the boundary of a zoning district or a reclassification of the zoning district adopted in accordance with the above, the change on the official zoning map shall be made, and shall be duly certified by the Township Secretary and shall thereafter be refiled as part of the permanent records of the Township.

## **APPENDIX**

### **Ordered List of Preferred Community Wastewater System Types**

The following six types of wastewater treatment systems are ranked in descend in order reflecting the Township's official preferences. Applicants for new development proposals involving community sewage treatment systems shall be required to demonstrate to the Township of supervisors that they cannot utilize preferred types of wastewater treatment before they may be permitted to utilize a less-preferred alternative that ranks lower on the ordered list below:

1. Lagoon Treatment/Spray Irrigation
2. Package Treatment/Spray Irrigation
3. Community Septic Tank/Sand Filter/Subsurface
4. Package Plant/Sand Filter/Spray Irrigation
5. Package Plant/Direct Discharge to Groundwater
6. Package Plant/ Seasonal Spray - Discharge



**Table 16 - Summary Of Permitted Uses, Special Exception Uses, Conditional Uses, And Accessory Uses**

Note: This list is intended as a reference convenience. In the event of any conflict or ambiguity between this list and the zoning ordinance text, the provisions of the text shall prevail.

**ABBREVIATIONS:**

P: Permitted Use (Permitted "by-right". Applicants must complete zoning permit.)  
SE: Special Exception (Permitted by the Zoning Hearing Board as a special exception.)  
CU: Conditional Use (Permitted by the Board of Supervisors as a conditional use.)  
A: Permitted as an accessory use to a permitted, conditional or a special exception use.  
N: Not permitted

\* Land uses within the Steep Slope overlay district are as regulated in the Flexible Rural Residential district

No.	Land Use or Activity	Zoning District*		Section Reference
		Flex. Rural Residential	Floodplain	
1	Accessory apartment (on lots less than 2 acres)	SE	N	602
2	Accessory apartment (on lots 2 acres and above)	A	N	502
3	Accessory structures (e.g., sheds - excluding agricultural uses)	A	N	503
4	Animal shelter	A	N	505
5	Antique Store	SE	N	532,604
6	Animal hospital (for small animals), veterinary facility, kennel	SE	N	603
7	Artist Studio	SE	N	532,605
8	Barn for horses (on lots less than 5 acres)	SE	N	606
9	Bed and breakfast (on lots not less than 5 acres)	A	N	506
10	Bed and breakfast (on lots less than 5 acres)	SE	N	607
11	Business identification sign	P	N	Table 15
12	Campground	CU	N	701
13	Cellular communication facility (when on top of existing facilities...)	A	A	508
14	Cellular communication facility (exceeding limits in Section 508)	SE	N	608
15	Country property accessory dwelling unit (Option 4 developments)	A	N	510
16	Day care facility (for six or more children)	SE	N	609
17	Display and sale of farm products	A	N	511
18	Farm machinery service and repair	SE	N	611
19	Farm-related business	SE	N	612
20	Floodplain special exception uses	--	SE	613
21	Forestry and timber harvesting	SE	SE	514

No.	Land Use or Activity	Flex. Rural Residential	Flood-plain	Section Reference
22	Garage and yard sales	A	A	515
23	Garage and yard sales sign	A	N	Table 15
24	Historic structures - adaptive reuse	SE	SE	614
25	Home occupation (non-professional)	SE	N	615
26	Home occupation (professional)	A	A	517
27	Home occupation sign	A	N	Table 15
28	Live/Work Unit	SE	N	532, 616
29	Manure processing, hauling, soil and sludge composting, etc.	SE	N	617
30	Mass outdoor gathering (for more than 300 people)	SE	N	618
31	Manufactured homes	P	N	522
32	Non-conforming pre-existing lots	SE	N	620
33	Nursery and garden material sales	CU	N	715
34	Offices	SE	N	624, 702
35	Option 1 subdivisions – neutral density and basic conservation	P	N	304,305
36	Option 3 subdivisions - estate lots	P	N	304
37	Option 4 subdivisions – country properties and farmettes	P	N	304
38	Public utility	CU	N	604, 706
39	Place of worship and related facilities	SE	N	622
40	Real estate sales sign	A	N	Table 15
41	Retail Services	SE	N	532, 624
42	Restaurants	SE	N	532, 623
43	Riding school, horse boarding facility (commercial facilities)	SE	N	628
44	River-related recreational uses	SE	SE	626
45	Satellite antenna	A	A	528
46	Special event sign	A	N	Table 15
47	Steep Slope Area (above 20%) land uses	P, SE	NA	529
48	Swimming pool, tennis court, and other recreational structures	A	N	530
49	Trailer, motor home, recreational vehicles, & similar facilities	A	N	531
50	Waste storage facility	A	N	532

**Table 17 –Summary of Bulk and Lot Standards of the Five Development Options in the Flexible Rural Development District.**

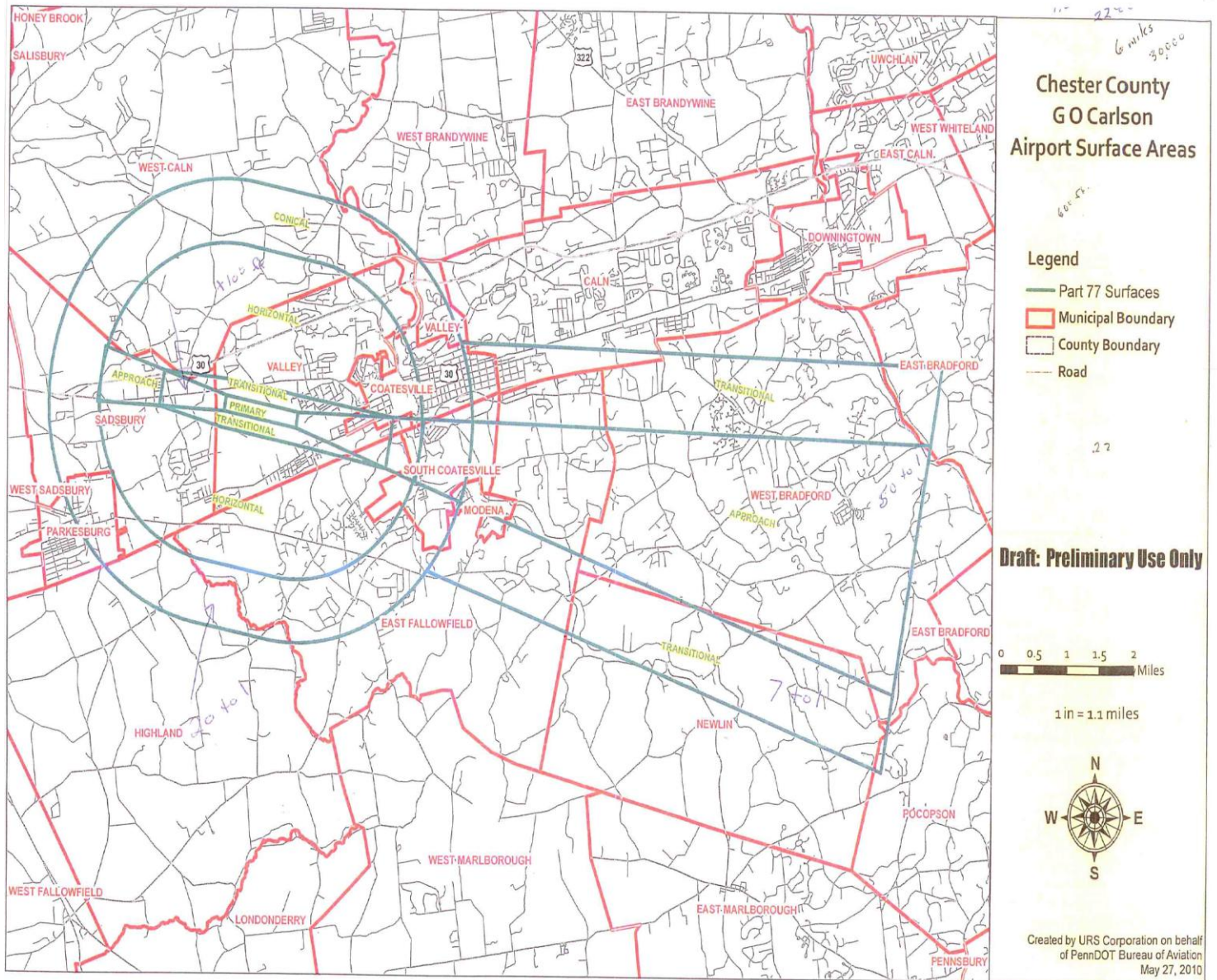
Note: This list is intended as a reference convenience. In the event of any conflict or ambiguity between this list and the zoning ordinance text, the provisions of the text shall prevail.

Development Option	Maximum Density	Minimum Street Frontage	Minimum Lot Area	Minimum Lot Width at Building Setback Line	Minimum Yard Setbacks	Maximum Impervious Coverage	Maximum Height	Minimum Open Space
Option 1: "Neutral Density and Basic Conservation"	1dwelling per 80,000 sf, based on adjusted tract acres or yield plan	100 ft	15,000 sf	80 ft	Front: 25 ft Side: 10 ft, 30 ft for buildings Rear: 25 ft	20% per lot	35 ft	50% of Adjusted Tract Acreage plus 100% of Constrained Land
Option 3: "Estate Lots"	1 dwelling per 4 acres, based on adjusted tract acreage	150 ft	1 acre	150 ft	Front: 40 ft from ROW of Township roads; 40 ft from ROW of new internal roads Side: 50 ft Rear: 60 ft	5% of entire tract		NA
Option 4: "Country Properties and Farnettes"	1 dwelling per 10 gross acres	200 ft	1 acre	200 ft		4% of entire tract		

Forms:

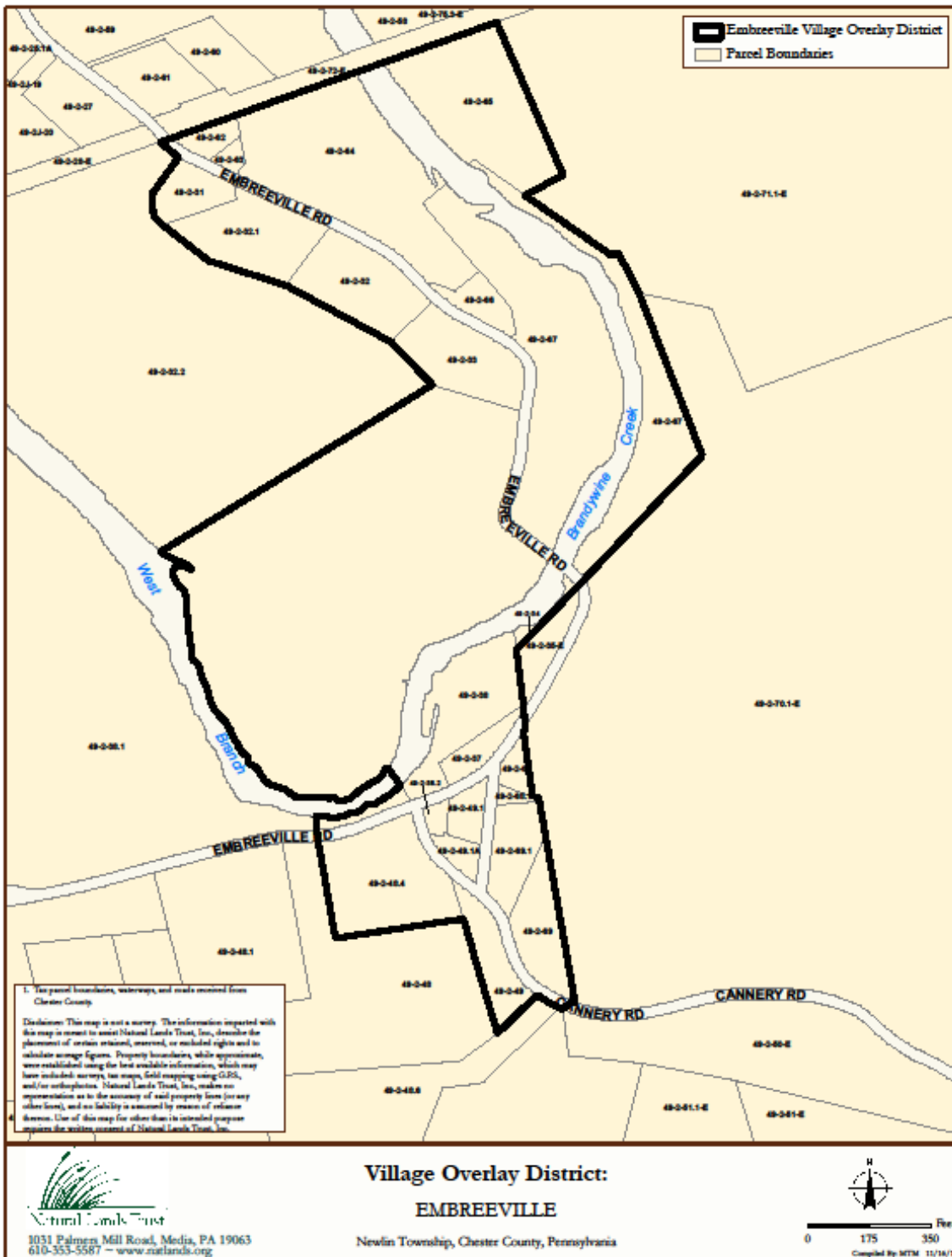
a.) Airport District Overlay 1: FAA Form 7460-1

b) Airport District Overlay 2: Chester County G. O. Carlson Airport Surface Areas



List of Maps:

a) Map 1: Village Overlay District Embreeville



Map 2: Village Overlay District Mortonville

