

GENERAL PROVISIONS

Chapter 1

GENERAL PROVISIONS

ARTICLE I

Adoption of Code

- § 1-1. Approval, adoption and enactment of Code.
- § 1-2. Effect of Code on previous provisions.
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- § 1-15. Effective date.

[HISTORY: Adopted by the Board of Supervisors of the Township of Butler: Art. I, 4-13-88 as Ord. No. 88-1. Amendments noted where applicable.]

## ARTICLE I

## Adoption of Code

[Adopted 4-13-88 as Ord. No. 88-1]

Be it enacted and ordained by the Board of Supervisors of the Township of Butler, County of Adams, Commonwealth of Pennsylvania, and it is enacted and ordained as follows:

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

Pursuant to Section 702, Clause XLI.1, of the Second Class Township Code [53 P.S. § 65741.1], the codification of a complete body of ordinances for the Township of Butler, County of Adams, Commonwealth of Pennsylvania, as revised, codified and consolidated into titles, chapters and sections by General Code Publishers Corp. and consisting of Chapters 1 through 96, is hereby approved, adopted, ordained and enacted as a single ordinance of the Township of Butler, which shall be known and is hereby designated as the "Code of the Township of Butler," hereinafter referred to as the "Code."

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

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 Only such provisions of former ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below, and only changed provisions, as described in § 1-6 below, shall be deemed to be enacted from the effective date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

## **PREFACE**

Since its establishment on August 20, 1849, the Township of Butler has, over the years, passed through the struggles that characterize all American communities in their early history. While only a few simple laws were necessary at the time of the incorporation of the Township, subsequent growth of the community, together with the complexity of modern life, has created the need for more and detailed ordinances for the proper function and government of the Township. The recording of ordinances is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Ordinances must be more than mere chronological enactments reposing in the pages of old records. They must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Board of Supervisors ordered the following codification of ordinances.

### **Contents of Code; Arrangement of Chapters**

The various chapters of the Code contain all currently effective ordinances of a general and permanent nature enacted by the Board of Supervisors of the Township of Butler. The ordinances are organized into chapters, their order being an alphabetical progression from one subject to another. Wherever there are two or more ordinances dealing with the same subject, they are combined into a single chapter. Thus, for example, all ordinances dealing with taxes may be found in the chapter entitled "Taxation.- In such chapters, use of Article designations has preserved the identity of the individual ordinances.

### **Table of Contents**

The Table of Contents details the arrangement of material by chapter as a means of identifying specific areas of legislation. Wherever two or more ordinances have been combined by the editor into a single chapter, titles of the several Articles are listed beneath the chapter title in order to facilitate the location of the individual ordinances.

### **Reserved Chapters**

Unassigned chapter numbers do not appear in the Table of Contents but are available for assignment to new enactments. In this manner, new subject matter can be included alphabetically.

### **Pagination**

A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral "1." Thus, Chapter 6 would begin on page 6:1. By the use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

## BUTLER CODE

### Numbering of Sections

A chapter-related section-numbering system is employed in which each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the legislation is located and the location of the section within that chapter. Thus, the first section of Chapter 6 would be § 6-1, while the fourth section of Chapter 53 would be § 53-4.

### Scheme

The Scheme is the list of section titles which precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the Scheme titles are repeated as section headings in the text.

### Histories

At the end of the Scheme in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the ordinance number, if pertinent, and date of adoption. In the case of chapters containing Articles derived from more than one item of legislation, the source of each Article is indicated in the History. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

### General References; Editor's Notes

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

### Appendix

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this Code is reserved for such legislation and for any other material that the Township may wish to include.

### Index

The Index is a guide to information. Since it is possible that this Code will be used by persons without formal legal training or by those unfamiliar with Township legislation, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index will be supplemented and revised from time to time as new legislation is added to the Code.

## PREFACE

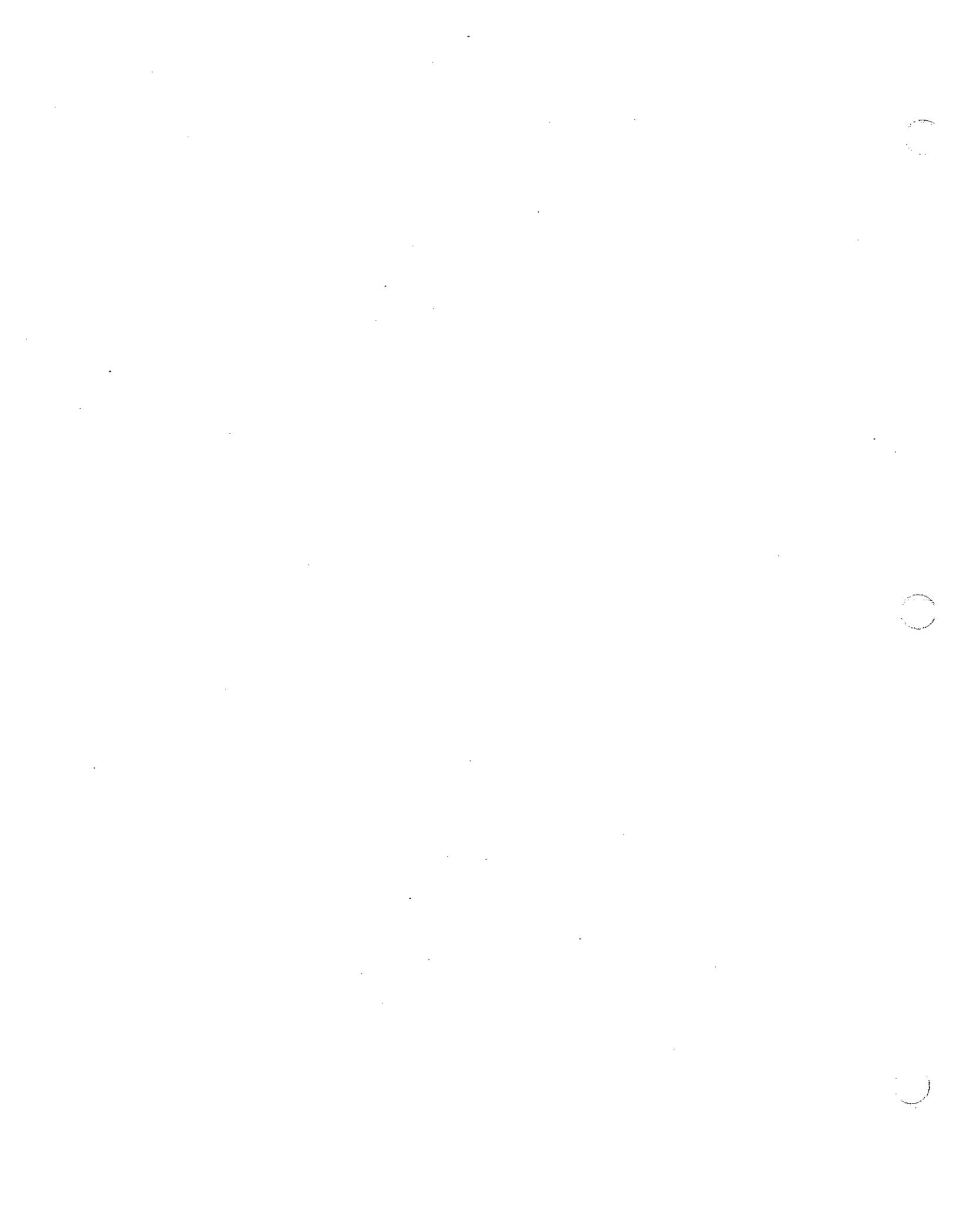
### **Supplementation**

Supplementation of the Code will follow the adoption of new legislation. New ordinances and amendments will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received, and old pages removed, in accordance with the instruction page which accompanies each supplement.

### **Acknowledgment**

This codification is the result of the efforts of numerous individuals. In particular, however, the assistance of the Board of Supervisors; the Township Attorney; and the Township Secretary, Nancy Cline, is gratefully acknowledged.

The codification of the ordinances of the Township of Butler reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity, and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code that this Code will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."



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**§ 1-3. Repeal of ordinances not contained in Code.**

All ordinances or parts of ordinances of a general and permanent nature adopted by the Township of Butler and in force on the date of the adoption of this Code and not contained in the Code are hereby repealed as of the effective date given in § 1-15 below, except as hereinafter provided.

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

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

- A. Any ordinance adopted subsequent to December 10, 1985.
- B. Any right or liability established, accrued or incurred under any legislative provision of the township prior to the effective date of this ordinance, or any action or proceeding brought for the enforcement of such right or liability or any cause of action acquired or existing.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the township or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending, or any judgment rendered prior to the effective date of this ordinance, brought pursuant to any legislative provision of the township.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred by the township or any lawful contract, obligation or agreement.
- F. Any ordinance or resolution appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the township, or other instruments or evidence of the township's indebtedness.

- G. Any ordinance adopting an annual budget or establishing an annual tax rate.
- H. Any ordinance providing for the levy, imposition or collection of special taxes, assessments or charges.
- I. Any ordinance authorizing the purchase, sale, lease or transfer of property or acquiring property by acceptance of deed, condemnation or exercise of eminent domain.
- J. Any ordinance annexing land to the township.
- K. Any ordinance providing for requiring the construction or reconstruction or opening of sidewalks, curbs and gutters.
- L. Any ordinance, or part of an ordinance, providing for laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, sidewalk, park or other public place or property or designating various streets as public highways.
- M. Any ordinance establishing water, sewer or other special purpose districts and designating the boundaries thereof; or providing for a system of sewers or water supply lines; or providing for the construction, extension, dedication, acceptance or abandonment of any part of a system of sewers or water supply lines.
- N. Any ordinance providing for the making of public improvements.
- O. Any ordinance providing for the salaries and compensation of officers and employees of the township or setting the bond of any officer or employee.

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

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

**§ 1-6. Changes and revisions in previously adopted ordinances.**

- A. Nonsubstantive grammatical changes. In compiling and preparing the ordinances of the township for adoption and revision as part of the Code, certain nonsubstantive grammatical and style changes were made in one (1) or more of said ordinances. It is the intention of the Board of Supervisors that all such changes shall be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.
- B. General deletions. Sections pertaining to severability, effective dates and repeals have been deleted, since such provisions are included in this ordinance or are of no further effect.
- C. Substantive changes and revisions. In addition to the changes and revisions described above, the following changes and revisions of a substantive nature are hereby made to various ordinances included in the Code. These changes are made to bring provisions into conformity with the desired policies of the Board of Supervisors, and it is the intent of the Board of Supervisors that all such changes shall be adopted as part of the Code as if the ordinances so changed have been previously formally amended to read as such. All such changes and revisions shall be deemed to be in effect as of the effective date of the Code specified in § 1-15.<sup>1</sup>

**§ 1-7. Interpretation of provisions.**

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

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<sup>1</sup> Editor's Note: Pursuant to § 1-6C, the following sections or chapters were added or amended: §§ 15-16B, 18-3, 18-18, 55-15, Ch. 63, § 71-2, Ch. 75, §§ 82-7, 90-1, 90-3, 90-5, 90-9, 90-14, 90-16, 90-19A(1), 90-26A and B, 96-3, Art. II of Ch. 96, §§ 96-7 and 96-8. The following original sections were deleted: Sec. 11 of Ord. No. 73-2 (§ 55-11) and Sec. V of a resolution adopted 3-5-56 (Ch. 90). A complete description of each change may be found in Ord. No. 88-1, on file in the office of the Township Secretary.

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

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

**§ 1-9. Filing of copies of Code.**

Three (3) copies of the Code in a post-bound volume shall be filed with the Ordinance Book in the office of the Township Secretary and shall remain there for use and examination by the public. Upon adoption, such copies shall be certified to by the Township Secretary, as provided by law, and such certified copies shall remain on file in the office of the Township Secretary, available to persons desiring to examine the same during all times while said Code is in effect.

**§ 1-10. Amendments to Code.**

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

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

It shall be the duty of the Township Secretary, or someone authorized and directed by him or her, to keep up-to-date the certified copies of the book

containing the Code required to be filed in the office of the Township Secretary for the use of the public. All changes in said Code and all ordinances adopted by the Board of Supervisors subsequent to the effective date of this codification which the Board of Supervisors shall adopt specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code books, at which time such supplements shall be inserted therein.

**§ 1-12. Publication of notices.**

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

**§ 1-13. Altering or tampering with Code; penalties for violation.**

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, or to alter or tamper with the Code, or any part or portion thereof, in any manner whatsoever, which will cause the law of the township to be misrepresented thereby. Anyone violating this section of this ordinance shall, upon conviction thereof, be liable to the maximum penalty provided by law.

**§ 1-14. Severability.**

The provisions of this ordinance and of the Code adopted hereby are severable, and if any clause, sentence, subsection, section, Article or part thereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation and application to the clause, sentence, subsection, section, Article or part thereof

rendered. It is hereby declared to be the intent of the Board of Supervisors that this ordinance and the Code would have been adopted if such illegal, invalid or unconstitutional clause, sentence, subsection, section, Article or part thereof had not been included therein.

**§ 1-15. Effective date.**

All provisions of this ordinance and of the Code shall be in force and effect on and after April 19, 1988.

## Chapter 8

## ATTORNEY FEES

§ 8-1. Recovery of reasonable attorney fees.

§ 8-2. Compilation and certification of fees.

[HISTORY: Adopted by the Board of Supervisors of the Township of Butler 1-8-2004 by Ord. No. 2004-1. Amendments noted where applicable.]

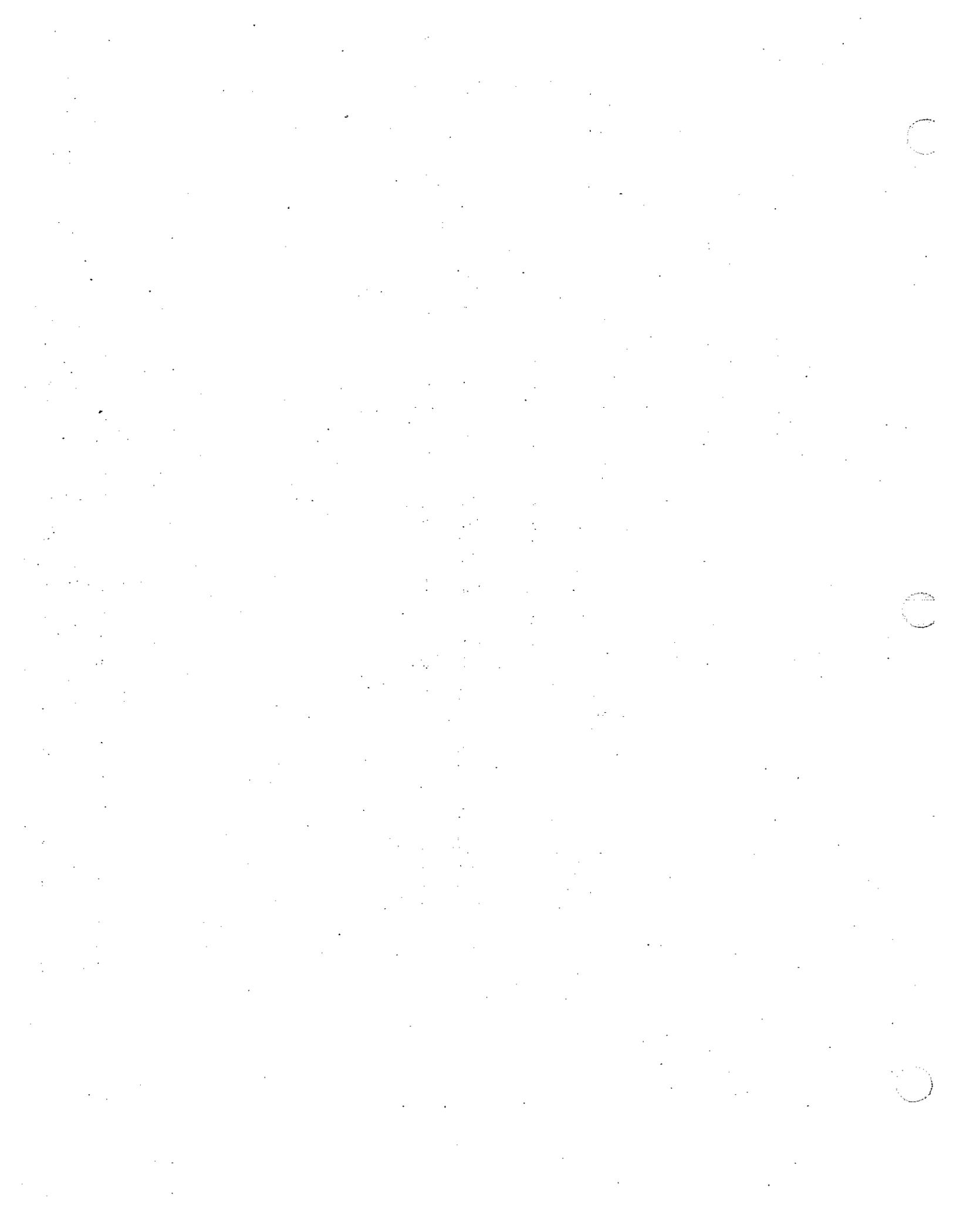
§ 8-1. Recovery of reasonable attorney fees.

Whenever any statute, regulation, law, court order, or other pronouncement permits the Township to recover attorney fees from an adverse party or another participant in an action or proceeding, and a specific amount of fees to be recovered is not specified in such statute, regulation, law, court order or other pronouncement, then the Township shall be entitled to recover reasonable attorney fees. "Reasonable attorney fees" shall be calculated as:

- A. The customary hourly amount charged by the Solicitor or other attorney providing representation to the Township multiplied by the number of hours (or parts thereof) devoted to the matter at hand;
- B. The customary fee charged to the Township by the Solicitor or the attorney providing legal services to the Township; or
- C. The amount actually billed to the Township in the matter at hand.

§ 8-2. Compilation and certification of fees.

The Township's secretary is hereby authorized, upon request from the Board of Supervisors, Township Solicitor or any other attorney retained to represent the Township, to compile and certify the fees paid to an attorney in any particular case for use in recouping such fees from an adverse party or other participant in any proceeding. Nothing herein shall limit the Solicitor or attorney from preparing such a compilation and certification for presentation to any tribunal as evidence of reasonable attorney fees incurred in an action or proceeding.



## Chapter 15

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

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**GENERAL REFERENCES**

Streets and roads — See Ch. 82.

Subdivision of land — See Ch. 85.

**Part 1  
Building Permits and Flood Hazard Areas  
[Adopted 1-9-1985 by Ord. No. 84-1]**

**ARTICLE I  
Definitions**

**§ 15-1. Word usage.**

Unless specifically defined below, words and phrases used in this Part 1 shall be interpreted so as to give this Part 1 its most reasonable application.

**§ 15-2. Definitions.**

As used in this Part 1, the following terms shall have the meanings indicated:

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

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

**CONSTRUCTION** — The construction, reconstruction, renovation, repair, expansion, alteration or relocation of a building or structure, including the placement of mobile homes.

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

**FLOOD** — A temporary inundation of normally dry land areas.

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

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

**MINOR REPAIR**[Amended 8-13-2001 by Ord. No. 2001-1] —

- A. The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, to include but not be limited to the replacement of a roof and siding; it includes any work which in the aggregate is less than 100 square feet and/or which has a total value of less than 1,000.
- B. "Minor repair" does not include, no matter what the cost and no matter what the square footage involved:
  - (1) The cutting away of any wall, partition, or portion thereof.
  - (2) The removal or cutting of any structural beam or bearing support.
  - (3) The removal or change of any required means of egress or the rearrangement of parts of a structure affecting the exitway requirements.
  - (4) The addition to, alteration of, replacement or relocation of any standpipe, water supply line, sewer, drainage line, drain leader, gas pipe, soil pipe, waste pipe, vent or similar piping, electric wiring, mechanical or other work affecting public health or general safety.

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

**MOBILE HOME PARK** — A parcel of land under single ownership which has been planned and improved for the placement of two or more mobile homes for nontransient use.

**OBSTRUCTION** — Any wall, dam, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill,

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

**ONE-HUNDRED-YEAR FLOOD** — A flood that, on the average, is likely to occur once every 100 years (i.e., that has a 1% chance of occurring each year, although the flood may occur in any year).

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

**SPECIAL PERMIT** — A special approval which is required for hospitals, nursing homes, jails, new mobile home parks and substantial improvements to such existing parks when such development is located in all or a designated portion of a floodplain.

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

**SUBDIVISION** — The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines, for the purpose, whether immediate or future, of lease, transfer of ownership or building or lot development. The division of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access, shall be exempted.

## ARTICLE II General Provisions

### § 15-3. Intent.

The intent of this Part 1 is to:

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

### § 15-4. Applicability.

- A. It shall be unlawful for any person, partnership, business or corporation to undertake or cause to be undertaken any construction or development anywhere within the Township unless a building permit has been obtained from the Building Permit Officer.
- B. A building permit shall not be required for minor repairs to existing buildings or structures.

**§ 15-5. Abrogation; greater restrictions.**

This Part 1 supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive.

**§ 15-6. Warning and disclaimer of liability.**

- A. The degree of flood protection sought by the provisions of this Part 1 is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Part 1 does not imply that areas outside any identified floodplain area, or that land uses permitted within such areas, will be free from flooding or flood damages.
- B. This Part 1 shall not create liability on the part of the Township or any officer or employee thereof for any flood damages that result from reliance on this Part 1 or any administrative decision lawfully made thereunder.

**ARTICLE III  
Administration**

**§ 15-7. Building permit required. [Amended 8-13-2001 by Ord. No. 2001-1; 5-14-2007 by Ord. No. 2007-2]**

Before any building, remodeling, development, minor repair, or other construction is commenced on any property, an application for a building permit under this chapter or for an exemption under this chapter must be filed with the Building Permit Officer. The appropriate fee, if a building permit under this chapter is required, must be paid before a permit is issued. No fee for the application is due or payable if the building, remodeling, development, minor repair, or other construction is exempt from the requirement for a permit under this chapter. Nothing herein shall affect the requirement for fees and permits issued pursuant to the Pennsylvania Uniform Construction Code, its applicable regulations, and any amendments or reenactments of the Code and/or the regulations promulgated thereunder.

**§ 15-8. Issuance of building permit.**

- A. The Building Permit Officer shall issue a building permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this Part 1 and all other applicable codes and ordinances.
- B. Prior to the issuance of any building permit, the Building Permit Officer shall review the application for permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended), the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended), the Pennsylvania Clean Streams Act

(Act 1937-394, as amended)<sup>1</sup> and the United States Clean Water Act, Section 404, 33 U.S.C. § 1334. No permit shall be issued until this determination has been made.

- C. 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 Resources, Bureau of Dams and Waterway Management.
- D. In addition, the Federal Insurance Administrator and Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified by the Township prior to any alteration or relocation of any watercourse.

**§ 15-9. Application procedure; requirements.**

- A. Application for such a building permit shall be made, in writing, to the Building Permit Officer on forms supplied by the Township. Such application shall contain the following:
  - (1) The name and address of the applicant.
  - (2) The name and address of the owner of land on which proposed construction is to occur.
  - (3) The name and address of the contractor.
  - (4) The site location.
  - (5) A listing of other permits required.
  - (6) A brief description of proposed work and estimated cost.
  - (7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for building permits shall provide all necessary information in sufficient detail and clarity to enable the Building Permit Officer to determine that:
  - (1) All such proposals are consistent with the need to minimize flood damage and conform to the requirements of this Part 1 and all other applicable codes and ordinances.
  - (2) All utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage.
  - (3) Adequate drainage is provided so as to reduce exposure to flood hazards.

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

- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Building Permit Officer to make the above determination:
- (1) A completed building permit application form.
  - (2) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:

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- (a) The north arrow, scale and date.
  - (b) Topographic contour lines, if available.
  - (c) All property and lot lines, including dimensions, and the size of the site expressed in acres or square feet.
  - (d) The location of all existing and proposed buildings, structures and other improvements, including the location of any existing or proposed subdivision and land development.
  - (e) The location of all existing streets, drives and other accessways.
  - (f) The location of any existing bodies of water or watercourses, identified floodplain areas and, if available, information pertaining to the floodway and the flow of water, including direction and velocities.
- (3) Plans of all proposed buildings, structures and other improvements, drawn at a suitable scale, showing the following:
- (a) The proposed lowest floor elevation of any proposed building, based upon National Geodetic Vertical Datum of 1929.
  - (b) The elevation of the one-hundred-year flood.
  - (c) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one-hundred-year flood.
  - (d) Detailed information concerning any proposed flood-proofing measures.
- (4) The following data and documentation:
- (a) Detailed information needed to determine compliance with § 15-23F, Storage, and § 15-24, Development which may endanger human life, including:
    - [1] The amount, location and purpose of any materials or substances referred to in §§ 15-23F and 15-24 which are intended to be used, produced, stored or otherwise maintained on the site.
    - [2] A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in § 15-24 during a one-hundred-year flood.
  - (b) The appropriate component of the Department of Environmental Resources' Planning Module for Land Development.
  - (c) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Resources to implement and maintain erosion and sedimentation control.
- D. Applicants for special permits shall provide five copies of the following items:

- (1) A written request, including a completed building permit application form.
- (2) A small-scale map showing the vicinity in which the proposed site is located.
- (3) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:
  - (a) The north arrow, scale and date.
  - (b) Topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of two feet.
  - (c) All property and lot lines, including dimensions, and the size of the site expressed in acres or square feet.
  - (d) The location of all existing streets, drives, 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 floodplain boundary line, information and spot elevations concerning the one-hundred-year flood elevations and information concerning the flow of water, including direction and velocities.
  - (g) The location of all proposed buildings, structures, utilities and any 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 a 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, the elevation of any other floor.
  - (c) Complete information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with the one-hundred-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 any 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 an existing separate and single parcel owned by the applicant or the client he represents.
  - (b) Certification from a registered professional engineer, architect or landscape architect that the proposed construction has been adequately designed to protect against damage from the one-hundred-year flood.
  - (c) A statement, certified by a registered professional engineer, architect, landscape 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 one-hundred-year flood, including a statement concerning the effects such pollution may have on human life.
  - (d) A statement, certified by a registered professional engineer, architect or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on one-hundred-year flood elevations and flows.
  - (e) A statement, certified 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 one-hundred-year flood elevation and the effects such materials and debris may have on one-hundred-year flood elevations and flows.
  - (f) The appropriate component of the Department of Environmental Resources' Planning Module for Land Development.
  - (g) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Resources 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 Resources under Section 302 of Act 1978-166.<sup>2</sup>
  - (i) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a one-hundred-year flood.

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

**§ 15-10. Review of application by others.**

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Building Permit Officer to any other appropriate agencies and/or individuals (e.g., Planning Commission, Municipal Engineer, etc.) for review and comment.

**§ 15-11. Changes after issuance.**

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

**§ 15-12. Placard to be displayed.**

In addition to the building permit, the Building Permit Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit and the date of its issuance and shall be signed by the Building Permit Officer.

**§ 15-13. Start of construction; time extensions.**

- A. Work on the proposed construction and/or development shall begin within six months and shall be completed within 18 months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Building Permit Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation for basement, footings, piers or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings or the installation of sewer, gas and water pipes or electrical or other service lines from the street.
- B. Time extensions shall be granted only if a written request is submitted by the applicant which sets forth sufficient and reasonable cause for the Building Permit Officer to approve such a request.

**§ 15-14. Inspection; revocation.**

- A. During the construction period, the Building Permit Officer or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable Township laws and ordinances. He shall make as many inspections during and upon completion of the work as are necessary.
- B. In the discharge of his duties, the Building Permit Officer shall have the authority to enter any building, structure, premises or development in the identified flood-prone area,

upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Part 1.

- C. In the event that the Building Permit Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances or that there has been a false statement or misrepresentation by any applicant, the Building Permit Officer shall revoke the building permit and report such fact to the Board of Supervisors for whatever action it considers necessary.
- D. A record of all such inspections and violations of this Part 1 shall be maintained.

**§ 15-15. Fees. [Amended 8-13-2001 by Ord. No. 2001-1]**

Applications for a building permit shall be accompanied by a fee, payable to the Township, based upon the estimated cost of the proposed construction as determined by the Building Permit Officer at the following rates:

<b>Estimated Cost</b>	<b>Fee</b>
\$0 to \$10,000	\$10
Each additional \$1,000 or part thereof over \$10,000	\$1

**§ 15-16. Notice; violations and penalties.**

- A. Notices. Whenever the Building Permit Officer or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Part 1 or of any regulation adopted pursuant thereto, the Building Permit Officer shall give notice of such alleged violation as hereinafter provided. Such notice shall:
- (1) Be in writing.
  - (2) Include a statement of the reasons for its issuance.
  - (3) Allow a reasonable time, not to exceed a period of 30 days, for the performance of any act it requires.
  - (4) Be served upon the property owner or his agent, as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this state.
  - (5) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Part 1.
- B. Violations and penalties. Any person who fails to comply with any or all of the requirements or provisions of this Part 1 or who fails or refuses to comply with any notice, order or direction of the Building Permit Officer or any other authorized employee of the municipality shall be guilty of an offense and, upon conviction, shall pay a fine to the Township of not less than 25 nor more than 300 plus costs of

prosecution. In default of such payment, such person shall be imprisoned in the County prison for a period not to exceed 30 days. Each day during which any violation of this Part 1 continues shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved, including an action in equity, for the proper enforcement of this Part 1. The imposition of a fine or penalty for any violation of or noncompliance with this Part 1 shall not excuse the violation or noncompliance or permit it to continue, and all such persons shall be required to correct or remedy such violations and noncompliances within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered or relocated in noncompliance with this Part 1 may be declared by the Board of Supervisors to be a public nuisance and abatable as such.<sup>3</sup>

#### **§ 15-17. Appeals.**

- A. Any person aggrieved by an action or decision of the Building Permit Officer concerning the administration of the provisions of this Part 1 may appeal to the Board of Supervisors. Such appeal must be filed, in writing, within 30 days after the decision or action of the Building Permit Officer.
- B. Upon receipt of such appeal, the Board shall set a time and place, within not less than 10 nor more than 30 days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.
- C. Any person aggrieved by any decision of the Board may seek relief therefrom by appeal to court as provided by the laws of this commonwealth, including the Pennsylvania Floodplain Management Act.<sup>4</sup>

### ARTICLE IV

#### **Identification of Floodplain Areas**

#### **§ 15-18. Identification.**

The identified floodplain area shall be any area of Butler Township, subject to the one-hundred-year flood, which is identified as a special flood hazard area (Zone A) on the Flood Hazard Boundary Map (FHBM) as issued by the Federal Insurance Administration, dated January 10, 1975, or any amendment thereto.

#### **§ 15-19. Determination of elevation.**

- A. Determination. For the purposes of this Part 1, the one-hundred-year flood elevation shall be used as the basis for regulation. To determine the one-hundred-year flood elevation, the elevation at a given point on the boundary of the identified floodplain area which is nearest the construction site in question will be used. In helping to make this necessary elevation determination, other sources of data, where available, shall be used, such as:

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

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

- (1) Corps of Engineers: Floodplain Information Reports.
  - (2) United States Geological Survey: Flood Prone Quadrangles.
  - (3) United States Department of Agriculture, Soil Conservation Service: County Soil Surveys (alluvial soils) or P.L. 566 Flood Information.
  - (4) Pennsylvania Department of Environmental Resources: Flood Control Investigations.
  - (5) Known high-water marks from past floods.
  - (6) Other sources.
- B. In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township.

**§ 15-20. Changes in identification of areas.**

The identified floodplain area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person document the need for such revision. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

**§ 15-21. Boundary disputes.**

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

ARTICLE V  
**Technical Requirements**

**§ 15-22. General requirements.**

- A. In the identified floodplain area, the development and/or use of any land shall be permitted, provided that the development and/or use complies with the restrictions and requirements of this Part I and all other applicable codes and ordinances in force in the municipality.
- B. Within any identified floodplain area, no new construction or development shall be located within the area measured 75 feet landward from the top of the bank of any watercourse.

- C. Within any identified floodplain area, the elevation of the lowest floor, including basement, of any new or substantially improved residential structure shall be 1 1/2 feet or more above the one-hundred-year flood elevation.
- D. Within any identified floodplain area, the elevation of the lowest floor, including basement, of any new or substantially improved nonresidential structure shall be 1 1/2 feet or more above the one-hundred-year flood elevation or said structures shall be floodproofed up to that height.
- E. Any structure or part thereof which will not be completely or adequately elevated shall be floodproofed in accordance with the provisions of this Article. Additional information may be obtained from the publication entitled "Flood-Proofing Regulations," United States Army Corps of Engineers, June 1972.

**§ 15-23. Design and construction standards.**

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

- A. Fill. If fill is used, it shall:
  - (1) Extend laterally at least 15 feet beyond the building line from all points.
  - (2) Consist of soil or small rock materials only. Sanitary landfills shall not be permitted.
  - (3) Be compacted to provide the necessary permeability and resistance to erosion, scouring or settling.
  - (4) Be no steeper than one vertical to two horizontal unless substantiated data justifying steeper slopes is submitted to and approved by the Building Permit Officer.
  - (5) Be used to the extent to which it does not adversely affect adjacent properties.
- B. Drainage facilities. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure proper drainage along streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- C. Water and sanitary sewer facilities and systems.
  - (1) All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
  - (2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
  - (3) No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all state and local regulations for

such systems. If any such system is permitted, it shall be located so as to avoid impairment to it or contamination from it during a flood.

- D. Other utilities. All other utilities, such as gas lines, electrical and telephone systems, shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.
- E. Streets. The finished elevation of all new streets shall be no more than one foot below the regulatory flood elevation.
- F. Storage. All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal or plant life and not listed in § 15-24, Development which may endanger human life, shall be stored at or above the regulatory flood elevation and/or floodproofed to the maximum extent possible.
- G. Placement of buildings and structures. All buildings and structures shall be designed, located and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwater.
- H. Anchoring.
  - (1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse or lateral movement.
  - (2) All air ducts, large pipes, storage tanks and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.
- I. Floors, walls and ceilings.
  - (1) Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain, without causing structural damage to the building.
  - (2) Plywood used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
  - (3) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant.
- J. Paints and adhesives.
  - (1) Paints or other finishes used at or below the regulatory flood elevation shall be of marine or water-resistant quality.
  - (2) Adhesives used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
  - (3) All wooden components (doors, trim, cabinets, etc.) shall be finished with a marine or water-resistant paint or other finishing material.
- K. Electrical components.

- (1) Electrical distribution panels shall be at least three feet above the one-hundred-year flood elevation.
  - (2) Separate electrical circuits shall serve lower levels and shall be dropped from above.
- L. Equipment. Water heaters, furnaces, air-conditioning and ventilating units and other mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.
- M. Fuel supply systems. All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the systems and discharges from the systems into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that the floodwater infiltration occurs.

**§ 15-24. Development which may endanger human life.**

- A. In accordance with the Pennsylvania Floodplain Management Act<sup>5</sup> and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which will be used for any activity requiring the maintenance of a supply [more than 550 gallons or other comparable volume or any amount of radioactive substances] of any of the following dangerous materials or substances on the premises shall be subject to the provisions of this section in addition to all other applicable provisions:

Acetone  
Ammonia  
Benzene  
Calcium carbide  
Carbon disulfide  
Celluloid  
Chlorine  
Hydrochloric acid  
Hydrocyanic acid  
Magnesium  
Nitric acid and oxides of nitrogen  
Pesticides, including insecticides, fungicides and rodenticides  
Petroleum products (gasoline, fuel oil, etc.)  
Phosphorus  
Potassium  
Radioactive substances, insofar as such substances are not otherwise regulated

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

Sodium

Sulfur and sulfur products

- B. Within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection A above shall be prohibited within the area measured 75 feet landward from the top of the bank of any watercourse.
- C. Where permitted within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection A above shall be:
  - (1) Elevated or designed and constructed to remain completely dry up to at least 1 1/2 feet above the one-hundred-year flood.
  - (2) Designed to prevent pollution from the structure or activity during the course of a one-hundred-year flood.
- D. Any such structure or part thereof that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication entitled "Flood-Proofing Regulations," United States Army Corps of Engineers, June 1972, or with some other equivalent watertight standard.

**§ 15-25. Special requirements for mobile homes.**

- A. Where permitted within any identified floodplain area, all mobile homes and additions thereto shall be:
  - (1) Anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with the American National Standards as specified in the Standard for the Installation of Mobile Homes Including Mobile Home Park Requirements [NFPA No. 501A-1974 (ANSI A119.3-1975)], as amended for Mobile Homes in Hurricane Zones, or other appropriate standards as the following:
    - (a) Over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations for units 50 feet or more in length and one additional tie per side for units less than 50 feet in length.
    - (b) Frame ties shall be provided at each corner of the mobile home, with five additional ties per side at intermediate locations for units 50 feet or more in length and four additional ties per side for units less than 50 feet in length.
    - (c) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
  - (2) Elevated in accordance with the following requirements:

- (a) The stands or lots shall be elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be 1 1/2 feet or more above the elevation of the one-hundred-year flood.
  - (b) Adequate surface drainage shall be provided.
  - (c) Adequate access for a hauler shall be provided.
  - (d) Where pilings are used for elevation, the lots shall be large enough to permit steps. Piling foundations shall be placed in stable soil no more than 10 feet apart; reinforcement shall be provided for pilings that will extend for six feet or more above the ground level.
- B. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the appropriate Township officials for mobile home parks.

#### ARTICLE VI Activities Requiring Special Permits

##### § 15-26. Permit required for certain obstructions and activities.

In accordance with the administrative regulations promulgated by the Department of Community Affairs to implement the Pennsylvania Flood Management Act (Act 1978-166),<sup>6</sup> the following obstructions and activities are prohibited if located entirely or partially within an identified floodplain area unless a special permit is issued:

- A. Hospitals (public or private).
- B. Nursing homes (public or private).
- C. Jails or prisons.
- D. New mobile home parks and mobile home subdivisions, and substantial improvements to existing mobile home parks.

##### § 15-27. Application procedure.

Upon receipt of an application for a special permit by the Township, the following procedures shall apply in addition to those in Article III:

- A. Within three working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Township Planning Commission and Township Engineer for review and comment.
- B. If an application is received that is incomplete, the Township shall notify the applicant in writing, stating in what respects the application is deficient.

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

- C. If the Township decides to disapprove an application, it shall notify the applicant in writing of the reasons for the disapproval.
- D. If the Township approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community Affairs, by registered or certified mail, within five working days after the date of approval.
- E. Before issuing the special permit, the Township shall allow the Department of Community Affairs 30 days, after receipt of the notification by the Department, to review the application and decision made by the Township.
- F. If the Township does not receive any communication from the Department of Community Affairs during the 30-day review period, it may issue a special permit to the applicant.
- G. If the Department of Community Affairs should decide to disapprove an application, it shall notify the Township and the applicant in writing of the reasons for the disapproval, and the Township shall not issue the special permit.

**§ 15-28. Additional requirements; technical review.**

- A. In addition to the requirements of Article V of this Part 1, the following minimum requirements shall also apply to any proposed development requiring a special permit. If there is any conflict between any of the following requirements and those in Article V in this Part 1 or in any other code, ordinance or regulation, the more restrictive provision shall apply.
- B. No application for a special permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
  - (1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located and constructed so that:
    - (a) The structure will survive inundation by waters of the one-hundred-year flood without any lateral movement or damage to either the structure itself or any of its equipment or contents below the one-hundred-year flood elevation.
    - (b) The lowest floor elevation will be at least 1 1/2 feet above the one-hundred-year flood elevation.
    - (c) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the one-hundred-year flood.
  - (2) Prevent any significant possibility of pollution, increased flood levels or flows or debris endangering life and property.
- C. All 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 and the Department of Community Affairs.

**ARTICLE VII**  
**Existing Structures in Identified Floodplain Areas**

**§ 15-29. Conditions for existing structures.**

Structures existing in any identified floodplain area prior to the enactment of this Part 1 may continue to remain, provided that any modification, alteration, reconstruction or improvement of any kind to an existing structure to an extent or amount 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 Part 1.

**ARTICLE VIII**  
**Variances**

**§ 15-30. Conditions for granting variances.**

If compliance with any of the requirements of this Part 1 would result in an exceptional hardship to a prospective builder, developer or landowner, the Township may, upon request, grant relief from the strict application of the requirements.

**§ 15-31. Procedures.**

Requests for variances shall be considered by the Township in accordance with the procedures contained in § 15-17 and the following:

- A. Except for a possible modification of the freeboard requirements involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by special permit, Article VI, or to development which may endanger human life, § 15-24.
- B. If granted, a variance shall involve only the least modification necessary to provide relief.
- C. In granting any variance, the Township 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 Part 1.
- D. Whenever a variance is granted, the Township shall notify the applicant in writing that:
  - (1) The granting of the variance may result in increased premium rates for flood insurance.
  - (2) Such variance may increase the risks to life and property.
- E. In reviewing any request for a variance, the Township shall consider, at a minimum, the following:

- (1) That there is good and sufficient cause.
  - (2) That failure to grant the variance would result in exceptional hardship to the applicant.
  - (3) That the granting of the variance will neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety or extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with any other applicable state or local ordinances and regulations.
- F. A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.
- G. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-hundred-year flood.

## Part 2

### Building Permits and Construction Codes [Adopted 7-1-2004 by Ord. No. 2004-2]

## ARTICLE IX

### Administration and Enforcement of Uniform Construction Code

#### § 15-32. Statement of intent.

The intent of this part is to promote the general health, welfare and safety of the community.

#### § 15-33. Election to implement uniform construction code.

Butler Township hereby elects to implement the Pennsylvania Construction Code Act ("the Act") (35 P.S. § 7210.101 et seq., as amended) and the Uniform Construction Code (UCC) as provided in 34 Pa.Code § 401.1 et seq., as amended from time to time. Said Uniform Construction Code is hereby adopted by reference thereto as the building code of Butler Township.

#### § 15-34. Administration and enforcement.

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

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

- C. By an intergovernmental cooperation agreement with one or more other municipalities for the joint administration and/or enforcement of part or all of the UCC;
- D. By entering into a contract with another municipality for the administration and/or enforcement of part or all of the UCC; and/or
- E. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections, and enforcement of the UCC for structures other than one-family or two-family dwelling units, utility structures and miscellaneous structures.

**§ 15-35. Board of appeals.** <sup>7</sup>

A Board of Appeals, in conformity with the Act, shall be established by a resolution of the Board of Supervisors. The Board of Appeals shall carry out the functions prescribed in the Act and in the UCC.

**§ 15-36. Fees.**

All fees related to the administration and enforcement of the UCC shall be prescribed by a resolution of the Board of Supervisors, as may be adopted from time to time.

**§ 15-37. Effect of amendments and alterations.**

All amendments, supplements, revisions or other changes to the UCC shall be applicable in Butler Township upon the effective date of such change.

**§ 15-38. Subdivision and sanitary septic regulations.**

Any provision of any other law or code notwithstanding, no building permit and no certificate of occupancy shall be issued unless there has been compliance with the land use laws and ordinances of the Township (including but not limited to subdivision, land development, and zoning) and with the sewage disposal laws and ordinances of the Township.<sup>8</sup>

**§ 15-39. Land use permits.**

Nothing in this part shall affect the requirement to obtain permits pursuant to any other law or ordinance regulating the development of land and the use of land.

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7. Editor's Note: Ordinance No. 2005-1, adopted 9-12-2005, provided for an agreement to utilize the Shared Adams County UCC Board of Appeals. See also Ch. 49, Art. I.

8. Editor's Note: See Ch. 78, Sewers, and Ch. 85, Subdivision and Land Development.

**Part 3****Building Permits and Building in Floodplain Areas Commencing February 18, 2009  
[Adopted 1-12-2009 by Ord. No. 2009-1<sup>9</sup>]****ARTICLE X  
General Provisions****§ 15-40. Intent.**

The intent of this part is to:

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

**§ 15-41. Applicability.**

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township unless a building permit has been obtained from the Building Permit Officer.
- B. A building permit shall not be required for minor repairs to existing buildings or structures.

**§ 15-42. Abrogation and Greater Restrictions: completed projects.**

- A. This part supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this part, the more restrictive shall apply.
- B. Any project that has obtained a permit for construction in accord with the Township's preexisting floodplain ordinance prior to the adoption of this part, and which is completed in full compliance with the permit and the preexisting ordinance, shall be deemed in full compliance with law, unless the structure is modified as provided in this part in such a way as to make this part applicable.

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9. Editor's Note: This ordinance also provided for an effective date of 1-18-2009.

**§ 15-43. Severability.**

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

**§ 15-44. Warning and disclaimer of liability.**

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

ARTICLE XI  
**Administration**

**§ 15-45. Building permits required.**

Building permits shall be required before any construction or development is undertaken within any area of the Township.

**§ 15-46. Issuance of building permit.**

- A. The Building Permit Officer shall issue a building permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
- B. Prior to the issuance of any building permit, the application for the permit shall be reviewed by the Building Permit Officer and/or the Township's Engineer to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended<sup>10</sup>); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended<sup>11</sup>); the Pennsylvania Clean Streams Act (Act 1937-394, as amended<sup>12</sup>); and the U.S. Clean Water Act, Section 404, 33 U.S.C. § 1344. No permit shall be issued until this determination has been made.

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10. Editor's Note: See 35 P.S. § 750.(1) et seq.

11. Editor's Note: See 32 P.S. § 693.1 et seq.

12. Editor's Note: See 35 P.S. § 691.1 et seq.

- C. Every applicant for a permit where the improvement might involve a floodplain or flood area shall submit with the application a history of any damages caused by floods to any of the existing structures on the property. This history is to be reviewed by the Township to determine if any repetitive losses have occurred on the subject property.
- D. 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 Regional Office. In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development shall be notified by the Township prior to any alteration or relocation of any watercourse.

**§ 15-47. Application procedures and requirements.**

- A. Application for such a building permit shall be made, in writing, to the Building Permit Officer on forms supplied by the Township. Such application shall contain the following:
  - (1) Name and address of applicant.
  - (2) Name and address of owner of land on which proposed construction is to occur.
  - (3) Name and address of contractor.
  - (4) Site location including address.
  - (5) Listing of other permits required.
  - (6) Brief description of proposed work and estimated cost, including a breakout of the flood-related cost and the market value of the building before the flood damage occurred.
  - (7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for building permits shall provide all the necessary information in sufficient detail and clarity to enable the Building Permit Officer to determine that:
  - (1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
  - (2) All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
  - (3) Adequate drainage is provided so as to reduce exposure to flood hazards.
- C. Applicants shall file the following minimum information plus any other pertinent information (e.g., any or all of the technical information contained in Article XIII) as

may be required by the Township, the Building Permit Officer and/or the Township Engineer to make the above determination:

- (1) A completed building permit application form.
- (2) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:
  - (a) North arrow, scale, and date;
  - (b) Topographic contour lines, if available;
  - (c) All property and lot lines, including dimensions, and the size of the site expressed in acres or square feet;
  - (d) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;
  - (e) The location of all existing streets, drives, and other accessways; and
  - (f) The location of any existing bodies of water or watercourses, identified floodplain areas and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
- (3) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
  - (a) The proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929;
  - (b) The elevation of the one-hundred-year flood;
  - (c) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one-hundred-year flood;
  - (d) Detailed information concerning any proposed floodproofing measures; and
  - (e) Supplemental information as may be necessary under 34 Pa. Code, Chapters 401 through 405, as amended, and Sections 1612.5.1, 104.7 and 109.3 of the 2003 IBC and Sections R106.1.3 and R104.7 of the 2003 IRC.
- (4) The following data and documentation:
  - (a) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the one-hundred-year flood elevations, pressures, velocities, impact and uplift forces associated with the one-hundred-year flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.

- (b) Detailed information needed to determine compliance with § 15-62F, Storage, and § 15-63 Development which may endanger human life, including:
- [1] The amount, location and purpose of any dangerous materials or substances which are intended to be used, produced, stored or otherwise maintained on site.
  - [2] A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in § 15-63 during a one-hundred-year flood.
- (c) The appropriate component of the Department of Environmental Protection's Planning Module for Land Development.
- (d) 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.

**§ 15-48. Review by County Conservation District.**

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

**§ 15-49. Review of application by others.**

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Building Permit Officer to any other appropriate agencies and/or individuals (e.g., Planning Commission, Municipal Engineer, etc.) for review and comment.

**§ 15-50. Changes.**

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

**§ 15-51. Placards.**

In addition to the building permit, the Building Permit Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance and shall be signed by the Building Permit Officer.

**§ 15-52. Start of construction.**

- A. Work on the proposed construction and/or development shall begin within six months and shall be completed within 12 months after the date of issuance of the building permit, or the permit shall expire unless a time extension is granted, in writing, by the Building Permit Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.
- B. Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Building Permit Officer to approve such a request.

**§ 15-53. Inspection and revocation.**

- A. During the construction period, the Building Permit Officer or other authorized official ("the inspector") shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He shall make as many inspections during and upon completion of the work as are necessary.
- B. In the discharge of his duties, the inspector shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this part.
- C. In the event the inspector discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the building permit shall be revoked and a report of such fact shall be made to the Board of Supervisors for whatever action it considers necessary.
- D. A record of all such inspections and violations of this part shall be maintained.
- E. The requirements of the 34 Pa. Code Chapters 401 through 405 and the IBC (Sections 109.3.3, 1612.5.1, 104.7 and 103.8) and the 2003 IRC (R106.1.3, 109.1.3 and R104.7) or latest revisions thereof pertaining to elevation certificates and record retention shall be considered.

**§ 15-54. Fees.**

The fee for a permit issued where any part of a project is located in a floodplain shall be as prescribed in a fee resolution as may be adopted by the Board of Supervisors from time to time.

**§ 15-55. Enforcement.**

- A. Notices. Whenever the Building Permit Officer or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this part, or of any regulations adopted pursuant thereto, notice of such alleged violation shall be given as hereinafter provided. Such notice shall:
- (1) Be in writing;
  - (2) Include a statement of the reasons for its issuance;
  - (3) Allow a reasonable time not to exceed a period of 30 days for the performance of any act it requires;
  - (4) Be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this state;
  - (5) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this part.
- B. Penalties. Any person who fails to comply with any or all of the requirements or provisions of this part or who fails or refuses to comply with any notice, order or direction of the designated Permit Officer or any other authorized employee of the municipality shall be guilty of an offense and, upon conviction, shall pay a fine to the Township of not less than \$100 nor more than \$600 plus costs of prosecution with reasonable attorneys' fees. Each day during which any violation of this part continues shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this part. The imposition of a fine or penalty for any violation of, or noncompliance with, this part shall not excuse the violation or noncompliance or permit it to continue, and all such persons shall be required to correct or remedy such violations and noncompliances within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this part may be declared by the Township to be a public nuisance and abatable as such.

**§ 15-56. Appeals.**

- A. Any person aggrieved by any action or decision of the Building Permit Officer, Engineer, or other authorized agent of the Township concerning the administration of the provisions of this part, may appeal to the Board of Supervisors. Such appeal must be filed, in writing, within 30 days after the decision or action of the said agent, Officer or Engineer.
- B. Upon receipt of such appeal the Board shall set a time and place, within not less than 10 nor more than 30 days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.

- C. Any person aggrieved by any decision of the Board may seek relief therefrom by appeal to court, as provided by the laws of this commonwealth including the Pennsylvania Flood Plain Management Act.<sup>13</sup>

ARTICLE XII  
Identification of Floodplain Areas

**§ 15-57. Identification.**

The identified floodplain area shall be those areas of the Township, which are subject to the one-hundred-year flood, as identified in the Flood Insurance Study (FIS) and the accompanying maps prepared for the Township by the Federal Emergency Management Agency (FEMA) which are effective on February 18, 2009, or the most recent revision thereof.

**§ 15-58. Determination of floodplain areas.**

- A. For the purposes of this part, the one-hundred-year flood elevation shall be used as the basis for regulation. When available, information from other federal, state, and other acceptable sources shall be used to determine the one-hundred-year elevation, as well as a floodway area, if possible. When no other information is available, the one-hundred-year elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question.
- B. In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality.

**§ 15-59. Changes in identification of area.**

The identified floodplain area may be revised or modified by the Board where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

**§ 15-60. Boundary disputes.**

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

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

ARTICLE XIII  
General Technical Requirements

**§ 15-61. General.**

- A. In the identified floodplain area, the development and/or use of any land shall be permitted provided that the development and/or use complies with the restrictions and requirements of this and all other applicable codes and ordinances in force in the municipality.
- B. Within any floodway area, no new construction or development shall be permitted that would cause any increase in the one-hundred-year flood elevation.
- C. Within any identified floodplain area, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.
- D. Within any identified floodplain area, any new construction or substantial improvement of a residential structure shall have the lowest floor (including basement) elevated up to, or above the regulatory flood elevation. The design and construction standards and specifications contained in the 2003 IBC (Sections 1612.4, 1603.1.6 and 3403.1), and in the 2003 IRC (Sections R323.1.4, R323.2.1, and R323.2.2) and ASCE 24 (Sections 2.4 and 2.5, Chap. 5) and 34 Pa. Code (Chapters 401 through 405, as amended) shall be utilized.
- E. Within any identified floodplain area, any new construction or substantial improvement of a nonresidential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed by such structure shall remain either completely or essentially dry during any flood up to that height.
- F. Any nonresidential structure, or part thereof, having a lowest floor (including basement) which is not elevated to at least 1 1/2 feet above the one-hundred-year flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above-referenced standards. The design and construction standards and specifications contained in the IBC (Sections 1603.1.2, 1603.1.6, 1605.2.2, 1612.5.1 and 3403.1) and ASCE 24 (Sections 2.4 and Chapter 7) and 34 Pa. Code (Chapters 401 through 405, as amended) shall be utilized.
- G. Fully enclosed space below the lowest floor (including basement) is prohibited.
- H. 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 one 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 coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- I. Consideration may be given to the requirements of 34 Pa. Code (Chapters 401 through 405 as amended), and the 2003 IRC (Sections R323.2.2 and R323.1.4) and the 2003 IBC (Sections 1612.4, 1612.5, 1202.3.2 and 1203.3.3).
- J. Accessory structures. Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:
- (1) The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
  - (2) Floor area shall not exceed 600 square feet.
  - (3) The structure will have a low damage potential.
  - (4) The structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.
  - (5) Power lines, wiring, and outlets will be at least 1 1/2 feet above the one-hundred-year flood elevation.
  - (6) Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc., are prohibited.
  - (7) Sanitary facilities are prohibited.
  - (8) The structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
    - (a) Minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
    - (b) The bottom of all openings shall be no higher than one foot above grade.

- (c) Openings may be equipped with screens, louvers, etc., or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

**§ 15-62. Design and construction standards.**

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

- A. Fill. If fill is used, it shall:
- (1) Extend laterally at least 15 feet beyond the building line from all points;
  - (2) Consist of soil or small rock materials only; sanitary landfills shall not be permitted;
  - (3) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
  - (4) Be no steeper than one vertical to two horizontal feet unless substantiated data, justifying steeper slopes, are submitted to, and approved by, the Building Permit Officer; and
  - (5) Be used to the extent to which it does not adversely affect adjacent properties.
- B. Drainage facilities. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall insure proper drainage along streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- C. Water and sanitary sewer facilities and systems.
- (1) All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
  - (2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
  - (3) No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all state and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
  - (4) The design and construction provisions of the UCC and 34 Pa. Code (Chapters 401 through 405, as amended) and contained in the 2003 IBC (Appendix G, Sections 401.3 and 401.4), the 2003 IRC (Section 323.1.6), the ASCE 24-98 (Section 8.3), FEMA #348, Protecting Building Utilities From Flood Damages and The International Private Sewage Disposal Code (Chapter 3) shall be utilized.

- D. Other utilities. All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.
- E. Streets. The finished elevation of all new streets shall be no more than one foot below the regulatory flood elevation.
- F. Storage. All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 4.04, Development Which May Endanger Human Life, shall be stored at or above the regulatory flood elevation and/or floodproofed to the maximum extent possible.
- G. Placement of buildings and structures. All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwater.
- H. Anchoring.
- (1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
  - (2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.
  - (3) The design and construction requirements of the UCC pertaining to this subsection as referred to in 34 Pa. Code (Chapters 401 through 405, as amended) and contained in the 2003 IBC (Sections 1605.2.2, 1605.3.1.2, 1612.4 and Appendix G501.3), the IRC (Sections R301.1 and R323.1.1) and ASCE 24-98 (Section 5.6) shall be utilized.
- I. Floors, walls and ceilings.
- (1) Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain, without causing structural damage to the building.
  - (2) Plywood used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
  - (3) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
  - (4) Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other water-resistant material.
  - (5) The provisions of the UCC pertaining to this subsection and referenced in the 34 Pa. Code (Chapters 401 through 405 as amended) and contained in the 2003 IBC (Sections 801.1.3, 1403.2, 1403.4, 1403.6 and 1404.2), the 2003 IRC (Sections R323.1.7 and R501.3) and ASCE 24-98 (Chapter 6).
- J. Paints and adhesives.

- (1) Paints and other finishes used at or below the regulatory flood elevation shall be of "marine" or "water-resistant" quality.
- (2) Adhesives used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
- (3) All wooden components (doors, trim, cabinets, etc.) shall be finished with a marine or water-resistant paint or other finishing material.
- (4) The standards and specifications contained in 34 Pa. Code (Chapters 401 through 405, as amended) the 2003 IBC (Sections 801.1.3, 1403.7 and Appendix G) and the 2003 IRC (Section R323.1.7).

K. Electrical components.

- (1) Electrical distribution panels shall be at least three feet above the one-hundred-year flood elevation.
- (2) Separate electrical circuits shall serve lower levels and shall be dropped from above.
- (3) The provisions pertaining to the above provisions and referenced in the UCC and 34 Pa. Code (Chapters 401 through 405) as amended and contained in the 2003 IBC (Section 1612.4), the IRC (Section R323.1.5), the 2000 IFGC (Sections R301.5 and R1601.3.8) and ASCE 24 (Chapter 8) shall be utilized.

L. Equipment.

- (1) Water heaters, furnaces, air-conditioning and ventilating units, and other mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.
- (2) The provisions pertaining to the above provision and referenced in the UCC and 34 Pa. Code (Chapters 401 through 405), as amended, and contained in the 2003 IBC (Section 1612.4), the 2003 IRC (Section R323.1.5) the 2000 IFGC (Sections R301.5 and R1601.3.8) and ASCE 24 (Chapter 8) shall be utilized

M. Fuel supply systems. All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.

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

- (1) International Building Code (IBC) 2003 or the latest edition thereof: Sections 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.
- (2) International Residential Building Code (IRC) 2003 or the latest edition thereof: Sections R104, R105, R109, R323, Appendixes AE101, E and J.

**§ 15-63. Development which may endanger human life.**

- A. In accordance with the Pennsylvania Floodplain Management Act,<sup>14</sup> and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances; or will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or will involve the production, storage, or use of any amount of radioactive substances shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:
- (1) Acetone.
  - (2) Ammonia.
  - (3) Benzene.
  - (4) Calcium carbide.
  - (5) Carbon disulfide.
  - (6) Celluloid.
  - (7) Chlorine.
  - (8) Hydrochloric acid.
  - (9) Hydrocyanic acid.
  - (10) Magnesium.
  - (11) Nitric acid and oxides of nitrogen.
  - (12) Petroleum products (gasoline, fuel oil, etc.).
  - (13) Phosphorus.
  - (14) Potassium.
  - (15) Sodium.
  - (16) Sulphur and sulphur products.
  - (17) Pesticides (including insecticides, fungicides, and rodenticides).
  - (18) Radioactive substances, insofar as such substances are not otherwise regulated.
- B. Within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection A, above, shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.

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

- C. Where permitted within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection A, above, shall be:
- (1) Elevated or designed and constructed to remain completely dry up to at least 1 1/2 feet above the one-hundred-year flood; and
  - (2) Designed to prevent pollution from the structure or activity during the course of a one-hundred-year flood.
- D. Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972, as amended March 1992), or with some other equivalent watertight standard.

**§ 15-64. Special requirements for manufactured homes.**

- A. Within any identified floodplain area, all manufactured homes and any additions thereto shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.
- B. Where permitted within any identified floodplain area, all manufactured homes, and any improvements thereto, shall be:
- (1) Placed on a permanent foundation.
  - (2) Elevated so that the lowest floor of the manufactured home is 1 1/2 feet or more above the elevation of the one-hundred-year flood.
  - (3) Anchored to resist flotation, collapse, or lateral movement.
  - (4) Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2003 International Residential Building Code or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto shall apply and 34 Pa. Code Chapters 401 through 405.
  - (5) Consideration shall be given to the installation requirements of the 2003 IBC (Appendix G, Section 501.1-3) and the 2003 IRC (Sections R323.2, R323.3, R102.7.1, R105.3.1.1 and Appendixes AE101, AE604 and AE605) or the most recent revisions thereto and 34 Pa. Code Chapters 401 through 405, as amended, where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the units' proposed installation.

ARTICLE XIV  
**Certain Activities Prohibited**

**§ 15-65. Prohibitions.**

The commencement of any of the following activities, or the construction enlargement, or expansion of any structure used, or intended to be used, for any of the following activities are prohibited in a floodplain area:

- A. Hospitals.
- B. Nursing homes.
- C. Jails or prisons.
- D. Manufactured home parks or subdivisions.

ARTICLE XV  
**Existing Structures in Identified Floodplain Areas**

**§ 15-66. Existing structures.**

The provisions of this part do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of § 15-67 shall apply.

**§ 15-67. Improvements.**

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

- A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the one-hundred-year flood.
- B. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of 50% or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this part.

The above activity shall also address the requirements of the 34 Pa. Code Chapters 401 through 405, as amended, and the 2003 IBC (Sections 3402.1 and 1612.4) and the 2003 IRC (Sections R105.3.1.1 and 323.1.4).

- C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than 50% of its market value, shall be elevated and/or floodproofed to the greatest extent possible.

- D. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of "repetitive loss" shall be undertaken only in full compliance with the provisions of this part.
- E. The requirements of 34 Pa. Code Chapters 401 through 405, as amended, and the 2003 IRC (Sections R102.7.1, R105.3.1, R105.3.1.1 and Appendixes E and J) or the latest revision thereof and the 2003 IBC (Sections 101.3, 3403.1 and Appendix G) or the latest revision thereof shall also be utilized in conjunction with the provisions of this section.

## ARTICLE XVI Variances

### § 15-68. Hardship due to compliance.

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

### § 15-69. Variance procedures and conditions.

- A. Requests for variances shall be considered by the Township in accordance with the procedures contained in § 15-56 and the following:
  - (1) Except for a possible modification of the one-and-one-half-foot freeboard requirement involved, no variance shall be granted for any of the other requirements pertaining to development which may endanger human life (§ 15-63).
  - (2) No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the one-hundred-year flood elevation.
  - (3) If granted, a variance shall involve only the least modification necessary to provide relief.
  - (4) In granting any variance, the Township 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 part.
  - (5) Whenever a variance is granted, the Township shall notify the applicant in writing that:
    - (a) The granting of the variance may result in increased premium rates for flood insurance.
    - (b) Such variances may increase the risks to life and property.
  - (6) In reviewing any request for a variance, the Township shall consider, at a minimum, the following:

- (a) That there is good and sufficient cause.
  - (b) That failure to grant the variance would result in exceptional hardship to the applicant.
  - (c) That the granting of the variance will neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense, nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- (7) A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.
- B. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-hundred-year flood.

## ARTICLE XVII

### Definitions

#### § 15-70. Interpretation.

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

#### § 15-71. Definitions.

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

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

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

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

**COMPLETELY DRY SPACE** — A space that will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

**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.

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

FLOOD — A temporary inundation of normally dry land areas.

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

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

FLOODWAY — The designated area of a floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of this part, the floodway shall be capable of accommodating a flood of the one-hundred-year magnitude.

HISTORIC STRUCTURE — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation 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.

IDENTIFIED FLOODPLAIN AREA — The floodplain area specifically identified in this part as being inundated by the one-hundred-year flood.

LAND DEVELOPMENT — Any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
  - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
  - (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups or other features.
- B. A subdivision of land.

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

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

**MANUFACTURED HOME PARK** — A parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for nontransient use.

**MINOR REPAIR** — The replacement of existing work with equivalent materials for the purpose of its 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 the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after the effective date of this part, and includes any subsequent improvements thereto.

**ONE-HUNDRED-YEAR FLOOD** — A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one-percent chance of occurring each year, although the flood may occur in any year).

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

**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 permanently towable by a light-duty truck;
- D. Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

REPETITIVE LOSS — Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25% of the market value of the structure before the damages occurred.

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

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

SUBSTANTIAL ADDITIONS TO MANUFACTURED HOME PARKS — Any repair, reconstruction, or improvement of an existing manufactured home park or manufactured home subdivision, where such repair, reconstruction, or improvement of the streets, utilities, and pads will equal or exceed 50% of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement is started.

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 reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage or repetitive loss regardless of the actual repair work performed. The term does not, however include either:

- 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 an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

UNIFORM CONSTRUCTION CODE — The statewide building code adopted by The Pennsylvania General Assembly in 1999, applicable to new construction in all municipalities whether administered by the municipality, a third party, or the Department of Labor and Industry. Applicable to residential and commercial buildings, the Code adopted the International Residential Code (IRC) and International Building Code (IBC) of 2003 by reference as the construction standard applicable with the commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

**Part 4**  
**Demolition of Buildings and Structures**  
**[Adopted 2-8-2010 by Ord. No. 2010-1]**

**ARTICLE XVIII**  
**Demolition Permits**

**§ 15-72. Statement of intent.**

The intent of this part is to protect the general health, safety and welfare of the community by requiring certain notices to utilities and others, and application for and receipt of a permit, before demolishing buildings and other structures.

**§ 15-73. Definitions.**

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

**BUILDING** — A combination of materials to form a permanent structure having walls and roof. Included in the definition of "building" shall be all mobile homes and trailers (excluding recreational vehicles not attached to the land).

**DEMOLITION and DEMOLISH** — The act of destroying, wrecking, and/or removal of a building or other structure. "Demolition" and "demolish" does not include the removal from the interior of any building or structure of walls, fixtures, equipment, flooring, or other components where the removal is part of a repair, replacement or remodeling project.

**STRUCTURE** — Anything constructed, placed, or erected on the ground or attached to the ground, including but not limited to buildings, sheds, mobile homes, manufactured houses, barns, cribs, warehouses, garages, and other similar structures. Excluded from the definition of "structure" are structures or buildings that are less than 1,000 square feet in gross area, and have never been serviced by any utility, whether overhead or underground.

**§ 15-74. Demolition permit required.**

A permit is required prior to the demolition of a building or structure.

**§ 15-75. Notice to utilities and PA One Call.**

The applicant for a demolition permit must demonstrate that notice has been given to all utilities that provide service to the building or structure and that those services have been disconnected. The applicant must also provide predemolition notice to PA One Call if any of the demolition activities will involve subsurface work.

**§ 15-76. Application for demolition permit.**

Anyone seeking to demolish a building or structure shall make application to the Butler Township Building Code Officer or other designated official for a demolition permit. No

demolition permit shall be issued until the applicant has complied with the requirements of notification above (see § 15-43) and has paid the required fee(s).

**§ 15-77. Demolition permit fee.**

The Board of Supervisors shall establish the fee or fees for demolition permits by resolution adopted from time to time.

**§ 15-78. Inspection of demolition.**

The Building Code Officer or any other designated official shall have the right to enter property for the purpose of inspecting the demolition of any building or structure, including structures exempted by the definition stated above.

**§ 15-79. Effect on Uniform Construction Code.**

Nothing herein shall be deemed to amend or alter the building code or codes applicable to Butler Township pursuant to the Pennsylvania Uniform Construction Code statutes, or other codes or ordinances adopted by the Township. In the event of a conflict between this part and any such code, the more restrictive shall apply.

**§ 15-80. Violations and penalties.**

Any person who fails to comply with any and all of the requirements of the provisions of this part shall be guilty of an offense and, upon conviction, shall pay a fine to the Township of not less than \$100 nor more than \$1,000, plus the costs of prosecution and the Township's attorneys' fees.



CABLE TELEVISION

Chapter 18

CABLE TELEVISION

ARTICLE I

Purpose

§ 18-1. Purpose.

ARTICLE II

Definitions

§ 18-2. Definitions.

ARTICLE III

Application

§ 18-3. Issuing authority; conditions for issuance.

§ 18-4. Application for license.

§ 18-5. Insurance required.

§ 18-6. Fee.

ARTICLE IV

License

§ 18-7. Issuance.

§ 18-8. Installation; operation.

§ 18-9. Third party agreements.

§ 18-10. Maintenance of insurance required.

§ 18-11. Laws applicable to licensee.

§ 18-12. Indemnification of township.

§ 18-13. Time limits for construction and service.

§ 18-14. Annual license fee.

§ 18-1

BUTLER CODE

§ 18-2

§ 18-15. Business office or agent to be maintained; recordkeeping.

§ 18-16. Sale or assignment of cable television systems.

ARTICLE V  
Revocation

§ 18-17. Revocation of license.

ARTICLE VI  
Violations and Penalties

§ 18-18. Violations and penalties.

[HISTORY: Adopted by the Board of Supervisors of the Township of Butler 4-10-85 as Ord. No. 85-1. Sections 18-3 and 18-18 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

ARTICLE I  
Purpose

§ 18-1. Purpose.

It is hereby declared necessary, for the protection, benefit and safety of the general traveling public and the inhabitants of Butler Township, to require licenses for the construction, maintenance and operation of cable television systems and to establish procedures and policies for the issuance of the same.

ARTICLE II  
Definitions

§ 18-2. Definitions.

For the purposes of this chapter, the following words shall have the meanings ascribed to them as set forth in this section:

**BOARD** — The Board of Supervisors, Butler Township, Adams County, Pennsylvania.

**CABLE TV OPERATION** — Includes the operation, maintenance and construction of a system for the interception, origination, distribution and sale of electronic signals.

**PERSON** — Any individual, firm, partnership, company, corporation, trustee, association or private entity.

**TOWNSHIP** — Butler Township, Adams County, Pennsylvania.

### ARTICLE III Application

#### § 18-3. Issuing authority; conditions for issuance.<sup>1</sup>

Any person desiring to obtain a license for a cable TV operation shall apply to the Board for the same. If the applicant's qualifications are satisfactory to the Board and it appears that all conditions of the law are met and that the public interest will not be adversely affected, the application shall be approved and a license shall be issued to the applicant.

#### § 18-4. Application for license.

The application for a license for cable TV operation shall be made in writing and shall contain the following:

- A. The name and address of the applicant.
- B. Whether the applicant is an individual, private association, partnership or a corporation.
- C. The assumed name, if any, used for doing business in the township.
- D. The mailing address, including zip code, and the telephone number to which all communications are to be directed.
- E. The name, address and telephone number of the business office or agent within the local service area.
- F. A schedule of business hours of the office or agent within the local service area.

<sup>1</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- G. A description of the facilities for which the license is requested, including:
- (1) The number of channels of each type to be provided by such facilities.
  - (2) The number, if any, of wires, conductors and coaxial units of each type (not equipped for immediate operation) capable of providing additional channels of communication only by the construction of additional apparatus, equipment or other facilities.
- H. A map or sketch showing:
- (1) The route of the proposed service area.
  - (2) The type and ownership of structures (open air, area cable, etc.).
- I. A summary of the factors showing the public need for the proposed services.
- J. Economic justification for the proposed services, including estimated revenues and costs, and the basis therefor.
- K. One (1) or more of the following statements, as pertinent:
- (1) If the proposed facilities and services are to be constructed, the details thereof, including a summary of the cost estimate.
  - (2) If the proposed facilities and services are to be leased, the details thereof, including the name of the lessor, a summary of the terms of the lease agreement, anticipated lease rental and any other added cost to the applicant.
  - (3) If the proposed facilities are to be purchased, the name of the vendor, a detailed description of the transaction and a statement of the original cost, plus other added costs to the applicant.
- L. The date of commencement of the proposed services and a schedule of the proposed availability of such services.
- M. A statement by the applicant that he has read and understands the content of this chapter and that he agrees to abide by its terms and to fulfill his obligations hereunder.

**§ 18-5. Insurance required.**

The application shall be accompanied by a binder issued by a reputable insurance company authorized to do business in the Commonwealth of Penn-

sylvania, stating that upon issuance of the license, the insurance company will issue a public liability policy in minimum amounts of one hundred fifty thousand dollars (\$150,000.) for bodily injury or death per person, five hundred thousand dollars (\$500,000.) per claim and fifty thousand dollars (\$50,000.) for property damage. The binder shall contain therein or have contained in a rider attached thereto and made a part thereof a clause to the effect that the insurer will notify the insured and the township in writing sixty (60) days prior to cancellation of the policy. The application shall also be accompanied by a certificate, the form of which shall be approved by the township, attesting that the applicant's employees are covered by adequate workmen's compensation insurance pursuant to the laws of the Commonwealth of Pennsylvania.

**§ 18-6. Fee.**

The application shall be accompanied by a fee of twenty-five dollars (\$25.).

**ARTICLE IV  
License**

**§ 18-7. Issuance.**

Upon satisfaction of the requirements of Article III of this chapter, a license shall be issued for a term of ten (10) years. The license shall be renewable for an additional like term of years upon application as provided in Article III. A license issued under this chapter shall be nonexclusive and shall grant to the licensee, insofar as the township is able to do, the right and privilege to construct, erect, operate and maintain across and over the streets, alleys, roads, public ways and places and all extensions thereof and additions thereto in the township, wires, poles, cables, conductors and such other fixtures necessary for the operation and maintenance of a cable television system as proposed in the application and provided in this chapter.

**§ 18-8. Installation; operation.**

The licensee agrees that its installation and operation shall be installed, located and maintained so as not to endanger or interfere with the life and property of any person or thing, nor interfere with improvements which the township may deem proper, nor hinder or obstruct the free use of streets,

alleys, bridges or other public or private property. In the event the township relocates a street or makes any other change requiring the removal of utility installations or in the event that the licensee does interfere with the public or private property of others, the licensee, at its sole expense, will remove its installation at this location.

**§ 18-9. Third party agreements.**

The licensee shall be solely responsible for entering into agreement with all third parties in connection with the exercise of the license.

**§ 18-10. Maintenance of insurance required.**

The licensee shall at all times during the term of the license maintain insurance as described in the application, per Article II, naming the township as coinsurer.

**§ 18-11. Laws applicable to licensee.**

The licensee shall be subject to all the laws, rules and regulations of the United States of America and the Commonwealth of Pennsylvania and any of their instrumentalities and/or agencies which are applicable to cable TV operation, including, among others, the provisions of the National Electrical Safety Code prepared by the National Bureau of Standards and the National Electrical Code of the National Board of Fire Underwriters.

**§ 18-12. Indemnification of township.**

The licensee shall indemnify and save harmless, in writing, the township from all claims, demands, suits, actions, costs and expenses, including counsel fees, arising out of or caused by the installation, erection or operation, existence or maintenance of the licenses permitted under this chapter. The licensee agrees that in the event of final judgment arising out of such claims, demands, suits or actions set out above, subject to no further appeal, is entered against the township, the licensee will immediately provide to the township, for transmittal to the plaintiff, a sum of money equal to the amount of the said judgment, including any applicable interest and costs entered against the township. It is further expressly understood that the township has no control,

standard or regulation pertaining to the subject matter of programs distributed by the licensee. The licensee agrees to indemnify and save harmless the township, its officers and employees from all claims, suits and actions at law or equity for libel, slander, patent or copyright infringement, and that in the event that the township is made a party defendant in any action arising out of the subject matter of programs transmitted by the licensee, the licensee shall, at its sole cost and expense, defend such action and appeals therefrom.

**§ 18-13. Time limits for construction and service.**

The licensee agrees, as a condition of the license, that it shall begin construction under the license within ninety (90) days after the issuance of the license. The licensee further agrees that over fifty percent (50%) of the service area as proposed in the application shall be receiving completed services within eighteen (18) months of the issuance of the license.

**§ 18-14. Annual license fee.**

In consideration of the permission granted it through the license, the licensee agrees to pay to the township an annual license fee which shall be equal to three percent (3%) of the annual gross operating revenues derived from subscribers within the township. Payment to the township shall be made on April 1 and October 1 for the receipts received by the licensee in the six-month period ending the last day of February and August 31, respectively. In the event that licensee shall fail to make payment on the applicable date, a late payment fee of ten percent (10%) per annum shall be incurred by the licensee to the township on that amount of the license fee which is delinquent. The licensee shall keep full, true, accurate and current account books reflecting its investment and its operations under this chapter, which books and records shall be made available for inspection and copying by the township during reasonable business hours.

**§ 18-15. Business office or agent to be maintained; recordkeeping.**

During the term of the license, the licensee shall maintain a business office or agent within the local service area, having a schedule of business hours, with a listed telephone, and have available sufficient office and maintenance personnel to provide efficient service. The local office shall be open to receive

inquiries or complaints from subscribers during normal business hours. Any complaints from subscribers shall be investigated and acted upon as soon as possible, at least within three (3) business days of their receipt. The licensee shall keep a maintenance service log which shall indicate the nature of each service complaint, the date and time it was received, the disposition of said complaint and the time and date thereof. This log shall be made available for periodic inspection by the township.

**§ 18-16. Sale or assignment of cable television systems.**

The permission and rights granted under this chapter shall not be assigned or sold without the express written consent of the township. In the event of the appointment of a receiver for the licensee or in the event the licensee is adjudged bankrupt or in the event the facilities erected pursuant to this chapter are levied upon under writ or execution, and if any such situation is not rectified within thirty (30) days, this chapter shall be deemed null and void. Subject to the foregoing provisions, a merger of the licensee with another or others whereby the assets of the licensee represent less than one-half (1/2) of the total assets of the total company shall be deemed a sale.

**ARTICLE V  
Revocation**

**§ 18-17. Revocation of license.**

The township may, at any time it so determines that the licensee is violating any of the terms and/or conditions of this chapter or of the license, issue a citation upon the licensee to show cause why the license should not be revoked. A hearing shall be called by the Supervisors within ten (10) days from the date of the citation. If, after the hearing, it is determined that the licensee has violated any of the terms of this chapter or of the license, the license may be revoked.

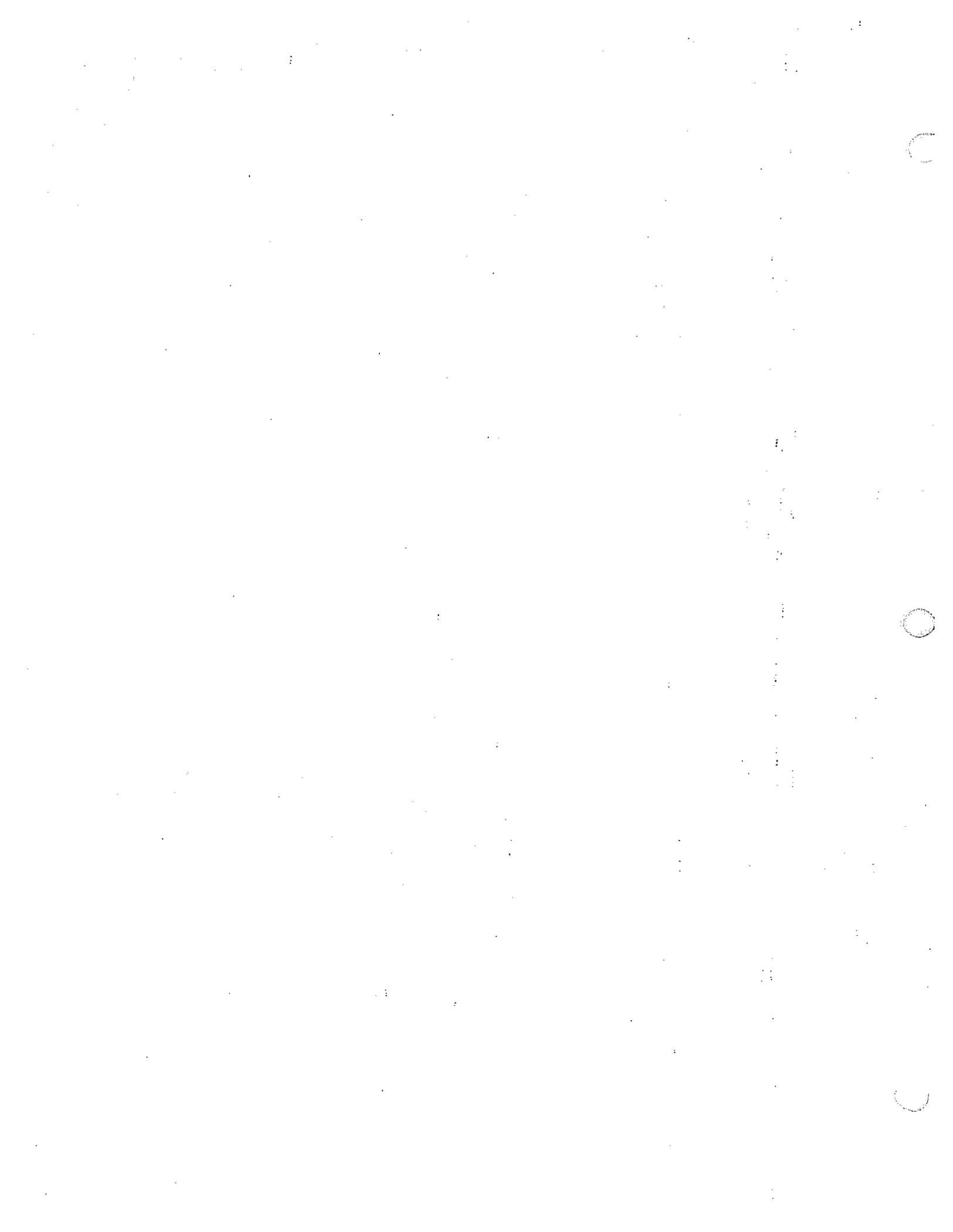
ARTICLE VI  
Violations and Penalties

§ 18-18. Violations and penalties.<sup>2</sup>

Any person violating this chapter shall, upon summary conviction before a District Justice, be sentenced to pay a fine of not more than three hundred dollars (\$300.) and/or to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of this chapter continues shall constitute a separate offense.

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<sup>2</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.



## Chapter 26

### COUNCIL OF GOVERNMENTS

§ 26-1. Incorporation of recitals.

§ 26-3. Agreement; authorization to ratify bylaws.

§ 26-2. Membership in Council of Governments authorized.

§ 26-4. Delegates to Council of Governments.

[HISTORY: Adopted by the Board of Supervisors of the Township of Butler 8-10-2009 by Ord. No. 2009-3. Amendments noted where applicable.]

#### GENERAL REFERENCES

Intergovernmental agreements — See Ch. 49.

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§ 26-1. Incorporation of recitals.

The recitals<sup>1</sup> stated above are incorporated into this chapter as if fully repeated herein.

§ 26-2. Membership in Council of Governments authorized.

The Township is hereby authorized and directed, through its appropriate officers, to cause the Township to become a member of the Adams County Council of Governments.

§ 26-3. Agreement; authorization to ratify bylaws.

The Adams County Council of Governments Proposed Bylaws and Agreement<sup>2</sup> is hereby approved as the agreement for the Adams County Council of Governments, and the delegate from this Township is hereby authorized to ratify and confirm the said proposed bylaws and agreement as and for the operating instrument for the Council of Governments.

§ 26-4. Delegates to Council of Governments.

The Township shall appoint by resolution, from time to time, a delegate to the Council of Governments, and up to two alternate delegates.

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1. Editor's Note: A copy of said recitals, regarding statutory authorization and intent, is on file in the Township offices.

2. Editor's Note: Said bylaws and agreement are on file in the Township offices.

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## Chapter 49

### INTERGOVERNMENTAL AGREEMENTS

#### ARTICLE I

##### Shared Adams County UCC Board of Appeals

- § 49-1. Preamble to ordinance adopting agreement.
- § 49-2. Agreement to establish shared appeals board approved.
- § 49-3. Conditions and copy of agreement.

#### ARTICLE II

##### Pennsylvania Local Government Investment Trust

- § 49-4. Participation authorized; Declaration of Trust.
- § 49-5. Authorization to purchase and redeem shares.
- § 49-6. Custody of funds.
- § 49-7. Findings and determinations.

#### ARTICLE III

##### Biglerville - Butler Emergency Management Intermunicipal Agreement

- § 49-8. Authorization for participation.
- § 49-9. Authorization to execute counterpart originals of agreement.

#### ARTICLE IV

##### PSATS Unemployment Compensation Group Trust

- § 49-10. Restated trust agreement.
- § 49-11. Purpose.
- § 49-12. Conditions for participation.
- § 49-13. Withdrawal from trust.

- § 49-14. Effective date of agreement.
- § 49-15. Delegation of powers.
- § 49-16. Organizational structure.
- § 49-17. Funds for operation of trust.
- § 49-18. Authorization for group insurance and employee benefits.
- § 49-19. Compliance with terms of trust agreement.
- § 49-20. Certified copy of provisions.
- § 49-21. Compliance measures authorized.
- § 49-22. Duration of participation.
- § 49-23. Findings.

#### ARTICLE V

##### PSATS Pension Group Trust

- § 49-24. Restated trust agreement.
- § 49-25. Purpose.
- § 49-26. Conditions for participation.
- § 49-27. Withdrawal from trust.
- § 49-28. Effective date of agreement.
- § 49-29. Delegation of powers.
- § 49-30. Organizational structure.
- § 49-31. Funds for operation of trust.
- § 49-32. Authorization for group insurance and employee benefits.
- § 49-33. Compliance with terms of trust agreement.
- § 49-34. Certified copy of provisions.
- § 49-35. Compliance measures authorized.
- § 49-36. Duration of participation.
- § 49-37. Findings.

ARTICLE VI  
 Pennsylvania Townships Health  
 Insurance Cooperative Trust

- § 49-38. Restated trust agreement.
- § 49-39. Purpose.
- § 49-40. Conditions for participation.
- § 49-41. Withdrawal from trust.
- § 49-42. Effective date of agreement.
- § 49-43. Delegation of powers.
- § 49-44. Organizational structure.
- § 49-45. Funds for operation of trust.
- § 49-46. Authorization for group insurance and employee benefits.
- § 49-47. Compliance with terms of trust agreement.
- § 49-48. Certified copy of provisions.
- § 49-49. Compliance measures authorized.
- § 49-50. Duration of participation.
- § 49-51. Findings.

ARTICLE VII  
 Northern Adams Regional Emergency  
 Management Agency

- § 49-52. Statutory authority.

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

GENERAL REFERENCES

Building construction appeals — See Ch. 15, Art. II

ARTICLE I  
 Shared Adams County UCC Board of Appeals  
 [Adopted 9-12-2005 by Ord. No. 2005-1]

- § 49-1. Preamble to ordinance adopting agreement.
  - A. WHEREAS, pursuant to the Uniform Construction Code Act (35 P.S. § 7210 et seq., as amended) (hereinafter the "Act"), the Township has adopted the Uniform Construction

- § 49-53. Implementation of agreement; agreement available for public inspection.

- § 49-54. Purpose.

- § 49-55. Duration of agreement.

- § 49-56. Financial involvement of Township.

- § 49-57. Organizational structure.

- § 49-58. Acquisition, management, licensing and disposal of property.

- § 49-59. Creation of new entity.

ARTICLE VIII  
 Agreement for Implementing Northwest  
 Adams Joint Comprehensive Plan

- § 49-60. Approval of intergovernmental cooperation agreement.

- § 49-61. Authorization and ratification.

- § 49-62. When effective.

Biglerville-Butler Emergency  
 Management Agency

Code (34 Pa. Code Chapters 401 to 405, as amended from time to time) (hereinafter the "Code").

- B. WHEREAS, the Township has "opted in" to enforcement of the Code, meaning the municipality is responsible for enforcement of the provisions of the Uniform Construction Code;
- C. WHEREAS, pursuant to Section 501(b) of the Act [35 P.S. § 7210.501(b)] and in accordance with 34 Pa. Code § 403.102(g), a municipality that elects to administer and enforce the Code may do so pursuant to an Intermunicipal Agreement under 53 Pa.C.S.A. 2301 through § 2315 (relating to intergovernmental cooperation);
- D. WHEREAS, pursuant to Section 501(c) of the Act [35 P.S. § 7210.501(c)], and Section 403.121 of the Code, a municipality which has adopted an ordinance for the administration and enforcement of the Code or is a party to an Agreement for the joint administration and enforcement of the Code must establish a Board of Appeals.
- E. WHEREAS, a shared appeals board will be established pursuant to an intergovernmental cooperation agreement entitled the "Intermunicipal Agreement Creating a Shared Adams County UCC Board of Appeals" ("the agreement").
- F. WHEREAS, pursuant to the Pennsylvania Intergovernmental Cooperation Act, 53 Pa.C.S.A. § 481 et seq., a municipality may enter into an intergovernmental cooperation agreement upon the passage of an ordinance by its governing body.

#### **§ 49-2. Agreement to establish shared appeals board approved.**

This political subdivision hereby approves and adopts the agreement, a copy of which is attached hereto and incorporated herein by reference as Exhibit A<sup>1</sup> and directs the appropriate Township official to execute the agreement on its behalf.

#### **§ 49-3. Conditions and copy of agreement.**

- A. The conditions of agreement, the duration of the term of the agreement, the purpose and objectives of the agreement, the manner and extent of financing the agreement and the organizational structure necessary to implement the agreement are all set forth at length in the agreement which is attached as Exhibit A hereto.
- B. A copy of the agreement shall be filed with the minutes of the meeting at which this article was enacted and the appropriate Township official is directed to execute the agreement on behalf of Butler Township, with the intent and effect that this political subdivision shall be bound by the agreement.

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1. Editor's Note: Exhibit A is on file in the Township offices.

ARTICLE II  
Pennsylvania Local Government Investment Trust  
[Adopted 5-8-2006 by Ord. No. 2006-3]

**§ 49-4. Participation authorized; Declaration of Trust.**

Butler Township, Adams County, Pennsylvania (hereinafter "Township"), shall join with other local governmental units in accordance with the Intergovernmental Cooperation Act and other similar acts by becoming a settlor of the Pennsylvania Local Government Investment Trust ("the trust") and entering into the Declaration of Trust, which is adopted by reference with the same effect as if it had been set out verbatim in this section and a copy of which shall be filed with the minutes of the meeting at which this article was adopted.

**§ 49-5. Authorization to purchase and redeem shares.**

The Township is authorized to purchase shares in the trust from time to time with available funds and to redeem some or all of those shares from time to time as funds are needed for other purposes, subject to the terms and restrictions of the Declaration of Trust referred to in § 49-4. These actions are to be taken by the officers designated for this purpose, pursuant to general or specific instructions by the governing body of the Township.

**§ 49-6. Custody of funds.**

The Trustees of the trust are designated as having official custody of Township's funds that are invested by the purchase of shares in the trust.

**§ 49-7. Findings and determinations.**

As required by the Intergovernmental Cooperation Act, the following matters are specifically found and determined:

- A. The conditions of the agreement are set forth in the Declaration of Trust referred to in § 49-4;
- B. The Township's participation in the trust shall be terminable at any time by resolution, subject to the terms and restrictions of the Declaration of Trust referred to in § 49-4;
- C. The Declaration of Trust and the purchase of its shares are for the purpose of investing the Township's funds in obligations which are otherwise legal investments, as part of a pooled arrangement with other local governmental units, thereby achieving economic and other advantages of pooled investments, and the powers and scope of authority delegated are set forth in the Declaration of Trust referred to in § 49-4;
- D. It is not necessary to finance the agreement authorized herein from funds of this governmental unit except through the purchase of shares in the trust;
- E. The trust shall be managed by a Board of Trustees as set forth in the Declaration of Trust and the Bylaws provided for therein;

- F. Shares may be repurchased and redeemed from time to time as the Township may determine to be necessary or appropriate to meet its cash investment requirements in accordance with the terms and restrictions of the Declaration of Trust referred to in § 49-4;
- G. The trust shall be empowered to enter into contracts for policies of group insurance and employee benefits, including social security, for its employees.

### ARTICLE III

#### **Biglerville - Butler Emergency Management Intermunicipal Agreement [Adopted 2-8-2010 by Ord. No. 2010-2]**

##### **§ 49-8. Authorization for participation.**

The Board of Supervisors hereby authorizes the joinder of Butler Township, Adams County, Pennsylvania, with the Borough of Biglerville, Adams County, Pennsylvania, in the Biglerville – Butler Emergency Management (BBEMA) Intermunicipal Agreement creating the Biglerville – Butler Emergency Management Agency. A copy of the said agreement is appended to this article and made a part hereof.<sup>2</sup>

##### **§ 49-9. Authorization to execute counterpart originals of agreement.**

The Chairman or Vice Chairman, and the Secretary, are hereby authorized and directed to execute counterpart originals of the said agreement in the name of the Township of Butler.

### ARTICLE IV

#### **PSATS Unemployment Compensation Group Trust [Adopted 12-8-2014 by Ord. No. 2014-1]**

##### **§ 49-10. Restated trust agreement.**

- A. The Chairman of the Board of Supervisors and Secretary of the Township are hereby authorized to sign and execute the restated trust agreement and any other agreements necessary for the Township's participation in the trust and to acknowledge the Township's acceptance of the restated trust agreement.
- B. The restated trust agreement is on file for inspection and review at the Township's offices at 2379 Table Rock Road, Biglerville, PA 17307. The restated trust agreement may be subsequently modified or amended in accordance with its terms, but in no event shall such modifications or amendments divert any of the trust funds from the purposes of the trust. The Township may withdraw from the trust in accordance with the restated trust agreement, including if the Board of Supervisors determines the modifications or amendments are not in the best interests of the Township.

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2. Editor's Note: A copy of said agreement is included at the end of this chapter.

**§ 49-11. Purpose.**

The participation of the Township in the trust is authorized for the purpose of pooling resources for the purpose of providing unemployment compensation insurance for participating employers at reasonable cost.

**§ 49-12. Conditions for participation.**

As set forth in greater detail in the restated trust agreement and as otherwise stated herein, the following conditions apply to the participation of the Township in the trust:

- A. Each participating employer must meet the admission and eligibility requirements set forth therein;
- B. Each participating employer agrees to pay all contributions when due as provided in the restated trust agreement or as otherwise established by the Board of Trustees; and
- C. Each participating employer complies with all other conditions of the restated trust agreement.

**§ 49-13. Withdrawal from trust.**

The Township agrees to participate in the trust and may withdraw for any reason and in accordance with the restated trust agreement, provided that it has fulfilled all its financial obligations to the trust upon withdrawal.

**§ 49-14. Effective date of agreement.**

The effective date of the Township's agreement to and joinder in the restated trust agreement and the participation of the Township in the trust pursuant to the terms of the restated trust agreement is retroactively approved to be as of July 16, 2014.

**§ 49-15. Delegation of powers.**

Each participating employer delegates to the Board of Trustees the powers enumerated in the restated trust agreement.

**§ 49-16. Organizational structure.**

The organizational structure of the trust shall consist of a Board of Trustees. Under the restated trust agreement, the Board of Trustees is authorized to, among other things, enter into contracts with third parties to perform various services necessary for the administration of the trust.

**§ 49-17. Funds for operation of trust.**

The funds required for the operation of the trust shall be provided by the participating employers through scheduled appropriations as determined by the Board of Trustees.

**§ 49-18. Authorization for group insurance and employee benefits.**

The trust is empowered to enter into contracts for policies of group insurance and employee benefits, including Social Security, for employees of the trust, if any.

**§ 49-19. Compliance with terms of trust agreement.**

As a condition of participating in the trust, the Township agrees to comply with all of the terms and conditions in the restated trust agreement.

**§ 49-20. Certified copy of provisions.**

The Secretary of the Township shall provide a certified copy of this article upon its enactment to the Board of Trustees of the trust.

**§ 49-21. Compliance measures authorized.**

The Board of Supervisors of the Township is hereby authorized to take any and all such other actions as may be necessary or appropriate to carry out the purposes of this article and comply with the requirements of the attached restated trust agreement<sup>3</sup> and any duly adopted amendments thereto.

**§ 49-22. Duration of participation.**

The duration of the term of the Township's participation in the trust and obligations under the restated trust agreement shall continue until withdrawal from the trust by the Township in accordance with the terms of the restated trust agreement.

**§ 49-23. Findings.**

The Board of Supervisors hereby specifically finds and determines as follows:

- A. The conditions of the intergovernmental cooperative agreement are set forth in the restated trust agreement incorporated by reference herein.
- B. The Township shall participate in the trust in accordance with the restated trust agreement until it withdraws by giving notice to the Board of Trustees in accordance with the terms of the restated trust agreement.

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3. Editor's Note: The restated trust agreement is on file in the Township offices.

- C. The purpose and objectives of the intergovernmental cooperative arrangement, including powers and scope of authority delegated to the Board of Trustees, are set forth in the incorporated restated trust agreement.
- D. The manner and extent of financing of the agreement are that:
  - (1) Funds to implement the Township's obligations under the agreement shall come from the normal and usual budgeted amounts for Township employee compensation and employee benefits; and
  - (2) No borrowing is anticipated to be required.
- E. The trust shall be managed by the Board of Trustees pursuant to the terms of the restated trust agreement.
- F. All assets and property, real or personal, of the trust shall be titled to, acquired, managed, licensed or disposed of by the trust, and its Board of Trustees, in accordance with the terms of the restated trust agreement.
- G. The trust in accordance with the restated trust agreement shall be empowered to enter into contracts for policies of group insurance and employee welfare benefits to be offered to participating employers for their eligible employees and dependents.

ARTICLE V  
PSATS Pension Group Trust  
[Adopted 12-8-2014 by Ord. No. 2014-2]

**§ 49-24. Restated trust agreement.**

- A. The Chairman of the Board of Supervisors and Secretary of the Township are hereby authorized to sign and execute the restated trust agreement and any other agreements necessary for the Township's participation in the trust and to acknowledge the Township's acceptance of the restated trust agreement.
- B. The restated trust agreement is on file for inspection and review at the Township's offices at 2379 Table Rock Road, Biglerville, PA 17307. The restated trust agreement may be subsequently modified or amended in accordance with its terms, but in no event shall such modifications or amendments divert any of the trust funds from the purposes of the trust. The Township may withdraw from the trust in accordance with the restated trust agreement, including if the Board of Supervisors determines the modifications or amendments are not in the best interests of the Township.

**§ 49-25. Purpose.**

The participation of the Township in the trust is authorized for the purpose of offering high-quality pension and retirement plans at a reasonable cost to the Township and its employees.

**§ 49-26. Conditions for participation.**

As set forth in greater detail in the restated trust agreement and as otherwise stated herein, the following conditions apply to the participation of the Township in the trust:

- A. Each participating employer must meet the admission and eligibility requirements set forth therein;
- B. Each participating employer agrees to pay all contributions when due as provided in the restated trust agreement or as otherwise established by the Board of Trustees; and
- C. Each participating employer complies with all other conditions of the restated trust agreement.

**§ 49-27. Withdrawal from trust.**

The Township agrees to participate in the trust and may withdraw for any reason and in accordance with the restated trust agreement, provided that it has fulfilled all its financial obligations to the trust upon withdrawal.

**§ 49-28. Effective date of agreement.**

The effective date of the Township's agreement to and joinder in the restated trust agreement and the participation of the Township in the trust pursuant to the terms of the restated trust agreement will be retroactively approved as of October 15, 2014.

**§ 49-29. Delegation of powers.**

Each participating employer delegates to the Board of Trustees the powers enumerated in the restated trust agreement.

**§ 49-30. Organizational structure.**

The organizational structure of the trust shall consist of a Board of Trustees. Under the restated trust agreement, the Board of Trustees is authorized to, among other things, enter into contracts with third parties to perform various services necessary for the administration of the trust.

**§ 49-31. Funds for operation of trust.**

The funds required for the operation of the trust shall be provided by the participating employers through scheduled appropriations as determined by the Board of Trustees.

**§ 49-32. Authorization for group insurance and employee benefits.**

The trust is empowered to enter into contracts for policies of group insurance and employee benefits, including Social Security, for employees of the trust, if any.

**§ 49-33. Compliance with terms of trust agreement.**

As a condition of participating in the trust, the Township agrees to comply with all of the terms and conditions in the restated trust agreement.

**§ 49-34. Certified copy of provisions.**

The Secretary of the Township shall provide a certified copy of this article upon its enactment to the Board of Trustees of the trust.

**§ 49-35. Compliance measures authorized.**

The Board of Supervisors of the Township is hereby authorized to take any and all such other actions as may be necessary or appropriate to carry out the purposes of this article and comply with the requirements of the restated trust agreement and any duly adopted amendments thereto.

**§ 49-36. Duration of participation.**

The duration of the term of the Township's participation in the trust and obligations under the restated trust agreement shall continue until withdrawal from the trust by the Township in accordance with the terms of the restated trust agreement.

**§ 49-37. Findings.**

The Board of Supervisors hereby specifically finds and determines as follows:

- A. The conditions of the intergovernmental cooperative agreement are set forth in the restated trust agreement incorporated by reference herein.
- B. The Township shall participate in the trust in accordance with the restated trust agreement until it withdraws by giving notice to the Board of Trustees in accordance with the terms of the restated trust agreement.
- C. The purpose and objectives of the intergovernmental cooperative arrangement, including powers and scope of authority delegated to the Board of Trustees, are set forth in the incorporated restated trust agreement.
- D. The manner and extent of financing of the agreement are that:
  - (1) Funds to implement the Township's obligations under the agreement shall come from the normal and usual budgeted amounts for Township employee compensation and employee benefits; and
  - (2) No borrowing is anticipated to be required.
- E. The trust shall be managed by the Board of Trustees pursuant to the terms of the restated trust agreement.

- F. All assets and property, real or personal, of the trust shall be titled to, acquired, managed, licensed or disposed of by the trust, and its Board of Trustees, in accordance with the terms of the restated trust agreement.
- G. The trust in accordance with the restated trust agreement shall be empowered to enter into contracts for the creation and administration of group and/or individual pension and retirement plans to be offered to participating employers for their eligible employees and dependents.

#### ARTICLE VI

#### Pennsylvania Townships Health Insurance Cooperative Trust

[Adopted 1-12-2015 by Ord. No. 2014-3]

#### § 49-38. Restated trust agreement.

- A. The Township adopts the restated trust agreement and agrees to participate in the trust in accordance with the amended and updated terms of the restated trust agreement, and the Chairman of the Board of Supervisors and Secretary of the Township are hereby authorized to sign the restated trust agreement and any other agreements necessary for the Township's participation in the trust.
- B. The restated trust agreement is on file for inspection and review at the Township's offices at 2379 Table Rock Road, Biglerville, PA 17307. The restated trust agreement may be subsequently modified or amended in accordance with its terms, but in no event shall such modifications or amendments divert any of the trust funds from the purposes of the trust. The Township may withdraw from the trust in accordance with the restated trust agreement, including if the Board of Supervisors determines the modifications or amendments are not in the best interests of the Township.

#### § 49-39. Purpose.

The participation of the Township in the trust is authorized for the purpose of obtaining high-quality, cost-effective medical, prescription, dental, life, disability, vision and/or other employee welfare benefit insurance at a reasonable cost to the Township and its employees.

#### § 49-40. Conditions for participation.

As set forth in greater detail in the restated trust agreement and as otherwise stated herein, the following conditions apply to the participation of the Township in the trust:

- A. Each participating employer must meet the admission and eligibility requirements set forth therein;
- B. Each participating employer agrees to pay all contributions when due as provided in the restated trust agreement or as otherwise established by the Board of Trustees; and
- C. Each participating employer complies with all other conditions of the restated trust agreement.

**§ 49-41. Withdrawal from trust.**

The Township agrees to participate in the trust and may withdraw for any reason and in accordance with the restated trust agreement, provided that it has fulfilled all its financial obligations to the trust upon withdrawal.

**§ 49-42. Effective date of agreement.**

The effective date of the Township's agreement to and joinder in the restated trust agreement and the participation of the Township in the trust pursuant to the terms of the restated trust agreement will be January 12, 2015.

**§ 49-43. Delegation of powers.**

Each participating employer delegates to the Board of Trustees the powers enumerated in the restated trust agreement.

**§ 49-44. Organizational structure.**

The organizational structure of the trust shall consist of a Board of Trustees. Under the restated trust agreement, the Board of Trustees is authorized to, among other things, enter into contracts with third parties to perform various services necessary for the administration of the trust.

**§ 49-45. Funds for operation of trust.**

The funds required for the operation of the trust shall be provided by the participating employers through scheduled appropriations as determined by the Board of Trustees.

**§ 49-46. Authorization for group insurance and employee benefits.**

The trust is empowered to enter into contracts for policies of group insurance and employee, benefits, including Social Security, for employees of the trust, if any.

**§ 49-47. Compliance with terms of trust agreement.**

As a condition of participating in the trust, the Township agrees to comply with all of the terms and conditions in the restated trust agreement.

**§ 49-48. Certified copy of provisions.**

The Secretary of the Township shall provide a certified copy of this article upon its enactment to the Board of Trustees of the trust.

**§ 49-49. Compliance measures authorized.**

The Board of Supervisors of the Township is hereby authorized to take any and all such other actions as may be necessary or appropriate to carry out the purposes of this article and comply with the requirements of the restated trust agreement and any duly adopted amendments thereto.

**§ 49-50. Duration of participation.**

The duration of the term of the Township's participation in the trust and obligations under the restated trust agreement shall continue until withdrawal from the trust by the Township in accordance with the terms of the restated trust agreement.

**§ 49-51. Findings.**

The Board of Supervisors hereby specifically finds and determines as follows:

- A. The conditions of the intergovernmental cooperative agreement are set forth in the restated trust agreement incorporated by reference herein.
- B. The Township shall participate in the trust in accordance with the restated trust agreement until it withdraws by giving notice to the Board of Trustees at least 90 days in advance to become effective on either June 30 or December 31 of a given plan year; or in the case of an initial year of participation in the trust shall participate for a minimum of one year.
- C. The purpose and objectives of the intergovernmental cooperative arrangement, including powers and scope of authority delegated to the Board of Trustees, are set forth in the incorporated restated trust agreement.
- D. The manner and extent of financing of the restated trust agreement are that:
  - (1) Funds to implement the Township's obligations under the restated trust agreement shall come from the normal and usual budgeted amounts for Township employee compensation and employee benefits; and
  - (2) No borrowing is anticipated to be required.
- E. The trust shall be managed by the Board of Trustees pursuant to the terms of the restated trust agreement.
- F. All assets and property, real or personal, of the trust shall be titled to, acquired, managed, licensed or disposed of by the trust, and its Board of Trustees, in accordance with the terms of the restated trust agreement.
- G. The trust, in accordance with the restated trust agreement, shall be empowered to enter into contracts for policies of group insurance and employee welfare benefits to be offered to participating employers for their eligible employees and dependents.

## ARTICLE VII

**Northern Adams Regional Emergency Management Agency  
[Adopted 11-9-2015 by Ord. No. 2015-1]****§ 49-52. Statutory authority.**

This article is adopted pursuant to the Pennsylvania Area Government and Intergovernmental Cooperation law, 53 Pa.C.S.A. § 2301 et seq.

**§ 49-53. Implementation of agreement; agreement available for public inspection.**

The agreement for intergovernmental cooperation between and among Butler Township, Biglerville Borough, Franklin Township, Menallen Township and Tyrone Township, Adams County, Pennsylvania, for the establishment of the Northern Adams Regional Emergency Management Agency ("Agency") stated in an intermunicipal agreement ("agreement"), approved and signed by Butler Township at a duly held public meeting on November 9, 2015, is hereby approved for implementation by this article. A full copy of the said agreement shall be maintained and available for public inspection at the Township office, 2379 Table Rock Road, Biglerville, PA 17307.

**§ 49-54. Purpose.**

The purpose and objectives of the agreement are to provide the duties and obligations of local governments as stated in 35 Pa.C.S.A., Health And Safety, Part V, Emergency Management Services, Chapter 75 Local Organizations and Services, 35 Pa.C.S.A. § 7501 et seq. Those duties and obligations will be delegated to the agency for implementation.

**§ 49-55. Duration of agreement.**

The duration of the agreement is unlimited until terminated in accord with provisions of the agreement by way of repeal of this article and a five-day notice to the agency of such repeal.

**§ 49-56. Financial involvement of Township.**

Butler Township has a financial involvement with the implementation of the agreement based upon its proportional population of the total population of all municipalities served by the agency.

**§ 49-57. Organizational structure.**

There is an organizational structure in the form of an Executive Committee in which Butler Township is a participant with an equal vote with all other participants for the implementation of the agreement and operation of the Agency.

**§ 49-58. Acquisition, management, licensing and disposal of property.**

The acquisition, management, licensing or disposal of real or personal property in the implementation of the agreement will be by and through the Executive Committee of the Agency.

**§ 49-59. Creation of new entity.**

A new entity is being created by the implementation of the agreement.

**ARTICLE VIII****Agreement for Implementing Northwest Adams Joint Comprehensive Plan  
[Adopted 3-14-2016 by Ord. No. 2016-1]****§ 49-60. Approval of intergovernmental cooperation agreement.**

The Board of Supervisors hereby approves entering into the agreement, a copy of which is attached hereto as Attachment A and incorporated herein by reference,<sup>4</sup> with the intent and effect that the Township shall be bound by the agreement.

**§ 49-61. Authorization and ratification.**

- A. The Chairman of the Board of Supervisors is hereby authorized and directed, on behalf of the Board of Supervisors to:
- (1) Execute and deliver the agreement; and
  - (2) Take such further actions, as may be necessary or appropriate to carry forth the agreement.
- B. All actions of any officer, agent, or other representative of the Township heretofore taken in pursuit of this agreement and/or the Township's participation therein, are hereby ratified and authorized.
- C. The Board of Supervisors is hereby authorized to take, or cause such actions to be taken, as may be necessary or appropriate to carry out the purposes of this article and of the agreement.

**§ 49-62. When effective.**

This article shall become effective upon enactment by both the Borough Council of the Borough of Arendtsville, Adams County, Pennsylvania, and the Board of Supervisors of the Township of Butler, Adams County, Pennsylvania, as provided by law.

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4. Editor's Note: Attachment A is on file in the Township offices.



INTERGOVERNMENTAL AGREEMENTS

*49 Attachment 1*

**Township of Butler**

**Biglerville-Butler Emergency Management Agency  
(BBEMA)**

**Inter-municipal Agreement (IA)**

**ARTICLE I – Establishment of the Biglerville-Butler Emergency Management Agency**

1. There is hereby established and maintained the "Biglerville-Butler Emergency Management Agency" (hereinafter the "Biglerville-Butler EMA" or "Regional EMA"). This Agency shall exercise all powers and fulfill all duties of each participating municipality as set forth in 35 Pa. C.S.A. § 7501 (the Act), as amended from time to time.
2. The Biglerville-Butler EMA shall, on behalf of the participating municipalities:
  - a. Prepare, maintain and keep current a disaster emergency management plan for the prevention and minimization of injury and damage caused by disaster, prompt and effective response to disaster and disaster emergency relief and recovery in consonance with the Pennsylvania Emergency Management Plan.
  - b. Establish, equip and staff an emergency operations center, consolidated with warning and communication systems to support operations in emergencies and provide other essential facilities and equipment for agencies and activities assigned emergency functions.
  - c. Provide individual and organizational training programs to insure prompt, efficient and effective disaster emergency services.
  - d. Organize, prepare and coordinate all locally available manpower, materials, supplies, equipment, facilities and services necessary for disaster emergency readiness, response and recovery.
  - e. Adopt and implement precautionary measures to mitigate the anticipated effects of disaster.
  - f. Execute and enforce such rules and orders as the agency shall adopt and promulgate under the authority of this part.
  - g. Cooperate and coordinate with any public and private agency or entity in achieving any purpose of this part.
  - h. Have available for inspection at appropriate locations all emergency management plans, rules and orders of the Governor and the agency.

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- i. Provide prompt and accurate information regarding local disaster emergencies to appropriate Commonwealth and local officials and agencies and the general public.
- j. Participate in all tests, drills and exercises, including remedial drills and exercises, scheduled by appropriate official entities.

### ARTICLE II – Jurisdiction

The jurisdiction of the Biglerville-Butler EMA shall be the entire combined area of all municipalities participating in this Agreement. It shall be the role of the Executive Committee and any coordinator hired pursuant to 35 Pa. C.S.A. § 7501 et. set, to coordinate the exercise of the powers and the performance of the duties as set forth in 35 Pa. C.S.A. § 7503, as amended from time to time, on behalf of all participating municipalities.

### ARTICLE III – Executive Committee

1. The Biglerville-Butler EMA shall be governed by an Executive Committee which shall be comprised of two elected members from each participating municipality's governing body and the Emergency Management Coordinator. The Executive Committee shall govern the Regional EMA according to the limitations of this Agreement and those imposed by law.
2. Each representative on the Executive Committee shall be entitled to one vote.
3. An annual meeting of the Executive Committee will be held in the month of August, at such time and on such date as determined by the majority of representatives to the Executive Committee. Notice of the date, time and location of the annual meeting must be given to each participating municipality at least two weeks in advance thereof.
4. Additional meetings of the Executive Committee may be called upon the agreement of any three representatives to the Executive Committee. Notice of any additional meetings must be given to every member at least one week in advance thereof.
5. Any member of the Executive Committee may call an emergency meeting at any time. Notice of the emergency meeting must be given to all members at least 24 hours in advance, and the notice must state the specific and emergency nature of the business to be conducted or transacted at such meeting.
6. The Executive Committee shall have all expressed and implied powers as may be necessary to carry out the purposes of this Agreement, and the requirements of the Act.

**Quorum.** The Executive Committee shall be authorized to act whenever a quorum is represented at the meeting where action is to occur. A quorum will be reached when a

## INTERGOVERNMENTAL AGREEMENTS

majority of all the representatives are present at a meeting of the Executive Committee. Provided, however, that when a quorum is present, the majority vote of those representatives present shall be sufficient to bind the Executive Committee.

### ARTICLE IV – Budgeting, Assignment of Costs and Designation of Agent

1. Biglerville Borough is hereby designated as the administrative municipality and the agent for each participating municipality for the purposes of paying the expenses of the Biglerville-Butler EMA. Biglerville Borough will take responsibility for payroll and accounting for the Regional EMA. It will also be responsible for billing for materials used in any particular incident according to this Agreement or any requirement imposed by the Act, Biglerville Borough will be reimbursed for the actual time spent by its staff in completing the administrative duties for the Regional EMA. The reimbursement shall be made at the hourly pay rate of the employee actually completing the work.
2. All bills and claims for expenses incurred by or for the Biglerville-Butler EMA shall be paid by, accounted for, and reimbursed to Biglerville-Butler EMA in accordance with 35 Pa. C.S.A. § 7515, as amended from time to time.
3. The amount to be appropriated by each participating municipality from year to year shall be suggested by the Executive Committee on a per capita basis. All customary and routine administrative costs for operating the Biglerville-Butler EMA shall be divided on a per capita basis among the participating municipalities. These routine administrative costs include training, administrative time of Biglerville-Butler EMA personnel, and administrative costs and overhead.
4. All costs relating to a "call out" or response to an emergency by the Regional EMA, that a municipality would ordinarily be responsible for in the absence of this agreement, shall be reimbursed by the municipality in which the "call out" or emergency occurred. If an EMA incident affects more than one participating municipality, the costs associated with any such call out shall be divided proportionally, based upon per capita population, among all municipalities involved in the call out. The costs addressed in this paragraph 4 shall not include the amount paid by each participating municipality toward the common operating expenses.
5. The parties hereto agree that any costs incurred for stockpiling of supplies and response materials which the Regional EMA must necessarily maintain or accumulate will be divided among the participating municipalities on a per capita basis.

### ARTICLE V – MISCELLANEOUS PROVISIONS

1. Amendment or Alteration of Agreement. No amendment or alteration of this Agreement shall be binding on any party unless it is contained in a writing approved

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by that party, and approved by that party's governing body at a meeting held in accord with the Sunshine Act, as amended from time to time.

2. Ordinance. Each party desiring to enter into this Agreement must adopt an ordinance authorizing the officers of the party to enter into this Agreement at a public meeting and in accord with the procedures required for the adoption of an ordinance by that party.

Chapter 55

JUNKYARDS

- § 55-1. Short title.
- § 55-2. Definitions.
- § 55-3. License required; term of license; renewal.
- § 55-4. Application for license; requirements.
- § 55-5. Bond requirements.
- § 55-6. Issuance of license.
- § 55-7. License fee.
- § 55-8. License limitations.
- § 55-9. Transfer of license.
- § 55-10. Transfer fee.
- § 55-11. (Reserved)
- § 55-12. Recordkeeping.
- § 55-13. Delay in disposal required.
- § 55-14. Regulations.
- § 55-15. Violations and penalties.
- § 55-16. Abatement of nuisance.

[HISTORY: Adopted by the Board of Supervisors of the Township of Butler 10-11-73 as Ord. No. 73-2. Section 55-15 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. 63.

§ 55-1. Short title.

This chapter shall be known as the "Butler Township Junkyard and Refuse Ordinance."

**§ 55-2. Definitions.**

Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meanings indicated:

**BOARD** — The Board of Supervisors of Butler Township.

**JUNK** — Includes any discarded or used article or material, and shall include but not be limited to scrap metal, scrappable motor vehicles and machinery (see definition below), machinery, equipment, paper, glass, containers, structures and other waste material and rubbish, whether held for resale or otherwise. It shall not include, however, garbage or refuse kept by a person on his property in a proper container for immediate disposal nor manure piles on operating farms.

**JUNK DEALER** — Any person who shall engage in the business of receiving, purchasing, accumulating, salvaging, processing, selling, storing and dealing in junk and who maintains and operates a junkyard within the township.

**JUNKYARD** — Any place where junk, as hereinbefore defined, is purchased, received, stored, accumulated, processed, sold or otherwise disposed of. It shall include any place of storage or deposit in the township which displays or contains three (3) or more unregistered, nonoperative motor vehicles or machines or parts of motor vehicles or other machines, old iron and metal which has been a part of any motor vehicle or other machine, the sum of which parts or material shall be equal in bulk to three (3) or more vehicles or machines.

**LICENSE** — The permit granted to a person who receives, purchases, accumulates, stores, possesses, sells or disposes of junk as hereinbefore defined.

**PERSON** — Includes any individual, partnership, association, firm or corporation.

**SCRAPPABLE MOTOR VEHICLE AND MACHINERY** — Includes any vehicle or machine which cannot be demonstrably operated for useful purposes and would in normal use be registered with the Department of Motor Vehicles but is not so registered, or cannot be demonstrably operated for useful purposes and would not normally be registered with the Department of Motor Vehicles. Such term shall not include:

- A. Vehicles or machinery housed in a garage or barn or where said vehicle or machinery is not visible in any part from a public road.
- B. Vehicles or machinery either originally intended or subsequently modified for use in agricultural or forestry pursuits, provided that said vehicle or machine is demonstrably operable and owned by a person engaged in agriculture or forestry pursuits.
- C. Any vehicle bearing a current registration with the Department of Motor Vehicles, provided that said vehicle is in such a condition that it can be demonstrably operated.

TOWNSHIP — Butler Township, Adams County, Pennsylvania.

**§ 55-3. License required; term of license; renewal.**

- A. No person shall engage in business as a junk dealer or maintain a junkyard without having first obtained a license from the Board, for which license a fee in accordance with the schedule hereinafter set forth shall be paid to the township, for the use of the township.
- B. The license shall be issued for an initial period beginning on the effective date thereof and ending on the last day of the calendar year, and thereafter for the calendar year.
- C. Each license shall be renewed annually on or before the first day of each year.

**§ 55-4. Application for license; requirements.**

The license provided for in this chapter shall be issued by the Board after written application and proof of bond shall be made therefor by the person desiring to be licensed. Such application shall state the name of the person to whom such license is to be issued and the premises on which such business is to be conducted or such junkyard is to be maintained. Such license shall be posted conspicuously upon the premises licensed thereunder. The written application for license hereinabove mentioned shall be accompanied by a form, every question of which must be answered, which form will be supplied by the Board. The applicant shall also submit therewith a plot of the premises used or to be used in connection with such license, together with a proposal showing how junk shall be arranged on such premises.

**§ 55-5. Bond requirements.**

A bond in the penal sum of two thousand dollars (\$2,000.) shall accompany every application for license. The bond shall be executed by a surety company authorized by the laws of Pennsylvania to transact business within the Commonwealth of Pennsylvania. The township may, in lieu of such surety bond, accept a bond executed by the applicant for license if such bond is secured by the deposit with the Township Secretary of a cashier's check, treasurer's check or certificate of deposit of a banking institution in the total sum of two thousand dollars (\$2,000.). The bond shall be renewed and re-filled annually at the time of the renewal of the license. The bond shall be executed in favor of the Township of Butler and shall be for the use of the township. The term of the bond shall be for one (1) year. It shall be the condition of the bond that if, upon and after the issuance of such license, the said licensee shall fully and faithfully observe and comply with the provisions of this chapter and any rules or regulations promulgated by virtue hereof by the Township Board of Supervisors, then the obligation of said bond shall be void; otherwise it shall remain in full force, virtue and effect.

**§ 55-6. Issuance of license.**

Upon receipt of the application and proof of bond by the Board, the Board shall issue a license or shall refuse to issue a license to the person applying therefor, after an inspection of the proposed area and taking into consideration the suitability of the property, the character of the properties located nearby and the effect of the proposed use upon the township, both economically and aesthetically. In the event that the Board shall issue a license, it may impose upon the license and the person applying therefor, in addition to the regulations herein contained, any additional terms and conditions adopted pursuant to this chapter as may be deemed necessary to carry out the spirit hereof.

**§ 55-7. License fee. [Amended 12-13-73 by Ord. No. 73-2a]**

- A. The license fee shall be paid immediately upon issuance or renewal of a license, the amount thereof to be calculated in accordance with the following schedule as determined by the actual land to be used by the person to whom the license is issued, excluding all setback areas:

- (1) Less than one (1) acre: fifty dollars (\$50.).
  - (2) Not less than one (1) acre and not more than five (5) acres: one hundred dollars (\$100.).
  - (3) From five (5) acres to the maximum of ten (10) acres: two hundred dollars (\$200.).
- B. No license shall be issued for the use of a tract of land in excess of ten (10) acres, excluding setback areas.

**§ 55-8. License limitations.**

No person licensed under this chapter shall, by virtue of one (1) license, keep more than one (1) place of business in the township or maintain more than one (1) junkyard for the purpose of receiving, accumulating, buying, storing, selling and dealing in junk. No person shall engage in business as a junk dealer or maintain a junkyard at any township location other than the place designated upon his license.

**§ 55-9. Transfer of license.**

No license issued by the Board shall be transferable by the licensee to any other person unless authorized by the Board. Any person desiring to transfer his license shall notify the Board in writing, which notification shall be accompanied by an application from the proposed transferee for a license as provided in § 55-4 of this chapter.

**§ 55-10. Transfer fee.**

In the event the Board shall approve the transfer of a license, the transferee shall immediately pay to the township a transfer fee of ten dollars (\$10.).

**§ 55-11. (Reserved)<sup>1</sup>**

<sup>1</sup> Editor's Note: Former § 55-11, Existing junkyards, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**§ 55-12. Recordkeeping.**

Every person licensed under this chapter shall provide and regularly keep such permanent books and records as may be required by law and/or by rules and regulations of the Board, in which shall be fairly recorded in the English language at the time of acquisition of any junk a description of every article or material acquired by him, the date and hour of such purchase and the person from whom such article or material was purchased, acquired or received. Such records shall at all times be subject to inspection by an official of the township.

**§ 55-13. Delay in disposal required.**

Every person licensed under this chapter shall comply with any law or rule or regulation of the Board requiring that the licensee keep and retain upon the licensed premises for any prescribed period of time after the purchase or receipt thereof all junk received or purchased by him, and he shall not disturb or reduce the name or alter the original form, shape or condition until such required period of retention shall have elapsed.

**§ 55-14. Regulations.**

Every person licensed under this chapter shall constantly maintain the licensed premises in accordance with this chapter and any special provisions imposed by the Board, as well as in the manner prescribed by this section and any subsequent regulations adopted by the Board.

- A. Such premises shall at all times be maintained so as not to constitute a nuisance or a menace to the health of the community or residents nearby or a place for the breeding of rodents and vermin.
- B. No garbage or other organic waste shall be stored on the licensed premises.

- C. Whenever any motor or any other vehicle shall be received on such premises as junk, all gasoline shall be drained and removed therefrom. Gasoline may be stored above ground in said junkyard, provided that the same is placed in standard tanks or containers approved by the Board.
- D. The manner of storage and arrangement of junk and the drainage facilities of the premises shall be such as to prevent accumulation of stagnant water upon the premises and to facilitate access for fire-fighting purposes.
- E. All junk kept, stored or arranged on the licensed premises shall at all times be kept, stored and arranged within the junkyard as required by this chapter, any rules and regulations of the Board and in accordance with the application for license as approved by the Board.
- F. Junked articles shall not be piled, stacked or otherwise accumulated to a height greater than eight (8) feet except when an individual item in its natural form exceeds this limit. Such items exceeding this limit shall be accumulated in an area designated for such purposes on the plot and plan provided for in § 55-4.
- G. A person licensed under this chapter and having the necessary permits under any existing burning or fire control laws or ordinances, if any, shall not burn more than one (1) motor vehicle or its equivalent at any one time. No grease, oil, tires, gasoline or other similar material that might be dangerous or tend to produce obnoxious smoke or odors shall be burned within the junkyard at any time. Burning of vehicles must be attended at all times.
- H. The premises to be licensed shall be set back a minimum distance of fifty (50) feet from the right-of-way lines on all streets and roads and a minimum of fifty (50) feet from all other property lines. The area between the setback line and the right-of-way line on all streets and roads and all other property lines shall at all times be kept clear and vacant.
- I. The premises to be licensed shall be enclosed by at least a six-foot-high screen fence at the setback line, of a type and style to be determined by the Board, or by evergreen screen plantings of the same height, or both. The Board may set forth specific fence or planting requirements at the time of issuance, renewal or transfer of a license, as needs may dictate based on health and safety as well as aesthetic considerations.

- J. The junkyard site shall be laid out and graded to provide positive drainage away from stored junk and existing or proposed structures.
- K. The dismantling, smashing and crushing of automobile bodies and other pieces of metal scrap, loading or unloading of junk and any other activity carried out on the premises shall be conducted in such a manner as not to create excessive noise, dust, odor and vibration, not to endanger the public health and safety and not to disturb the private and peaceful enjoyment of life and property in nearby areas which may be adversely affected thereby.

#### § 55-15. Violations and penalties.<sup>1</sup>

Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof in a summary proceeding before a District Justice, be sentenced to pay a fine of not more than three hundred dollars (\$300.) and the costs of prosecution, provided that each day's violation of any of the provisions of this chapter shall constitute a separate offense.

#### § 55-16. Abatement of nuisance.

In addition to the remedies provided otherwise by law and in § 55-15 above, any continued violations of this chapter which, in fact and/or in the opinion of the Board, constitute a nuisance, may be abated by proceeding against the violator in a court of equity for appropriate relief.

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<sup>1</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

## Chapter 61

### NOISE

#### ARTICLE I Domestic Pets

§ 61-1. Declaration of public nuisance.

§ 61-2. Violation of article.

§ 61-3. Warning and prosecution of violators.

§ 61-4. Civil remedies unaffected.

§ 61-5. Declaration of authority.

§ 61-6. Violations and penalties.

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

#### GENERAL REFERENCES

Nuisances — See Ch. 63.

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#### ARTICLE I Domestic Pets

[Adopted 10-12-2009 by Ord. No. 2009-4]

§ 61-1. Declaration of public nuisance.

The noise emanating from pet animals (such as the barking or yelping of dogs and the shrieking of birds), on a continuous or intermittent basis during a time period beginning at 10:00 p.m. and ending at 7:00 a.m. of any day, or the continuous noise from pet animals on a continuous or regular basis in excess of two consecutive hours at any time, when such noise can be heard beyond the property borders of the place where such pets are knowingly or intentionally kept, or which materially disturbs persons of ordinary sensibilities, is deemed to be a public nuisance. The foregoing notwithstanding, the barking of dogs while being used to herd or shepherd farm animals on a property substantially devoted to animal husbandry, and the noise created by normal agricultural operations (as defined in the Protection of Agricultural Operations act, 3 P.S. § 952, et seq.), shall not be deemed a nuisance.

§ 61-2. Violation of article.

Any person who permits a public nuisance as defined in § 61-1 above on property in the Township of Butler which is owned, occupied, or used by such person shall be deemed to have violated this article.

§ 61-3. Warning and prosecution of violators.

Whenever a person, not occupying the same residence or dwelling unit of the alleged offender, complains in writing to law enforcement authorities authorized to enforce laws in the Township of Butler that any person is in violation of this article, then such law

enforcement authority, upon being satisfied that the allegations are accurate or are probable, is authorized to:

- A. In response to the first such written complaint about such a nuisance, provide the person or persons deemed responsible for the property from which the nuisance emanates with a warning about the existence of the nuisance and of this article, and of the need to immediately and thereafter to cause the nuisance to abate; and
- B. In response to a second or subsequent written complaint about such a nuisance which is lodged after the warning is given in Subsection A above, issue a citation or to take such other authorized criminal prosecution action against such person or persons responsible for the property from which such nuisance emanates.

**§ 61-4. Civil remedies unaffected.**

Nothing herein shall be deemed to in any way limit the right of any person to take such legal action as may be available to such person in the civil side of a court with competent jurisdiction, to cause such a nuisance from being abated by injunction, or from the recovery of any damages that may be available, or from any other civil remedy (legal or equitable).

**§ 61-5. Declaration of authority.**

This article is adopted pursuant to the power of Townships of the Second Class to prohibit nuisances. It is declared that this article is enacted to regulate noise pollution and ensure public health and safety.

**§ 61-6. Violations and penalties.**

Any person who is convicted of violation of this article by a Magisterial District Judge shall be punished by the imposition of a fine not to exceed the sum of \$1,000, or in default thereof, by the imposition of a term of imprisonment to the extent allowed by the law for the punishment of summary offenses. Each day of violation of this article shall be deemed a separate offense.

Chapter 63

NUISANCES

- § 63-1. Definitions; word usage.
- § 63-2. Motor vehicle nuisances prohibited.
- § 63-3. Storage of motor vehicle nuisance.
- § 63-4. Nonvehicular nuisances enumerated.
- § 63-5. Inspection; notice to comply.
- § 63-6. Township authority to remedy noncompliance.
- § 63-7. Violations and penalties.
- § 63-8. Additional remedies.

[HISTORY: Adopted by the Board of Supervisors of the Township of Butler at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

GENERAL REFERENCES

Junkyards — See Ch. 55.

§ 63-1. Definitions; word usage.

- A. Definitions. As used in this chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context of the chapter:

LESSEE — The owner, for the purpose of this chapter, when a lessor holds a lessee responsible for maintenance and repairs.

MOTOR VEHICLE — Any type of mechanical device propelled by a motor in which persons or property may be transported upon public streets or highways, including trailers or semitrailers pulled thereby.

**NUISANCE** — Any condition, structure or improvement which shall constitute a threat or potential threat to the health, safety or welfare of the citizens of the township.

**OWNER** — The actual owner, agent or custodian of the property on which motor vehicles are stored or on which a condition, structure or improvement is allowed to exist or has been created, whether individual or partnership, association or corporation.

**PERSON** — A natural person, firm, partnership, association, corporation or other legal entity.

- B. Word usage. In this chapter, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

**§ 63-2. Motor vehicle nuisances prohibited.**

It shall be unlawful for any person, owner or lessee to maintain a motor vehicle nuisance upon public property or upon the open private grounds of such person, owner or lessee within the township. A "motor vehicle nuisance" shall include any motor vehicle which is unable to move under its own power at the time of the alleged violation or citation and does not have a current inspection sticker or a current registration and has any one (1) or more of the following physical defects:

- A. Broken windshields, mirrors or other glass with sharp edges.
- B. One (1) or more flat or open tires or tubes which could permit vermin harborage.
- C. Missing doors, windows, hood, trunk or other body parts which could permit animal harborage.
- D. Any body parts with sharp edges, including holes resulting from rust.
- E. Missing tires resulting in unsafe suspension of the motor vehicle.
- F. Upholstery which is torn or open which could permit animal and/or vermin harborage.
- G. Broken headlamps or tail lamps with sharp edges.
- H. Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle.
- I. Protruding sharp objects from the chassis.

- J. Broken vehicle frames suspended from the ground in an unstable manner.
- K. Leaking or damaged oil pan or gas tank which could cause fire or explosion.
- L. Exposed battery containing acid.
- M. Inoperable locking mechanism for doors or trunk.
- N. Open or damaged floorboards, including trunk and fire wall.
- O. Damaged bumpers pulled away from the perimeter of the vehicle.
- P. Broken grill with protruding edges.
- Q. Loose or damaged metal trim and clips.
- R. Broken communication equipment antennas.
- S. Suspended on unstable supports.
- T. A missing engine or motor or other essential parts for the operation of the vehicle which have been removed for more than thirty (30) days.
- U. Such other defects which could threaten the health, safety and welfare of the citizens of the township.

**§ 63-3. Storage of motor vehicle nuisance.**

Any person, owner or lessee who has one (1) or more motor vehicle nuisances as defined in § 63-1 above may store such vehicle(s) in the township only in strict compliance with the regulations provided herein. Such person, owner or lessee must first apply for a permit for either temporary or permanent storage and pay a fee to the township such as may be provided from time to time by resolution of the Township Supervisors. The motor vehicle nuisance(s) must be stored within a garage or other enclosed building or outside within an opaque fence at least six (6) feet high which is locked at all times when unattended. With the special approval of the township, motor vehicle nuisances may also be stored outside in an area enclosed by a chain link fence at least six (6) feet high, screened by shrubbery around the perimeter to the height of the fence, with an unobstructed gate capable of admitting fire or emergency equipment. Such gate shall remain locked at all times when unattended. In addition, all gas and oil or other flammable liquid must be removed from the

motor vehicle and it shall be kept free of vermin infestation while being stored. The total area of storage of motor vehicle nuisances may not exceed two hundred (200) square feet. This section is not intended to conflict with the township's Junkyard Ordinance.<sup>1</sup> It is the intent of this section to apply only to a small area for a limited number of vehicle nuisances.

**§ 63-4. Nonvehicular nuisances enumerated.**

The following uses of and activities upon real property in the township are hereby declared to be nuisances and are hereby prohibited:

- A. The use of any premises as a trash or garbage dump.
- B. The depositing, accumulating or dumping of any amount of trash or garbage upon the premises of another or in any streams or other bodies of water or on highways or upon public property.
- C. The burning of or setting fire to trash, rubbish, refuse or garbage brought upon and accumulated or stored on any premises or any other location or locations.
- D. The storing of gasoline, kerosene or other petroleum products in excess of ten thousand (10,000) gallons, except by gasoline service stations or petroleum product companies.
- E. Any use of or activity upon property that by reason of flames, smoke, odors, fumes, noise or dust unreasonably interferes with the reasonable use, comfort and enjoyment of a neighbor's property or endangers the health or safety of the occupants of a neighboring property; offensive uses shall not include farming or other allied occupations.
- F. The excessive or unreasonable accumulation of scrap, junk, trash or garbage upon any premises, causing odor, fumes or unsightly appearances to the general public.
- G. The maintenance of any dangerous structure, including buildings or parts of buildings in a state of dilapidation or disrepair. A "dangerous structure" is defined as any building or structure which is dangerous and unsafe for human occupancy, constitutes a fire hazard, endangers surrounding buildings, shelters rats or other vermin or endangers the safety of children playing in the vicinity.

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<sup>1</sup> Editor's Note: See Ch. 55, Junkyards.

- H. The maintenance or causing of any loud or excessive noise or sound which disturbs the general public. An "excessive or loud noise" shall be any noise or sound of such intensity as to cause severe annoyance and discomfort to any group of persons of normal sensibilities on the premises other than the premises wherein the noise is created, or upon any public highway or road within the township, or of such intensity as to prohibit or seriously interfere with normal conversation between persons.

**§ 63-5. Inspection; notice to comply.**

- A. The Township Supervisors, the Secretary, the police officers servicing the township or any enforcement officer appointed by the Township Supervisors is hereby empowered to inspect grounds to determine if there are violations of this chapter.
- B. If noncompliance with the provisions of this chapter constitutes a nuisance, or if any condition, structure or improvement poses a threat to the health, safety or welfare of the public, said individual mentioned in Subsection A shall issue a written notice, to be served by registered or certified mail, upon the owner of said premises, or, if the owner's whereabouts or identity is unknown, by posting the notice conspicuously upon the offending premises. Said notice shall specify the condition or structure or improvement or nuisance complained of and shall require the owner to commence to remove or otherwise rectify the condition, structure or improvement as set forth therein within ten (10) days of mailing or posting of said notice, and thereafter to fully comply with the requirements of the notice within a reasonable time.

**§ 63-6. Township authority to remedy noncompliance.**

If the owner of grounds on which motor vehicles are stored or in which a nuisance, condition or structure or improvement does not comply with the notice to abate the conditions within the time limit prescribed, the township shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus ten percent (10%) of all cost. The township, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

**§ 63-7. Violations and penalties.**

Any person who shall violate any provisions of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.) and/or to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this chapter continues shall constitute a separate offense.

**§ 63-8. Additional remedies.**

In addition to such other remedies as shall be provided for herein, the township shall have the right to institute proceedings in law or in equity in a court of appropriate jurisdiction to enforce the provisions hereof. The remedies provided herein for the enforcement of this chapter or any remedies provided by law shall not be deemed mutually exclusive; rather, the remedies may be employed simultaneously or consecutively at the option of the Township Supervisors.

## Chapter 68

### OUTDOOR BURNING

§ 68-1. Purpose.

§ 68-2. Acknowledgment of county ordinance.

§ 68-3. Definitions.

§ 68-4. Additional procedures for declaring bans on outdoor burning.

§ 68-5. Violations and penalties.

**[HISTORY: Adopted by the Board of Supervisors of the Township of Butler 10-8-2007 by Ord. No. 2007-3. Amendments noted where applicable.]**

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§ 68-1. Purpose.

The purpose of this chapter is to prevent needless public damage to life and property because of public and private nuisances caused by outdoor fires deliberately or carelessly set and maintained without regard for conditions, existing at the time.

§ 68-2. Acknowledgment of county ordinance.

The Board of Supervisors hereby acknowledges and states its approval of Ordinance No. 4 of 1993, effective August 18, 1993, as adopted by the Commissioners of Adams County, Pennsylvania, entitled "An Ordinance of Adams County, Pennsylvania, Establishing a Fire Prevention Bureau in the County of Adams, and Setting Forth Fire Prevention Measures, and Penalties for the Violation of the Same."

§ 68-3. Definitions.

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

**CHAIR** — The Chairman or Chairwoman of the Board of Supervisors of Butler Township or, in the absence of such Chair, the Vice Chair; in the absence of the Chair and the Vice Chair, the Township's Emergency Management Director.

**CHIEF OF FIRST-DUE FIRE COMPANY** — The Chief or, in the absence of the Chief, any other officer of a volunteer fire company serving in the capacity of the Chief.

**COUNTY FIRE MARSHAL** — The person appointed to the position of Fire Marshal by the Board of Commissioners of the County of Adams, Pennsylvania.

**DECLARATION** — The prohibition, restriction or other banning of outdoor burning adopted pursuant to this chapter.

**FIRST-DUE FIRE COMPANY** — The volunteer fire company authorized by the Township of Butler to provide fire-fighting services in the Township and authorized to be the primary responder to a fire or other emergency requiring such services when such services are deemed

necessary in some portion of the Township (as is often designated by "box cards" filed with the county control center).

**OUTDOOR BURNING** — The setting, maintaining or permitting of any fire outside of a building. Excluded from "outdoor burning" is the use of contained, and Underwriters Laboratories® approved, external heating systems and incineration systems.

**§ 68-4. Additional procedures for declaring bans on outdoor burning.**

In addition to the power granted to the Adams County Fire Marshal to declare a ban on outdoor burning, as provided in the Adams County Ordinance No. 4 of 1993, the Township shall have the power to declare a ban on all outdoor burning pursuant to the following procedures:

- A. Declaration by Chair of the Board of Supervisors. At any time that the Chair of the Board of Supervisors of the Township determines that, due to climatic or other conditions, outdoor burning presents a threat to the health, safety and welfare of the Butler community, or any part thereof, the Chair may impose a prohibition on any and all outdoor burning in the Township or a part thereof.
- B. Declaration by Chief of first-due fire company. At any time that the Chief of a first-due fire company determines that, due to climatic or other conditions, outdoor burning presents a threat to the health, safety and welfare of the Butler community, or any part thereof, the said Chief may seek a prohibition on any and all outdoor burning in the portion of the Township served by his or her fire company. The said Chief shall contact the Chair of the Board of Supervisors and obtain the Chair's concurrence with the prohibition for the prohibition to be effective. Such concurrence may be oral or written.
- C. Notice of prohibition. Whenever a prohibition on outdoor burning is declared pursuant to this section, the Chair shall notify the Township Secretary or other staff person of the declaration. The declaration shall be publicized by means of notices to one or more newspapers of general circulation in the Township, by notices to radio stations serving the Township, and by placement of notices of the prohibition on any electronic communications system generally used by the Township (such as a Web site and/or broadcast e-mailing list).
- D. Review of declaration by Board of Supervisors. Whenever a declaration pursuant to this section is imposed, and the declaration occurs outside of a publicly held Board of Supervisors meeting, the declaration shall be able to be reviewed by the Board of Supervisors at its next occurring public meeting. The issue of the need for the declaration may be raised at the next occurring public meeting by any Supervisor or by any aggrieved person. Should a challenge to the declaration be raised, the Board shall seek a statement from the declarant of the reasons for the declaration. The Board of Supervisors may then uphold or revoke the declaration.
- E. Effect on County Fire Marshal's authority. Nothing in this section shall be deemed to diminish the authority of the County Fire Marshal to declare a ban on outdoor burning, nor to subject the County Fire Marshal's outdoor burning ban to review by the Board of Supervisors of the Township.

**§ 68-5. Violations and penalties.**

It shall be unlawful to conduct outdoor burning when a declaration, as instituted in accord with this chapter, is in effect. Any person, firm, corporation, association or other entity who shall violate the restriction, prohibition and ban on outdoor burning that may be declared pursuant to this chapter shall, upon conviction, be sentenced to pay a fine of no more than \$1,000, the costs of prosecution, and the Township's attorney fees. Each day that a violation occurs shall be deemed a separate offense.

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§ 71-1

PLANNING COMMISSION

§ 71-2

Chapter 71

PLANNING COMMISSION

§ 71-1. Creation.

§ 71-2. Membership; duties.

[HISTORY: Adopted by the Board of Supervisors of the Township of Butler 6-6-66 as Ord. No. 66-1. Section 71-2 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 71-1. Creation.

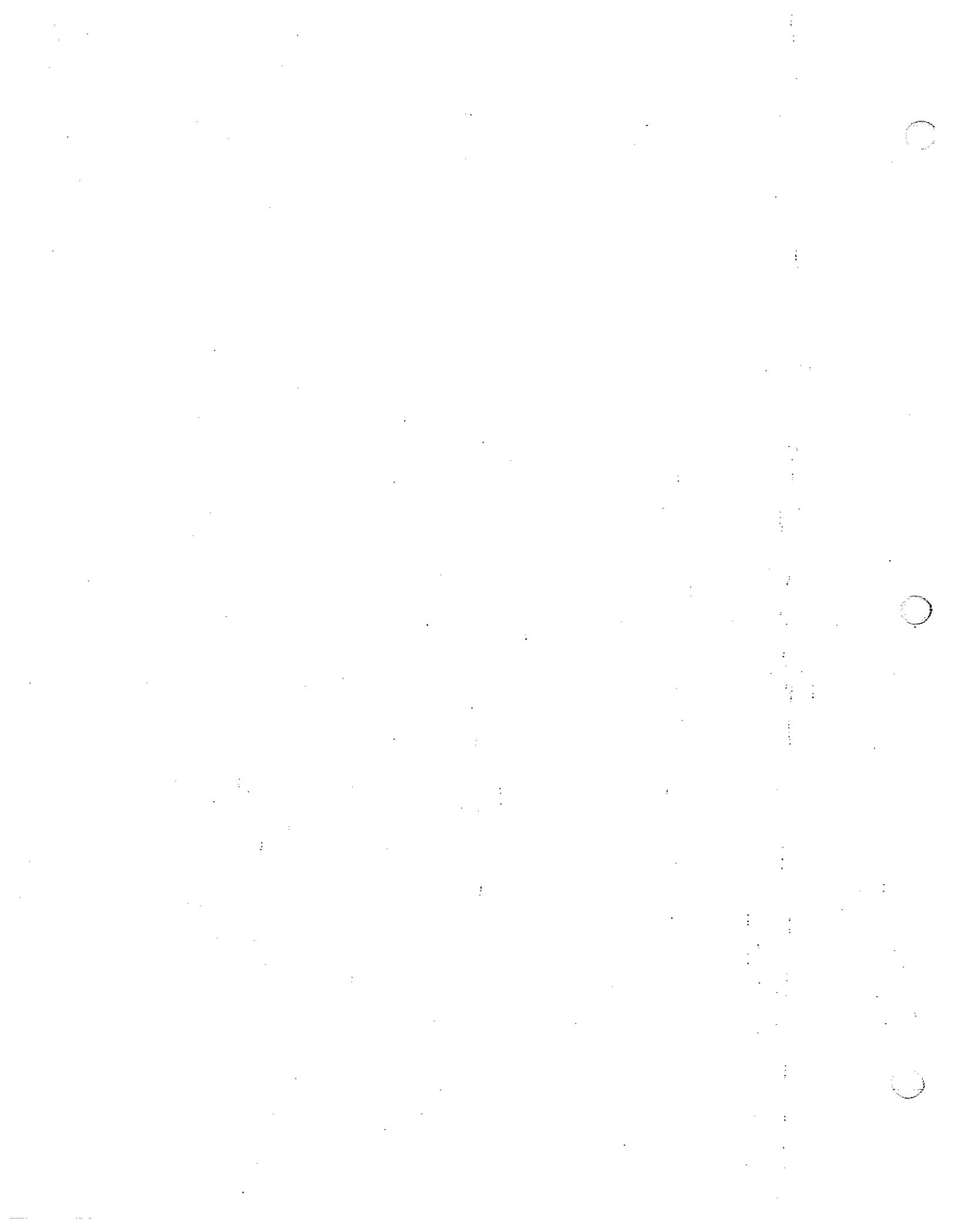
A Township Planning Commission is hereby created in and for Butler Township, Adams County, Pennsylvania.

§ 71-2. Membership; duties.<sup>1</sup>

The Planning Commission shall consist of five (5) members, appointed as provided by law, and shall perform all the duties and may exercise all the powers conferred by law upon township planning commissions for second class townships.

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<sup>1</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.



## Chapter 75

## PORNOGRAPHY

- § 75-1. Definitions.
- § 75-2. Promotion of pornography unlawful.
- § 75-3. Promotion of pornography for minors unlawful.
- § 75-4. Defenses to prosecution.
- § 75-5. Violations and penalties.
- § 75-6. Injunction.

[HISTORY: Adopted by the Board of Supervisors of the Township of Butler at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

**§ 75-1. Definitions.**

For the purpose of this chapter, the words and phrases set forth below shall have the meaning respectively ascribed to them:

**AUDIENCE** — One (1) or more persons who are permitted to view a performance for valuable consideration or in or from a public place.

**DISPLAY PUBLICLY** — The exposing, placing, posting, exhibiting or in any other fashion displaying in any location, whether public or private, of material or a performance in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a public place or vehicle.

**DISSEMINATE** — To manufacture, issue, publish, sell, lend, distribute, transmit, broadcast, exhibit or present material, or to offer or agree to do the same, or to have in one's possession with intent to do the same.

**MATERIAL** — Any printed matter, visual representation or sound recording, including but not limited to books, magazines, motion-picture films, pamphlets, newspapers, pictures, photographs, drawings,

three-dimensioned forms, sculptures, and phonograph, tape or wire recordings, figures, images, instruments and devices.

MINOR — Any person under eighteen (18) years of age.

NUDITY — Uncovered or less than opaquely covered postpubertal human genitals or pubic area, the postpubertal human female breast below a point immediately above the top of the areola or the covered human male genitals in a discernibly turgid state. For the purpose of this definition, a female breast is considered uncovered if the nipple only or the nipple and areola only are covered.

PANDER — Advertising or propagandizing in connection with the sale of material, the offering of a service or the presentation or exhibition of a performance by appealing to the prurient interest of potential customers.

PERFORMANCE — Any live or reproduced exhibition, including but not limited to any play, motion-picture film, dance or appearance presented to or performed before an audience.

PERSON — Any natural person or persons, as well as any partnership, corporation or association.

PORNOGRAPHIC — Relating to pornography.

PORNOGRAPHY — Any material or performance if all of the following elements are present:

- A. Considered as a whole by the average person, applying the contemporary community standards of the Township of Butler, it appeals to the prurient interest.
- B. It depicts or represents in a patently offensive way sexual conduct or nudity, as herein defined.
- C. It lacks serious literary, artistic, political or scientific value.

PORNOGRAPHY FOR MINORS — Any material or performance if all of the following elements are present:

- A. Considered as a whole by the average person, applying the contemporary community standards of the Township of Butler with respect to what is suitable for minors, it is presented in such a manner as to appeal to a minor's prurient interest.

- B. It depicts, describes or represents in a patently offensive way nudity or sexual conduct, as hereinafter defined.
- C. It lacks serious literary, artistic, political or scientific value for minors.

**PRURIENT INTEREST** — Desire or craving for sexual stimulation or gratification. In determining "prurient interest," the material or performance shall be judged with references to average persons, unless it appears from the character of the material or performance that it is designed to appeal to the "prurient interest" of a particular group of persons, including but not limited to homosexuals or sadomasochists. In that case, it shall be judged with reference to the particular group for which it was designed.

**PUBLIC PLACE OR VEHICLE** — Any of the streets, alleys, parks, boulevards, schools or other public property in the township, or any dance hall, rental hall, theater, amusement park, liquor establishment, store, depot, place of public accommodation or other private property generally frequented by the public for the purposes of education, recreation, amusement, entertainment, sport, shopping or travel; or any vehicle for public transportation owned or operated by the government either directly or through a public corporation or authority, or owned or operated by a nongovernmental agency for the use, enjoyment or transportation of the general public.

**SADOMASOCHISTIC ABUSE** — Flagellation or torture by or upon a person who is nude or clad in undergarments or in a sexually revealing or bizarre costume; or the condition of such person being fettered, bound or otherwise physically restrained in an apparent act of sexual stimulation or gratification.

**SEXUAL CONDUCT:**

- A. Masturbation;
- B. Sexual intercourse, either heterosexual or homosexual, whether genital-genital, oral-genital, oral-anal or anal-genital;
- C. Any erotic fondling or touching of the covered or uncovered genitals, buttocks, pubic area or any part thereof or the breasts of a female, whether the conduct described in Subsection A through C is engaged in alone or between members of the same or opposite sex or between humans and animals or humans and inanimate objects;

- D. Actual or simulated display or exhibition of the human pubic area or genitals or any part thereof;
- E. Sexual excitement, as hereinafter defined; or
- F. Sadoomasochistic abuse, as hereinabove defined.

SEXUAL EXCITEMENT — The facial expressions, movements, utterances or other responses of a human male or female, whether alone or with others, whether clothed or not, who is in an apparent state of sexual stimulation or arousal or is experiencing the physical or sensual reactions of humans engaging in or witnessing sexual conduct.

§ 75-2. Promotion of pornography unlawful.

- A. It shall be unlawful for any person to promote pornography. A person commits the offense of promoting pornography if, knowing its content and character, he:
  - (1) Disseminates or causes to be disseminated any pornographic material in or from a public place or vehicle or for valuable consideration, or has in his possession any pornographic material with intent to so disseminate, or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him for such dissemination of pornographic material;
  - (2) Sells an admission ticket or pass to premises where there is being exhibited or is about to be exhibited material or a performance which is pornographic;
  - (3) Admits, by accepting a ticket or pass, a person to premises where there is being exhibited or is about to be exhibited material or a performance which is pornographic;
  - (4) Produces, presents, directs or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him to be used for a pornographic performance before an audience;
  - (5) Participates in that portion of a live performance before an audience which makes it pornographic; or

- (6) Panders, displays publicly or disseminates door to door any pornographic material or performance, or causes such pandering, public display or door-to-door dissemination.
- B. For the purpose of this section, possession of two (2) or more identical copies of any pornographic materials by any person engaged in the business of disseminating material, as defined above, shall be prima facie evidence of possession with intent to disseminate for valuable consideration.

**§ 75-3. Promotion of pornography for minors unlawful.**

- A. It shall be unlawful for any person to promote pornography for minors. A person commits the offense of promoting pornography for minors if, knowing its content and character, he:
- (1) Disseminates or causes to be disseminated to a minor material which is pornography for minors, or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him for the dissemination to a minor of material which is pornography for minors;
  - (2) Exhibits to a minor a motion-picture film or other performance which is pornography for minors;
  - (3) Sells to a minor an admission ticket or pass to any building, vehicle or place where there is being exhibited or is about to be exhibited a motion-picture film or other performance which is pornography for minors;
  - (4) Admits a minor to any building, vehicle or place where there is being exhibited or is about to be exhibited a motion-picture film or other performance which is pornography for minors;
  - (5) Knowingly produces, presents, directs or allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him for the presentation of a performance which is pornography for minors, before an audience which includes a minor; or
  - (6) Displays publicly or disseminates door to door any material or performance which is pornography for minors, or causes such display or door-to-door dissemination.

- B. Subsection A(1) through (5) does not apply to a parent, guardian or other persons in loco parentis to the minor.

**§ 75-4. Defenses to prosecution.**

It shall be an affirmative defense to a prosecution under § 75-2 or 75-3 of this chapter if the pornographic material was disseminated by a person who was acting in his capacity as:

- A. A teacher of an accredited course of study related to pornography at a state-approved educational institution;
- B. A licensed medical practitioner or psychologist in the treatment of a patient;
- C. A participant in the criminal justice system, such as a Legislator, Judge, prosecutor, law enforcement official or other similar related position; or
- D. A supplier to any person described in Subsections A through C above.

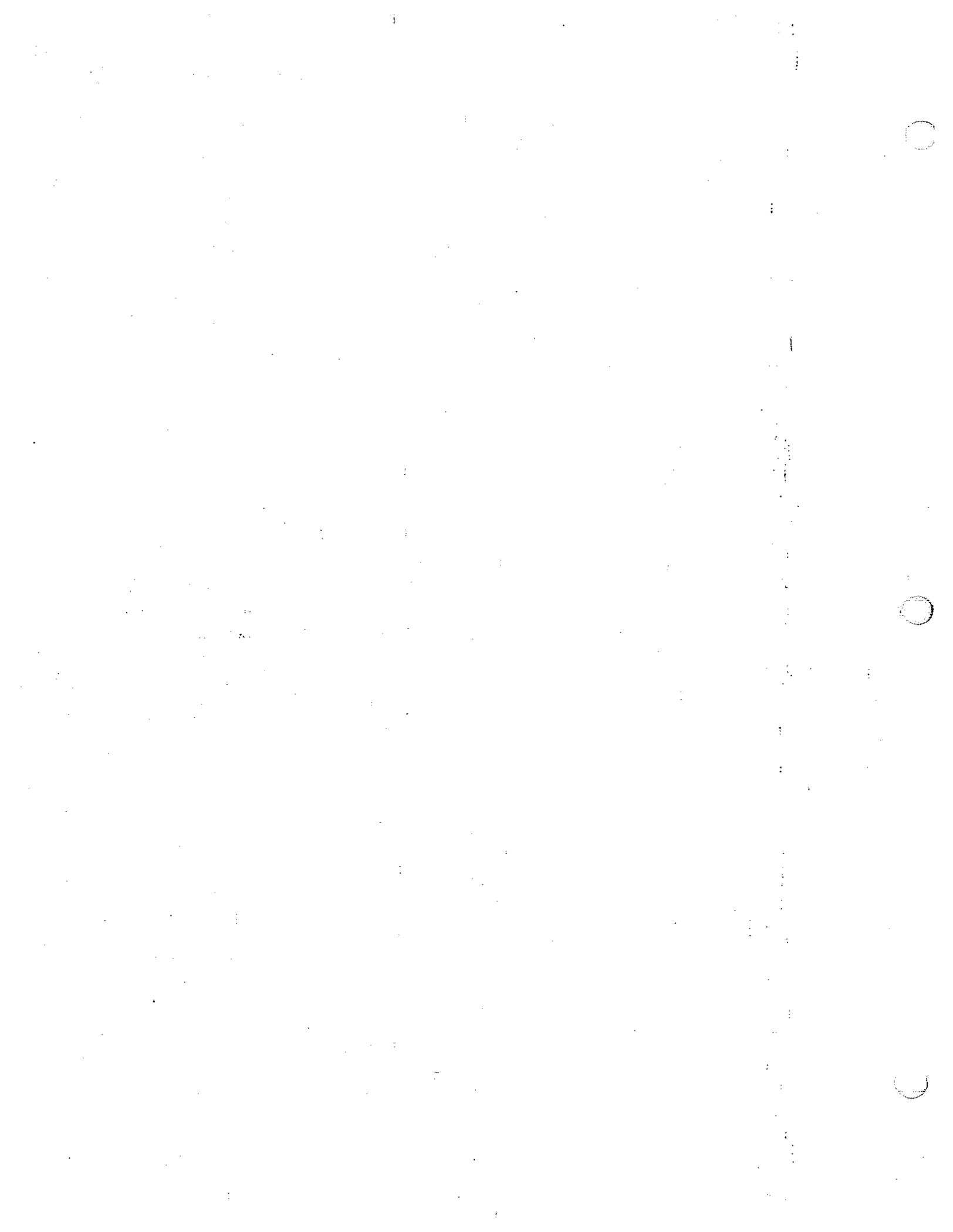
**§ 75-5. Violations and penalties.**

Any person who shall violate this chapter shall be liable, upon summary conviction for a first offense and upon summary conviction for each subsequent offense, to a fine of not less than one hundred dollars (\$100.) nor more than three hundred dollars (\$300.), together with costs of prosecution in each. Each day that a violation shall continue shall be deemed to be a separate offense and shall be punishable as such. Fines and costs imposed under the provisions of this chapter shall be enforceable and recoverable in the manner and at the time provided by applicable law. Upon refusal of any person convicted of a violation of this chapter to pay such fine and costs, such person shall be subject to imprisonment for a period not exceeding thirty (30) days.

**§ 75-6. Injunction.**

The Township of Butler may institute proceedings in equity in the Court of Common Pleas of Adams County, Pennsylvania, for the purpose of enjoining

the sale, resale, distribution, exhibit, gift or show of such pornographic literature, book, magazine, pamphlet, newspaper, storypaper, comic book, drawing, photograph, figure or image or any written or printed matter of an obscene nature, or any article or instrument of a pornographic nature, contrary to the provisions of this chapter; and for such purposes, jurisdiction is hereby conferred upon said Court. A preliminary injunction may issue and a hearing thereafter be held thereon in conformity with the Rules of Civil Procedure upon the averment of the Township of Butler that the sale, resale, lending, distribution, exhibit, gift or show of such publication constitutes a danger to the welfare or peace of the community.



Chapter 76

PROPERTY IDENTIFICATION

ARTICLE I

Residential Properties

- § 76-1. Short title.
- § 76-2. Display of house number or address.
- § 76-3. Notification of noncompliance.
- § 76-4. Notice of requirements.
- § 76-5. Violations and penalties.
- § 76-6. Compliance with this article.

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

GENERAL REFERENCES

Building construction — See Ch. 15.

ARTICLE I

Residential Properties

[Adopted 10-8-2001 by Ord. No. 2001-2]

§ 76-1. Short title.

This Article I shall be known as and may be cited as the "Butler Township House Numbering Ordinance."

§ 76-2. Display of house number or address.

The house number or address of the residence or dwelling shall be displayed on the dwelling and at a location on the property where it abuts public access, such as the mailbox post or other such post, pole, or structure, of all residences within Butler Township, Adams County, Pennsylvania. The

identifying numbers located at the public access site shall be of a material that reflects light. All identifying numbers shall be of a contrasting color to the supporting structure and shall be no less than three inches in height. The lowest part of the numbers shall be no closer than 36 inches to the ground. At the public access location, the identifying numbers shall be displayed on both sides of the supporting structure, and on residences the identifying numbers shall be affixed to the residence in such a manner as to be visible from the nearest public right-of-way. In situations where more than one residence is located on a common drive, all residences must be marked so as to be visible from the lane or common driveway.

#### § 76-3. Notification of noncompliance.

Upon notification of noncompliance with the present article by the Butler Township Board of Supervisors, and/or said Board's authorized representative, the notified party shall have 15 days from the date of receipt of such notification within which to comply with the present article without penalty. Said notification may be in written or oral form.

#### § 76-4. Notice of requirements.

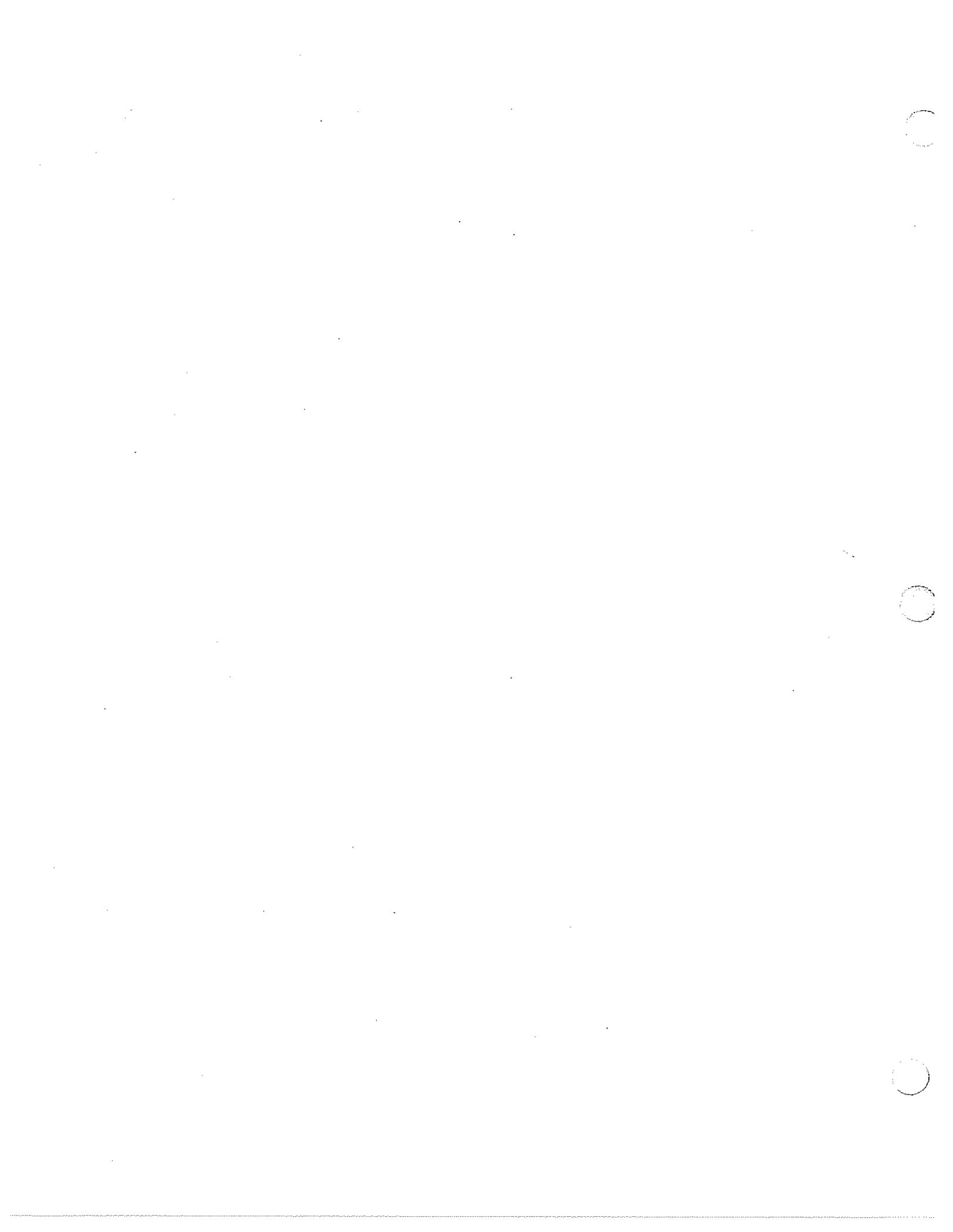
Upon issuance of a building permit, the Building Permit Officer shall inform the persons to whom the permit is issued of the requirements of the present article; provided, however, that the alleged absence of such notice shall not constitute a defense in any prosecution under this article.

#### § 76-5. Violations and penalties.

Any person or entity who shall violate the provisions of this article shall, upon conviction thereof, be sentenced to pay a fine of no less than \$5 nor more than \$300, together with the costs of prosecution, and in default of payment of such fine and costs, to undergo imprisonment for not more than 10 days, provided that each day's violation of this article shall constitute a separate offense.

**§ 76-6. Compliance with this article.**

Although this article shall be effective five days from the date of enactment hereof, all persons and entities shall have a period of 30 days from such effective date within which to comply with the requirements of this article.



## Chapter 78

### SEWERS

#### ARTICLE I Sewer Use

- § 78-1. Definitions.
- § 78-2. Imposition of sewer rentals or charges.
- § 78-3. Computation of sewer rentals or charges.
- § 78-4. Time and method of payment.
- § 78-5. Liens for sewer rentals; filing and collection.
- § 78-6. Prohibited discharges.
- § 78-7. Access.
- § 78-8. Responsibility of owners of improved property.
- § 78-9. Adoption of additional rules and regulations.
- § 78-10. Restriction on new connections.
- § 78-11. Declaration of purpose.

#### ARTICLE II Sewer Connections

- § 78-12. Definitions.
- § 78-13. Use of public sewer required.
- § 78-14. Building sewers and connections.
- § 78-15. Rules and regulations.
- § 78-16. Enforcement and administration.
- § 78-17. Declaration of purpose.

#### ARTICLE III Tapping Fee

- § 78-18. Sewer connection permit required.

- § 78-19. Imposition of fee.
- § 78-20. Amount.
- § 78-21. When due.
- § 78-22. Collecting official.
- § 78-23. Enforcement.
- § 78-24. Right to amend provisions.

#### ARTICLE IV Sewer Plumbing

- § 78-25. Title.
- § 78-26. Administration.
- § 78-27. Purpose.
- § 78-28. Definitions.
- § 78-29. Sewer permits and connections.
- § 78-30. Plumbing inspector.
- § 78-31. Materials.
- § 78-32. Sewer lateral construction.
- § 78-33. Extensions to sewer system.
- § 78-34. Right of access.
- § 78-35. Responsibility of owners.
- § 78-36. Changes in regulations.
- § 78-37. Violations and penalties.

#### ARTICLE V Holding Tanks

- § 78-38. Purpose.
- § 78-39. Definitions.
- § 78-40. Use of holding tanks.
- § 78-41. Holding tank permit agreement.
- § 78-42. Severability.
- § 78-43. Violations and penalties.
- § 78-44. through § 78-47. (Reserved)

ARTICLE VI  
On-Lot Sewage Disposal System

- § 78-48. Statutory basis and purpose.
- § 78-49. Permit requirement.
- § 78-50. Permit fee.

- § 78-51. Effective date of permit.
- § 78-52. Conformity to regulations.
- § 78-53. Enforcement.
- § 78-54. Definitions.

Butler Township Holding Tank  
Permit Agreement

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

GENERAL REFERENCES

Building construction — See Ch. 15.  
Nuisances — See Ch. 63.

Street openings — See Ch. 82, Art. 1.  
Sewers in subdivisions — See Ch. 85.

ARTICLE I  
Sewer Use

[Adopted 12-10-1986 by Ord. No. 86-1]

§ 78-1. Definitions.

Unless the context specifically and clearly indicates otherwise, the meanings of terms used in this article shall be as follows:

**AUTHORITY** — The Biglerville Borough Authority, Adams County, Pennsylvania, a municipal authority incorporated by the Borough of Biglerville on May 27, 1960, under the Municipal Authorities Act of 1945, P.L. 382.<sup>1</sup>

**BOARD OF SUPERVISORS** — The Board of Supervisors of the Township, or, in appropriate cases, its authorized representatives.

**BOD<sub>5</sub> (BIOCHEMICAL OXYGEN DEMAND)** — The quantity of oxygen, expressed in ppm, utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five days at 20° C. The standard laboratory procedure shall be that found in the latest edition of Standard Methods for the Examination of Water and Sewage published by the American Public Health Association.

**BOROUGH** — Biglerville Borough, Adams County, Pennsylvania, a municipal subdivision of the Commonwealth of Pennsylvania, acting by and through its Council, or, in appropriate cases, acting by and through its authorized representative.

**BUILDING SEWER** — The extension from the sewage drainage system of any structure to the lateral of a sewer.

**COMMERCIAL ESTABLISHMENT** — Any room, group of rooms, building or enclosure connected directly or indirectly to the sewer system and used or intended for use in the

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

operation of one business enterprise for the sale and distribution of any product, commodity, article or service.

**DWELLING UNIT** — Any room, group of rooms, house trailer, building or other enclosure connected directly or indirectly to the sewer system and occupied or intended for occupancy as separate living quarters by a family or other group of persons living together or by a person living alone.

**GARBAGE** — Solid wastes resulting from preparation, cooking and dispensing of food and from handling, storage and sale of produce.

**IMPROVED PROPERTY** — Any property upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial wastes shall be or may be discharged.

**INDUSTRIAL ESTABLISHMENT** — Any room, group of rooms, building or other enclosure connected directly or indirectly to the sewer system and used or intended for use, in whole or in part, in the operation of one business enterprise for manufacturing, processing, cleaning, laundering or assembling of any product, commodity or article or from which any process waste, as distinct from sanitary sewage, shall be discharged.

**INDUSTRIAL WASTES** — Any and all wastes discharged from an industrial establishment other than sanitary sewage.

**INSTITUTIONAL ESTABLISHMENT** — Any room, group of rooms, building or other enclosure connected directly or indirectly to the sewer system which does not constitute a commercial establishment, a dwelling unit or an industrial establishment.

**INTERMUNICIPAL AGREEMENT** — A certain agreement for transporting and treating wastewater, dated May 13, 1976, between the Township and the Borough of Biglerville, Adams County, Pennsylvania, including all amendments and/or supplements thereto which may be entered into from time to time, pursuant to which the Township may discharge from the sewer system to facilities of such Borough and/or such Authority sanitary sewage and industrial wastes for treatment and disposal.

**LATERAL** — That part of the sewer system extending from a sewer to the curblineline, or, if there shall be no curblineline, to the property line, or if no such "lateral" shall be provided, then "lateral" shall mean that portion of or place in a sewer which is provided for connection of any building sewer.

**MULTIPLE UNIT** — Any improved property in which there is located more than one dwelling unit, commercial establishment, industrial establishment or institutional establishment, or any combination thereof.

**OWNER** — Any person vested with ownership, legal or equitable, sole or partial, of any improved property.

**PERSON** — Any individual, partnership, company, trust, association, society, corporation, school district, municipality, municipal authority or other group or entity.

PH — The logarithm of the reciprocal of the weight of hydrogen ions, expressed in grams per liter of solution.

PPM — Parts per million by weight.

PROPERLY CHOPPED GARBAGE — Garbage that has been chopped to such a degree that all its particles will be carried freely under normal sewer flow conditions, with no particle greater than 1/2 inch in any dimension.

SANITARY SEWAGE — The normal water-carried household and toilet wastes from any improved property.

SEWAGE TREATMENT PLANT — As appropriate, the sewage treatment facilities owned by the Biglerville Borough Authority and operated by the Borough of Biglerville for which wastes discharged into the sewer system are being transported and treated pursuant to the intermunicipal agreement.

SEWER — Any pipe, main or conduit constituting a part of the sewer system and used or usable for collection and transportation of sanitary sewage and industrial wastes.

SEWER SYSTEM — All facilities as of any particular time for collecting, pumping, transporting, treating and disposing of wastewater, to be acquired or to be constructed and to be owned by the Township.

SUSPENDED SOLIDS — Solids neither dissolved in nor floating on the surface of the liquid as determined by appropriate procedures found in the latest edition of Standard Methods for the Examination of Water and Sewage published by the American Public Health Association.

TOTAL SOLIDS — All solids as determined by appropriate procedures found in the latest edition of Standard Methods for the Examination of Water and Sewage published by the American Public Health Association.

TOWNSHIP — Butler Township, Adams County, Pennsylvania, a municipal subdivision of the Commonwealth of Pennsylvania, acting by and through its Board of Supervisors, or, in appropriate cases, acting by and through its authorized representatives.

TOXIC SUBSTANCES — Includes any substance or combination of substances that:

- A. Is listed in the regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of CWA 307(a); or
- B. Is present in sufficient quantity, either singularly or by interaction with other waste, to injure or interfere with any sewage treatment process, to constitute a hazard to humans or animals, to create a public nuisance or to create any hazard in the sewer system or in the receiving water of the sewage treatment plant.

WASTES OR SEWAGE WASTES — Normal domestic sewage.

**§ 78-2. Imposition of sewer rentals or charges.**

- A. Sewer rentals or charges are hereby imposed upon and shall be collected from the owner of each improved property that shall be or is connected, directly or indirectly, to the sewer system, for use of the sewer system, which sewer rentals or charges shall be imposed and shall be effective as of the effective date of this article, the date of connection of such improved property to the sewer system or the date when this Township first shall be capable of accepting sanitary sewer or industrial wastes from such improved property for transportation and treatment, whichever date shall last occur. Such sewer rentals and charges hereby imposed shall be computed and shall be payable as provided herein. All fees, penalties and charges collected shall be used for the purpose of operating, maintaining and replacement of the wastewater facilities or the retirement of the debt incurred for same.
- B. The provisions of Subsection A notwithstanding, sewer rentals or charges are hereby imposed upon and shall be collected from the owner of any improved property that is required to be connected to the sewer system by appropriate ordinance of this Township<sup>2</sup> from and after the date of expiration of the time allowed to make such connection as set forth in such ordinance, whether or not such connection shall have been made; provided, however, that this Township shall first be capable of accepting sanitary sewage or industrial wastes from such improved property for transportation and treatment. Such sewer rentals or charges hereby imposed shall be computed and shall be payable as provided herein.

**§ 78-3. Computation of sewer rentals or charges.**

Sewer rentals or charges imposed by this article shall be computed in accordance with the schedules of classifications and rates set forth in this section.

- A. Residential flat rate.
- (1) Sewer rentals or charges for sanitary sewage discharge into the sewer system from any improved property constituting a dwelling unit shall be on a flat rate as established by resolution of the Board of Supervisors as may be adopted from time to time. [Amended 3-10-2003 by Ord. No. 2003-1]
  - (2) For purposes of this Subsection A, each dwelling unit in a double house, in a row of connecting houses, in an apartment building or in any other multiple-unit structure shall constitute a separate dwelling unit and shall be billed as a separate dwelling unit. If two or more families use separate cooking or toilet facilities in an improved property, the sewer rental or charge shall be computed as though each such family was a separate user with a separate connection to a sewer.
- B. Commercial establishments and institutional establishments: flat rate. Sewer rentals or charges for sanitary sewage discharge into the sewer system from any improved property constituting a commercial establishment or an institutional establishment shall be on a flat rate basis. The sewer rental or charge for each such commercial establishment or

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2. Editor's Note: See Art. II, Sewer Connections, of this chapter.

institutional establishment shall be determined by multiplying the applicable rate set forth in Subsection B(1) of this section by the applicable number of billing units assigned to such commercial establishment or institutional establishment in the schedule of classifications set forth in Subsection B(2) of this section.

- (1) The rate applied to commercial establishments and institutional establishments under this Subsection B shall be on a flat rate as established by resolution of the Board of Supervisors as may be adopted from time to time. [Amended 3-10-2003 by Ord. No. 2003-1]
- (2) Commercial establishments and institutional establishments are hereby classified according to the following schedule.
  - (a) The applicable number of billing units determined in accordance with the following schedule shall be multiplied by the applicable rate per billing unit set forth in Subsection B(1) of this section to determine the sewer rental or charge for such commercial establishment or institutional establishment.

<b>Classification User</b>	<b>Minimum Billing Units</b>
Single-family dwelling unit	1
Retail store (each 10,000 hours worked by the owner or employee)	1
Restaurant, club, tavern or other establishment dispensing food or beverages (each 30 seats or fraction thereof)	1
Firehouse, municipal building or similar use (each rest room)	1
Drive-in theater (each 30 car spaces or fraction thereof)	1
Church	
Without kitchen facilities (each 100 members)	1
With kitchen facilities (each 100 members)	1.5
Retail business not otherwise listed	1
Service station or vehicle repair garage 2 bays or fraction thereof	1
Each bay over 2	0.5
Car wash (each bay)	1
Laundromat	
4 washers or less	1
Each washer over 4	0.25
Office	
4 employees or less	1
Each employee over 4	0.25

<b>Classification User</b>	<b>Minimum Billing Units</b>
Apartment (each rental unit)	1
Motel or hotel (in addition to restaurant facilities)	
Without kitchen facilities (each rental room)	0.5
With kitchen facilities (each rental room)	1
Schools	
Without showers (each 20 pupils or fraction thereof)	1
With showers (each 15 pupils or fraction thereof)	1
With kitchen (each 15 pupils or fraction thereof)	1
With shower and kitchen (each 10 pupils or fraction thereof)	1
Bowling alley	
Each 5 lanes or fraction thereof	1
Each lane over 5	0.2
Industry (each 1,500 hours worked by owner or employees)	1
Medical office, to include medical doctors, dentist, chiropractors, optometrist, etc.	
Each doctor	1
Each additional employee, nurse, attendant, etc	0.5
Hospital or nursing home (each bed)	1
Boarding school (each 3 pupils or fraction thereof)	1
Barber- or beauty shop (each 2 chairs or fraction thereof)	1
In addition to billing units defined above, each garbage grinder having 3/4 horsepower rating or larger	1

- (b) The number of billing units to be ascribed to schools or similar institutions hereunder shall be determined on the basis of the average daily membership of pupils during the regular school term preceding the billing period. Employees, including teachers and administrative personnel, shall be treated as "pupils" for purposes of computation.
- (c) Each retail store or industrial establishment whose billing unit(s) is established by hours worked shall, on or before December 31, 1986, and on or before December 31 of each year thereafter, file a sworn certificate with the Township, setting forth the total number of hours worked by its employees during the calendar year ending at the time of certification. Included among employee hours shall be all executives, administrative and part-time personnel.

C. Estimated sewer rentals. In the event any retail store, school or industry fails to file an annual statement as required by this Article, the Township shall estimate the annual sewer rental and such estimate shall be the sewer rental due and payable by said user until the required statement is filed; provided, however, that no rebate will be paid by the Township in the event the certified statement reveals a lower sewer rental than that estimated by the Township.

D. Industrial establishments: metered rate.

(1) The owner of any improved property may install a sewage discharge meter or other measuring device for the purpose of measuring discharge into the sewer system from any industrial establishment. Sewer rentals or rates for sanitary sewage not subject to special charge hereunder that shall be discharged into the sewer system from any improved property constituting an industrial establishment shall be based upon volume of such discharge where the volume of such discharge shall be metered in connection with the sewer system or otherwise as required or permitted by this Article. In such case, the sewer rental or charge will be computed quarterly in accordance with the following schedule and subject to the following minimum sewer rental or charge:

**Metered Rate Schedule**

Metered waste discharge	8.50 per 1,000 gallons, plus 5% charge for meter reading and special billing procedures
Minimum charge per industrial establishment	240 per quarter annum

(2) Meters or other measuring devices which shall be required or permitted for use in determining volume of sewage waste discharge shall be of a type approved for use by the Township, shall be furnished and installed by the owner of the improved property at his expense, shall be under the control of the Township and may be tested, inspected or repaired by the Township whenever necessary. The owner of the improved property upon which such meter or other measuring device shall be installed shall be responsible for its maintenance and safekeeping, and all repairs thereto shall be made at the expense of the owner, whether such repairs shall be made necessary by ordinary wear and tear or other causes. Bills for such repairs, if made by the Township, shall be due and payable immediately upon completion of such repairs and shall be collected in the same manner as quarterly bills for sewer rental or charges.

E. Charges for sanitary wastes having certain concentrations.

(1) In the event that the Township should consent under separate agreement to accept sanitary wastes for discharge into the sewer system from any improved property having total suspended solids and BOD in excess of the following concentrations: suspended solids (SS), 225 ppm; and BOD5, 225 ppm, additional charges will be made for all wastes discharged from such improved property. The total charge for

the total volume of waste shall be determined in accordance with the following formula:

$$\text{Total Charge} = Q + [0.001 Q (\text{BOD}_5 \text{ in ppm} - 225)] + [0.001 Q (\text{SS in ppm} - 225)]$$

For purposes of the above formula:

Q = Billing unit charge or metered quantity discharge  
SS = Suspended solids  
BOD<sub>5</sub> = Biochemical oxygen demand

- (2) The strength of the sanitary wastes shall be determined at intervals deemed advisable by this Township or as may be requested by the owner of the particular improved property. The collection and analysis of waste samples for determination shall be supervised by a registered professional engineer approved by the Township. All costs for waste sampling, collection and analysis shall be paid by the owner who desires that the waste be sampled and analyzed. The analysis of all waste samples collected shall be made in accordance with the latest edition of Standard Methods for the Examination of Water and Sewage as published by the American Public Health Association.
- F. Change in flat rate classifications. If the use or classification of any improved property shall change during any billing period, the sewer rental or charge shall be adjusted by the Board of Supervisors by proration on a monthly basis to the nearest calendar month, with a credit or charge, as shall be appropriate under the circumstances, being made on the statement for the next succeeding billing period.
- G. Additional flat rate classifications and modifications of flat rate classifications. The Board of Supervisors reserves the right, from time to time, to establish additional flat rate classifications and to establish rates therefor; and the Board of Supervisors further reserves the right, from time to time, to alter, modify, revise and/or amend flat rate classifications and the rates applicable thereto.
- H. Multiple-unit rates. Each dwelling unit, commercial establishment, institutional establishment or industrial establishment located in a multiple unit discharging sanitary sewage directly or indirectly into the sewer system shall be billed as a separate entity or unit, irrespective of whether or not such separate entity has separate toilet or waste facilities and irrespective of whether or not such separate entity or unit has a separate connection to a sewer, and the applicable sewer rental or charge for such separate entity or unit shall be computed in accordance with the applicable classification and rate set forth in this section as though such separate entity or unit constituted a separate improved property.
- I. Special agreement. Notwithstanding any provision in this Article to the contrary, the Board of Supervisors shall have the right, based upon good reasons and circumstances existing, to enter into special agreement with the owner of any improved property constituting an industrial establishment with respect to terms and conditions upon which sanitary sewage and/or industrial wastes may be discharged into the sewer system and with respect to payments of sewer rentals or charges in connection therewith. In such

event, such service and payments with respect thereto shall be governed by terms and conditions of such special agreement.

**§ 78-4. Time and method of payment.**

- A. Sewer rentals or charges imposed by this Article shall be payable quarterly.
- B. All bills with respect to sewer rentals or charges shall be rendered quarterly on the 15th days of January, April, July and October of each year for service during the preceding calendar quarter ending December 31, March 31, June 30 and September 30, respectively.
- C. Sewer rentals or charges shall be due and payable on the billing date as provided in Subsection B of this section, and the amount computed in accordance with this Article shall constitute the net bill. If sewer rentals or charges are not paid within 30 calendar days after the billing date, an additional sum of 10% shall be added to such net bill, which net bill, plus such additional sum, shall constitute the gross bill. Payment made or mailed and postmarked on or before the last day of such thirty-calendar-day period shall constitute payment within such period. If the end of such thirty-calendar-day period shall fall on a legal holiday or on a Sunday, payment made on or mailed and postmarked on the next succeeding business day which is not a legal holiday shall constitute payment within such period. If sewer rentals or charges are not paid within 60 days, the maximum interest allowable by law shall accrue until such time as payment is made. Whenever service to any improved property shall begin after the first day or shall terminate before the last day of any quarterly billing period, sewer rentals or charges for such period shall be prorated equitably, if appropriate, for that portion of the quarterly billing period during which such improved property was served by the sewer system.<sup>3</sup>
- D. Every owner of improved property which is connected to the sewer system initially shall provide the Board of Supervisors with and thereafter shall keep the Board of Supervisors advised of his correct address. Failure of any person to receive quarterly bills for sewer rentals or charges shall not be considered an excuse for nonpayment, nor shall such failure result in an extension of the period of time during which the bill shall be payable.

**§ 78-5. Liens for sewer rentals; filing and collection.**

Sewer rentals or charges imposed by this Article shall be a lien on the improved property connected to and served by the sewer system; and such sewer rentals or charges which are not paid within 60 days after each quarterly billing date applicable to the particular improved property shall be filed as a lien against the improved property so connected to and served by the sewer system, which lien shall be filed in the office of the Prothonotary of Adams County, Pennsylvania, and shall be collected in the manner provided by law for the filing and collecting of municipal claims. All delinquent bills shall be collected by this Township in any manner permitted by law. Failure to promptly file said lien shall not be deemed a waiver of the Township's right to subsequently file said lien.

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3. Editor's Note: This subsection was amended by resolution 2-8-1995 in order to correct a scrivener's error regarding the additional penalty.

**§ 78-6. Prohibited discharges.**

- A. No person shall discharge or cause to be discharged any cooling water or unpolluted industrial or commercial process water into any sewer.
- B. Except as otherwise provided in this Article, no person shall discharge or cause to be discharged into the sewer system any of the following-described wastes or waters:
- (1) Any liquid or vapor having a temperature higher than 140° F.
  - (2) Any water or waste containing more than 50 ppm of fats, oils or greases.
  - (3) Any gasoline, benzene, naphtha, fuel oil, solvent or other flammable or explosive liquid, solid or gas which, by reason of its nature or quality, may cause fire or explosion or which, in any other way, may be injurious to persons or the sewer system or the sewage treatment plant.
  - (4) Any noxious or malodorous gas or substance which, either singly or by interaction with other wastes, shall be capable of creating a public nuisance or hazard to life or of preventing entry into any sewer or the sewage treatment plant for maintenance and repair.
  - (5) Any garbage, except properly chopped garbage.
  - (6) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, bones, feathers, tar, plastics, wood, paunch manure, butcher's offal or any other solid or viscous substance which shall be capable of causing obstruction to the flow in any sewer or other interference with the proper operation of the sewer system or the sewage treatment plant.
  - (7) Any water or waste having a pH as determined by the Board of Supervisors lower than five point zero or higher than nine point zero or having any corrosive property capable of causing damage or hazard to structures or equipment of the sewer system or the sewage treatment plant or to personnel engaged in operation and maintenance thereof.
  - (8) Any water or waste containing any toxic substance so that it will exceed state, federal or other validly existing requirements for the receiving stream.
  - (9) Any water or waste containing total solids of such character and quantity that unusual attention or expense shall be required to handle such water or waste at the sewage treatment plant for sewage treatment processes.
  - (10) Any drainage from building construction.
  - (11) Any stormwater, either from street or gutter inlets or from roof or other rainwater connections, surface or subsurface water, exhaust water, steam or other unpolluted drainage.
  - (12) Any sanitary waste containing any substance or having any characteristic that violates provisions of the intermunicipal agreement or that is prohibited by the Township of Butler or the Borough of Biglerville or the Biglerville Borough

Authority from being discharged to the sewage treatment facilities of such Township, Borough or such Authority.

- (13) Any water or waste prohibited by any permit issued by the Commonwealth of Pennsylvania, the United States of America or any board, agency, department or commission of either of the foregoing.
  - (14) Any discharge constituting a rate of discharge or substantial deviation from normal rates of discharge sufficient to cause interference in the operation and performance of facilities.
  - (15) Any discharge containing floatable oil, fat or grease.
  - (16) Any discharge containing radioactive wastes in harmful quantities.
- C. Industrial waste discharge. No person shall discharge or permit to be discharged into the sewer system any industrial waste which would impair, impede, affect, interfere with or endanger the sewer system or the sewage treatment plant. No permit shall be issued for a connection, nor shall any connection be made to the sewer system for the purpose of discharging industrial waste therein, until and unless the Board of Supervisors and, if necessary, the Biglerville Borough Council shall have first determined that such industrial waste to be discharged into the sewer system is or has been rendered, by pretreatment or otherwise, reasonably harmless and would not impair, impede, affect, interfere with or endanger the sewer system or any part thereof of the functioning of the processes of the sewage treatment plant. Plans and specifications and other pertinent information relating to any proposed discharge and preliminary treatment of industrial waste shall be submitted to the Board of Supervisors, and no construction of such treatment facilities shall be commenced, nor shall industrial wastes be discharged into the sewer system, until the Board of Supervisors shall have issued an industrial waste permit approving such facilities and the proposed discharge. Such permit shall be in addition to any other permits required for connection to the sewer system, and the applicant shall reimburse the Board of Supervisors for the engineering fees and other costs incurred in reviewing the application, in addition to connection charges or fees payable in respect to the proposed connection.
- D. The Board of Supervisors reserves the right to refuse permission to connect to the sewer system, to compel discontinuance of use of the sewer system or to compel pretreatment of industrial wastes in order to prevent discharges deemed harmful or to have a deleterious effect upon any portion of the sewer system or of the sewage treatment plant.
- E. Control manholes.
- (1) Any person who shall discharge sanitary wastes into the sewer system, when required by the Board of Supervisors, shall construct and thereafter properly maintain at his own expense a suitable control manhole to facilitate observation, measurement and sampling by the Board of Supervisors.
  - (2) Any such control manhole, when required by the Board of Supervisors, shall be constructed in an accessible, safe, suitable and satisfactory location in accordance

with plans approved by the Board of Supervisors prior to commencement of construction.

- F. Sewage sampling. Sanitary sewage and/or industrial wastes being discharged into the sewer system shall be subject to periodic sampling, inspection and determination of character and concentration. Such sampling, inspection and determination shall be made by the Board of Supervisors as frequently as may be deemed necessary. Representative samples for a full working day shall be obtained by taking hourly samples and compositing them in accordance with the flow at the time of sampling. Sewage sampling facilities shall be accessible to the Board of Supervisors at all times.
- G. Analysis. The Board of Supervisors shall be responsible for analysis of the samples of sewage wastes at such intervals as the Board of Supervisors shall determine. Laboratory methods used in the analysis of samples of sewage wastes shall be those set forth in the latest edition of Standard Methods for the Examination of Water and Sewage as published by the American Public Health Association.
- H. Changes in type of wastes. Any owner of an improved property who is discharging or permitting to be discharged sewage wastes into the sewer system and who contemplates a change in the operations, processes or other activities conducted on such improved property that will alter the type of wastes discharged into the sewer system shall notify the Board of Supervisors, in writing, at least 10 days prior to consummation of such change. Such notification shall not be presumed a permission to discharge the wastes.
- I. Nothing contained in this section shall be construed as prohibiting any special agreement or arrangement between the Board of Supervisors and any person whereby sewage wastes of unusual strength or character may be admitted into the sewer system by the Board of Supervisors either before or after preliminary treatment.

**§ 78-7. Access.**

The Board of Supervisors shall have the right of access at reasonable times to any part of any improved property served by the sewer system as shall be required for purposes of inspection, observation, measurement, sampling and testing and for performance of other functions relating to service rendered by the Board of Supervisors through the sewer system.

**§ 78-8. Responsibility of owners of improved property.**

- A. The owner of each improved property connected to the sewer system shall be responsible for all acts of tenants or other occupants of such improved property insofar as such acts shall be governed by provisions of this Article.
- B. If the owner of any nonresidential improved property, including any school or similar institution, shall fail to provide this Township with complete information required to compute the sewer rental or charge to such nonresidential improved property, this Township may estimate a reasonable applicable sewer rental or charge for such nonresidential improved property and such estimated sewer rental or charge shall be the actual sewer rental or charge payable until the required information is filed; provided,

however, that no rebates will be paid by this Township if the information filed reveals a lower indicated sewer rental or charge than that estimated by this Township.

**§ 78-9. Adoption of additional rules and regulations.**

The Board of Supervisors reserves the right to adopt, from time to time, such additional rules and regulations as it shall deem necessary and proper in connection with the use of the sewer system, which rules and regulations shall be, shall become and shall be construed as part of this Article.

**§ 78-10. Restriction on new connections.**

No new connection to the sewer system shall be permitted unless there is sufficient reserved capacity in the sewer system to adequately convey and treat the wastewater which the new connection will contribute; provided, however, that a new connection to the sewer system will be permitted upon written approval from the Department of Environmental Resources.

**§ 78-11. Declaration of purpose.**

It is hereby declared that the enactment of this Article is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of the Township.

**ARTICLE II**  
**Sewer Connections**  
[Adopted 12-10-86 as Ord. No. 86-2]

**§ 78-12. Definitions.**

Unless the context specifically and clearly indicates otherwise, the meanings of terms used in this Article shall be as follows:

**AUTHORITY** — The Biglerville Borough Authority, Adams County, Pennsylvania, a municipal authority incorporated by the Borough of Biglerville on May 27, 1960, under the Municipal Authorities Act of 1945, P.L. 382.<sup>4</sup>

**BOARD OF SUPERVISORS** — The Board of Supervisors of the Township, or, in appropriate cases, its authorized representatives.

**BOD<sub>5</sub> (BIOCHEMICAL OXYGEN DEMAND)** — The quantity of oxygen, expressed in ppm, utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five days at 20° C. The standard laboratory procedure shall be that found in the latest edition of Standard Methods for the Examination of Water and Sewage published by the American Public Health Association.

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

**BOROUGH** — Biglerville Borough, Adams County, Pennsylvania, a municipal subdivision of the Commonwealth of Pennsylvania, acting by and through its Council, or, in appropriate cases, acting by and through its authorized representative.

**BUILDING SEWER** — The extension from the sewage drainage system of any structure to the lateral of a sewer.

**COMMERCIAL ESTABLISHMENT** — Any room, group of rooms, building or enclosure connected directly or indirectly to the sewer system and used or intended for use in the operation of one business enterprise for the sale and distribution of any product, commodity, article or service.

**DWELLING UNIT** — Any room, group of rooms, house trailer, building or other enclosure connected directly or indirectly to the sewer system and occupied or intended for occupancy as separate living quarters by a family or other group of persons living together or by a person living alone.

**GARBAGE** — Solid wastes resulting from preparation, cooking and dispensing of food and from handling, storage and sale of produce.

**IMPROVED PROPERTY** — Any property upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial wastes shall be or may be discharged.

**INDUSTRIAL ESTABLISHMENT** — Any room, group of rooms, building or other enclosure connected directly or indirectly to the sewer system and used or intended for use, in whole or in part, in the operation of one business enterprise for manufacturing, processing, cleaning, laundering or assembling of any product, commodity or article or from which any process waste, as distinct from sanitary sewage, shall be discharged.

**INDUSTRIAL WASTES** — Any and all wastes discharged from an industrial establishment other than sanitary sewage.

**INSTITUTIONAL ESTABLISHMENT** — Any room, group of rooms, building or other enclosure connected directly or indirectly to the sewer system which does not constitute a commercial establishment, a dwelling unit or an industrial establishment.

**INTERMUNICIPAL AGREEMENT** — A certain agreement for transporting and treating wastewater, dated May 13, 1976, between the Township and the Borough of Biglerville, Adams County, Pennsylvania, including all amendments and/or supplements thereto which may be entered into from time to time, pursuant to which the Township may discharge from the sewer system to facilities of such Borough and/or such Authority sanitary sewage and industrial wastes for treatment and disposal.

**LATERAL** — That part of the sewer system extending from a sewer to the curblin, or, if there shall be no curblin, to the property line, or if no such "lateral" shall be provided, then "lateral" shall mean that portion of or place in a sewer which is provided for connection of any building sewer.

**MULTIPLE UNIT** — Any improved property in which there is located more than one dwelling unit, commercial establishment, industrial establishment or institutional establishment, or any combination thereof.

**OWNER** — Any person vested with ownership, legal or equitable, sole or partial, of any improved property.

**PERSON** — Any individual, partnership, company, trust, association, society, corporation, school district, municipality, municipality authority or other group or entity.

**PH** — The logarithm of the reciprocal of the weight of hydrogen ions, expressed in grams per liter of solution.

**PPM** — Parts per million by weight.

**PROPERLY CHOPPED GARBAGE** — Garbage that has been chopped to such a degree that all its particles will be carried freely under normal sewer flow conditions, with no particle greater than 1/2 inch in any dimension.

**SANITARY SEWAGE** — The normal water-carried household and toilet wastes from any improved property.

**SEWAGE TREATMENT PLANT** — As appropriate, the sewage treatment facilities owned by the Biglerville Borough Authority and operated by the Borough of Biglerville for which wastes discharged into the sewer system are being transported and treated pursuant to the intermunicipal agreement.

**SEWER** — Any pipe, main or conduit constituting a part of the sewer system and used or usable for collection and transportation of sanitary sewage and industrial wastes.

**SEWER SYSTEM** — All facilities as of any particular time for collecting, pumping, transporting, treating and disposing of wastewater, to be acquired or to be constructed and to be owned by the Township.

**SUSPENDED SOLIDS** — Solids neither dissolved in nor floating on the surface of the liquid as determined by appropriate procedures found in the latest edition of Standard Methods for the Examination of Water and Sewage published by the American Public Health Association.

**TOTAL SOLIDS** — All solids as determined by appropriate procedures found in the latest edition of Standard Methods for the Examination of Water and Sewage published by the American Public Health Association.

**TOWNSHIP** — Butler Township, Adams County, Pennsylvania, a municipal subdivision of the Commonwealth of Pennsylvania, acting by and through its Board of Supervisors, or, in appropriate cases, acting by and through its authorized representatives.

**TOXIC SUBSTANCES** — Includes any substance or combination of substances that:

- A. Is listed in the regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of CWA 307(a); or

- B. Is present in sufficient quantity, either singularly or by interaction with other waste, to injure or interfere with any sewage treatment process, to constitute a hazard to humans or animals, to create a public nuisance or to create any hazard in the sewer system or in the receiving water of the sewage treatment plant.

WASTES OR SEWAGE WASTES — Normal domestic sewage.

**§ 78-13. Use of public sewer required.**

- A. The owner of any improved property accessible to and whose principal building is within 150 feet of the sewer system shall connect such improved property with and shall use such sewer system, in such manner as this Township may require, within 60 days after notice to such owner from this Township to make such connection, for the purpose of discharge of all sanitary sewage and industrial wastes from such improved property; subject, however, to such limitations and restrictions as shall be established herein or otherwise shall be established by this Township from time to time.
- B. All sanitary sewage and industrial wastes from any improved property, after connection of such improved property with a sewer as required under Subsection A, shall be discharged into a sewer; subject however, to such limitations and restrictions as shall be established herein or otherwise shall be established by this Township from time to time.
- C. Prohibited deposits or discharges.
- (1) No person shall place, shall deposit or shall permit to be placed or to be deposited upon public or private property within this Township any sanitary sewage or industrial wastes in violation of Subsection A.
- (2) No person shall discharge or shall permit to be discharged to any natural outlet within this Township any sanitary sewage or industrial wastes in violation of this Article except where suitable treatment has been provided which is satisfactory to this Township and the Pennsylvania Department of Environmental Resources.
- D. No privy vault, cesspool, sinkhole, septic tank or similar receptacle shall be used or shall be maintained at any time upon any improved property which has been connected to a sewer or which shall be required under Subsection A to be connected to a sewer. Every such privy vault, cesspool, sinkhole, septic tank or similar receptacle in existence shall be abandoned, shall be cleansed and shall be filled, at the expense of the owner of such improved property, under the direction and supervision of this Township; and any such privy vault, cesspool, sinkhole, septic tank or similar receptacle not so abandoned, cleansed and filled shall constitute a nuisance, and such nuisance shall be abated, as provided by law, at the expense of the owner of such improved property.
- E. No privy vault, cesspool, sinkhole, septic tank or similar receptacle at any time shall be connected with a sewer.
- F. The notice by this Township to make a connection to a sewer referred to in Subsection A shall consist of a copy of this Article, including any amendments or supplements at the time in effect or a summary of each section hereof, and a written or printed document requiring the connection in accordance with the provisions of this Article and specifying

that such connection shall be made within 60 days after the date such notice is given or served. Such notice may be given or served at any time after a sewer is in place which can receive and can convey sanitary sewage and industrial wastes for treatment and disposal from the particular improved property. Such notice shall be given or served upon the owner in accordance with law.

**§ 78-14. Building sewers and connections.**

- A. No person shall uncover, connect with, make any opening into or use, alter or disturb in any manner any sewer or part of the sewer system without first obtaining a permit, in writing, from this Township.
- B. Application for a permit required under Subsection A shall be made by the owner of the improved property served or to be served or by the duly authorized agent of such owner, all in compliance with this Article.
- C. No person shall make or shall cause to be made a connection of any improved property with a sewer until such person shall have fulfilled each of the following conditions:
  - (1) Such person shall have notified this Township of the desire and intention to connect such improved property to a sewer.
  - (2) Such person shall have applied for and shall have obtained a permit as required by Subsection A.
  - (3) Such person shall have given this Township at least 24 hours' notice of the time when such connection will be made so that this Township may supervise and inspect or may cause to be supervised and inspected the work of connection and necessary testing.
  - (4) If applicable, such person shall have furnished satisfactory evidence to this Township that any tapping fee which may be charged and imposed by the Township against the owner of each improved property who connects such improved property to a sewer has been paid.
- D. Except as otherwise provided in this subsection, each improved property shall be connected separately and independently with a sewer through a building sewer. Grouping of more than one improved property on one building sewer shall not be permitted except under special circumstances and for good sanitary reasons or other good cause shown, but then only after special permission of this Township shall have been secured in writing and only subject to such rules, regulations and conditions as may be prescribed by this Township.
- E. All costs and expenses of construction of a building sewer and all costs and expenses of connection of a building sewer to a sewer shall be borne by the owner of the improved property to be connected; and such owner shall indemnify and shall save harmless this Township from all loss or damage that may be occasioned directly or indirectly as a result of construction of a building sewer or of connection of a building sewer to a sewer.

- F. A building sewer shall be connected to a sewer at the place designated by this Township and where, if applicable, the lateral is provided. The invert of a building sewer at the point of connection shall be at the same or a higher elevation than the invert of the sewer. A smooth, neat joint shall be made and the connection of a building sewer to the lateral shall be made secure and watertight.
- G. If, after 60 days' notice from this Township in accordance with § 78-13A, the owner of any improved property located within this Township and accessible to and whose principal building is within 150 feet of the sewer system shall fail to connect such improved property as required, this Township may enter upon such improved property and construct such connection and may collect from such owner the costs and expenses thereof in the manner permitted by law.

**§ 78-15. Rules and regulations.**

- A. Where an improved property shall be served by its own sewage disposal system or sewage disposal device at the time connection to a sewer is required, the existing house sewer line shall be broken on the inlet side of such sewage disposal system or sewage disposal device and attachment shall be made with proper fittings to continue such house sewer line as a building sewer.
- B. No building sewer shall be covered until it has been inspected and approved by this Township. If any part of a building sewer is covered before so being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to a sewer.
- C. Every building sewer of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.
- D. Every excavation for a building sewer shall be guarded adequately with barricades and lights to protect all persons from damage and injury. Any street, sidewalk and other public property disturbed in the course of installation of a building sewer shall be restored at the cost and expense of the owner of the improved property being connected, in a manner satisfactory to this Township.
- E. If any person, upon receipt of a notice from this Township, in writing, shall fail or shall refuse to remedy any unsatisfactory condition with respect to a building sewer within 60 days of receipt of such notice, this Township may refuse to permit such person to discharge sanitary sewage or industrial wastes into the sewer system until such unsatisfactory condition shall have been remedied to the satisfaction of this Township.
- F. This Township reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to connection with a sewer and with the sewer system, which additional rules and regulations, to the extent appropriate, shall be construed as part of this Article.

**§ 78-16. Enforcement and administration.**

- A. Any person who shall violate this Article shall be liable, upon summary conviction, to a fine of not more than 300, together with costs of prosecution in each case. Each day that a violation shall continue shall be deemed and shall be taken to be a separate offense and shall be punishable as such.
- B. Fines and costs imposed under provisions of this Article shall be enforceable and recoverable in the manner and at the time provided by applicable law.

**§ 78-17. Declaration of purpose.**

It is declared that enactment of this Article is necessary for the protection, benefit and preservation of the health, safety and welfare of inhabitants of this Township.

**ARTICLE III****Tapping Fee**

[Adopted 12-10-86 as Ord. No. 86-3]

**§ 78-18. Sewer connection permit required.**

No person shall connect any improved property with any part of the sewer system without first making application for and securing a permit, in writing, from Butler Township. Such application shall be made on a form to be provided by the Township.

**§ 78-19. Imposition of fee.**

The Township shall charge a tapping fee, as set forth in § 78-20, against the owner of any improved property whenever such owner hereafter shall connect any such improved property with the sewer system. Such tapping fee is charged for connection of each such improved property by the owner of such improved property.

**§ 78-20. Amount.**

The amount of the tapping fee for connection of each improved property to the sewer system shall be 650; provided, however, that a discount of 50 shall be allowed if such tapping fee shall be paid within 60 days after notice to connect is issued by the Township.

**§ 78-21. When due.**

The tapping fee shall be due and payable at the time application is made to the Township to make any such connection to the sewer system, as provided in § 78-18, or upon the date when the Township shall connect any such improved property to the sewer system, at the cost and expense of the owner, when such owner shall have failed to make such connection as required

by the Township pursuant to the provisions of the ordinance then in effect requiring such connection.<sup>5</sup>

**§ 78-22. Collecting official.**

All tapping fees shall be payable to the Treasurer of this Township or to such other officer or representative of this Township as shall be authorized, from time to time, by ordinance of this Township, to accept payment thereof.

**§ 78-23. Enforcement.**

Payment of tapping fees charged by Butler Township pursuant to this Article shall be enforced by Butler Township in any manner appropriate under laws at the time in effect.

**§ 78-24. Right to amend provisions.**

Butler Township reserves the right, from time to time, to adopt modifications of, supplements to or amendments of this Article.

ARTICLE IV  
Sewer Plumbing  
[Adopted 7-8-87 as Ord. No. 87-2<sup>6</sup>]

**§ 78-25. Title.**

This Article shall be known as the "Butler Township Sewer Plumbing Ordinance."

**§ 78-26. Administration.**

It shall be the duty of the Plumbing Inspector to administer and enforce this Article, and he is hereby authorized and directed to take such action as may be necessary to enforce this Article. In this responsibility, the Plumbing Inspector will be assisted by the Township Engineer. The above shall be the administrative authority charged with the responsibility of enforcing the provisions of this Article.

**§ 78-27. Purpose.**

The purpose of this Article is to set forth uniform standards and requirements for the use of the sewer system of Butler Township and enable the Township to comply with applicable state and federal regulations as required by the Clean Water Act of 1977 and the General Pretreatment Regulations, 40 CFR Part 403.

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5. Editor's Note: See Art II, Sewer Connections, of this chapter.

6. Editor's Note: This ordinance also provided that it take effect 8-8-87.

**§ 78-28. Definitions.**

- A. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in these rules and regulations shall be as follows:

**BUILDING SEWER** — The extension of the sewage drain or sewer line from any structure and connecting to the service line or lateral connection.

**COMMONWEALTH** — The Commonwealth of Pennsylvania.

**IMPROVED PROPERTY** — Any property upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial wastes shall be or may be discharged.

**LATERAL** — That part of the sewer system extending from a sewer to the curblineline or, if there shall be no curblineline, to the property line or, if no such lateral shall be provided, then "lateral" shall mean that portion of or place in a sewer which is provided for the connection of any building sewer.

**MANHOLE** — A structure leading from the surface of the ground to a sewer, permitting access to the sewer.

**OWNER** — Any person vested with ownership, legal or equitable, sole or partial, of an improved property.

**PERSON** — Any individual, partnership, copartnership, firm, company, corporation, association, joint-stock company, trust, estate, government entity or any other legal entity or their legal representatives, agents or assigns.

**PLUMBING INSPECTOR** — The person or persons appointed by the Township to enforce the terms of this Article.

**SANITARY SEWER** — A sewer which carries sewage and/or authorized industrial wastes and to which storm-, surface and ground waters are not intentionally admitted.

**SEWAGE TREATMENT PLANT** — That portion of the sewer system which is designed to provide treatment to wastewater. It includes, but is not necessarily limited to any arrangement of devices and structures used for treatment of sewage and authorized industrial waste.

**SEWAGE TREATMENT PLANT** — Any treatment facilities owned in whole or in part by the Borough of Biglerville or the Biglerville Borough Authority or used by it or by Butler Township for the treatment of wastewater.

**SEWER** — A pipe or conduit for carrying sanitary sewage or authorized industrial waste.

**SEWER SYSTEM** — A publicly owned treatment works (POTW) as defined by Section 212 of the Act (33 U.S.C. 1292). For purposes of this Article, "sewer system" shall mean all facilities owned by the Township as of any particular time, for collecting, pumping, transmitting, treating and disposing of sanitary sewage and/or industrial wastes, situated

in or adjacent to this Township and shall also include any sewers that convey wastewaters to the sewer system from persons who are, by contract or agreement with the Township, users of the Township's facilities.

STREET — Includes any street, road, lane, cul-de-sac, alley, public way, public square, sewer right-of-way or sewer easement.

TOWNSHIP — The Township of Butler, Adams County, Pennsylvania.

USER — Any person who contributes, causes or permits the contribution of wastewater into the Township's sewer system.

- B. Word usage. The term "shall" is mandatory; "may" is permissive.

**§ 78-29. Sewer permits and connections.**

- A. Permit required. No person shall uncover, connect with, make any opening into or use, alter or disturb, in any manner, any sewer of the sewer system without first obtaining a permit, in writing, from the Township. All permits issued are conditioned upon the construction being performed by a plumber who has had experience in connecting homes to sewer lines.
- B. Permit fee. Application for a permit required under Subsection A above shall be made by the owner of the improved property or his duly authorized agent. Prior to consideration of an application, the Township shall first receive a permit fee from the applicant or owner. Should the application be refused, the permit fee shall be refunded. Permit fees shall be set annually no later than April 1 of each year beginning April 1, 1987. When a connection fee is required by this Article, the permit shall not be issued until such connection fee is paid.
- C. Connection fee. The Township, upon receipt of a connection fee, shall issue a sewer permit to the applicant for a connection to the sewer system. The permit shall be effective for a period of 30 days, which permit shall be continued for a like period on sufficient cause shown. Connection fees shall be set annually.
- D. Inspection of building sewers. The permittee shall not make, or cause to be made, the connection to the Township sewer system except in the presence of the Plumbing Inspector, nor shall the building sewer trench be backfilled until the piping has been inspected and approved by the Plumbing Inspector. The permittee shall give the Township at least three working days' advance notice of the time when such connection shall be made.
- E. Separate connections. Unless written permission is obtained from the Township, a separate house sewer will be required for each improved property whether constructed as a detached unit or as one of a pair or row, but a single house sewer will be permitted to serve a school, factory, apartment house or other permanent multiple-unit structure whose individual apartments or units may not be subject to separate ownership.
- F. Common sewage system. A single house sewer will be permitted to serve a double house in which the house drain is common to both houses or is not readily separable. In such

case, it will be necessary for each owner to make separate application and pay separate connection charges for the installation and pay the prescribed sewer rentals for each property. In addition, it will be necessary for both property owners to sign an agreement relieving the Township of any responsibility or obligation caused by or resulting from installation of a single building sewer. The agreement shall provide that any disagreement between the two parties concerning future maintenance of the common house drain and house sewer will be sufficient cause for the Township to require the installation of additional connections to the sewer main to provide individual building sewers and service laterals to both houses. The installation of such separate service laterals from the sewer main to the new house sewers shall be made at the joint expense of the property owners signing the agreement.

- G. Payment for building sewers. All costs and expenses of construction of a building sewer and all costs and expenses of connection of a building sewer to a lateral shall be borne by the owner of the improved property to be connected, and such owner of the improved property to be connected shall indemnify and save harmless the Township from loss or damage that may be occasioned, directly or indirectly, as a result of construction of a building sewer or of connection of a building sewer to a lateral.
- H. Display of permit. The permit, as required by Subsection A above, shall be displayed prominently upon the improved property to be connected to a sewer at all times during construction of the building sewer and connection of the building sewer to a lateral.
- I. Connection to lateral. A building sewer shall be connected to a sewer at the lateral. No person shall make a connection directly to or tamper with a sewer in any manner. The invert of a building sewer at the point of connection to a lateral shall be the same or higher elevation than the invert of the lateral. A smooth, neat joint shall be made, and the connection of a building sewer to a lateral shall be made secure and watertight, as provided in § 78-31.
- J. Materials. Materials for a building sewer, jointing materials and methods of installation shall be provided in § 78-31.
- K. Drainage below sewer level. In all buildings which possess wastewater-generating appliances or fixtures which cannot be drained by gravity into the sewer, such wastewater shall be lifted by mechanical or electrical means and discharged into the building sewer; provided, however, that the plan of installation must be approved by the Township in advance of construction.
- L. Right to connect. Subject to compliance with this Article and subject to capacity limitations of the sewer system, any owner of improved property within the Township accessible to the sewer system shall have the right to connect such property to the system.
- M. Work completion. Within 48 hours after the completion of the work performed under this permit, the owner or his authorized agent shall file with the Township a report, on a form furnished by the Township, setting forth thereon, among other things the owner of the premises, the number of the permit and the date of the issuance thereof, the date of the completion of the work and certification that all work was performed in accordance with Township ordinances.

**§ 78-30. Plumbing inspector.**

- A. There is hereby created the office of Plumbing Inspector. Said Inspector shall be competent by education and/or experience to administer this Article and shall not engage in or be connected directly or indirectly with the business of installing sewers or plumbing within the Township.
- B. The Plumbing Inspector shall be appointed by the Township and shall receive such compensation as the Township may from time to time provide. It shall be the Plumbing Inspector's duty to inspect all building sewer systems in conformity with the provisions of law and this Article. The Plumbing Inspector shall be charged with the duty of enforcing this Article and shall have the power to bring appropriate proceedings before the District Magistrate.

**§ 78-31. Materials.**

- A. Quality of materials. All materials used in any drainage of wastewater or part thereof shall be free from defects. Each length of pipe, fitting trap, fixture and device used in a building sewer shall be stamped or indelibly marked with the weight or quality thereof and the maker's mark or name.
- B. Pipe.
  - (1) Vitrified clay pipe. All vitrified clay pipe and bedding shall conform to the ASTM C-700 and NCPI — ERA standard specifications for extra strength clay sewer pipe. Clay sewer pipe joints shall conform to ASTM C-425 and shall be Type III with a removable rubber gasket.
  - (2) Polyvinyl chloride sewer pipe (PVC). PVC sewer pipe and fittings for use under this Article shall be ASTM D-1785 Schedule 40 or equal. All joints shall be bell and spigot containing a rubber O[??137]-ring compression-type fitting conforming to ASTM D-3217 or solvent cement joints as manufactured under ASTM 2855. [Amended 12-10-87 by Res. No. 87-30]
  - (3) Wrought iron pipe. All wrought iron pipe shall conform to the American Society for Testing and Materials Standard Specifications for Welded Wrought Iron Pipe, in accordance with federal specifications, and shall be galvanized.
  - (4) Mild-steel pipe. All steel pipe shall conform to the American Society for Testing and Materials Standard Specifications for Welded and Seamless Steel Pipe, in accordance with federal specifications, and shall be galvanized.
  - (5) Brass and copper pipe. Brass and copper pipe shall conform, respectively to the standard specifications of the American Society for Testing and Materials for brass pipe, standard sizes, and for copper pipe, standard sizes. Copper waste piping shall conform to federal specifications for tubing. Drains, waste and vents (DWV) tubing may be used for drainage, with Type-K tubing for branch lines serving only underground branches.
- C. Sheet lead. Sheet lead shall weigh not less than four pounds per square foot.

- D. Acid and chemical waste pipes. Acid and chemical waste pipes shall be of materials unaffected by the discharge of such wastes, as approved by the Township.
- E. Thread fittings. All drainage fittings shall be of cast iron, galvanized malleable iron or brass of standard weight and dimensions. All drainage fittings shall have new improved recess installed throughout, with a smooth interior waterway, with threads tapped out of solid metal and with the long turn pattern.
- F. Sewer size. Building sewer pipe and fittings shall be a minimum of four-inch nominal inside diameter.
- G. Joints and connections.
- (1) Sealing. All pipe joints and connections mentioned under this Article shall be made permanent and gas- and watertight.
  - (2) Caulked joints. Caulked joints shall be firmly packed with pure tarred jute or hemp and shall be secured only with pure molten lead, not less than one inch deep. Lead shall be run in one pouring, caulked tight and shall not extend more than 1/8 of an inch below the rim or hub. No paint, varnish or coatings shall be permitted until after the joint has been tested and approved.
  - (3) Screw joints. All screw joints shall be American Standard screw joints and all burrs and cuttings shall be removed.
  - (4) Cast-iron pipe joints. Cast-iron joints may be either caulked or slip seal or screw joints made in the approved manner.
  - (5) Wrought iron, steel, brass and copper iron. Joints may be either screwed or caulked joints made in the approved manner.
  - (6) Slip joints and unions. Slip joints will be permitted only in trap seals or on the inlet side of the trap. Unions on the sewer side of the trap shall be ground faced and shall not be concealed or enclosed.
  - (7) Increasesers and reducers. Where different sizes of pipe or pipes and fittings are to be connected, proper size increasesers or reducers, pitched at an angle of 45° between the two sizes, shall be used.
  - (8) Prohibited joints and connections. Any fitting or connection which has an enlargement, chamber or recess with a ledge shoulder or reduction of the pipe area in the direction of the flow on the outlet or drain side of any trap is prohibited. Solder bushings are prohibited except for trap connections.
- H. Manholes.
- (1) Specifications. Manholes shall conform to ASTM C-478 and shall have tongue and groove joints which utilize Ram Nek or an approved equal to form a watertight joint.

- (2) Manhole frames and covers. Manhole frames and covers shall conform to ASTM A-48 Class 20 and shall be capable of supporting HS-20 traffic load. The word SEWER shall be cast in raised letters into the cover.
  - (3) Manhole steps. Manhole steps shall conform in design with AIA-14-D, as manufactured by Aluminum Co. of America, or an approved equal.
  - (4) Connections to manholes. Sewer pipe connections to manholes shall be through a rubber gasket conforming to ASTM C-443. Gaskets shall be A-LOK or Press Wedge II.
- I. New materials. Any material other than that specified in this Article, which the Township approves as being equally efficient, may be permitted upon written authorization from the Township.
  - J. Cast-iron pipe. All cast-iron pipe and fittings shall conform to the Standard Specifications for Cast-Iron Soil Pipe and Fittings, approved by the American Standards Association. Pipe fittings shall be service weight.
  - K. Main line sewer pipe and fitting. PVC sewer pipe and fittings having a diameter of six inches or larger shall be bell and spigot (gasket joint), manufactured in accordance with ASTM D-3034 and ASTM D-1784, and shall have a wall thickness classification not less than SDR-35.
  - L. Solvent weld joints. **[Repealed 12-10-87 by Res. No. 87-30]**<sup>7</sup>

#### § 78-32. Sewer lateral construction.

##### A. Inspections.

- (1) From and after the passage of this chapter, it shall be unlawful for any owner, person, firm or corporation to connect a building sewer into the sewer system of the Township before such building sewer has been properly inspected.
- (2) The Township shall have the right to inspect the interior drainage systems of all buildings and structures within the Township to determine that sewer pipes from all fixtures are connected to the building sewer and that there are no prohibited or illegal connections to the building sewer of any such building or structure.
- (3) No building sewer installation shall be covered or concealed in any manner until after it has been inspected and approved by the Plumbing Inspector.
- (4) Notice shall be given to the Plumbing Inspector when the work is sufficiently advanced for inspection, and it shall be the duty of said Inspector to inspect the same within three working days after receipt of such notification.

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7. Editor's Note: See § 78-318(2).

- (5) Any alteration, extension, addition or removal of a building sewer shall also be inspected by the Plumbing Inspector and shall be subject to his approval in the same manner as new building sewer installations.
- B. Size. Building sewer pipe and fittings shall be four-inch minimum nominal inside diameter.
- C. Change in direction. All changes in direction shall be made with fittings. Horizontal changes shall not exceed 45°, unless a long sweep 90° bend is used.
- D. Cleanouts. A cleanout shall be installed at each horizontal change in direction greater than 45°. Each building sewer shall have at least one cleanout, but such cleanout may be installed inside the building served or may be provided by means of a combination trap and cleanout. A cleanout shall be installed at distances not greater than 100 feet. Cleanouts installed outside the building shall be constructed using a Y-fitting with a 45° bend and riser to ground surface. A screw-type ferrule shall be provided as a cover over the cleanout.
- E. Slope. The minimum slope of a four-inch building sewer shall be 1/4 inch per foot. Building sewers of a larger diameter may be constructed at a flatter slope. Prior to construction, the minimum slope of such larger building sewers must be approved by the Plumbing Inspector.
- F. Drainage below sewer level. In all buildings in which all or part of the house drainage and plumbing system lies below the level of the sewer, wastewater house wastes shall be lifted by approved artificial means and discharged into the building sewer.
- G. Sumps and receiving tanks. All subhouse drains shall discharge into an airtight sump or receiving tank so located as to receive the wastewater by gravity, from which sump or receiving tank the wastewater shall be lifted and discharged into the building sewer by pumps, ejectors or any equally efficient method. Such sumps shall be automatically discharged and be of sufficient capacity to receive the wastewater for not less than 12 hours.
- H. Ejectors; ventilators. The soil or vent pipe leading to an ejector or other appliance for raising sewage or other waste matter to the sewer system, where a water closet or closets are installed, shall be provided with a vent pipe not less in diameter than the soil pipe to which the water closet or closets are connected, and, where fixtures other than water closets are installed, the waste vent pipe shall be of the same diameter as the waste pipe.
- I. Covering of work. No building sewer or part thereof shall be covered until it has been inspected, tested and approved by the Plumbing Inspector.
- J. Uncovering of work. If any building sewer or part thereof is covered before being inspected and approved by the Plumbing Inspector, the building sewer shall be uncovered at the direction of the Plumbing Inspector.
- K. Defective work. If inspection by the Plumbing Inspector shows defects, such defective work or material shall be replaced within three days after notification to replace the same by the Plumbing Inspector.

- L. Inspection. Upon completion of the building sewer pipe laying but prior to backfilling and connection to the sewer, the owner or the owner's plumber shall notify the Plumbing Inspector that a final inspection is to be performed. The owner or owner's plumber shall give at least three working days' notice so the Plumbing Inspector can schedule an inspection of the joints of the pipe and all other fittings. He shall also inspect the bedding to ensure it conforms as specified herein.
- M. Excavation and backfill.
- (1) Trench excavation shall be of a width and depth as necessary to construct the building sewer and shall be excavated a minimum of four inches below the bottom of the sewer pipe with the trench free of all rocks and clogs of earth.
  - (2) Backfilling of the trench shall be performed by bedding the building sewer in at least four inches of stone (Pennsylvania Department of Transportation Classification for 1-B) or approved equal and leveling said stone to the top of the sewer pipe. After the building sewer pipe is installed, 12 inches of 2-RC or 2-B stone shall be placed over the pipe, ensuring that the barrel of the pipe is well supported by tamping the stone. After completion of the bedding, the remainder of the trench can be backfilled with soil free from rocks larger than four inches in diameter and clogs of earth.
- N. Traps. The building sewer must be provided with a vented house trap, known as a "building sewer trap," no less than four inches in diameter and shall be vented on the house side of the building sewer.
- O. Grease traps. When a grease trap is installed, it shall be placed as near as practical to the fixture from which is received the discharge and should have twice the capacity of the fixture discharge. Grease traps shall be approved by the Plumbing Inspector prior to installation.

**§ 78-33. Extensions to sewer system.**

- A. Acceptance of dedications. Provided that the Township possesses sufficient capacity in the sewage treatment plant to accommodate the increased flow and provided that all the following requirements are met, the Township will accept dedications of sewer lines extending the sewer system. Such acceptance will be only upon written request and formal resolution of the Township.
- B. Plans and specifications. The design of the sewers must be approved by the Township Engineer, and the construction must be to the Township's and the Engineer's specifications. Plans shall be prepared by a registered engineer or registered land surveyor, on reproducible plan and profile papers, 24 inches x 36 inches in size. The drawings shall include manhole numbers, elevation datum stationing and all other pertinent information. Five copies of all plans shall be submitted to the Township for distribution to proper municipal agencies.
- C. Inspection. Inspection of construction and testing shall be performed by the Township Engineer at the owner's expense. A sum sufficient to cover the estimated cost of such

inspection must be deposited with the Township in escrow prior to construction. The Township Engineer must be notified 72 hours in advance of any construction or testing of the sewer system.

- D. Sewer laterals. A minimum Y of eight by four inches shall be provided to accommodate sewer laterals for each improved property and each building lot accessible to the sewer extension. The owner shall construct the sewer laterals. Connection fees will be imposed for connection of the properties served by such sewer laterals. An as-built, reproducible plan and five copies of the sewer system, to include the location of sewer laterals, in plan view with the depth of the laterals at the property line shall be shown and deposited with the Township prior to acceptance.
- E. Escrows or bonds.
- (1) The Township and the Engineer will agree in advance to accept a dedication of a sewer extension if the owner promises to construct the sewers in accordance with this Article and any special conditions imposed by the Township and the Engineer.
  - (2) To assure such construction, the owner must either submit a bond with a nationally recognized surety company as surety or escrow money or other acceptable securities. The amount of the bond or escrow should be equal to the estimated cost to the Township of performing the construction. The owner shall secure the concurrence of the Township's Engineer in determining the construction cost estimate and the approval of the Engineer and the Township Solicitor of the bond or escrow agreement.
- F. State permits. State law provides that sewers may not be constructed except under a permit issued by the Department of Environmental Resources. The policy of the Department is to issue permits for a sewer extension to a Township. The Township may execute an application for a construction permit in behalf of an owner, provided that all other requirements and regulations hereunder are complied with by the owner.
- G. Pennsylvania Department of Transportation permits. If the proposed sewer extension is to be constructed in a state highway, the owner must secure a permit from the Pennsylvania Department of Transportation. The Township will execute the state highway occupancy permit in behalf of the owner.
- H. Easement agreements. If the proposed sewer extension is to be constructed, in whole or in part, in privately owned land, the owner shall prepare and deposit with the Township an agreement, in recordable form, conveying an easement for maintenance purposes to the Township. Unless special circumstances exist, the width of the easement shall be 20 feet. All recording fees and costs for recordation of the agreement shall be paid by the owner.
- I. Consulting engineer's certificate. Upon completion of a sewer extension, the owner shall dedicate the extension free of all encumbrances to the Township. The sewer extension shall be accepted by the Township only after a certificate is issued by the consulting engineer of the Township. No connection to the sewer extension shall be made until the Township's Engineer has certified the system and such certification has been accepted by the Township.

- J. Sewer extension fees. The Township's Engineer's fees for review of the plans, specifications and inspection of construction shall be in accordance with the current schedule of suggested, minimum fees of the Pennsylvania Society of Professional Engineers and, together with all necessary legal fees and administration costs, shall be paid by the owner. The total estimated escrow fees shall be deposited with the Township prior to review and approval by the Township of the sewer extension.

**§ 78-34. Right of access.**

The Township shall have the right to access, at all reasonable times, to any part of any improved property served by the sewer system as shall be required for purposes of inspection, observation, measurement, sampling and testing and for performance of other functions relating to services rendered by the Township with the sewer system or responsibilities of the Township with respect to the sewer system.

**§ 78-35. Responsibility of owners.**

The owner of any improved property connected to the sewer system shall be responsible for all acts of tenants or other occupants of such improved property insofar as such acts shall be governed by provisions of this Article.

**§ 78-36. Changes in regulations.**

The Township reserves the right to adopt, from time to time, such additional regulations as it shall deem necessary and proper in connection with the sewer system and discharge of wastewater and other substances thereto, which additional regulations shall become and shall be construed as part of this Article.

**§ 78-37. Violations and penalties.**

- A. Any person who shall violate this Article shall be liable, upon summary conviction, to a fine of not more than 300, together with costs of prosecution in each case.
- B. All other legal or equitable remedies to compel compliance with this Article shall be available to the Township.

ARTICLE V  
Holding Tanks

[Adopted 4-13-2009 by Ord. No. 2009-2<sup>8</sup>]

**§ 78-38. Purpose.**

The purpose of this article is to provide for and regulate the use, and maintenance of existing and new holding tanks designed to receive and retain sewage within from residential,

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8. Editor's Note: This ordinance also repealed former Art. V, Holding Tanks, adopted 12-9-1996 by Ord. No. 96-1.

commercial or industrial uses, establish agreements and conditions for said holding tank use, and prescribe penalties for violation of any provisions of this article.

**§ 78-39. Definitions.**

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

ACT — The Pennsylvania Sewage Facilities Act (35 P.S. §§ 750.1-750.20) as amended, from time to time.

DEPARTMENT — The Pennsylvania Department of Environmental Protection (DEP).

DISPOSAL SITE — A suitable facility for the final disposition of human and animal sewage and wastes, which facility shall have been and remains approved for such purposes by the Department.

HOLDING TANK — A watertight tank, whether permanent or temporary, to which sewage is conveyed by a water-carrying system and which is designed and constructed to facilitate ultimate disposal of the sewage at another site approved by the Department.

OWNER — The natural person or persons, partnership, corporation or other entity that owns legal and/or equitable title to the land for which a holding tank permit is sought or issued.

REGULATIONS — The regulations of the Pennsylvania Department of Environmental Protection, 25 Pa. Code Chapters 71-73 as amended, and all other regulations of the Department pertaining to holding tanks.

SEWAGE — A substance that contains waste products or excrement or other discharge from the bodies of human beings or animals and noxious or deleterious substances harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation. The term includes any substance which constitutes pollution under the Clean Streams Law.<sup>9</sup>

**§ 78-40. Use of holding tanks.**

Holding tanks may be used subject to the provisions of this article for sewage disposal from existing structures where a malfunction in the presently installed on-site sewage treatment system cannot be suitably repaired or replaced due to unsuitability of soils or other conditions; or, for new construction for commercial or industrial establishments in accord with regulations promulgated by the Pennsylvania Department of Environmental Protection.

**§ 78-41. Holding tank permit agreement.**

The issuance of any holding tank permit by the Township Sewage Enforcement Officer shall be specifically conditioned upon, among other things, the owner executing and delivery into the Township Board of Supervisors a Butler Township holding tank permit agreement, as well as said owner's full compliance with the terms of said agreement, the provisions of this article

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9. Editor's Note: See 35 P.S. § 691.1 et seq.

and the Act and regulations. The agreement shall be signed by the owner, and acknowledged by the owner before a notary public. The form of said Butler Township holding tank permit agreement<sup>10</sup> shall be substantially as follows:

**§ 78-42. Severability.**

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

**§ 78-43. Violations and penalties.**

Any person who violates any provision of this Ordinance shall, upon conviction thereof by summary proceedings before a Magisterial District Judge, be sentenced to pay a fine of not less than \$500 and not more than \$1,000 and in default of said fine and costs to undergo imprisonment in the county prison for a period not in excess of 30 days.

**§ 78-44. through § 78-47. (Reserved)**

ARTICLE VI  
On-Lot Sewage Disposal System  
[Adopted 11-12-1997 by Ord. No. 97-2]

**§ 78-48. Statutory basis and purpose.**

This article is adopted pursuant to the Pennsylvania Sewage Facilities Act, as amended (35 P.S. § 750.1 et seq.). The purpose of this article is to provide for the permitting of all on-lot sewage disposal systems within the Township in accordance with the standards and regulations of the Township, the Department of Environmental Protection and all applicable statutes of the Commonwealth of Pennsylvania, including those systems otherwise eligible for an exemption from the permitting requirements of the Sewage Facilities Act, as authorized by said Act.

**§ 78-49. Permit requirement.**

- A. From and after the effective date of this article, all persons proposing to install an on-lot sewage disposal system on any lot within the Township, including those persons proposing to install such a system on a lot of 10 acres or larger, and who are otherwise qualified for a permit exemption in accordance with the provisions of the Pennsylvania Sewage Facilities Act (35 P.S. § 750.1 et seq.), shall apply to the Township for a permit

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10. Editor's Note: A copy of said agreement is included at the end of this chapter.

for the installation of such system. In addition, prior to the alteration, replacement, repair or extension of any such existing sewage system, a similar application for a permit shall be filed with the Township; provided, however, that every such sewage system installed shall be subject to approval by the Pennsylvania Department of Environmental Protection.

- B. Applications for a permit to install an individual sewage system shall be made prior to the expected date of commencement of construction of such facilities on forms provided by the Township, which the applicant shall submit with any plans, specifications or other information deemed necessary by the Sewage Enforcement Officer for the Township. No person shall install or commence any construction, replacement or repair of an on-lot sewage disposal system which requires a written permit until such permit has been issued by the Sewage Enforcement Officer for Butler Township and until the fee for issuing such permit has been paid in full.

**§ 78-50. Permit fee.**

A permit and inspection fee in an amount as established by resolution of the Board of Supervisors of Butler Township shall be paid at the time when the application for a permit is filed.

**§ 78-51. Effective date of permit.**

A permit for an individual sewage system shall not become effective until the installation is completed to the satisfaction of the Sewage Enforcement Officer. The Sewage Enforcement Officer shall be permitted to inspect the work at any stage of construction, and the applicant shall notify him or her when the work is ready for final inspection and before any underground portions are covered.

**§ 78-52. Conformity to regulations.**

The type, capacities, location and layout of an individual sewage system shall comply with the recommendations of the Sewage Enforcement Officer, the rules and regulations of the Township and of the Department of Environmental Protection and all applicable statutes of the Commonwealth of Pennsylvania.

**§ 78-53. Enforcement.**

- A. Any person, firm or corporation who shall violate any provisions of this article, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than 1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this article continues or any section thereof which shall be found to have been violated shall constitute a separate offense.

- B. In addition to the penalties for noncompliance as above set forth, it is further provided that all civil and equitable remedies authorized by law shall be applicable to violations of this article.

**§ 78-54. Definitions.**

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

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

**INDIVIDUAL SEWAGE SYSTEM** — Single system of piping, tanks or other facilities serving one or two lots and collecting and disposing of sewage in whole or in part into the soil of the property or into any waters of the commonwealth.

**LOT** — A part of a subdivision or a parcel of land used as a building site or intended to be used for building purposes, whether immediate or future.

**PERSON** — Any natural person, partnership, association or corporation. When used in any clause prescribing and imposing a penalty or imposing a fine and imprisonment or both, the term "person" shall include the members of an association and officers of a corporation.

**SEWAGE ENFORCEMENT OFFICER** — A person or agency appointed by the Township of Butler to perform inspections and issue permits in connection with individual sewage systems and community sewage systems.

**TOWNSHIP** — Butler Township, Adams County, Pennsylvania.



SEWERS

78 Attachment 1

Township of Butler

Butler Township Holding Tank Permit Agreement

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, by and between BUTLER TOWNSHIP, a duly incorporated Second Class Township and political subdivision of the Commonwealth of Pennsylvania, with an office at 2379 Table Rock Road, Biglerville, PA 17307, by its Board of Supervisors, party of the first part, hereinafter referred to as the "Township," and \_\_\_\_\_ of \_\_\_\_\_ party(ies) of the second part, hereinafter referred to, in the singular or plural, as the "owner."

WHEREAS, owner is the owner of that certain tract of real property, located at \_\_\_\_\_, Butler Township, Adams County, Pennsylvania, the present deed to which is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed/Record Book \_\_\_\_\_ at page \_\_\_\_\_; and

WHEREAS, owner has applied to the Township, by its Sewage Enforcement Officer, for the holding tank permit, in accordance with the pertinent provisions of The Pennsylvania Sewage Facilities Act [35 P.S. § 750.1, et seq. (the "Act")] and the regulations of the Pennsylvania Department of Environmental Protection [25 Pa. Code § 71.1, et seq. (the "Regulations")] and, all further regulations of the Department pertaining to holding tanks.

WHEREAS, the Township is willing to issue unto the owner a holding tank permit, subject, however, to owner's compliance with the present agreement, the ordinance, the Act and the Regulations.

NOW, THEREFORE, WITNESSETH: that, with the foregoing incorporated by reference herein and deemed an essential part hereof, and in consideration of the parties' mutual promises and agreements contained herein, and intending to be legally bound hereby, the Township and owner hereby agree as follows:

1. The Township shall issue unto owner a holding tank permit, conditioned upon and subject to owner's strict compliance with all of the provisions of the present agreement, the ordinance, the Act and the Regulations.
2. Owner shall furnish, install and maintain owner's subject holding tank in conformity with all of the terms and conditions of the owner's application and permit, as well as the pertinent provisions of the Act, the ordinance, the Regulations and this agreement.
3. Owner shall be responsible for retaining, under separate contract, the services of a duly licensed holding tank collection/disposal operator or company along with said operator's or company's written contract or authorization with an approved sewage disposal site. At time of receipt of the holding tank permit and at any time

## BUTLER CODE

thereafter, upon demand, the owner shall provide to the Township a copy of this contract. If the contract is terminated, the owner must provide, to the Township, within three days of the termination, a contract with another certified hauler.

4. Owner shall furnish the Township Secretary with written statements or receipts indicating owner's regular and proper pumping of owner's holding tank; such statements or receipts shall be furnished or exhibited at any time upon demand of the Township's Sewage Enforcement Officer or other designated Township representative, and at least monthly to the Township Secretary.
5. Owner agrees to cause the holding tank to be inspected at least annually by an inspector approved by DEP, or by the Township's Sewage Enforcement Officer. A copy of the report of such inspection must be forwarded to the Township within 14 days of the inspection, for retention by the Township. The cost of such inspections, reports and any and all repairs to, or replacement of, a holding tank(s) shall be borne by owner. Owner acknowledges and agrees that owner's holding tank shall be subject to periodic inspection (in addition to the annual inspection), with or without notice, by the Township's Sewage Enforcement Officer, and for this purpose, owner hereby grants unto said Sewage Enforcement Officer a license to enter upon owner's above-mentioned property, at any time, for the purposes of such inspection.
6. Owner acknowledges and agrees that owner's failure to maintain the holding tank in good condition and repair, or to correct a violation of any term or condition of the present agreement or Act or Regulations, within 10 days of the date of written notice from the Township or the Township's Sewage Enforcement Officer of any such violation, shall constitute grounds for the immediate and automatic revocation by the Township of the owner's permit and subject owner to penalties.
7. Owner acknowledges and agrees that the Township shall have the right to file a municipal claim or lien against owner's above-mentioned property, in the event that the owner's breach of the terms and conditions of the present agreement, the ordinance, and/or the Act and Regulations, causes or requires the Township to pay for damages or expenses, including attorneys' fees and court costs.
8. The parties hereto acknowledge and agree that all references to the Township shall, whenever and wherever pertinent, include the Township's Supervisors, Sewage Enforcement Officer, agents, employees, and representatives.
9. It is expressly understood and agreed that this agreement or a memorandum thereof shall be binding upon the owner, and the owner's heirs, administrators, executors, successors, and assigns, including the owner's successors in title to the property, it being the express understanding of the parties that any and all duties and obligations of owner with respect to the operation of the holding tank set forth in this agreement shall also "run with the land" and remain the obligation of the owner's successors in title. Any obligation incurred by the owner or any of the owner's successors in title to pay any costs incurred by the Township under the terms of this agreement shall remain the obligation of the owner and shall become

## SEWERS

the obligation of any successors in title. It shall be the sole responsibility of any successor in title to determine whether any such obligations are outstanding prior to transfer of the title.

10. The owner agrees that any cost incurred by the Township for inspections, repairs and/or replacement of the holding tank or parts, or in the removal of effluents in accordance with the terms of the agreement, shall be recoverable by the Township from the owner. In the event the owner or their heirs, successors, or assigns shall fail to pay the Township for all such costs and expenses, then the Township shall have the right to sue the owner in a civil action for reimbursements for all costs and expenses incurred, including legal fees; cause a municipal lien to be filed and placed against the said property, pursuant to the Pennsylvania municipal lien law in an amount equal to the said costs and expenses plus 10%, including, but not limited to, legal fees; and/or to implement any and all other remedies available to the Township in law or equity, as it may choose.
11. The owner, for themselves, their heirs, administrators, executors, successors and assigns, shall at all times hold the Township harmless from any claims, suits, legal expenses, or judgments which may be brought against the Township or against any Township officials and employees for any adverse conditions indirectly or directly related to the operation of the holding tank. The Township shall condition the aforesaid indemnification upon notification of the owner within 30 days of the Township's receipt of a claim and/or suit. The owner shall have the duty to defend the Township, its officers and employees against any claim or suit made by any person who alleges that adverse conditions have been so caused by the holding tank and its appurtenances. In the event the owner fails to undertake the defense of the Township as to any such claim and the Township is required to enter upon its own defense, the owner shall reimburse the Township for any expenses it may incur, including but not limited to legal fees, engineering fees and expert witness fees and shall pay any judgment rendered against the Township as a result of such a suit. In the event the owner fails to pay the costs, legal fees, other expenses or damages as herein provided and the Township is required to pay same, the Township shall have the right to recover the monies it has expended by suit against the owner in a civil action causing a lien to be placed against the property in an amount equal to the total costs expended or by implementation of the remedies as the Township so chooses.



## Chapter 80

## SOLID WASTE

- § 80-1. Definitions.
- § 80-2. Mandatory municipal waste collection; exemption.
- § 80-3. Collection by unauthorized personnel unlawful.
- § 80-4. Collection of municipal waste.
- § 80-5. Maintenance of containers other than bags.
- § 80-6. Location of municipal waste for collection.
- § 80-7. Recycling.
- § 80-8. Fees for municipal waste collection.
- § 80-9. Dumping or storage unlawful.
- § 80-10. Violations and penalties; remedies.

[HISTORY: Adopted by the Board of Supervisors of the Township of Butler 9-9-1998 by Ord. No. 98-1. Amendments noted where applicable.]

## GENERAL REFERENCES

Junkyards — See Ch. 55.

## § 80-1. Definitions.

For the purpose of this chapter, the following terms, phrases or words shall have the meanings ascribed to them in this section, except where the context in which the word is used clearly indicates otherwise:

ASHES — Residue from the burning of wood, coal, coke or other combustible material.

COMMERCIAL CUSTOMER — Any customer, whether a commercial establishment, dwelling or dwelling unit, normally requiring more than five thirty-two-gallon containers per week to hold the refuse to be collected.

COMMERCIAL ESTABLISHMENT — The use of any premises as other than a dwelling and shall include hotels, boarding and lodging houses,

tourist cabins, motels and trailers. "Commercial establishment" shall also include any multifamily residences occupied by more than two families.

CONTAINER — The receptacle in which the refuse is placed for collection, including cans, boxes and plastic bags; provided, however, that they are so constructed so as to be fit for permanent use or, in the case of bags, for one-time use.

COUNTY — The County of Adams, Commonwealth of Pennsylvania.

DEBRIS — Waste materials consisting of stones, brick, plaster, broken concrete or earth, in such quantity and size as shall not violate the restriction hereinafter set forth with respect to the size and weight of containers.

DWELLING — A building used for residential purposes but shall not include hotels, boarding and lodging houses, tourist cabins, motels and trailers, which shall be considered commercial establishments. "Dwelling" also shall not include more than two attached dwelling units.

DWELLING UNIT — One or more rooms in a dwelling, which room or rooms have fixed cooking facilities and are arranged for occupancy by one person, two or more persons living together or one family.

GARBAGE — All animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of foods.

MUNICIPAL WASTE — Garbage, rubbish, ashes, debris, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material resulting from operation of residential, municipal, commercial or institutional establishments or from community activities.

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

RECYCLABLE MATERIALS — Those materials which may be processed or refabricated for re-use and which are specified by the township and the county for separation from the regular municipal waste. Such materials may include, but not be limited to, aluminum cans, bimetal or tin containers, clear and colored glass containers, newspapers and plastic beverage containers.

RECYCLING — The collection, separation, recovery and sale or reuse of recyclable materials which would otherwise be disposed of or processed as municipal waste.

RENTAL UNIT — Any residential unit occupied by persons other than the owners of the property on a lease basis.

RESIDENTIAL CUSTOMER — Any customer, whether a commercial establishment, dwelling or dwelling unit, normally requiring five or fewer thirty-two-gallon containers per week to hold the Municipal Waste to be collected.

RUBBISH — All solid household wastes, except body wastes, other than garbage, ashes, yard waste and debris, such as magazines, glass other than containers, ceramics, plastics other than beverage containers and laundry detergent containers, small scraps of wood, etc.

TOWNSHIP — The Township of Butler, Adams County, Pennsylvania, and the Board of Supervisors of the Township of Butler.

TOWNSHIP COLLECTOR — That individual, partnership, firm, corporation or business entity designated by the Board of Supervisors by means of an independent contract as the person having the exclusive right to collect refuse within the township, but shall not be construed as meaning that said person is an employee, official or representative of the township.

YARD WASTE — Grass clippings, leaves, garden residues, shrubbery, tree trimmings and similar biodegradable organic matter.

**§ 80-2. Mandatory municipal waste collection; exemption.**

- A. It shall be mandatory for every rental unit and commercial establishment within the township to have all their municipal waste collected in accordance with the schedule set forth in § 80-4 of this chapter. Said collection shall be performed by the Township Collector, and the owner of the rental unit and/or commercial customer shall be responsible for the payment of the costs of said collection in accordance with this chapter.
- B. Municipal waste collection for residential customers, other than those occupying rental units, shall be voluntary. Any residential customer

desiring municipal waste collection shall contract with the Township Collector.

**§ 80-3. Collection by unauthorized personnel unlawful.**

It shall be unlawful for any person other than the Township Collector to collect and haul municipal waste within or from the township. No person may contract with any hauler of municipal waste unless such hauler is authorized to collect municipal waste within the township pursuant to this chapter.

**§ 80-4. Collection of municipal waste.**

- A. All municipal waste, excluding those items set forth in Subsection B of this section, generated by residential customers shall be collected once a week at a time set by the Township Collector and approved by the township. The maximum quantity of municipal waste allowed for each dwelling and/or dwelling unit for each collection day shall be five containers weighing not more than 75 pounds each nor exceeding a volume of 32 gallons each, unless the Township Collector and the residential customer may otherwise agree from time to time.
- B. All tree trimmings, hedge clippings and similar yard waste shall be cut in lengths not exceeding three feet and shall be securely tied in bundles not exceeding 40 pounds in weight.
- C. All commercial customers shall be required to make arrangements directly with the Township Collector for collection of their municipal waste. Such collection shall not be less often than weekly and shall be at intervals short enough to prevent unsafe, unsightly or unsanitary accumulations of municipal waste. Commercial customers shall be permitted to place a dumpster or other similar container for the disposal of municipal waste on its premises provided such container does not interfere with the flow of traffic around the commercial establishment.

**§ 80-5. Maintenance of containers other than bags.**

Containers shall be of durable, watertight, rust-resistant material having a close-fitting lid and handles to facilitate collection. All containers shall be kept

in good and sanitary condition without the accumulation of residue of liquids, solids or a combination of such material on the bottom or sides of the container. Any container that does not conform with this chapter or that is likely to injure the Township Collector or his employees or hamper the prompt collection of municipal waste shall be replaced upon notice. Failure to replace said defective container may result in the loss of municipal waste collection until such time as the container is replaced.

#### § 80-6. Location of municipal waste for collection.

Containers shall be placed for collection at ground level on the property, not within the cartway of a street or alley and accessible to and not more than 10 feet from the side or curb of the street or alley from which collection is made. No containers shall be placed for collection at the curbside or along a public right-of-way earlier than 8:00 p.m. the evening prior to a scheduled collection date, nor shall any such container be permitted to remain at the curbside or along a public right-of-way for more than 10 hours after such collection.

#### § 80-7. Recycling.

Every residential customer and commercial customer within the township desiring recyclable materials collections shall be required to separate all recyclable materials from municipal waste and place such recyclable materials in a specially designated container to be provided by the Township Collector at the residential customer's or the commercial customer's expense. The residential customer and the commercial customer shall separate the following recyclable materials: newspapers, aluminum cans, bimetal cans, clear and colored glass containers, plastic PET No. 1 and HDPE No. 2 beverage containers and detergent containers. All recyclable materials shall be placed at the curbside for collection in the same manner and at the same time as other municipal waste.

#### § 80-8. Fees for municipal waste collection.

##### A. Fees for residential customers.

- (1) The fees for collection and disposal of municipal waste and recyclable materials from residential customers shall be at a rate

as established by a contract between the township and the Township Collector.

- (2) The fees set forth herein shall be billed and collected by the Township Collector. Such fees shall be billed not less often than quarterly. The fee for municipal waste disposal shall be the responsibility of the residential customer.

B. Fees for commercial customers.

- (1) The fees for collection and disposal of municipal waste from commercial customers shall be negotiated by the commercial customers with the Township Collector.
- (2) The fees set for collection of municipal waste of commercial customers shall be paid by the owner, tenant, lessee or occupant of the premises as billed by the Township Collector.

**§ 80-9. Dumping or storage unlawful.**

On and after the passage of this chapter, it shall be unlawful at any place within the confines of the township to dump or deposit, except for collection, garbage, ashes, rubbish or any other municipal waste of any nature.

**§ 80-10. Violations and penalties; remedies.**

- A. Any person violating any of the provisions of this chapter shall, upon conviction therefor, be sentenced to pay a fine of not more than \$1,000 and costs of prosecution and, in default thereof to, suffer imprisonment for not more than 30 days. A separate offense shall be deemed committed on each period of 10 days during which a violation of this chapter continues.
- B. In addition to the foregoing penalty, the township may require the owner or occupier of the property to remove any accumulation of municipal waste, and, should said person fail to remove the same within ten days of written notice, the township may cause the same to be done and collect the costs thereof, together with a penalty of 10% of such costs in the manner provided by law for the collection of municipal claims or by civil action or may seek relief by bill in equity.

## Chapter 81

### STORMWATER MANAGEMENT

#### ARTICLE I General Provisions

- § 81-1. Short title.
- § 81-2. Statement of findings.
- § 81-3. Purpose.
- § 81-4. Statutory authority.
- § 81-5. Applicability.
- § 81-6. Repealer; effect on prior activities.
- § 81-7. Compatibility with other requirements.
- § 81-8. Interpretation.
- § 81-9. Erroneous permit.
- § 81-10. Duty of persons engaged in development of land.
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- § 81-12. Definitions.

#### ARTICLE III Stormwater Management Standards

- § 81-13. General SWM site plan requirements,
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- § 81-18. Riparian buffers/riparian forest buffers.

- § 81-19. Prohibited discharges and connections.
- § 81-20. Roof drains, sump pumps and footer drains.
- § 81-21. Alteration of SWM BMPs.

#### ARTICLE IV Stormwater Management (SWM) Site Plan Requirements

- § 81-22. SWM site plan submission.
- § 81-23. Plan requirements.
- § 81-24. Plan review and approval procedure.
- § 81-25. Revision of plans.
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- § 81-28. Final inspection, completion certificate, and as-built plans.

#### ARTICLE V Operation and Maintenance

- § 81-29. Determination of ownership and maintenance responsibility.
- § 81-30. Operation and maintenance agreements.
- § 81-31. Performance guarantee.

#### ARTICLE VI Fees and Expenses

- § 81-32. Fee schedule; responsibility for payment.
- § 81-33. Expenses covered by fees.

ARTICLE VII  
Enforcement and Penalties

§ 81-34. Municipal inspection.

§ 81-35. Owner inspection.

§ 81-36. Suspension or revocation of  
SWM site plan approval.

§ 81-37. Enforcement.

§ 81-38. Violations and penalties.

§ 81-39. Appeals.

[HISTORY: Adopted by the Board of Supervisors of the Township of Butler 7-9-2012 by Ord. No. 2012-1.1 Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 15.  
Sewers — See Ch. 78.

Subdivision and land development — See Ch. 85.

ARTICLE I  
General Provisions

§ 81-1. Short title.

This chapter shall be known and may be cited as the "Butler Township Stormwater Management Ordinance."

§ 81-2. Statement of findings.

The governing body of Butler Township finds that:

- A. Stormwater is an important water resource, which provides groundwater recharge for water supplies and base flow of streams, which also protects and maintains surface water quality.
- B. Inadequate management of accelerated runoff of stormwater resulting from development throughout a watershed increases flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of streams and storm sewers, greatly increases the cost of public facilities to carry and control stormwater, undermines floodplain management and flood control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases nonpoint source pollution of water resources.
- C. A comprehensive program of stormwater management, including reasonable regulation of development and activities causing accelerated runoff, is fundamental to the public health, safety, and welfare and the protection of people of Butler Township, their resources, and the environment.

1. Editor's Note: This ordinance also superseded former Ch. 81, Stormwater Management, adopted 12-12-2005 by Ord. No. 2005-3, as amended.

**§ 81-3. Purpose.**

The purpose of this chapter is to promote health, safety, and welfare within Butler Township and its watersheds by minimizing the harm and maximizing the benefits described in § 81-2 of this chapter through provisions designed to:

- A. Meet water quality requirements under state law, including regulations at 25 Pa. Code 93, to protect, maintain, reclaim, and restore the existing and designated uses of the waters of the commonwealth.
- B. Preserve the natural drainage systems as much as possible.
- C. Manage stormwater runoff close to the source.
- D. Provide procedures and performance standards for stormwater planning and management.
- E. Maintain groundwater recharge to prevent degradation of surface water and groundwater quality and to otherwise protect water resources.
- F. Prevent scour and erosion of stream banks and stream beds.
- G. Provide proper operation and maintenance of all stormwater management Best Management Practices that are implemented within the municipality.
- H. Provide standards to meet NPDES permit requirements.

**§ 81-4. Statutory authority.**

The municipality is empowered to regulate land use activities that affect stormwater impacts by the authority of the Act of October 4, 1978, P.L. 864 (Act 167), 32 P.S. Section 680.1, et seq., as amended, the "Stormwater Management Act."

**§ 81-5. Applicability.**

- A. All regulated activities, as defined in Article II, and all activities that may affect stormwater runoff, including land development and earth disturbance activity, are subject to regulation by this chapter.
- B. Any submission that does not require a stormwater management plan at the time of subdivision or land development will still be required to address stormwater management prior to the issuance of permits for individual lot construction or development, unless said subdivision proposes infrastructure features, such as a cul-de-sac street, for which stormwater management controls are ordinarily required. All subdivisions proposing five or more new lots shall provide stormwater management for the proposed lots at the time of subdivision plan submission, unless otherwise approved by the Township.
- C. Development of the individual lots is subject to stormwater management as defined within the ordinance.

**§ 81-6. Repealer; effect on prior activities.**

Any other ordinance provision or regulation of the municipality inconsistent with any of the provisions of this chapter is hereby repealed to give this chapter full force and effect to regulated activities undertaken after the date of adoption of this chapter. All regulated activities that were approved pursuant to any prior stormwater management ordinance of the Township are unaffected by any inconsistencies in this chapter.

**§ 81-7. Compatibility with other requirements.**

- A. Approvals issued and actions taken under this chapter do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other code, law, regulation, or ordinance. In the event of a conflict, between this chapter and any other ordinance, the more restrictive ordinance shall apply.
- B. The design of all SWM facilities shall incorporate good engineering principles and practices. The Township shall reserve the right to disapprove any design that would result in the occupancy or continuation of adverse hydrologic or hydraulic conditions within the watershed.

**§ 81-8. Interpretation.**

Unless otherwise expressly stated, the succeeding shall, for the purposes of this chapter, be interpreted in the following manner:

- A. Words used in the present tense also imply the future tense.
- B. Words used in the singular include the plural, and vice versa.
- C. Words of masculine gender include feminine gender, and vice versa.
- D. The words and abbreviation "includes," "including," "shall include," "such as," and "e.g." are not limited to the specific example(s) given but are intended to extend the words or words' meaning(s) to all other instances of like kind and character.
- E. The words "shall," "required," or "must" are mandatory; the words "may" and "should" are permissive.

**§ 81-9. Erroneous permit.**

Any permit or authorization issued or approved based on false, misleading or erroneous information provided by an applicant may be declared void by the Township. Any work undertaken or use established pursuant to such permit or other authorization is unlawful. See § 81-39 for an applicant's ability to appeal a declaration of invalidity.

**§ 81-10. Duty of persons engaged in development of land.**

Notwithstanding any provision(s) of this chapter, including exemptions, any landowner or any person engaged in the alteration or development of land which may affect stormwater runoff

characteristics shall implement such measures as are reasonably necessary to prevent injury to health, safety, or other property. Such measures shall include actions as are required to manage the rate, volume, direction, and quality of resulting stormwater runoff in a manner which adequately protects health, property and water quality.

**§ 81-11. Municipal Liability Disclaimer.**

- A. Neither the granting of any approval under this chapter, nor the compliance with the provisions of this chapter, or with any condition imposed by a municipal official hereunder, shall relieve any person from any responsibility for damage to persons or property resulting therefrom, or as otherwise imposed by law nor, impose any liability upon the Township for damages to persons or property.
- B. The granting of a permit which includes any stormwater management facilities approved pursuant to the Ordinance shall not constitute a representation, guarantee, or warranty of any kind by the Township, or by an official or employee thereof, of the practicability or safety of any structure, use or other plan proposed, and shall create no liability upon or cause of action against such public body, official or employee for any damage that may result pursuant thereto.

**ARTICLE II**  
**Definitions**

**§ 81-12. Definitions.**

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

**ADAMS COUNTY CONSERVATION DISTRICT** — As defined in Section 3(c) of the Conservation District Law [3 P.S. § 851 (c)] that has the authority under a delegation agreement executed with DEP to administer and enforce all or a portion of the regulations promulgated under 25 Pa. Code 102.

**AGRICULTURAL ACTIVITY** — Activities associated with agriculture such as agricultural cultivation, agricultural operation, and animal heavy-use areas. This includes the work of producing crops including tillage, land clearing, plowing, disking, harrowing, planting, harvesting crops or pasturing and raising of livestock and installation of conservation measures. Construction of new buildings or impervious area is not considered an agricultural activity.

**APPLICANT** — A landowner, developer, or other person who has filed an application to the municipality for approval to engage in any regulated activity at a project site in the municipality. "Applicant" shall also include the definition of that term as provided in the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101, et seq., as amended.

**BEST MANAGEMENT PRACTICE (BMP)** — Activities, facilities, designs, measures, or procedures used to manage stormwater impacts from regulated activities, to meet state water quality requirements, to promote groundwater recharge, and to otherwise meet the purposes of this chapter.

**BEST MANAGEMENT PRACTICE, NONSTRUCTURAL** — Operational and/or behavior-related practices that attempt to minimize the contact of pollutants with stormwater runoff.

**BEST MANAGEMENT PRACTICE, STRUCTURAL** — Measures consisting of a physical device or practice that is installed to capture and treat stormwater runoff. Structural BMPs include, but are not limited to, a wide variety of practices and devices, from large-scale retention ponds and constructed wetlands, to small-scale underground treatment systems, infiltration facilities, filter strips, low impact design, bioretention, wet ponds, permeable paving, grassed swales, riparian or forested buffers, sand filters, detention basins, and manufactured devices. Structural stormwater BMPs are permanent appurtenances to the project site.

**BMP MANUAL** — Pennsylvania Stormwater Best Management Practices Manual, Pennsylvania Department of Environmental Protection, December 2006 (Document No. 363-0300-002), as amended and updated.

**CULVERT** — A structure which carries surface water through an obstruction.

**DAM** — An impoundment structure regulated by the Pennsylvania DEP Chapter 105 regulations.

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

**DESIGN STORM** — The magnitude and temporal distribution of precipitation from a storm event measured in probability of occurrence, e.g., a five-year storm, and duration, e.g., 24 hours, used in the design and evaluation of stormwater management systems.

**DETENTION BASIN** — A structure designed to retard stormwater runoff by temporarily storing and releasing the runoff at a predetermined rate.

**DETENTION VOLUME** — The volume of runoff that is captured and released into the waters of the commonwealth at a controlled rate.

**DISCONNECTED IMPERVIOUS AREA (DIA)** — An impervious or impermeable surface that is disconnected from any stormwater drainage or conveyance system and is redirected or directed to a pervious area, which allows for infiltration, filtration, and/or increased time of concentration.

**DISTURBED AREA** — An unstabilized land area where an earth disturbance activity is occurring or has occurred.

**DRAINAGE PLAN (ALSO STORMWATER MANAGEMENT PLAN)** — The documentation of the stormwater management system, if any, to be used for a given project site.

**EARTH DISTURBANCE ACTIVITY** — A construction or other human activity which disturbs the surface of the land, including land clearing and grubbing, grading, excavations, embankments, land development, agricultural plowing or tilling, operation of animal heavy use areas, timber harvesting activities, road maintenance activities, oil and gas activities, well

drilling, mineral extraction, and the moving, depositing, stockpiling, or storing of soil, rock or earth materials.

**EROSION** — The natural process by which the surface of the land is worn away by water, wind, or chemical action.

**E&S MANUAL** — The Pennsylvania DEP Erosion and Sedimentation Control Manual, as amended and updated.

**EROSION AND SEDIMENTATION CONTROL PLAN (E&S PLAN)** — A site-specific plan consisting of both drawings and a narrative that identifies BMPs to minimize accelerated erosion and sedimentation before, during and after earth disturbance activities.

**EVAPOTRANSPIRATION** — The combined process of water surface evaporation, soil moisture evaporation, and plant transpiration.

**EXISTING CONDITION** — The dominant land cover during the five-year period immediately preceding a proposed regulated activity.

**FEMA** — Federal Emergency Management Agency.

**FLOODPLAIN** — Any land area susceptible to inundation by water from any natural source or delineated by applicable FEMA maps and studies as being a special flood hazard area.

**FOREST MANAGEMENT/TIMBER OPERATIONS** — Planning and activities necessary for the management of forest land. These include conducting a timber inventory, preparation of a forest management plan, silvicultural treatment, developing or establishing a cutting budget, logging road design and construction, timber harvesting, site preparation, and reforestation.

**HYDROLOGIC SOIL GROUP (HSG)** — A group of soils having similar runoff potential under similar storm and cover conditions. HSGs range from A to D, with A soils being the most pervious and D soils being the least pervious.

**IMPERVIOUS SURFACE (IMPERVIOUS AREA)** — A surface that prevents the infiltration of water into the ground. Impervious surfaces and areas include but are not limited to roofs, additional indoor living spaces, patios and decks, garages, storage sheds and similar structures, streets, driveways, access drives, parking areas, and sidewalks. Any areas designed to be covered by loose surfacing materials such as gravel, stone and/or crushed stone, and intended for storage of and/or travel by vehicles, or pedestrians shall be considered impervious. Surfaces or areas designed, constructed and maintained to permit infiltration may be considered pervious.

**INFILTRATION** — Water flowing downward through the ground surface.

**IN-KIND REPAIR/REPLACEMENT** — Repair or replacement which uses the same or similar materials in the same location.

**INVASIVE/EXOTIC PLANTS** — Plant species on the "Invasive Exotic Plants in Pennsylvania List" published by the Pennsylvania Department of Conservation and Natural Resources, as amended.

**KARST** — A type of topography or landscape characterized by surface depressions, sinkholes, rock pinnacles/uneven bedrock surface, underground drainage, and caves. Karst is formed on carbonate rocks, such as limestone or dolomite.

**LAND DEVELOPMENT** — Shall include any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
- (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
  - (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups, or other features.
- B. A subdivision of land.

**LIMIT OF DISTURBANCE** — A line provided on the E&S plan or SWM plan that indicates the total area to be disturbed over the life of the project.

**LOADING RATIO** — The ratio of impervious area draining to a stormwater management facility to the area of the stormwater management facility itself.

**MUNICIPALITY** — Butler Township, Adams County, Pennsylvania.

**NOXIOUS PLANT** — Those species as listed in the Pennsylvania Noxious Weed Control Law (3 P.S. §§ 255.1 through 255.11), as amended and/or recodified.

**NPDES** — National Pollution Discharge Elimination System, as authorized by the Clean Water Act (33 U.S.C. § 1251 et seq. [1972], as amended).

**NPDES PERMIT** — A permit required for stormwater discharges associated with construction activities, as required by the Clean Water Act (33 U.S.C. § 1251 et seq. [1972], as amended).

**NRCS** — USDA Natural Resources Conservation Service (previously SCS).

**O&M** — Operation and maintenance.

**O&M PLAN** — Operation and maintenance plan.

**PCSM** — Post-construction stormwater management.

**PCSM PLAN** — Post-construction stormwater management plan.

**PEAK DISCHARGE** — The maximum rate of stormwater runoff from a specific storm event.

**PERVIOUS AREA** — Any area not defined as impervious.

PENNSYLVANIA MUNICIPALITIES PLANNING CODE — Act of 1968, P.L. 805, No. 247, as reenacted and amended.

POINT SOURCE — Any discernible, confined, or discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, CAAP, CAFO, landfill leachate collection system, or vessel or other floating craft from which pollutants are or may be discharged.

PROJECT SITE (SITE) — The specific area of land where any regulated activity in the municipality is planned for, conducted on, constructed, or maintained.

REDUCTION FACTOR — A form of safety factor that, when multiplied by the site-tested infiltration rate, is used to help determine the design infiltration rate for a stormwater management facility.

REGULATED ACTIVITIES — Any earth disturbance activities or any activities that involve the alteration or development of land in a manner that may affect stormwater runoff.

REMOVED RUNOFF — The volume of runoff that is captured and not released directly into the surface waters of the commonwealth during or after a storm event.

RETENTION BASIN — An impoundment in which stormwater is stored and not released to surface waters of the commonwealth.

RETURN PERIOD — The average interval, in years, within which a storm event of a given magnitude can be expected to occur one time. For example, the twenty-five-year return period rainfall would be expected to occur on average once every 25 years; or, stated in another way, the probability of a twenty-five-year storm occurring in any one year is 0.04, i.e., a 4% chance.

RIPARIAN FOREST BUFFER — A type of riparian buffer that consists of permanent vegetation that is predominantly native trees and shrubs along surface waters that is maintained in a natural state or sustainably managed to protect and enhance water quality, stabilize stream channels and banks, and separate land use activities from surface waters.

ROAD MAINTENANCE ACTIVITIES — See definition as found in Title 25, Chapter 102.1.<sup>2</sup>

RUNOFF — Any part of precipitation that flows over the land.

SAFETY FACTOR — An adjustment applied to a site-tested infiltration rate to ensure that the designed infiltration rate for a stormwater management facility is less than that shown under tested conditions.

SEDIMENT — Soils or other materials transported by surface water as a product of erosion.

SIMPLIFIED APPROACH (SA) — A process that property owners proposing certain types of projects may utilize to prepare a stormwater management plan without having to conduct the detailed technical analysis and design required for larger projects.

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2. Editor's Note: See 25 Pa. Code § 102.1.

**SPECIAL MANAGEMENT AREAS** — Those areas outlined in Chapter 7 of the BMP Manual. Special management areas include brownfields, highways and roads, karst areas, mined lands, water supply well areas, surface water supplies and special protection waters.

**STATE WATER QUALITY REQUIREMENTS** — The regulatory requirements to protect, maintain, reclaim, and restore water quality under Title 25 of the Pennsylvania Code and the Clean Streams Law.

**STORM SEWER** — A pipe or conduit, or a system of pipes or conduits, which intercepts and carries surface stormwater runoff, but excludes sewage, industrial wastes and similar discharges.

**STORMWATER** — Drainage runoff from the surface of the land resulting from precipitation, snow melt or ice melt.

**STORMWATER MANAGEMENT FACILITY** — Any structure, natural or man-made, that, due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater runoff. Typical stormwater management facilities include, but are not limited to, detention and retention basins; open channels; storm sewers; pipes; and infiltration facilities.

**STORMWATER MANAGEMENT PLAN (THE PLAN)** — The Adams County Stormwater Management plan, approved by DEP on January 27, 2012, which incorporates the requirements of the Act of October 4, 1978, P.L. 864 (Act 167), as amended, and known as the "Storm Water Management Act."

**STORMWATER MANAGEMENT SITE PLAN (SWM SITE PLAN)** — A plan prepared by the developer or his representative indicating how stormwater runoff will be managed at the development site in accordance with this chapter.

**SUBDIVISION** — The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts or 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 of an area of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall not be considered a subdivision.

**SWALE** — A low-lying stretch of land which gathers and/or carries surface water runoff.

**SWM** — Stormwater management.

**TECHNICAL REVIEW CHECKLIST (OPTIONAL)** — A checklist of technical items to be used by the reviewing entity when reviewing a PCSM plan.

**TOWNSHIP** — Butler Township, Adams County, Pennsylvania. See also, "municipality."

**USDA** — United States Department of Agriculture.

**WATERS OF THE COMMONWEALTH** — Any and all rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs, and all other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of the commonwealth.

**WATERSHED** — Region or area drained by a river, watercourse, or other surface water of the commonwealth.

**WETLAND** — Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

### ARTICLE III

#### Stormwater Management Standards

##### § 81-13. General SWM site plan requirements,

- A. For all regulated activities, unless preparation of an SWM site plan is specifically exempted in § 81-14:
- (1) Preparation and implementation of an approved SWM site plan is required.
  - (2) No regulated activities shall commence until the municipality issues written approval of an SWM site plan which demonstrates compliance with the requirements of this chapter.
- B. All SWM site plans for regulated activities shall include such measures as necessary to:
- (1) Protect health, safety, and property.
  - (2) Meet the water quality goals of this chapter, as stated in § 81-3, by including measures that:
    - (a) Minimize disturbance to floodplains, wetlands, wooded areas, and existing vegetation.
    - (b) Maintain or extend riparian buffers.
    - (c) Avoid erosive flow conditions in natural flow pathways.
    - (d) Minimize thermal impacts to waters of the commonwealth.
    - (e) Disconnect impervious surfaces by directing runoff to pervious areas.
    - (f) Minimize soil disturbance and compaction.
  - (3) Incorporate the techniques for low-impact development practices described in the Pennsylvania Stormwater Best Management Practices Manual (BMP Manual).
- C. Stormwater flows onto adjacent property shall not be created, increased, decreased, relocated, or otherwise altered without the written notification and authorization of the adjacent property owner(s) by the developer. Copies of all such notifications shall be included in the SWM site plan submission.

- D. For all regulated activities where erosion and sediment control is required in accordance with Title 25 of the Pennsylvania Code and the Clean Streams Law,<sup>3</sup> the SWM site plan shall include the required erosion and sedimentation control measures. Necessary E&S BMPs shall be designed in accordance with the Erosion and Sediment Pollution Control Program Manual (E&S Manual) 2, No. 363-2134-008 (April 15, 2000), as amended and updated. Approval of the SWM site plan by the Township shall be conditioned on the applicant obtaining erosion and sedimentation control approval from the appropriate agency or agencies, when applicable.
- E. For all regulated activities where NPDES permitting is required in accordance with the Clean Water Act (33 U.S.C. § 1251 et seq. [1972], as amended), the SWM site plan shall include the information required in the applicant's NPDES Permit application. Approval of the SWM site plan by the Township shall be conditioned on the applicant obtaining NPDES Permit approval from the appropriate agency(ies), when applicable.
- F. For all regulated activities, implementation of the volume controls in § 81-16 is required.
- G. Special management areas. SWM site plans involving regulated activities within special management areas shall be prepared in a manner consistent with the guidance provided in Chapter 7 of the BMP Manual. The SWM site plan submission shall include design details for SWM BMPs within said special management area, and shall include information on why the area is deemed to be a "special management area."
- H. A SWM site plan may propose that stormwater related to the proposed regulated activities be accommodated by existing stormwater management facilities on adjoining or nearby properties provided that the SWM site plan documents the following.
- (1) The use of the stormwater management facilities located on said adjoining or nearby property is approved in writing by the owner of the property.
  - (2) The stormwater management facilities located on said adjoining or nearby property are designed in a manner that can accommodate the stormwater management needs of the regulated activity in a manner consistent with all requirements of this chapter. The SWM site plan shall include all documentation necessary for the Township to confirm such compliance.
- I. The design storm volumes to be used in the analysis of peak rates of discharge shall be obtained from the Precipitation-Frequency Atlas of the United States, Atlas 14, Volume 2, Version 3.0, as amended and updated, U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Weather Service, Hydrometeorological Design Studies Center, Silver Spring, Maryland. NOAA's Atlas 14 can be accessed at: <http://hdsc.nws.noaa.gov/hdsc/pfds/>.
- J. SWM site plans, once approved by the Township, shall remain on site throughout the duration of the regulated activity and be available for review as may be necessary by representatives of the Township.

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3. Editor's Note: See 35 P.S. § 691.1 et seq.

- K. The design of all facilities over karst shall include an evaluation of measures to minimize adverse effects.
- L. The Township may, after consultation with DEP, approve measures for meeting the state water quality requirements other than those in this chapter, provided that they meet the minimum requirements of, and do not conflict with, state law including, but not limited to, the Clean Streams Law. The municipality shall maintain a record of consultations with DEP pursuant to this subsection.

**§ 81-14. Exemptions.**

- A. A property owner or developer of any regulated activity that meets the following exemption criteria is, upon approval from the Township, exempt from the formal SWM plan submission requirements of this chapter as specified herein. However, the property owner or developer shall be subject to all other requirements of this chapter other than the formal SWM site plan submission requirements for which an exemption or exemptions have been authorized. The criteria for exemption in this section apply to the total development proposed, including instances in which the development is proposed to take place in phases. The date of enactment of this chapter shall be the starting point from which future development and the respective exemption criteria shall be cumulatively considered and regulated.
  - (1) Regulated activities that involve equal to or less than 1,000 square feet of impervious surface may be exempted from the peak rate control, volume control and the SWM site plan preparation and submission requirements of this chapter. The applicant shall complete page 1 of the Municipal Stormwater Management Worksheet from the Stormwater Management Design Assistance Manual (see plan Appendix C) and file said worksheet with the Township.
  - (2) Regulated activities that involve greater than 1,000 square feet and equal to or less than 10,000 square feet of impervious area, and where all the proposed impervious area can be entirely disconnected, may be exempted from the peak rate control, volume control, and the SWM site plan preparation and submission requirements of this chapter. The applicant shall complete the Stormwater Management Worksheets from the Stormwater Management Design Assistance Manual (see plan Appendix C) and file said worksheets with the Township.
  - (3) Regulated activities that involve greater than 1,000 square feet and equal to or less than 5,000 square feet of impervious area may be exempted from the peak rate control and volume control, and the SWM site plan preparation and submission requirements of this chapter. A minor stormwater site plan, as detailed in the Stormwater Management Design Assistance Manual (see plan Appendix C), shall be submitted to the Township instead of the submission of a full SWM site plan in accordance with Article IV of this chapter.
  - (4) Agricultural activities shall be exempt from the rate control, volume control and SWM site plan preparation and submission requirements of this chapter provided the agricultural activities are performed in accordance with the requirements of 25

Pa. Code Chapter 102. Further, such activities shall not be subject to the exemption approval process of § 81-14B of this chapter.

- (5) Forest management and timber operations are exempted from the rate control, volume control and SWM site plan preparation and submission requirements of this chapter provided the forest management and timber operations are performed in accordance with the requirements of 25 Pa. Code Chapter 102.
  - (6) Regulated activities involving domestic gardening for single-family consumption shall be exempted from volume control, rate control, and SWM site plan preparation and submission requirements of this chapter, and shall not be subject to the exemption approval process of § 81-14B of this chapter.
  - (7) In-kind repair, in-kind replacement, and maintenance of existing surfaces and structures shall be exempted from volume control, rate control, and SWM site plan preparation and submission requirements of this chapter, and shall not be subject to the exemption approval process of § 81-14B of this chapter.
- B. Authorization of exemptions. The Township shall determine, in accordance with the following requirements and process, whether a proposed regulated activity may be exempted from any of the requirements of this chapter.
- (1) The property owner or developer proposing the regulated activity shall submit, in writing on a form supplied by the Township, a request for said proposed regulated activity to be exempted from allowable requirements of this chapter pursuant to Section A. The written request shall identify the project and shall indicate the specific exemption criteria, as listed in § 81-14A, that apply to the project.
  - (2) Upon receipt of the exemption request form, the Township or its designee shall either approve or deny the exemption request. If the exemption request is denied, the Township or its designee shall direct the property owner or developer to submit the information required to demonstrate that the proposed regulated activity complies with the requirements of this chapter or meets the exemption criteria.
  - (3) Exemption request approval shall be at the discretion of the Township, and shall be subject to the following:
    - (a) The Township may deny any exemption request or suspend or revoke any approved exemption request at any time for any project where the Township believes that the proposed regulated activity poses a threat to public health, safety, property, or the environment.
    - (b) Approval of an exemption request does not relieve the property owner or developer from other applicable requirements of this chapter or of other Township ordinance or regulations.
    - (c) The Township reserves the right to deny an exemption request if a drainage problem is known or identified as existing or is expected to exist downstream from the proposed regulated activity.

**§ 81-15. General design standards.****A. Impervious area.**

- (1) The measurement of impervious areas shall include all of the impervious areas in the total proposed development, even if development is to take place in phases.
- (2) For development taking place in phases, the total proposed impervious area within the SWM site plan must be used in determining conformance with this chapter.
- (3) For projects that add impervious area to a parcel, the total impervious area on the parcel is subject to the requirements of this chapter; except that the volume controls in § 81-16 and the peak rate controls of § 81-17 do not need to be retrofitted to impervious areas that existed prior to the adoption of this chapter and are not being altered by the proposed regulated activity.

**B.** Normally dry, open-top storage facilities, designed as such, shall completely drain both the volume control and rate control capacities over a period of time not less than 24 hours and not more than 72 hours from the end of the design storm. However, any designed infiltration volume at such facilities is exempt from the minimum twenty-four-hour standard, i.e., may infiltrate in a shorter period of time, so long as none of the stormwater intended for infiltration is discharged into the surface waters of the commonwealth.

**C.** Infiltration BMPs shall be spread out, made as shallow as practicable, and located to maximize use of natural on-site infiltration features while still meeting the other requirements of this chapter.

**§ 81-16. Volume controls.**

The low-impact development practices provided in the BMP Manual shall be utilized for all regulated activities. Water volume controls shall be implemented using the Design Storm Method in § 81-16A or the Simplified Method in § 81-16B. For regulated activity involving less than one acre of impervious coverage that does not require hydrologic routing to design the stormwater facilities, the applicant may select either methodology on the basis of economic considerations, the intrinsic limitations on applicability of the analytical procedures associated with each methodology, and/or other factors. The Design Storm Method in § 81-16A shall be used for all regulated activity involving greater than one acre of impervious coverage.

**A.** The Design Storm Method (CG-1 in the BMP Manual) may be used for any size of regulated activity. This method requires detailed modeling to achieve the following standards.

- (1) The post-development total runoff volume shall not increase for all storms equal to or less than the two-year, twenty-four-hour duration precipitation.
- (2) For modeling purposes:
  - (a) Existing (predevelopment), nonforested, pervious areas must be considered meadow.

- (b) Twenty percent of existing impervious area, when present, shall be considered meadow in the model for existing conditions.
- B. The Simplified Method (CG-2 in the BMP Manual) is independent of site conditions and may be used for projects involving regulated activities proposing equal to or less than one acre of impervious coverage and that do not require design of stormwater storage facilities. When the Simplified Method is used to address stormwater management needs of new impervious surfaces, the following design standards shall be achieved:
- (1) Stormwater facilities shall capture at least the first two inches of runoff from all new impervious surfaces.
  - (2) At least the first one inch of runoff from new impervious surfaces shall be permanently removed from the runoff flow and shall not be released into the surface waters of the commonwealth. Removal options for the first one inch of runoff include, but are not necessarily limited to, reuse and infiltration.
  - (3) Infiltration facilities shall be designed to accommodate infiltration of as much of the permanently removed runoff as site conditions will allow. If the soils within the project area do not allow for infiltration of the entire first one inch of runoff from new impervious surfaces, other forms of runoff volume control shall be used to achieve the required removal volume. Such measures may include, but are not limited to vegetated roofs, bioretention, and capture-and-reuse systems. In addition, the infiltration alternative authorized in § 81-16C may be employed.
  - (4) This method is exempt from the requirements of § 81-17, Rate controls.
- C. Infiltration alternative. Where infiltration is not possible due to soil characteristics or is not desirable given other characteristics, water quality control may be proposed as an alternative to strict adherence to the volume control standards of § 81-16 of this chapter. Where water quality control is proposed, the following standards shall be achieved.
- (1) At a minimum, the following documentation shall be provided to justify the proposal to reduce the infiltration requirements:
    - (a) Description of and justification for field infiltration/permeability testing with respect to the type of test and test locations.
    - (b) An interpretive narrative describing existing soils of the site and their structure as these relate to the interaction between soils and water characteristics of the site. In addition to providing soil and soil profile descriptions, this narrative shall identify depth to seasonal water tables and depth to bedrock and provide a description of all subsurface elements (restrictive layers, geology, etc.) that influence the direction and rate of subsurface water movement.
    - (c) A qualitative assessment of the site's contribution to annual aquifer recharge shall be made, along with the identification of any restrictions or limitations associated with the use of designed infiltration facilities.

- (d) The provided documentation must be signed and sealed by a professional engineer or geologist.
- (2) Water quality BMPs shall be implemented on all permanent stormwater discharges from the proposed project site to achieve pollutant removal efficiencies in accordance with the Table 81-16.

**Table 81-16 Required Pollutant Removal Efficiencies for Infiltration Alternatives.**

<b>Pollutant Load</b>	<b>Units</b>	<b>Required Removal Efficiency</b>
Total Suspended Solids (TSS)	Pounds	85%
Total Phosphorus (TP)	Pounds	85%
Total Nitrate (NO <sub>3</sub> )	Pounds	50%

- (3) Design guidance from the most current version of the Pennsylvania Stormwater Best Management Practices Manual, or equivalent resource as precoordinated with the Township, shall be consulted when choosing design criteria for water quality BMPs.

**§ 81-17. Rate controls.**

- A. Post-development discharge rates shall not exceed the pre-development discharge rates for the one-, two-, five-, ten-, twenty-five-, fifty-, and one-hundred-year, twenty-four-hour storms. If it is shown that the peak rates of discharge indicated by the post-development analysis are less than or equal to the peak rates of discharge indicated by the pre-development analysis for one-, two-, five-, ten-, twenty-five-, fifty-, and one-hundred-year, twenty-four-hour storms, then the requirements of this section have been met. Otherwise, the applicant shall provide additional controls as necessary to satisfy the peak rate of discharge requirement.
- B. For computation of predevelopment peak discharge rates, 20% of existing impervious areas, when present, shall be considered meadow.

**§ 81-18. Riparian buffers/riparian forest buffers.**

Where an applicant proposes to utilize riparian buffers as the means to meet the requirements of this chapter, said riparian buffers shall be established and/or maintained in accordance with the BMP Manual or the publication Riparian Forest Buffer Guidance, published November 2010 by the Pennsylvania Department of Environmental Protection, and as may be amended or updated.

**§ 81-19. Prohibited discharges and connections.**

- A. Any drain or conveyance, whether on the surface or subsurface, that allows any nonstormwater discharge, including sewage, process wastewater, and wash water, to enter the waters of the commonwealth is prohibited.
- B. No person shall allow, or cause to allow, discharges into surface waters of the commonwealth which are not composed entirely of stormwater, except:
- (1) As provided in Subsection C below; and
  - (2) Discharges allowed under a state or federal permit.
- C. The following discharges are authorized unless they are determined to be significant contributors to pollution to the waters of the commonwealth:
- (1) Discharges from fire-fighting activities.
  - (2) Potable water sources, including water line flushing.
  - (3) Irrigation drainage.
  - (4) Air-conditioning condensate.
  - (5) Springs.
  - (6) Water from crawl space pumps.
  - (7) Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used.
  - (8) Diverted stream flows.
  - (9) Flows from riparian habitats and wetlands.
  - (10) Uncontaminated water from foundations or from footing drains.
  - (11) Lawn watering.
  - (12) Dechlorinated swimming pool discharges.
  - (13) Uncontaminated groundwater.
  - (14) Water from individual residential car washing.
  - (15) Routine external building wash-down (which does not use detergents or other compounds).
  - (16) Water discharged in well testing for potable water supplies.
- D. In the event that the municipality or DEP determines that any of the discharges identified in Subsection C significantly contribute to pollution of the waters of the commonwealth, the municipality or DEP will notify the responsible person(s) to cease the discharge.

**§ 81-20. Roof drains, sump pumps and footer drains.**

Roof drains, sump pumps, and footer drains should discharge to infiltration or vegetative BMPs and, to the maximum extent practicable, satisfy the criteria for DIAs. Discharges of each should be conveyed in such a manner as to not cause water problems for adjoining property owners.

**§ 81-21. Alteration of SWM BMPs.**

No person shall modify, remove, fill, landscape, or alter any SWM BMPs, facilities, areas, or structures in a manner, without the written approval of the Township, with the exception of necessary maintenance activities such as mowing.

ARTICLE IV  
**Stormwater Management (SWM) Site Plan Requirements**

**§ 81-22. SWM site plan submission.**

- A. When a property owner or developer proposes a regulated activity, said property owner or developer shall submit a SWM site plan to demonstrate compliance with the stormwater management provisions of this chapter. Said submission shall be required by the Township unless said regulated activity is exempted from SWM site plan submission in accordance with the exemption criteria and exemption approval process established in Section 302 of this chapter. Where the Township determines that the property owner or developer proposing the regulated activity is eligible to employ the process established in the Stormwater Management Design Assistance Manual (SWM plan Appendix C) to address the stormwater management needs of a site, the submission of the required documentation from said manual shall substitute for the SWM site plan requirements of this article.
- B. Copies of the SWM site plan shall be distributed as follows:
- (1) Two copies to the municipality.
  - (2) One copy to the Township's Engineer, when applicable.
  - (3) One copy to the Adams County Conservation District (if an NPDES permit is required).
  - (4) One copy to the Adams County Planning Commission (only if submitted as a component of a subdivision and land development plan in accordance with the Butler Township Subdivision and Land Development Ordinance<sup>4</sup>).
- C. Additional copies shall be submitted as requested by the Township.
- D. The property owner or developer shall submit a review fee in accordance with Article VI. Payment of the required fee shall be considered a component of the SWM site plan

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4. Editor's Note: See Ch. 85, Subdivision and Land Development.

submission. The SWM site plan submission shall not be considered to be complete until such time that any required fee is paid.

**§ 81-23. Plan requirements.**

- A. The SWM site plan shall include the following information. Where the regulated activity for which a SWM site plan is being submitted is also subject to subdivision and/or land development plan review in accordance with the Township's Subdivision and Land Development Ordinance,<sup>5</sup> the SWM site plan shall be submitted as a component of the subdivision or land development plan submission for the project and shall include the following information. Where the submission requirements of this section conflict with the submission requirements of the Township's Subdivision and Land Development Ordinance, the more restrictive provisions shall control.
- (1) The name of the development, the name and address of the owner of the property, and the name and address of the individual or firm preparing the SWM site plan. Also to be included are the name, address, signature and seal of any registered surveyor (attesting the accuracy of the boundary survey), professional engineer, landscape architect, or professional geologist (for geomorphological assessments) contributing to and/or responsible for any aspect of the SWM site plan.
  - (2) A graphic and written plan scale of one inch equals no more than 50 feet. For parcels of 20 acres or more, the scale shall be one inch equals no more than 100 feet.
  - (3) North point (arrow).
  - (4) Existing and proposed land uses within the project boundary plus 25 feet outside the project boundary.
  - (5) The location of existing and proposed utilities, stormwater facilities, sanitary sewers, and water lines within the project boundary and for the entire area within the first 25 feet beyond the project boundary.
  - (6) Significant physical features and associated boundary limits, including flood hazard areas, sinkholes, existing drainage courses, and areas of natural vegetation.
  - (7) Existing and proposed structures, buildings, streets, driveways, access drives, and parking areas.
  - (8) The SWM site plan shall show the locations of existing and proposed on-lot wastewater facilities and water supply wells.
  - (9) The location of the proposed regulated activity relative to streets, municipal boundaries, and other significant man-made features for the entire area within the first 25 feet beyond the project boundary.

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5. Editor's Note: See Ch. 85, Subdivision and Land Development.

- (10) A determination of site conditions in accordance with the BMP Manual. A detailed site evaluation shall be completed for projects proposed in areas of carbonate geology or karst topography, as well as for other environmentally sensitive areas, whether natural or manmade, including floodplains, streams, lakes, ponds, hydric soils, wetlands, brownfields, and wellhead protection zones.
- (11) Stormwater runoff design computations and documentation as specified in this chapter, or as otherwise necessary, to demonstrate compliance with the requirements of this chapter.
- (12) The overall stormwater management concept for the project, including any additional information required for a PCSM plan as applicable.
- (13) A hydrogeologic assessment of the effects of stormwater runoff on sinkholes, where present.
- (14) A description of permanent stormwater management techniques, including the construction specifications of the materials to be used for stormwater management facilities.
- (15) Plan and profile drawings of all SWM BMPs, including drainage structures, pipes, open channels, and swales.
- (16) Horizontal and vertical profiles of all open channels, including hydraulic capacity.
- (17) Proposed changes to the land surface and vegetative cover and the type and amount of existing and proposed impervious area.
- (18) Existing and final contours at intervals of two feet. In areas of slopes in excess of 15%, five-foot contour intervals may be used.
- (19) Drainage flow pathways.
- (20) The effect of the project in terms of runoff volumes, water quality, and peak flows on surrounding properties and aquatic features and on any existing stormwater conveyance system that may be affected by the project.
- (21) The effect of the proposed regulated activity in terms of runoff volumes and peak flows on adjacent properties and/or any existing municipal stormwater collection system that may receive runoff from the project site.
- (22) A map showing all existing manmade features beyond the subject parcel's boundary lines that may be affected by the proposed regulated activities.
- (23) Expected project time schedule.
- (24) An E&S plan, where applicable, as approved by the Adams County Conservation District.
- (25) An NPDES permit application, including PCSM plan, where applicable, as administratively reviewed and approved by the Adams County Conservation District.

- (26) The SWM site plan shall include an O&M plan for all existing and proposed physical stormwater management facilities. The plan shall address long-term ownership and maintenance responsibilities as well as schedules and estimated costs for maintenance activities. The O&M plan shall be prepared in accordance with the requirements of Article V of this chapter.
- (27) Provisions for permanent access or maintenance easements for all physical SWM BMPs, as necessary to implement the O&M plan.
- (28) A note on the SWM site plan indicating the location, and responsibility for maintenance of, SWM facilities and/or easements that would be located on adjoining properties as a result of proposed regulated activities, and the location of such facilities and/or easements.
- (29) The following signature block shall be provided:

This stormwater management site plan has been reviewed and approved as meeting all design standards and criteria of the Butler Township Stormwater Management Ordinance.

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Secretary

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Its (Vice) Chair

**§ 81-24. Plan review and approval procedure.**

- A. Preapplication meeting. Prior to proceeding with SWM site plan preparation and submission, the applicant is encouraged to request a preapplication meeting with Butler Township to discuss the plan concept and responsibility for submission of required documents and information. If the project requires an E&S plan or an NPDES permit, the applicant is encouraged to meet with a staff member of the Adams County Conservation District as well.
- B. SWM site plan review and approval procedure.
- (1) If a SWM site plan is not submitted as a component of a subdivision and/or land development plan, the review of the SWM site plan, recommendations, approval, approval with conditions, or disapproval shall occur within 45 calendar days of submission to the Township. Where the applicant submits revisions to a previously submitted SWM site plan, either because the applicant has elected to revise the SWM site plan or as a result of a determination by the Township that a revision is necessary to meet the requirements of this chapter, this forty-five-day period shall be restarted. Should the Township fail to render a decision on the SWM site plan within this forty-five-day time period, the application shall be deemed denied. The applicant may appeal the denial pursuant to § 81-39 of this chapter, or may seek an extension of the time for review of the application for consultation with the Township to modify the application. The review process shall include the following components.

- (2) If a SWM site plan is submitted as a component of a subdivision and/or land development plan, the SWM site plan shall be reviewed in accordance with the review process and time frame established in the Township's Subdivision and Land Development Ordinance<sup>6</sup> and in accordance with Section 508 of the Pennsylvania Municipalities Planning Code.<sup>7</sup> If the plan is submitted independently of any subdivision and/or land development plan, the review procedures for subdivision and/or land development plans shall be followed as closely as practicable. (See Subsection B(1) above concerning "deemed denial".)
- (3) NPDES permit technical coordination. Where the project for which a SWM site plan is submitted is subject to NPDES permitting, the Township shall notify the Adams County Conservation District when the applicant has achieved technical compliance with the requirements of this chapter. The Township may address this requirement through the completion of the Technical Review Checklist for NPDES Sites in Appendix C<sup>8</sup> or comparable process as determined by the Township. Upon receipt of this notification, the Adams County Conservation District will acknowledge a general NPDES permit. In the case of an individual NPDES permit, the Adams County Conservation District will coordinate municipal reviews with the DEP Regional Office.
- (4) NPDES permits and E&S plans. Where the project for which a SWM site plan is submitted is subject to NPDES permitting or the submission of an E&S plan, or both, any final approval of the SWM site plan by Butler Township shall be conditioned on the applicant's receipt of the required NPDES permit or E&S plan approval, as appropriate.
- (5) Decision notification procedure. In all cases, the decision of the Township to approve with conditions, or to disapprove the SWM site plan is to be in writing and delivered to the applicant within 15 calendar days following the decision. If the SWM site plan is disapproved, the written decision by the Township shall state the defects in the application and cite the provisions of the Ordinance involved. If the SWM site plan is approved with conditions, the notification to the applicant shall state the acceptable conditions for approval and the time limit for satisfying such conditions. Should the Township fail to notify the applicant of the decision within this fifteen-calendar-day period, the application shall be deemed denied for any and all of the comments stated in any review letter provided to the Township by the Township Engineer, the Township Planning Commission, the County Planning Agency, and/or the Adams County Conservation District and the applicant shall have the right to appeal that denial pursuant to § 81-39 of this chapter.

C. Waiver requests.

- (1) If a SWM site plan is not submitted as a component of a subdivision and/or land development plan, the Township may accept a request for waiver of one or more

6. Editor's Note: See Ch. 85, Subdivision and Land Development.

7. Editor's Note: See 53 P.S. § 10508.

8. Editor's Note: Appendix C, Technical Review Checklist, is on file in the Township offices.

of the requirements of this chapter. Any such waiver requests shall comply with the following requirements.

- (a) The Township may accept a request for waiver of the requirements of one or more provisions of this chapter if the literal enforcement will enact undue hardship because of peculiar conditions pertaining to the land in question, provided that the Township determines that such waiver will not be contrary to the public interest and that the purpose and intent of the Ordinance is observed.
  - (b) All requests for waivers from an applicant shall be in writing and shall accompany and be a part of the application for approval of a SWM site plan. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of the Ordinance involved, and the minimum waiver necessary to afford relief.
  - (c) The Township shall act to accept or reject requests for waivers within the context of its SWM site plan decisionmaking process established in § 81-24B(1) of this chapter. The decision of the Township regarding acceptance of each request for waiver shall be noted in the minutes of the public meeting of the Township at which acceptance was granted, and notes of the waivers shall be placed on the final copy of the plan.
- (2) If a SWM site plan is submitted as a component of a subdivision and land development plan, requests for waiver to obtain relief from one or more of the requirements of this chapter shall be handled in accordance with the modification process established in the Township's Subdivision and Land Development Ordinance<sup>9</sup> and Section 512.1 of the Pennsylvania Municipalities Planning Code, as amended.<sup>10</sup>

#### § 81-25. Revision of plans.

- A. SWM site plan not submitted as a component of a subdivision and/or land development plan. Revisions to a previously approved SWM site plan to incorporate a change in SWM BMPs or techniques, or the relocation or redesign of SWM BMPs, or different information about soil or other conditions from what was stated in the SWM site plan, shall be submitted by the applicant to the Township. The Township in its sole discretion may require a resubmission and full review of the revised SWM site plan in accordance with this chapter, including applicable review fees. For NPDES permitted sites, any revised SWM site plan shall be re-submitted to the Adams County Conservation District for its review. In the case of a SWM site plan which contains minor deficiencies (such as a missing label, omission of a required note or minor construction detail), the Township may in its sole discretion accept a resubmission of such SWM site plan without the requirement of a full review fee, or a lesser fee.

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9. Editor's Note: See Ch. 85, Subdivision and Land Development.

10. Editor's Note: See 53 P.S. § 10512.

- B. SWM site plan submitted as a component of a subdivision and/or land development plan. A revision of an SWM site plan approved as a component of a subdivision and/or land development plan shall be treated as a revision of the subdivision and/or land development plan and shall be subject to the review process established in the Township's Subdivision and Land Development Ordinance.<sup>11</sup>

**§ 81-26. Resubmission of disapproved SWM site plans.**

- A. SWM site plan not submitted as a component of a subdivision and/or land development plan. A previously disapproved or deemed denied SWM site plan may be resubmitted with the revisions addressing all of the defects of the original submission. The resubmitted SWM site plan shall be reviewed and acted upon in accordance with § 81-24B(1) of this chapter. The applicable review fee must accompany the submission of a revised SWM site plan, unless such fee is waived by the Township.
- B. SWM site plan submitted as a component of a subdivision and/or land development plan. The resubmission of the SWM site plan originally submitted as a component of a subdivision and/or land development plan shall be treated as resubmission of said subdivision and/or land development plan and shall be subject to the review process established in the Township's Subdivision and Land Development Ordinance.<sup>12</sup>

**§ 81-27. Authorization to construct and term of validity.**

- A. SWM site plans not submitted as a component of a subdivision and/or land development plan. The Township's approval of a SWM site plan, when such plan is not submitted as a component of a subdivision and/or land development plan, authorizes the regulated activities contained in the SWM site plan for a maximum term of five years following the date of approval. The Township may specify a term shorter than five years in the decision notification for any specific SWM site plan if the nature of the proposed SWM facilities requires more frequent maintenance (more than annual) and/or short-term replacement of certain components. Terms of authority for the regulated activities shall commence on the date the Township votes to approve the SWM site plan. If an approved SWM site plan is not completed according to § 81-28 within the authorized term, and if a request to extend the permit has not been submitted to the Township by the applicant, the authority terminates and the Township may revoke any and all permits applicable to the project. SWM site plans for projects with expired permits may be resubmitted in accordance with § 81-26 of this chapter.
- B. SWM site plans submitted as a component of a subdivision and/or land development plan. The term of authority for regulated activities for a SWM site plan as a component of a subdivision and/or land development plan shall be in accord with the law governing such plans.

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11. Editor's Note: See Ch. 85, Subdivision and Land Development.

12. Editor's Note: See Ch. 85, Subdivision and Land Development.

**§ 81-28. Final inspection, completion certificate, and as-built plans.**

- A. Prior to commencing construction of stormwater management facilities, the applicant or its agent shall contact the Township's Engineer to determine at which stages of construction the facilities shall be inspected. No facilities or portion thereof shall be buried or otherwise permanently covered unless and until the inspection of that stage, as determined by the Township Engineer, has been performed and that stage of construction has been approved.
- B. The stormwater management facilities constructed in accordance with a SWM site plan not submitted as a component of a subdivision and/or land development plan shall be subject to the following process upon the completion of construction of said facilities.
- (1) The property owner or developer shall contact the Township within seven days of the completion of the construction process to schedule a final inspection. The final inspection shall be conducted by the Township Engineer or such other person designated by the Township.
  - (2) The Township may inspect the completed improvements to confirm consistency with the approved SWM site plan. Following the inspection, if any, the Township may take one of the following two actions:
    - (a) Issue a completion certificate. A completion certificate may be issued when the Township determines that the stormwater management facilities have been constructed in conformance with the approved SWM site plan.
    - (b) Issue correspondence regarding discrepancies. If the Township determines that the stormwater management facilities have not been constructed in accordance with the approved SWM site plan, it shall issue correspondence addressed to the property owner or developer summarizing the discrepancies from the approved SWM site plan. Such correspondence does not by itself constitute an extension of any applicable SWM permit.
  - (3) Upon receipt of correspondence summarizing discrepancies in the constructed stormwater facilities, the property owner or developer shall, apply for permit extensions when necessary, and take one of the following two actions:
    - (a) Reconstruct the required stormwater management facilities in a manner that complies with the approved SWM site plan. Prior to commencement of the reconstruction work, the property owner or developer shall contact the municipality for an inspection schedule in accordance with the process established in § 81-28A.
    - (b) Submit a revised SWM site plan in accordance with the process established in § 81-25A. The revised SWM site plan shall be consistent with the improvements as constructed. Upon receipt, the Township may review the revised SWM site plan in accordance with the review and approval process of § 81-24. If the revised SWM site plan is approved, the Township shall issue the completion certificate. If the revised SWM site plan fails to demonstrate that the constructed stormwater management facilities can comply with the requirements of this chapter, the Township may then require

the property owner or developer to reconstruct the required stormwater facilities in accordance with the originally approved SWM site plan. If the revised SWM site plan is approved, the Township shall then issue the completion certificate.

- (4) Within 15 days of the completion certificate, the property owner or developer shall submit to the Township an as-built plan depicting the stormwater management facilities as constructed. If requested by the applicant, the Township may grant an extension of the deadline to submit as-built plans.
- C. The stormwater management facilities constructed in accordance with a SWM site plan submitted as a component of a subdivision and/or land development plan shall be subject to the completion of improvements requirements of the Township's Subdivision and Land Development Ordinance<sup>13</sup> and Sections 509 through 511 of the Pennsylvania Municipalities Planning Code, as amended.<sup>14</sup>

## ARTICLE V Operation and Maintenance

### § 81-29. Determination of ownership and maintenance responsibility.

- A. The Township shall make the final determination on the continuing operation and maintenance responsibilities prior to final approval of the SWM site plan. The Township may require a dedication of such facilities as part of the requirements for approval of the SWM site plan, but it shall not be obligated to accept the facilities offered for dedication. The Township reserves the right to accept or reject the ownership, maintenance, and operating responsibility for any portion of the stormwater management facilities and controls.
- B. If the Township accepts dedication of any or all stormwater management facilities associated with a project, it shall operate and maintain said facilities, or portion thereof that has been accepted by the Township, in accordance with the approved O&M plan.
- C. If the Township does not accept dedication of some or all of the stormwater management facilities associated with a project, the property owner shall sign an O&M agreement in accordance with § 81-30 of this chapter. The municipality shall not approve the SWM site plan before the owner signs the O&M agreement.

### § 81-30. Operation and maintenance agreements.

- A. Prior to the signing of the SWM site plan after final approval, the property owner shall sign and record an O&M agreement binding the property owner to conduct all maintenance activities identified in the approved O&M plan for all stormwater control facilities which are to be privately owned.

13. Editor's Note: See Ch. 85, Subdivision and Land Development.

14. Editor's Note: See 53 P.S. §§ 10509 through 10511.

- (1) The property owner, heirs, successors and assigns shall maintain all facilities in accordance with the approved maintenance schedule in the O&M plan.
  - (2) The property owner shall provide to the Township easements and/or licenses to ensure access for periodic inspections and maintenance by the Township as the Township deems necessary.
  - (3) The property owner shall keep on file with the Township the name, address, and telephone number of the person or company responsible for maintenance activities. In the event of a change, new information shall be submitted by the property owner to the Township within 10 working days of the change.
  - (4) The O&M plan shall be recorded with the Adams County Recorder of Deeds. A receipt verifying such recordation shall be provided to the Township.
- B. The owner is responsible for operation and maintenance of the SWM BMPs. If the owner fails to adhere to the O&M Agreement or the O&M plan, the Township may perform the services required and charge the owner appropriate fees. Nonpayment of fees, costs and other expenses incurred in the performance of services required shall entitle the Township to impose a municipal lien against the property for such costs and expenses, plus reasonable attorney fees incurred in the imposition of the lien.

#### § 81-31. Performance guarantee.

For SWM site plans submitted as a component of a subdivision and/or land development plan, the property owner or developer shall provide a financial guarantee for the timely installation and proper construction of all stormwater management controls as required by the approved SWM site plan and this chapter in accordance with the completion of improvements requirements of the Township's Subdivision and Land Development Ordinance<sup>15</sup> and the provisions of Sections 509 through 511 of the Pennsylvania Municipalities Planning Code, as amended.<sup>16</sup>

### ARTICLE VI Fees and Expenses

#### § 81-32. Fee schedule; responsibility for payment.

- A. Butler Township shall, by resolution, establish a fee schedule to be paid by applicants to defray costs incurred by the Township associated with the administration and enforcement of this chapter.
- B. The applicant shall be responsible for the payment of all fees, costs, and other expenses incurred by the Township in the submission, review, and decision on SWM site plans and/or other submissions pursuant to this chapter. Such fees, costs and expenses shall not

15. Editor's Note: See Ch. 85, Subdivision and Land Development.

16. Editor's Note: See 53 P.S. §§ 10509 through 10511.

exceed that charged to the Township by its professionals and advisors (such as the Engineer and Solicitor).

**§ 81-33. Expenses covered by fees.**

The fee(s) may include, but are not limited to, costs for the following:

- A. Administrative, clerical, and legal costs.
- B. Review of the SWM site plan and reports by the Township and its representatives and advisors.
- C. Attendance at meetings by Butler Township and its representatives and advisors, as may be necessary.
- D. Various inspections (such as during construction and after construction) by Butler Township or its representatives.
- E. Any additional work required to enforce any provision regulated by this chapter, correct violations, and ensure proper completion of stipulated remedial actions.

**ARTICLE VII**

**Enforcement and Penalties**

**§ 81-34. Municipal inspection.**

- A. Upon presentation of proper credentials, Butler Township officials or its designee(s) may enter at reasonable times upon any property within the Township to inspect the condition of the stormwater structures and facilities in regard to any aspect regulated by this chapter.
- B. Inspections regarding compliance with the SWM site plan may be conducted by the municipality at any time when there may be a question of compliance with the approved SWM site plan, the approved O&M plan, or when any condition exists that may threaten public health, safety, or welfare.

**§ 81-35. Owner inspection.**

- A. SWM BMPs shall be inspected by the landowner, or landowner's designee, or the owner's designee, and a written report of the inspection shall be prepared and kept by the inspector, according to the following list of minimum frequencies:
  - (1) Annually for the first five years.
  - (2) Once every three years thereafter.
  - (3) During or immediately after the cessation of a ten-year or greater storm, i.e., a storm of an estimated frequency of recurrence of 10 years or greater interval of time.

- (4) At any other interval as may be specified in the approved O&M agreement.
- B. Should any inspection by the owner or by the Township reveal a defect in the stormwater facilities, a written report of that inspection noting the defects observed shall be filed with the Township within 10 days after the inspection.
- C. Written reports of inspection, if not filed with the Township pursuant to Subsection B above, shall be available for review and copying by the Township upon reasonable notice.

**§ 81-36. Suspension or revocation of SWM site plan approval.**

- A. Any SWM site plan approval issued by the Township pursuant to this chapter may be suspended or revoked for any of the following reasons:
  - (1) Noncompliance with or failure to implement any provision of the approved SWM site plan or O&M plan.
  - (2) A violation of any provision of this chapter or any other applicable law, ordinance, rule, or regulation relating to the regulated activity.
  - (3) The creation of any condition or the conduct of any regulated activity which constitutes or creates a hazard, nuisance, pollution, or endangers life or property.
- B. A suspended SWM site plan approval may be reinstated by the Township when the following conditions are met.
  - (1) The Township officials or its designee(s) have inspected and approved the corrections to the violations that caused the suspension.
  - (2) The Township is satisfied that the violation has been corrected.
- C. A SWM site plan approval that has been revoked by the Township shall not be reinstated. The applicant may apply for a new SWM site plan approval under the provisions of this chapter.
- D. If a violation causes no immediate danger to life, public health, or property, the Township may, at its sole discretion, provide a limited time period for the owner to correct the violation. In these cases, the Township will provide the owner, or the owner's designee, with a written notice of the violation and the time period allowed for the owner to correct the violation. If the owner does not correct the violation within the allowed time period, the municipality may revoke or suspend any, or all, applicable approvals and permits pertaining to any provision of this chapter.

**§ 81-37. Enforcement.**

Butler Township may institute injunctive, mandamus, or any other appropriate action or proceeding at law or in equity for the enforcement of this chapter when Butler Township determines that a property owner or developer has initiated a regulated activity without receiving SWM site plan approval, that a property owner or developer has failed to comply

with an approved SWM site plan or approved O&M plan, or that a property owner or developer has violated any other provision of this chapter. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

**§ 81-38. Violations and penalties.**

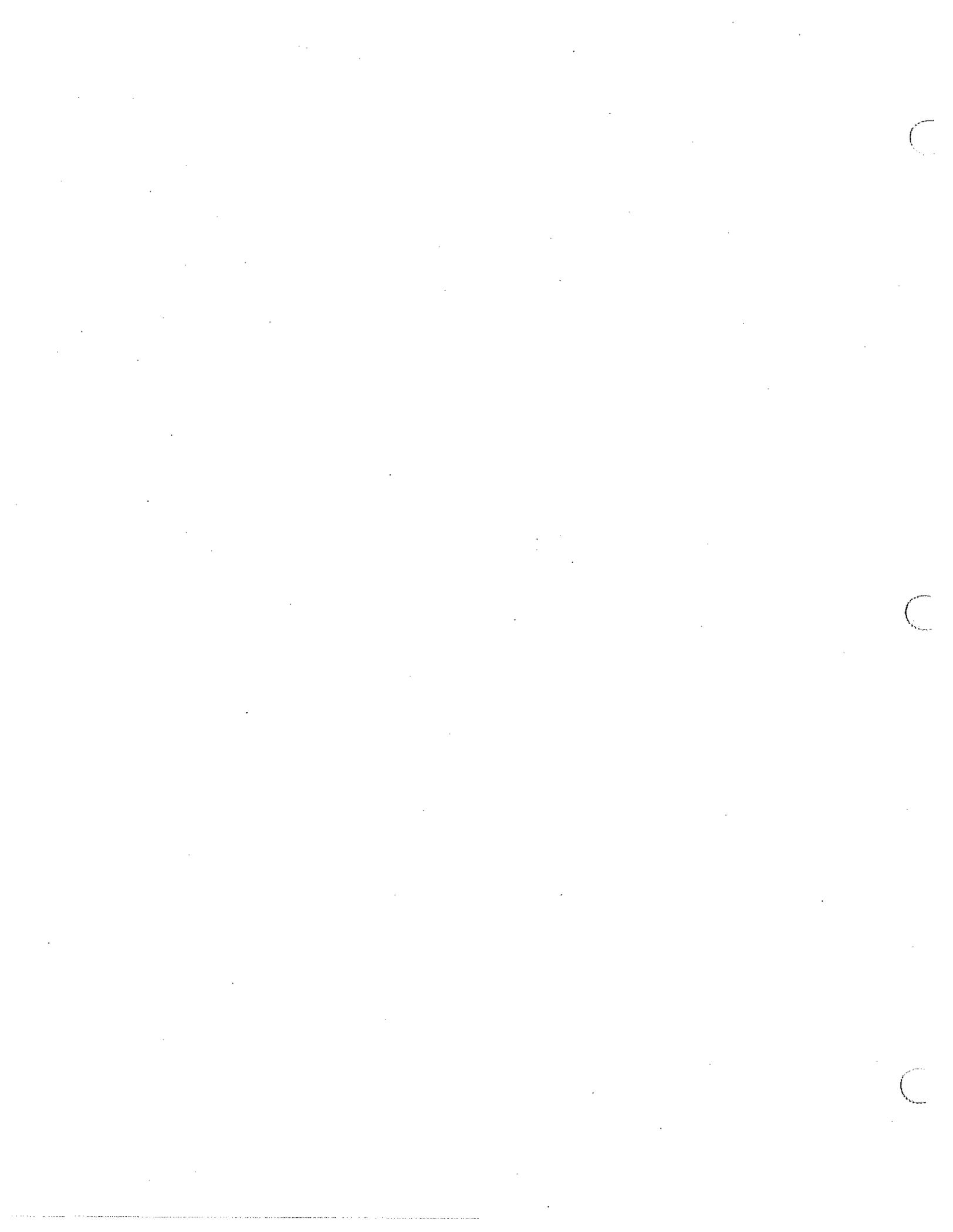
This chapter has been adopted to provide for health, safety and welfare of the people of the Township and to regulate water. Anyone violating the provisions of this chapter shall be guilty of a summary offense, and upon conviction, shall be subject to a fine of not more than \$1,000 for each violation, recoverable with costs. Each day that the violation continues shall be a separate offense and penalties shall be cumulative.

**§ 81-39. Appeals.**

- A. Any person aggrieved by any action of Butler Township or its designee, relevant to the review, approval, or denial of plans, or to the enforcement of the provisions of this chapter, may appeal said action to the Board of Supervisors of the Township within 30 days of that action.
- B. Any person aggrieved by any decision regarding the appeal of any action of Butler Township or its designee, may appeal the decision to the Adams County Court of Common Pleas within 30 days of the decision of the Board of Supervisors of the Township rendered pursuant to an appeal timely brought in accord with Subsection A of this section.<sup>17</sup>

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<sup>17</sup> Editor's Note: Appendix A, Stormwater Management Practices, Facilities, and Systems Maintenance and Monitoring Agreement; Appendix B, Noxious and Invasive Plant Control; and Appendix C, Technical Review Checklist, which were included at the end of this chapter, are on file in the Township offices.



Chapter 82

STREETS AND ROADS

ARTICLE I  
Street Openings

- § 82-1. Permit required.
- § 82-2. Application; fee.
- § 82-3. Issuance of permit.
- § 82-4. Written notice of completion required.
- § 82-5. Inspection; correction of defects.
- § 82-6. Emergency repairs.
- § 82-7. Violations and penalties.

[HISTORY: Adopted by the Board of Supervisors of the Township of Butler: Art. I, 6-8-78 as Ord. No. 78-1. Section 82-7 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 96.

ARTICLE I  
Street Openings  
[Adopted 6-8-78 as Ord. No. 78-1]

- § 82-1. Permit required.

No person, firm, corporation or utility company shall grade, construct, install, dig or cut into any township road or township road right-of-way or create any obstruction thereon unless and until the township has granted a permit for such grading, construction, cutting, digging, installation or obstruction, which permit shall prescribe conditions, restrictions and regulations relating to the activity to be conducted.

**§ 82-2. Application; fee.**

- A. The application for a permit shall be in a form prescribed by the township and submitted to the township in triplicate. The application shall be accompanied by a fee in accordance with the schedule of fees set forth by the Department of Transportation for highway occupancy permits and restoration charges. In addition, the applicant shall submit three (3) copies of a sketch showing such dimensions as the location of the intended facility, width of the traveled roadway, right-of-way lines and a dimension to the nearest intersecting street.
- B. The fee set for the cost of the permit and inspection of the work shall be determined from time to time by the township by resolution duly adopted.

**§ 82-3. Issuance of permit.**

A permit shall be issued to the applicant by the Township Secretary after all of the aforementioned requirements have been filed and approval has been given for the work or construction or obstruction to be completed within the township road or right-of-way.

**§ 82-4. Written notice of completion required.**

Upon completion of the work, the applicant shall give written notice thereof to the township.

**§ 82-5. Inspection; correction of defects.**

- A. Upon completion of the work authorized by the permit, the township shall inspect the work and, when necessary, enforce compliance with the conditions, restrictions and regulations prescribed by the permit.
- B. Where any settlement or defect in the work occurs, if the applicant shall fail to rectify any such settlement or other defect within sixty (60) days after written notice from the township to do so, the township may do the work and shall impose upon the applicant the cost thereof, together with an additional twenty percent (20%) of such cost, which may be recovered by an action in assumpsit in the Court of Common Pleas of the county.

**§ 82-6. Emergency repairs.**

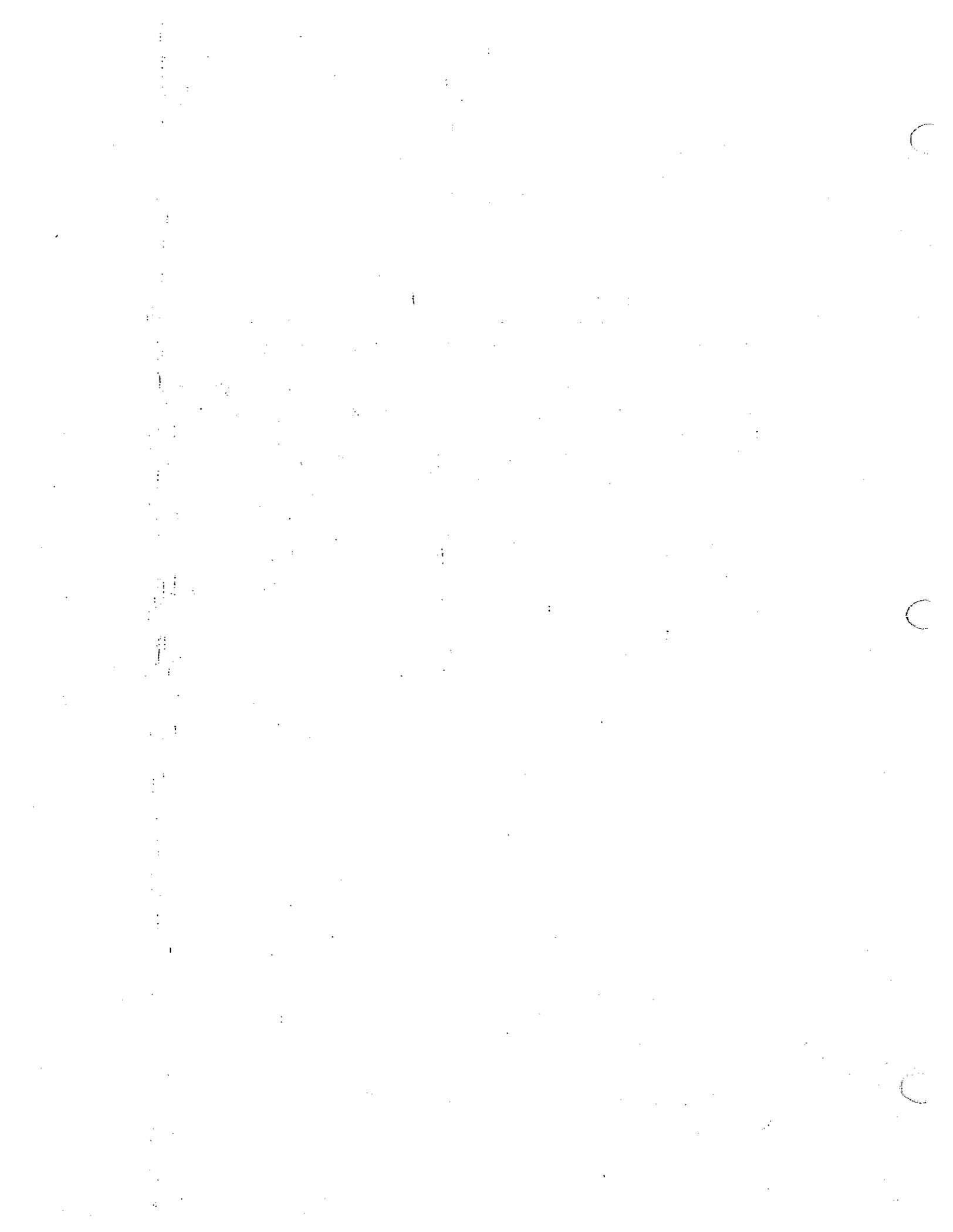
Nothing in this Article shall be construed to require a permit in advance for emergency repairs necessary for the safety of the public or the restoration or continuance of public utility or other public service, but an application for such permit and the fees required shall be submitted as herein prescribed within five (5) days after completion of the work, and thereafter the remaining provisions of this section shall apply.

**§ 82-7. Violations and penalties.<sup>1</sup>**

Any person, firm, corporation or utility which shall violate any provisions of this Article shall be subject, upon conviction before a District Justice, to pay a fine of not more than three hundred dollars (\$300.) and costs of prosecution, and in default of the payment of such fine and costs, to imprisonment in the Adams County Jail for not more than thirty (30) days.

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<sup>1</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.



## Chapter 85

### SUBDIVISION AND LAND DEVELOPMENT

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- § 85-52. Administration and enforcement.
- § 85-53. Violations and penalties.
- § 85-54. Action for relief by Township.
- § 85-55. Other actions.
- § 85-56. Appeals.
- § 85-57. Repealer; subdivisions previously approved.

[HISTORY: Adopted by the Board of Supervisors of the Township of Butler 4-8-1987 by Ord. No. 87-1. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 15.  
Planning Commission — See Ch. 71.  
Sewers — See Ch. 78.

Stormwater management — See Ch. 81.  
Streets and roads — See Ch. 82.

ARTICLE I  
General Provisions

§ 85-1. Title.

This chapter shall be known and may be cited as the "Butler Township Subdivision and Land Development Ordinance."

§ 85-2. Purpose.

This chapter is enacted for the purpose of assuring suitable sites for building purposes and human habitation and to provide for the harmonious development of Butler Township, for the proper coordination of proposed streets, parks or other facilities with existing streets, parks or other facilities; for ensuring adequate open space for traffic, recreation, light and air and for the proper distribution of population, thereby creating conditions favorable to the health, safety, morals and general welfare of the citizens of the Township. The approval of any subdivision and/or land development plan shall be based upon considerations set forth as follows:

- A. Recognition of a desirable relationship of the development proposed to the general land form, topographic and geologic character, to natural drainage and surface water runoff and to the groundwater table.
- B. Recognition of a desirable standard of subdivision design, including adequate provision for pedestrian and vehicular traffic and for suitable building sites for the contemplated land use.
- C. Preservation of such natural assets as ponds, streams, shrubs, trees and watershed areas.
- D. Provisions for adequate and safe water supply, sewage disposal, storm drainage and other utilities.

### **§ 85-3. Authority and jurisdiction.**

The authority of the Board of Supervisors to adopt this chapter regulating subdivision and land development within Butler Township is granted by Article V of the Pennsylvania Municipalities Planning Code of July 31, 1968, Act No. 247, as amended.<sup>1</sup> No subdivision or land development of any lot, tract or parcel of land shall be made and no streets, sanitary sewer, storm sewer, water main or other improvements in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel or for the common use of occupants of buildings abutting thereon except in accordance with the provisions of this chapter.

### **§ 85-4. Interpretation.**

The provisions of this chapter shall be interpreted to be the minimum requirements to meet the purposes of the chapter. Where the provisions of this chapter conflict or are inconsistent with the provisions of any other ordinance, regulation or requirement, the more restrictive provisions shall apply.

### **§ 85-5. Township liability.**

The grant of a permit or approval of a subdivision and/or land development plan 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.

## **ARTICLE II Definitions**

### **§ 85-6. Word usage.**

The following words and phrases shall be used in this chapter as follows:

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1. Editor's Note: See 53 P.S. § 10501 et seq.

- A. Words in the present tense include the future.
- B. The singular includes the plural.
- C. The word "shall" is mandatory; the word "may" is optional.
- D. The word "person" means an individual, corporation, partnership, firm, association, company or any other similar entity.

**§ 85-7. Terms defined.**

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

**AGRICULTURAL PURPOSE** — The use of a tract at least 10 acres in size for the purpose of active cultivation or animal raising as a means of obtaining income.

**ALLEY** — A minor right-of-way privately or publicly owned, primarily for service access to the rear or side of properties.

**APPLICANT** — A landowner or developer, as hereinafter defined, who has filed an application for development, including his heirs, successors and assigns.

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

**BLOCK** — An area bounded by streets.

**BOARD OF SUPERVISORS** — The elected or appointed Supervisors of Butler Township.

**BUILDING SETBACK LINES** — Lines parallel to and set back from the lot line a distance equal to the depth of the yard required.

**CARTWAY** — The surface of a street or road available for vehicular traffic.

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

**CROSSWALK** — A publicly or privately owned right-of-way for pedestrian use extending from a street into a block or across a block to another street.

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

**DEVELOPMENT** — A subdivision of land or land development.

DWELLING — A building or a portion thereof designed for and used exclusively for residential occupancy.

- A. DWELLING UNIT — One or more rooms having cooking and sanitary facilities and access directly outdoors or through a common entrance hall.
- B. SINGLE-FAMILY DETACHED UNIT — A residential structure containing only one dwelling unit.
- C. CONVERSION UNIT — Existing residential structure which has been modified structurally in such a way as to convert it from one dwelling unit to multiple dwelling units.
- D. SEMIDETACHED UNIT — A residential structure containing two single dwelling units having one common wall.
- E. ATTACHED, ROW OR TOWNHOUSE UNIT — A residential structure containing three or more dwelling units which are separated from each other by two common walls, except for the end units.
- F. MULTIPLE-DWELLING OR APARTMENT UNIT — A residential structure of two or more stories containing three or more dwelling units (not row or townhouse units).
- G. CONDOMINIUMS — A given set of dwelling units, each of which is owned by an individual person or persons in fee simple and which is assigned a proportionate interest in all common elements, as set forth in the Unit Property Act (Act 117, 1963, July 3, P.L. 1962).

EASEMENT, UTILITY — A right-of-way granted for the limited use of land for public or quasi-public purposes.

ENGINEERING SPECIFICATIONS — The engineering specifications of the municipality regulating the installation of any required improvement or for any facility installed by any owner, subject to public use.

ENGINEER, MUNICIPAL — A registered professional engineer in Pennsylvania designated by the municipality to perform the duties of engineer as herein specified.

EROSION — The removal of surface materials by the action of natural elements.

EXCAVATION — Any act by which earth, sand, gravel, rock or any other similar material is dug into, cut, carried, uncovered, removed, displaced, relocated or bulldozed. It shall include the conditions resulting therefrom.

FILL —

- A. Any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface, including the conditions resulting therefrom.

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2. Editor's Note: See 68 P.S. § 700.101 et seq.

- B. The difference in elevation between a point on the original ground and a designated point of higher elevation of the final grade.
- C. The material used to make fill.

FLOOD —

- A. FLOOD-PRONE AREA — A relatively flat or lowland area adjoining a stream, river or watercourse which is subject to partial or complete inundation, or any area subject to the unusual and rapid accumulation or runoff of surface waters from any source.
- B. FLOODWAY — The channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood of the one-hundred-year magnitude.
- C. ONE-HUNDRED-YEAR FLOOD — A flood having an average frequency of occurrence on the order of once in 100 years, although the flood may occur in any year.
- D. REGULATORY FLOOD ELEVATION — The one-hundred-year flood elevation plus a freeboard safety factor of 1 1/2 feet.

IMPROVEMENTS — Those physical additions and changes to the land that may be necessary to produce usable and desirable lots.

LAND DEVELOPMENT[Amended 5-14-2007 by Ord. No. 2007-1] —

- 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 buildings; or
  - (2) The division or allocation of land or space between or among two (2) or more existing or prospective occupants by means of or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other structures.
- B. A subdivision of land.
- C. "Land development" does not include development that involves the addition of an accessory structure, including farm structures, on a lot or lots subordinate to an existing principal structure where the accessory structure is not in excess of:
  - (1) Five thousand square feet, if the accessory structure is to be used for an agricultural purpose; or,
  - (2) One thousand square feet, if the accessory structure is to be used for other than an agricultural purpose.

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 conditions), a lessee if he is authorized under the lease to exercise the rights of the landowner or any other person having a proprietary interest in the land.

LOT — A plot or parcel of land which is or in the future may be offered for sale, conveyance, transfer, improvement or separate development.

**LOT AREA** — The area contained within the property lines of a lot as shown on a subdivision plan, excluding space within any street right-of-way, but including the area of any easement.

**LOT, REVERSE FRONTAGE** — A lot extending between and having frontage on an arterial street and a minor street and with vehicular access solely from the latter.

**LOT, THROUGH OR DOUBLE-FRONTAGE** — A lot with front and rear street frontage.

**MUNICIPALITY** — Butler Township.

**PLAN, FINAL** — A complete and exact subdivision or land development plan prepared for official recording as required by statute.

**PLANNING COMMISSION** — The Butler Township Planning Commission.

**PLAN, PRELIMINARY** — A tentative subdivision or land development plan, in lesser detail than the final plan, indicating the approximate proposed layout of a subdivision as a basis for consideration prior to preparation of the final plan.

**PLAN, SKETCH** — An informal plan, not necessarily to exact scale, indicating existing features of a tract, its surroundings and the general layout of a proposed subdivision or land development.

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

**PUBLIC NOTICE** — Notice published once a week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time, place and date 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 nor less than 14 days prior to the date of the hearing.

**RESUBDIVISION** — Any replatting or resubdivision of land limited to a change in lot lines on an approved final plan or recorded plan.

**RIGHT-OF-WAY, STREET** — A public thoroughfare for vehicular traffic and/or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, alley or however designated.

**RUNOFF** — The surface water discharge or rate of discharge of a given watershed after a fall of rain or snow that does not enter the soil but runs off the surface of the land.

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

**SIGHT DISTANCE** — The length of roadway visible to the driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic.

**SLOPE** — The face of an embankment or cut section; and ground whose surface makes an angle with the plane of the horizon. Slopes are usually expressed in a percentage based upon vertical difference in feet per 100 feet of horizontal distance.

**STREET** — A right-of-way or portion thereof dedicated or intended for general public, vehicular and/or pedestrian use.

- A. **ARTERIAL STREET** — A major street or highway with fast, heavy traffic volumes of considerable continuity and used primarily as a traffic artery for intercommunications among large areas.
- B. **COLLECTOR STREET** — A street or highway which carries traffic from minor streets to arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development.
- C. **MINOR STREET** — A street used primarily for access to abutting properties.
- D. **PRIVATE STREET** — A road for access to a limited number of lots, which road is installed and maintained at the expense of the adjoining lot owners, who are granted access to their properties by means of said road.
- E. **CUL-DE-SAC** — A street intersecting another street at one end and terminating at the other in a vehicular turnaround.
- F. **MARGINAL ACCESS STREET** — A minor street which is parallel and adjacent to limited access highways or arterial streets and which provides access to abutting properties and protection from traffic.

**STRUCTURE** — Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground, including but not limited to buildings, factories, sheds, cabins, mobile homes and other similar items.

**SUBDIVIDER** — The owner or authorized agent of the owner of a lot, tract or parcel of land to be subdivided for sale or development under the terms of this chapter.

**SUBDIVISION** (see "land development") — 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, transfer of ownership or of building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or residential dwellings, shall be exempted.

**SURFACE DRAINAGE PLAN** — A plan showing all present and proposed grades and facilities for stormwater drainage.

**TOPSOIL** — Surface soils and subsurface soils which presumably are fertile soils and soil material ordinarily rich in organic matter or humus debris. Topsoil usually found in the uppermost soil layer is called the "A-horizon."

**TOWNSHIP** — Butler Township, Adams County, Pennsylvania.

**UNDEVELOPED LAND** — Any lot, tract or parcel of land which has not been graded or in any other manner improved or prepared for subdivision or land development or the construction of a building.

**WATERCOURSE** — A stream of water, river, brook, creek or a channel of a perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

### ARTICLE III

#### Application Procedures and Plat Requirements

##### § 85-8. Preapplication procedures.

- A. Copies of this chapter shall be available for use by any person seeking information concerning land development and/or subdivision standards and procedures in effect within the Township. Any prospective developer or subdivider may meet with the Township Planning Commission to discuss and review tentative plans and/or any provisions of this chapter.
- B. Prior to the final plan submission, the prospective developer must have complied with the planning requirements of the Pennsylvania Sewage Facilities Act as administered by the Pennsylvania Department of Environmental Resources. It is suggested that the prospective developer consult the Municipal Sewage Enforcement Officer or the Adams County office of the Pennsylvania Department of Environmental Resources as to the requirements of that Act.
- C. Prospective developers shall consult the County Conservation District representative concerning erosion and sediment control and the effect of geologic conditions on the proposed development. At the same time a determination should be made as to whether or not any flood hazards either exist or will be created as a result of the subdivision or development. Land that is located in a flood zone shall not be approved for subdivision unless the nature of the use of the land is set forth in detail and unless any construction is in full compliance with the Township Floodplain Ordinance.<sup>3</sup>

##### § 85-9. Sketch plan.

- A. Prior to submission of a preliminary plan, developers are encouraged to submit a sketch plan to the Township Planning Commission. This will enable the Planning Commission to review the proposal for factors that may affect the development.
- B. A sketch plan should contain at least the following information:
  - (1) Location map.
  - (2) General information concerning any community facilities and/or any other significant man-made or natural features that will affect the proposal.

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3. Editor's Note: See Ch. 15, Building Construction, Part I.

- (3) A property map at a legible scale showing the specific parcel of land or site involved.
- (4) A sketch of the proposed development, drawn at a scale no smaller than one inch equals 400 feet, showing the proposed layout of streets and lots and other features of the subdivision.

**§ 85-10. Preliminary plan procedures.**

For a proposed development in which all lots will abut an existing public right-of-way, the submission of a preliminary plan may be waived. However, all other applicable requirements and specifications shall remain the same.

**A. Submission of the preliminary plan.**

- (1) Preliminary plans and all required accompanying documentation shall be submitted by a developer or his authorized representative to the Township Secretary at least 10 business days in advance of a regularly scheduled Planning Commission meeting.
- (2) Submission shall consist of the following:
  - (a) Six completed copies of the appropriate application form.
  - (b) Eight blue-line or black-line paper prints of the preliminary plan showing all the information required in § 85-11.
  - (c) Six copies of all other required documentation.
  - (d) A filing fee as established in Article VI of this chapter.

**B. Distribution of preliminary plan for review and comment.** Copies of the preliminary plan and accompanying documentation shall be immediately distributed by the Township Secretary as follows:

- (1) Three copies of the application, plan and accompanying documentation to the Township Planning Commission.
- (2) Two copies of the application, plan and accompanying documentation to the County Planning Commission.
- (3) The remaining copy of all documents shall remain with the Township Secretary.

**C. Action on preliminary plan by the Planning Commission and Board of Supervisors.**

- (1) Action on a preliminary plan shall be taken by the Planning Commission not later than 45 days following the first meeting at which the plan is considered.
- (2) All actions by the Planning Commission shall be taken at a public meeting, whether it be a regularly scheduled or special meeting. If the plan is to be considered at a special meeting, the developer shall be so notified. In addition, the

Planning Commission may also schedule a public hearing pursuant to public notice before taking any action on the plan.

- (3) Two copies of the plan shall then be forwarded to the Board of Supervisors along with a written recommendation concerning the preliminary approval.
- (4) The Board of Supervisors shall take official action on a preliminary subdivision plan after it has been received the report of the Township Planning Commission. The Board of Supervisors shall render its decision and communicate it to the applicant in such time so that no more than 90 days shall elapse from the date of the first regular meeting of the Planning Commission following the filing of the plan. If the first regular meeting of the Planning Commission is more than 30 days after the filing of the application, the ninety-day period shall be measured from the 30th day following the date when the application was filed.
- (5) The decision of the Board of Supervisors shall be in writing and shall be communicated to the applicant personally or mailed to him at his last known address not later than 15 business days following the decision.
- (6) When a preliminary plan has been approved or approved subject to certain conditions acceptable to the developer, no subsequent change or amendment in this chapter or any other applicable ordinances shall be applied to affect adversely the right of the developer to commence and to complete any aspect of the approved development within five years from such approval. Where final approval is preceded by preliminary approval, the five-year period shall be counted from the date of preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in the light of the provisions of the governing ordinances or plans as they stood at the time when the plan for such approval was duly submitted.
- (7) Failure of the Township Supervisors to render a decision and communicate it to the developer within the time and in the manner required by this chapter shall be deemed an approval of the plan in terms as presented unless the developer has agreed to an extension of time.

**§ 85-11. Preliminary plan requirements.**

The preliminary plan submission shall be prepared by a registered surveyor.

**A. Scale.**

- (1) Tracts of one acre or less shall be drawn at a scale of no less than one inch equals 50 feet.
- (2) Tracts of one to 10 acres shall be drawn at a scale of no less than one inch equals 100 feet.
- (3) Tracts in excess of 10 acres shall be drawn at a scale of no less than one inch equals 200 feet.

- (4) Tracts to be used for commercial, industrial or high-density housing development shall be drawn at a scale of no less than one inch equals 50 feet.

B. Information required. The preliminary plan shall show:

- (1) Name of proposed subdivision.
- (2) Name and address of subdivider.
- (3) Name, address, license number and seal of the registered surveyor who prepared the drawings.
- (4) Date of original submission and of each subsequent revised submission.
- (5) True or magnetic North point.
- (6) Graphic scale.
- (7) Written scale.
- (8) Certification by the registered surveyor that the topography shown resulted from an actual survey and the date of that survey.
- (9) A key map, for the purpose of locating the property being subdivided, drawn at a scale of one inch equals 1,000 feet and showing the relation of the property to adjoining property and to all streets, roads, municipal boundaries and recorded subdivision plans existing within 1,000 feet of any part of the property. In addition, a title, scale and North point shall be indicated.
- (10) The total tract boundary lines of the area being subdivided, accurate to hundredths of a foot and bearings to 1/4 of a minute. These boundaries shall be determined by accurate survey in the field, which shall be balanced and close with an error of closure not to exceed one foot in 10,000 feet; provided, however, that the boundary(s) adjoining additional unplatted land of the subdivider (for example, between separately submitted final plan sections) is not required to be based upon field survey and may be calculated. The location and elevation of all boundary line (perimeter) monuments shall be indicated, along with a statement of the total area of the property being subdivided. In addition, the engineer or surveyor shall certify to the accuracy of the survey, the drawn plan and the placement of the monuments.
- (11) A plot drawn to a legible scale showing the entire existing tract boundary and the location of the lots being subdivided from said tract.
- (12) Boundaries of adjacent properties and recorded name and deed reference. When adjacent properties are part of a recorded plat, only the lot number and subdivision name need be shown.
- (13) Contour lines at vertical intervals of at least two feet for land with average natural slope of 4% or less and at intervals of at least five feet for land with average slope exceeding 4%.

- (14) Location and elevation of the datum to which contour elevations refer: where practicable, datum used shall be an established bench mark.
- (15) The name (or number) and cartway width and lines of all proposed and existing public streets and private roads and the name and location of all other roads, public or private, within the property.
- (16) If the subdivision proposes a new street intersection with a state legislative route, the intersection occupancy permit number(s) shall be indicated for all such intersections. If lots abut a state highway and do not have their ingress and egress onto a new street as aforesaid, and if access to and from the state highway is by a driveway servicing only the lot fronting on the state highway, no final plan shall be approved unless the plan contains a notice that a state highway occupancy permit is required pursuant to the State Highway Law and before driveway access is permitted. No building permit shall issue for that lot until the highway occupancy permit has been obtained.
- (17) Location of existing streets and alleys adjoining the tract, including name, width, width of cartway and sidewalks.
- (18) The location (and elevation, if established) of all existing and proposed street monuments.
- (19) Location of existing and proposed rights-of-way and easements.
- (20) Lot numbers and a statement of the total number of lots and parcels.
- (21) Lot lines with approximate dimensions and areas.
- (22) The building setback lines for each lot or other sites.
- (23) For developments where on-site sewage disposal systems will be used, the location where the soils evaluation test was conducted for each lot.
- (24) A statement of the intended use of all nonresidential lots, with reference to restrictions of any type which exist or will exist as covenants in the deed for the lots contained in the subdivision and, if recorded, including the book and page number.
- (25) Location and size of existing and proposed utility structures and/or transmission lines, including water, gas, electric, petroleum, etc., and all easements or rights-of-way connected with such structures and/or lines.
- (26) The location of any existing bodies of water or watercourses; tree masses; buildings or structures, including the location of wells and on-site sewage facilities for such buildings or structures; public facilities; and any other man-made or natural features within or near the proposed subdivision.
- (27) Location, size and invert elevation of all existing and proposed sanitary sewers, including any and all proposed and/or existing capped sewer lines, and location of all manholes, inlets and culverts. (This data may be submitted as a separate plan.)

- (28) Location, size and invert elevation of all existing and proposed storm sewers and other drainage facilities, with the size and material of each indicated, and any proposed connections with existing facilities.
  - (29) Location of drainage structures, including marshes, ponds, streams or similar conditions.
  - (30) Parks, playgrounds and other areas to be dedicated or reserved for public use, with any conditions governing such use.
- C. Supplementary data required. The preliminary plan shall be accompanied by the following supplementary data where applicable:
- (1) A plan revision module for land development as required by the Pennsylvania Department of Environmental Resources.
  - (2) A plan for the control of erosion and sedimentation for review by the County Conservation District office as required by the Pennsylvania Clean Streams Act.
  - (3) Preliminary designs of any bridges or culverts which may be required. Such designs shall meet all applicable requirements of the Pennsylvania Department of Environmental Resources and the Pennsylvania Department of Transportation.
  - (4) Typical street cross-section drawings for all proposed streets.
  - (5) Tentative profiles along the center line of the cartway (pavement) or along the top of the curb for both sides of each proposed street shown on the preliminary plan. Such profiles shall show natural and finished grades and, where applicable, the regulatory flood elevation.
  - (6) The applicant shall, if requested, submit a feasibility report concerning the availability and adequacy of sewer and water facilities in or near a proposed land development. Said report shall be prepared by a registered professional engineer and be submitted in conjunction with the preliminary plan for review and recommendations by the local office of the Pennsylvania Department of Environmental Resources.
  - (7) Where deemed necessary, the applicant shall also submit a storm drainage plan and storm drainage calculations.
  - (8) Where the preliminary plan covers only a part of the entire landholdings, a sketch of the future street system of the unsubmitted part shall be submitted. The street system of the submitted part will be considered in light of adjustments and connections with future streets in the part not submitted.
  - (9) Where the land included in the subject application has an electric transmission line, a gas pipeline or a petroleum or petroleum products transmission line located within the tract, the application shall be accompanied by a letter from the owner or lessee of such right-of-way stating any conditions on the use of the land and the minimum building setback and/or right-of-way lines. This requirement may also be satisfied by submitting a copy of the recorded agreement.

**§ 85-12. Final plan procedures.**

Submission of a final plan for approval shall occur not more than five years following the date of approval of the preliminary plan. Failure to submit the final plan within this period of time shall make the approval of the preliminary plan null and void unless an extension of time has been granted. Except for any modifications or changes required, the final plan shall conform basically to the approved preliminary plan. Where significant modifications or changes, other than those required, are made to an approved preliminary plan, the plan shall be submitted again as a preliminary plan.

**A. Submission of the final plan.**

- (1) Final plans and all required accompanying documentation shall be submitted by a developer or his authorized representative to the Township Secretary at least 10 business days in advance of a regularly scheduled Planning Commission meeting.
- (2) Submission shall consist of the following:
  - (a) Six completed copies of the appropriate application form.
  - (b) Eight blue-line or black-line paper prints of the final plan showing all the information required in § 85-13.
  - (c) Six copies of all other required documentation.
  - (d) A filing fee as established in Article VI of this chapter.

**B. Distribution of final plan for review and comment. Copies of the final plan and accompanying documentation shall be immediately distributed by the Township Secretary as follows:**

- (1) Three copies of the application, plan and accompanying documentation to the Township Planning Commission.
- (2) Two copies of the application, plan and accompanying documentation to the County Planning Commission.
- (3) The remaining copy of all documents shall remain with the Township Secretary.

**C. Action on final plan by the Planning Commission and Board of Supervisors.**

- (1) Action on the final plan shall be taken in the same manner as for preliminary plans (§ 85-10C); provided, however, that if the Department of Environmental Resources (DER) has not approved the planning module within the standard review period for the Township as set forth in this chapter, the Township shall disapprove the plan and require its resubmission unless the developer agrees in writing or states for the minutes of the meeting that he agrees to an extension of time for the Township to give final approval, which extension shall be until the next regular public meeting after receipt of the letter from DER. In addition, if a final plan is approved, the Planning Commission Chairman and Secretary shall sign the record plan and all prints. Thereafter, the Township Supervisors shall also sign the plan if approved by them.

- (2) Failure of the Board of Supervisors to render a decision and communicate it to the developer within the time and in the manner required by this chapter shall be deemed an approval of the plan in terms as presented unless the developer has agreed to an extension of time.
- (3) Before any final plan is approved, the developer shall either install all the required improvements or provide for deposit with the municipality a corporate bond or other security acceptable to the municipality pursuant to § 85-37 of this chapter.

D. Recording of plan.

- (1) Upon approval of a final plan by the municipality, the developer shall record the final plan in the office of the County Recorder of Deeds within 90 days.
- (2) If the plan is not recorded within 90 days, the approval shall be null and void unless an extension of time is granted by the Board of Supervisors upon request from the developer.
- (3) No land in a development shall be sold or transferred prior to recording of the final plan; and a landowner may not offer for sale or enter into an agreement to sell subdivided land without benefit of a recorded plan.

- E. Limitations of final plan approval. The approval of the final plan by the Board of Supervisors shall be deemed an acceptance of the plan and shall authorize the Recorder of Deeds to record the same, but shall not impose any duty upon the Township concerning maintenance or improvements of any streets, highways, alleys or other portions of the same unless or until the Township shall have accepted the same by dedication for public use.

**§ 85-13. Final plan requirements.**

- A. The final plan submission shall be prepared by a registered surveyor and be drawn on reproducible Mylar or other stable transparency, using black ink for all data, including approval signatures.
- (1) Scale.
    - (a) Tracts of one acre or less shall be drawn at a scale of no less than one inch equals 50 feet.
    - (b) Tracts of one to 10 acres shall be drawn at a scale of no less than one inch equals 100 feet.
    - (c) Tracts in excess of 10 acres shall be drawn at a scale of no less than one inch equals 200 feet.
    - (d) Tracts to be used for commercial, industrial or high-density housing development shall be drawn at a scale of no less than one inch equals 50 feet.

- (2) Finished size of drawings for final plan submission shall be 18 inches by 24 inches or may be reduced to that size, provided that all lines and lettering are clear and legible after reduction.
- (3) If the final plan requires more than one sheet, a key diagram showing the relative location of the several sections shall be drawn on each sheet.

B. Information required. The final plan shall show:

- (1) Name of proposed subdivision.
- (2) Name and address of subdivider.
- (3) Name, address, license number and seal of the registered surveyor who prepared the drawings.
- (4) Date of original submission and of each subsequent revised submission.
- (5) True or magnetic North point.
- (6) Graphic scale.
- (7) Written scale.
- (8) Certification by the registered surveyor that the topography shown resulted from an actual survey and the date of that survey.
- (9) A key map, for the purpose of locating the property being subdivided, showing the relation of the property to all streets, roads, municipal boundaries and recorded subdivision plans existing within 1,000 feet of any part of the property. In addition, a title, scale and North point shall be indicated.
- (10) The total tract boundary lines of the area being subdivided, accurate to hundredths of a foot and bearings to 1/4 of a minute. These boundaries shall be determined by accurate survey in the field, which shall be balanced and close with an error of closure not to exceed one foot in 10,000 feet; provided, however, that the boundary(s) adjoining additional unplatted land of the subdivider (for example, between separately submitted final plan sections) is not required to be based upon field survey and may be calculated. The location and elevation of all boundary line (perimeter) monuments shall be indicated, along with a statement of the total area of the property being subdivided. In addition, the engineer or surveyor shall certify to the accuracy of the survey, the drawn plan and the placement of the monuments.
- (11) A plot drawn to a legible scale showing the entire existing tract boundary and the location of the lots being subdivided from said tract.
- (12) Boundaries of adjacent properties and recorded name and deed reference. When adjacent properties are part of a recorded plat, only the lot number and subdivision name need be shown.

- (13) Contour lines at vertical intervals of at least two feet for land with average natural slope of 4% or less and at intervals of at least five feet for land with average slope exceeding 4%.
- (14) Location and elevation of the datum to which contour elevations refer; where practicable, datum used shall be an established bench mark.
- (15) The name (or number) and cartway width and lines of all proposed and existing public streets or private roads and the name and location of all other public or private roads within the property.
- (16) The following data for the cartway edges (curblines) and right-of-way lines of all recorded (except those which are to be vacated) and/or proposed streets and for the right-of-way lines of all existing streets within the property:
  - (a) The length (in feet and hundredths of a foot) of all straight lines and of the radius and the arc or chord of all curved lines, including curved lot lines.
  - (b) The width (in feet) of the cartway, right-of-way and, if required, of the ultimate right-of-way, and (in degrees, minutes and quarters of a minute) of the delta angle of all curved lines, including curved lot lines.
  - (c) All straight lot lines, defined (in feet and hundredths of a foot) by distances and (in degrees, minutes and quarters of a minute) either by magnetic bearings or by angles of deflection from other lot and street lines.
- (17) If the subdivision proposes a new street intersection with a state legislative route, the intersection occupancy permit number(s) shall be indicated for all such intersections. If lots abut a state highway and do not have their ingress and egress onto a new street as aforesaid, and if access to and from the state highway is by a driveway servicing only the lot fronting on the state highway, no final plan shall be approved unless the plan contains a notice that a state highway occupancy permit is required pursuant to the State Highway Law and before driveway access is permitted. No building permit shall issue for that lot until the highway occupancy permit has been obtained.
- (18) Location of existing streets and alleys adjoining the tract, including name, width, width of cartway and sidewalks.
- (19) The location (and elevation, if established) of all existing and proposed street monuments.
- (20) Location of existing and proposed rights-of-way and easements.
- (21) Lot numbers and a statement of the total number of lots and parcels.
- (22) Lot lines with dimensions and lot areas.
- (23) The building setback lines for each lot or other sites.
- (24) For developments where on-site sewage disposal systems will be used, the location where the soils evaluation test was conducted for each lot.

- (25) A statement of the intended use of all nonresidential lots, with reference to restrictions of any type which exist or will exist as covenants in the deed for the lots contained in the subdivision and, if recorded, including the book and page number.
  - (26) Location and size of existing and proposed utility structures and/or transmission lines, including water, gas, electric, petroleum, etc., and all easements or rights-of-way connected with such structures and/or lines.
  - (27) The location of any existing bodies of water or watercourses; tree masses; buildings or structures, including the location of wells and on-site sewage facilities for such buildings or structures; public facilities; and any other man-made or natural features within or near the proposed subdivision.
  - (28) A certification of ownership, acknowledgment of a plan and offer of dedication shall be lettered on the plan and shall be duly acknowledged and signed by the owner(s) of the land.
  - (29) An approval block for the use of the County Planning Commission, the Township Planning Commission and the Board of Supervisors.
- C. Supplementary data required. Unless previously submitted, the final plan shall be accompanied by the following supplementary data were applicable:
- (1) Typical street cross-section drawing(s) for all proposed streets. Cross-section drawing(s) may be shown either on the final plan or on the profile sheets.
  - (2) Profile sheets for all proposed streets within the tract. Such profiles shall show at least the following information, properly labeled:
    - (a) Existing (natural) profile along both cartway edges or along the center line of each street.
    - (b) Proposed finished grade of the center line, or proposed finished grade at the top of both curbs or proposed finished grade at both cartway (pavement) edges.
    - (c) The length of all vertical curves.
    - (d) Existing and proposed sanitary sewer mains and manholes.
    - (e) Existing and proposed storm mains, inlets, manholes and culverts.
  - (3) Whenever a subdivider proposes to establish a street or private road which is not offered for dedication to public use, the Board of Supervisors may require the subdivider to submit, and also to record with the plan, a copy of an agreement made with the Township on behalf of his heirs and assignees, approved by the Municipal Solicitor, which shall establish the conditions under which the street may later be offered for dedication and shall stipulate, among other things:
    - (a) That the street shall conform to the municipal specifications or that the owners of the abutting lots shall include with the offer of dedication

sufficient money, as estimated by the Municipal Engineer, to restore the street to conformance with municipal specifications.

- (b) That an offer to dedicate the street shall be made only for the street as a whole.
  - (c) That the method of assessing repair costs be as stipulated.
  - (d) That agreement by the owners of more than 50% of the front footage thereon shall be binding on the owners of the remaining lots.
- (4) An agreement that the applicant will install all underground utilities before paving streets or constructing sidewalks.
  - (5) Final designs of any bridges or culverts which may be required. Such designs shall meet all applicable requirements of the Pennsylvania Department of Environmental Resources and the Pennsylvania Department of Transportation.
  - (6) Where the final plan covers only part of the entire landholdings, a sketch of the future street system of the unsubmitted part shall be furnished. The street system of the submitted part will be considered in light of adjustments and connections with future streets in the part not submitted.
  - (7) Water and sewer feasibility reports as may be required, including any updated information which may have become available since the submission of the preliminary plan.
  - (8) A plan for the control of erosion and sedimentation for review by the County Conservation District office as required by the Pennsylvania Clean Streams Act.
  - (9) Where deemed necessary by the Board of Supervisors, a storm drainage plan and storm drainage calculations.
  - (10) Where deemed necessary by the Board of Supervisors, a map showing the location of the proposed development with respect to flood-prone areas, including information as to the regulatory flood elevation, the boundaries of the flood-prone areas, proposed lots and sites, fills, flood or erosion protection facilities and areas subject to special restrictions. In addition, where the proposed development lies partially or completely in any flood prone area or borders on any flood-prone area, such map shall also show the location and elevation of proposed roads, public utilities and building sites.
  - (11) A planning module as required by the Pennsylvania Department of Environmental Resources.
  - (12) Such private deed restrictions, including building setback lines, as may be imposed upon the property as a condition to sale, together with a statement of any restrictions previously imposed which may affect the title of the land being subdivided.
  - (13) Any other certificates, affidavits, endorsements or dedications, etc., that may be required by the Board of Supervisors.

- (14) When a proposed plan has been submitted to the County Conservation District office for review and recommendations, a plan and/or other documentation to show what has been or will be done in response to its recommendations.

**§ 85-14. Resubdivision procedure.**

Any replatting or resubdivision, including changes to a recorded plan, shall be considered as a new application and shall comply with all requirements of this chapter.

**§ 85-15. Additions to existing lots.**

A parcel of land may be added to an existing recorded lot for the sole purpose of increasing the lot size, provided that:

- A. The parcel to be added must be contiguous to the existing lot.
- B. The addition must maintain or improve the overall straightness of lot lines.
- C. The plan prepared for the addition of this parcel shall follow the procedures outlined in this chapter.
- D. The plan shall stipulate that the parcel is for the sole purpose of enlarging an existing lot and may not be separately sold or retained.

**ARTICLE IV  
Design Standards**

**§ 85-16. Application of standards.**

The following standards shall be applied by the Township Planning Commission and the Board of Supervisors in evaluating plans submitted for review and/or approval. It is intended that these standards be considered the minimum requirements and may be modified as necessary to protect the health, safety and general welfare of the public.

**§ 85-17. General site standards.**

The following requirements and guiding principles for subdivisions and land developments shall be observed with respect to factors affecting the suitability of the site for such development:

- A. The plans shall conform to the Municipal Comprehensive Plan and Official Map or to such parts thereof as shall have been officially prepared and adopted by the municipality in which the development is situated.
- B. A land development or subdivision must be coordinated with existing land development or subdivision in the neighborhood so that the entire area may be developed harmoniously.

- C. Land proposed for land development or subdivision shall not be developed or changed by grading, excavating or by the removal or destruction of the natural topsoil, trees or other vegetative cover unless provisions for minimizing erosion and sedimentation are provided as required by the Erosion Control Regulations of the Pennsylvania Department of Environmental Resources.
- D. In a development where the average slope exceeds 15%, the municipality may require modifications to these regulations.
- E. In all developments, every precaution shall be taken to preserve all natural and historic features deemed worthy of preservation. Examples of such features would include but not be limited to large trees and stands of trees, watercourses, historic areas and structures, scenic views, etc. To ensure the protection of such features, the Board of Supervisors may require the following additional information to be submitted:
  - (1) A grading plan showing the existing and proposed ground elevations relative to the features.
  - (2) The accurate location of the features to be protected.
  - (3) An explanation of the precautions to be taken by the developer to protect such features.
- F. Land subject to hazards of life, health or property as may arise from fire, floods, disease, excessive noise, odor, falling aircraft or considered uninhabitable for other reasons may not be developed unless the hazards have been removed or the plans show adequate safeguards against them.

**§ 85-18. Street and highway standards.**

- A. General. All streets proposed to be constructed shall conform to the following general design requirements:
  - (1) Streets shall be logically related to topography so as to produce reasonable grades, satisfactory drainage, suitable building sites and usable lots.
  - (2) Residential streets shall be so laid out as to discourage through traffic; however, proposed streets shall be planned with regard to the existing street system, topographical conditions, public convenience in terms of fire protection and pedestrian traffic, probable volumes of traffic, existing and proposed use of land on abutting properties and future extensions of the street system.
  - (3) When a subdivision abuts or contains an existing or proposed primary or secondary highway, the Township may require a marginal access street, reverse frontage or other treatment which will provide protection for abutting properties, reduction of the number of intersections and separation of local from through traffic.
  - (4) Dead-end streets shall be prohibited except as stubs to permit future street extensions into adjoining undeveloped tracts or when designated and designed as culs-de-sac or temporary turnarounds. If a street is a private street, a stub will not

be permitted since expansions of the private street into other undeveloped areas shall not be allowed. A private street must end with a cul-de-sac designed in accordance with the provisions herein.

- (5) Private streets (streets not offered for dedication to public use) shall, as a general rule, be discouraged. However, in the event a private street is approved for the limited purposes as hereinafter set forth, the street must still meet the design and improvement standards of this chapter in order to be suitable for future public dedication if the need or desire arises.
- (6) The proposed street system shall extend existing or recorded streets at the same width but in no case at less than the required minimum width.

B. Street widths.

- (1) Minimum street right-of-way and cartway widths shall be as follows:

**Street Right-of-Way and Cartway Widths**

Street Type	Right-of-Way (feet)	Cartway (feet)
Arterial	As determined by the Township after consultation with the Pennsylvania Department of Transportation	
Collector	60	36
Minor		
Average lot frontage of 70 feet or less	50	32
Average lot frontage of 70 feet or more	50	32 or 20, plus 2 eight-foot shoulders
Private	50	32
Alley or service drive	20	20

- (2) Provision for additional street width (right-of-way or cartway, or both) may be required when determined to be necessary in specific cases for:
  - (a) Public safety and convenience.
  - (b) Parking in commercial and industrial areas and in areas of high-density development.
  - (c) Widening of existing street where the width or alignment does not meet the requirements of the preceding subsections.
  - (d) Where topographic conditions require excessive cuts and fills.

C. Street grades.

- (1) The grades of streets shall not be less than the minimum nor more than the maximum requirements listed below:

Type of Street	Minimum Grade	Maximum Grade
All streets	0.5% when curbs are used 1.0% without curbs	15%
Arterial	As determined after consultation with the Pennsylvania Department of Transportation	
Collector	0.5% when curbs are used 1.0% without curbs	7%
Minor and alleys	0.5% when curbs are used 1.0% without curbs	10%

- (2) Vertical curves shall be used in changes of grade when the difference exceeds 1% and shall be designed for maximum visibility.
- (3) On permission of the Planning Commission, minor street grade under special topographic condition may exceed 10% for distances less than 100 feet, provided that the grade does not in any case exceed 15%.

D. Curves.

- (1) Where connecting street lines deflect from each other at any one point by more than 10°, the line must be connected with a true, circular curve. The minimum radius of the center line for the curve must be as follows:

Type of Street	Minimum Radius (feet)
Collector	300
Minor	150

- (2) Straight portions of the street must be tangent to the beginning or end of curves. Except for minor streets, there must be a tangent of at least 100 feet between reverse curves.

E. Sight distance.

- (1) Proper sight distance shall be provided with respect to both horizontal and vertical road alignments. The sight distance measured from the center line 4.5 feet above grade shall be as follows: [Amended 3-10-1993 by Ord. No. 93-1]

Type of Street	Sight Distance (feet)
Arterial	500

Type of Street	Sight Distance (feet)
Collector	500
Minor	500
Access drives	500
Driveways	500
Private streets (where allowed)	500

- (2) There shall be provided and maintained at all intersections a clear-sight triangle with a line of sight between points 100 feet from the intersection of the street center lines. No building or other obstruction that would obscure the vision of a motorist shall be permitted within these areas.
  - (3) Proper sight distance shall be provided with respect to both horizontal and vertical road alignments at all intersections.
- F. Cul-de-sac streets. Cul-de-sac streets, designed to be so permanently, shall not exceed 500 feet in length and shall be provided with a paved turnaround having a minimum diameter of 80 feet and a legal right-of-way of 100 feet in diameter, except in nonresidential areas, where cul-de-sac streets may exceed 500 feet in length when, under special circumstances, the Planning Commission deems such additional length necessary and advisable.
- G. Intersections.
- (1) No intersection shall involve the junction of more than two streets.
  - (2) Right-angle intersections shall be used whenever possible. In no instance, however, shall streets intersect at an angle of less than 75°.
  - (3) Intersections shall be approached on all sides by leveling areas. Where the grades exceed 7%, such leveling areas shall have a minimum length of 100 feet measured from the intersection of the center lines, within which no grade shall exceed a maximum of 4%.
  - (4) All streets intersecting a state road (US, PA or LR) shall be subject to the approval of the Pennsylvania Department of Transportation (PennDOT). The developer shall furnish evidence of such approval in the form of a PennDOT highway occupancy permit or other written form.
  - (5) The design of curb or edge of pavements must take into account such factors as the types of turning vehicles, likely speeds of traffic, angle of turn, etc., but in no instance shall the radius of the curb or edge of pavement be less than the following:

Intersection	Curve Radius (feet)
Minor with minor street	15
Minor with collector	25
Collector with collector	35

- (6) Minor and collector streets shall not intersect arterial streets on the same side at less than eight-hundred-foot intervals and shall be in alignment with any existing or proposed streets intersecting from the opposite side. If two streets that intersect another from opposite sides cannot be aligned, then a distance of at least 150 feet shall be provided between the two intersecting center lines.
- H. Slope of bank along streets. The slope of banks along streets measured perpendicular to the street center line shall be no steeper than the following:
- (1) One foot of vertical measurement for three feet of horizontal measurement for fills.
  - (2) One foot of vertical measurement for two feet of horizontal measurement for cuts.
- I. Partial and half-streets. The dedication of half-streets at the perimeter of new developments is prohibited except to complete existing half-streets.
- J. Names of streets. The names of new streets shall not duplicate or approximate existing or platted street names or approximate such names by the use of suffixes such as "lane," "way," "drive," "court" or "avenue." In approving the names, consideration shall be given to existing or platted street names within the postal delivery district served by the local post office. New streets shall bear the same name or number as any continuation of or alignment with an existing street. All new street names must be approved by the Adams County Planning Commission to ensure proper coordination with the countywide house numbering system. Route numbers must be approved by the Township.
- K. Reserve strips. Controlling access to streets by reserve strips is prohibited except where their control is definitely placed in the municipality under control approved by the municipality. A reserve strip is a parcel of ground in separate ownership separating a street from other adjacent properties or from another street.
- L. Alleys. Alleys shall be prohibited in single-family residential developments but may be included in townhouse, multiple-family, commercial and industrial developments.

#### § 85-19. Off-street parking.

- A. Standards. Off-street vehicular parking facilities shall be provided in accordance with the following standards:
- (1) Off-street parking may be located in any required side, front or rear yard, but not within the street right-of-way.

- (2) Except when provided for single-family or semidetached dwelling units, off-street parking areas shall be surfaced with a minimum of four inches of stone base and shall be properly graded and drained to dispose of all surface water.
- (3) Commercial and industrial parking areas shall be arranged and marked for the orderly and safe movement, loading, parking and storage of vehicles and shall be adequately illuminated if designed for use by more than 10 cars after dusk.
- (4) If determined necessary by the Board of Supervisors, commercial and industrial parking areas which provide more than five parking spaces shall be screened from any abutting property used for residential purposes. Screening may be accomplished by the placement of adequate buildings, a solid fence high enough to provide screening and/or provision and maintenance of solid planting in the form of contiguous evergreen shrubs.
- (5) Any lighting used to illuminate any residential, commercial or industrial parking areas shall be so arranged as to reflect the light away from adjoining premises and public rights-of-way.

B. Loading and unloading space.

- (1) All commercial and industrial establishments shall provide loading and unloading and commercial vehicle storage space adequate for their needs. This required space will be provided in addition to established requirements for patron and employee parking. In no case where a building is erected, converted or enlarged for commercial, manufacturing or business purposes shall the public right-of-way be used for loading or unloading of materials.
- (2) The minimum size loading space shall be 50 feet in depth, 12 feet in width, with an overhead clearance of 14 feet.

C. Table of spaces by use.

- (1) Each off-street parking area shall provide for each usable parking space at least 200 square feet of space. Where access to such area is from a public street, adequate turnaround space shall be provided behind the right-of-way line.
- (2) The number of spaces to be provided shall be governed by the following table:
  - (a) Offices, retail businesses and service establishments: one space for each 300 square feet of floor area.
  - (b) Restaurants, taverns and nightclubs: one space for every 2.5 seats.
  - (c) Professional offices or clinics: five spaces for each professional person unless the applicant can satisfactorily demonstrate a need for fewer spaces, but in no case less than five spaces.
  - (d) Motels, hotels: one space for each sleeping room and one space for each employee.
  - (e) Theaters and auditoriums: one space for every 3.5 seats.

- (f) Social halls, clubs and lodges: one space for each 200 square feet of floor space.
- (g) Bowling alleys: two spaces for each alley.
- (h) Residential dwellings: according to type of dwelling (see lot sizes by type of development).
- (i) Funeral homes: one space for each five seats.
- (j) Rooming houses and dormitories: one space for each two beds.
- (k) Manufacturing plants and laboratories: one space for every three employees.
- (l) Wholesale establishments and warehouses: one space for every two employees.
- (m) Churches: one space for every 3.5 seats.
- (n) Barbershops and beauty shops: two spaces for each service chair and one space for each employee.

#### § 85-20. Access drives.

- A. Residential. Access drives to any public street or highway in a residential area shall be governed by the following:
  - (1) Within 10 feet of a street right-of-way line, an access drive may not exceed 20 feet in width.
  - (2) The number of access drives may not exceed two per lot.
  - (3) An access drive may not cross a street right-of-way line:
    - (a) Within five feet of a property line except for common access by two dwellings.
    - (b) Within 50 feet of the right-of-way line of an intersection street when entrance is from an arterial street.
    - (c) Within 35 feet of the right-of-way line of an intersection street when entrance is from a collector street.
    - (d) Within 25 feet of the right-of-way line of an intersecting street when entrance is from a minor street.
    - (e) Within 15 feet of a fire hydrant.
  - (4) An access drive must have direct access from the lot, without traversing any other lot or tract of land, to a public street or to a private street constructed to public street standards (see §§ 85-18 and 85-25). An access drive must be located in safe relationship to sight distances and barriers to vision. An access drive shall not

exceed a slope of 5% within 25 feet of the street right-of-way lines. Where an access drive enters a bank through a cut, the shoulders of the cut shall not exceed 50% in slope within 25 feet of the point the access drive intersects the street right-of-way. [Amended 9-9-2013 by Ord. No. 2013-1]

B. Commercial and industrial. Access drives to any public street or highway in the case of a commercial or industrial development shall be governed by the following:

- (1) Accessways to public streets or highways shall be located at least 150 feet from any intersection involving arterial or collector streets and 100 feet from any intersection of minor streets. Accessways shall be designed to permit safe ingress and egress and, where practicable, shall be located on minor rather than collector or arterial streets.
- (2) No design shall be approved which is likely to create substantial traffic hazards endangering the public safety. Safety requirements which may be imposed in such a review shall include traffic control devices, acceleration or deceleration lanes, turning lanes, traffic and lane markings and signs. The developer shall be responsible for the construction of any such traffic control devices.

C. Private streets.

- (1) Private streets shall, as a general rule, be discouraged.
- (2) Parcels of land existing as of the effective date of this chapter which have their access by means of private roads or private rights-of-way shall be permitted to be subdivided into no more than four lots (total) for each original parcel, provided that all other requirements of this chapter are met.
- (3) No development or subdivision shall be served by a private street where more than four lots are connected (i.e., two separate parcels may not be served by private streets which would ultimately be joined together), and a series of private streets shall not be permitted in any land subdivision.
- (4) A private street shall be permitted only when, in the opinion of the Planning Commission and the Board of Supervisors, because of the nature of the subdivision, it would not be economically feasible to install public roads.
- (5) Where any accessway is to be private, proof of an agreement as to the responsibility for maintenance of that accessway pursuant to § 85-13C(3) shall be presented prior to final plan approval.

#### § 85-21. Lots.

A. General.

- (1) The size, shape and orientation of lots shall be appropriate for the type of development use contemplated. Insofar as practical, side lot lines shall be at right angles to straight street lines and radial to curved street lines.

- (2) Where feasible, lot lines shall follow municipal boundaries rather than cross them, in order to avoid jurisdictional problems.
- (3) Generally, the depth of residential lots shall be not less than one nor more than 2 1/2 times their width.
- (4) Where the lots in a subdivision are large enough for resubdivision or where a portion of the tract is not developed, suitable access to these areas shall be provided.
- (5) Depth and width of parcels intended for nonresidential uses shall be adequate for the use proposed and sufficient to provide satisfactory space for on-site parking, loading and unloading, setbacks, landscaping, etc.
- (6) If, after subdivision, there exist remnants of land, they shall either be incorporated into existing or proposed lots or legally dedicated to public use, if acceptable to the municipality.
- (7) No lot shall be created in any manner whatsoever which does not meet the minimum requirements of this chapter.

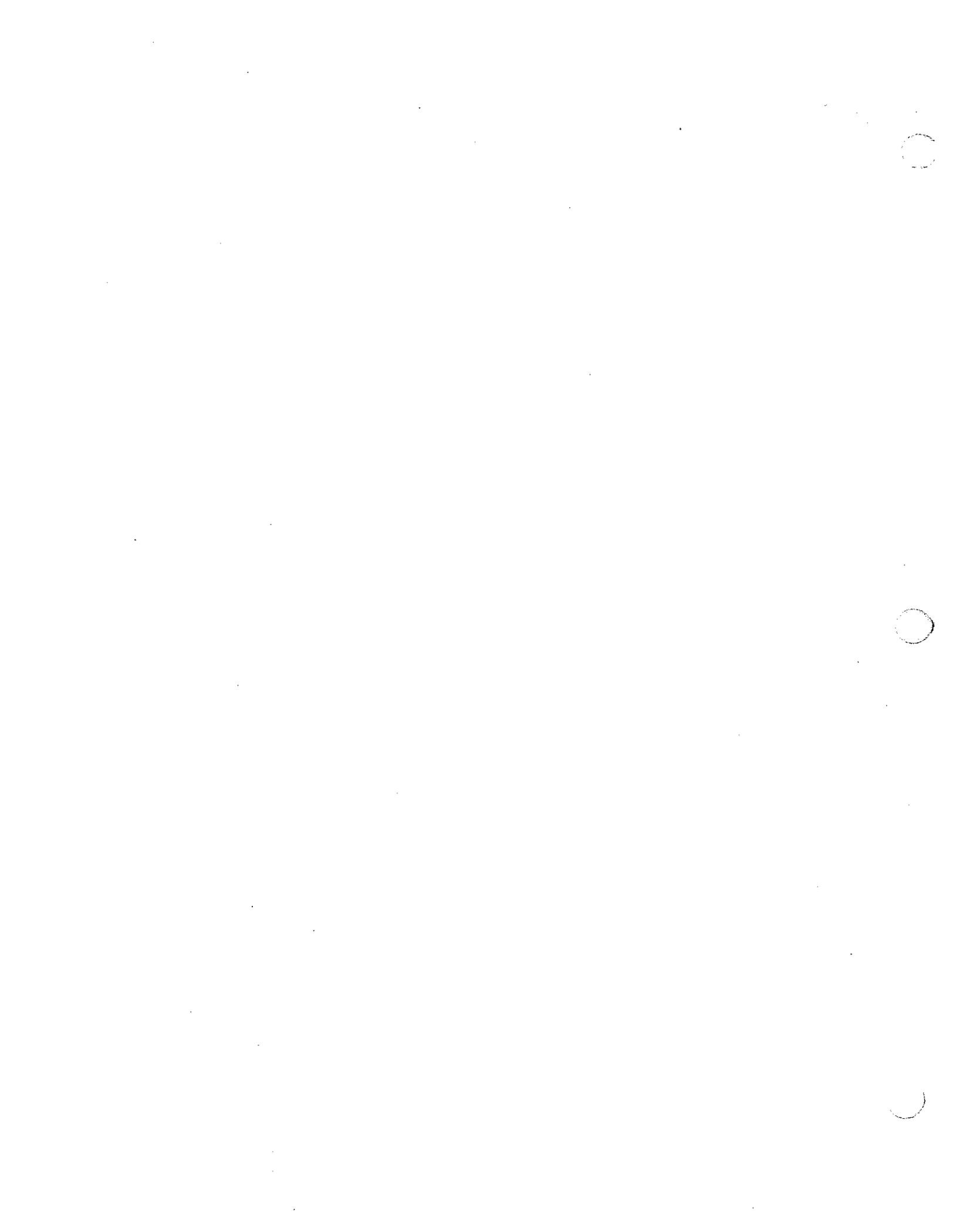
B. Lot frontage.

- (1) All lots shall front on a dedicated public street (existing or proposed) or upon a private street laid out and constructed in accordance with other provisions of this chapter. Lots not fronting upon a public or private street shall not be approved.
- (2) Double- or reverse frontage lots shall be avoided except where required to provide separation of residential development from major streets or to overcome specific disadvantages of topography, orientation or location.
- (3) All residential reverse frontage lots shall have a planting screen easement of at least 20 feet in width, across which there shall be no right of access.

C. Lot soil evaluation tests.

- (1) Soil percolation tests and deep probes shall be performed for each lot of a proposed subdivision wherein buildings at the time of construction will not be connected to a public sewage disposal system. Each lot must be found satisfactory for on-site sewage disposal prior to approval of the final plan.
- (2) The soil tests called for above shall be performed in accordance with the regulations of the Pennsylvania Department of Environmental Resources. The Township Sewage Enforcement Officer will observe the tests and certify the results.
- (3) A land planning module for any new subdivision or land development shall be prepared by the developer and submitted with the preliminary plan for approval by the Supervisors and the Pennsylvania Department of Environmental Resources (DER). In the event that DER has not approved the planning module within the standard review period for the Township as set forth in § 85-10C or 85-12C hereof, the Township shall disapprove the plan and require its resubmission unless

the developer agrees in writing or states for the minutes of the meeting that he agrees to an extension of time for the Township to give final approval, which



extension shall be until the next regular public meeting after receipt of the letter from DER.

- D. Lot sizes on slopes. The minimum lot area herein established shall be increased based on reports from the Pennsylvania Department of Environmental Resources and the Soil Conservation Service indicating that, because of slope, surface runoff or subsurface drainage of septic tank effluents is likely to result in hazardous conditions.
- E. Unique lots.
- (1) In the case of wedge-shaped lots, no lot shall be less than 35 feet in width measured along the arc at the front street right-of-way.
  - (2) Flag lots or panhandle lots or lots having a narrow strip of property for the sole purpose of providing access to a public road from a lot which would not otherwise front on a public road are prohibited unless no other reasonable method of providing access is available. In no case should this be used as a method of avoiding construction of a street. Minimum width of the panhandle, including frontage, shall be 25 feet.
  - (3) Corner residential lots shall have enough extra width to permit appropriate setbacks from both streets.
- F. Building setbacks and yard measurements.
- (1) Building setbacks shall be measured from the right-of-way lines.
  - (2) Building setback lines shall not be less than:
    - (a) 50 feet from the right-of-way line on minor streets. [Amended 3-10-1993 by Ord. No. 93-1]
    - (b) 50 feet from the right-of-way line on collector streets. [Amended 3-10-1993 by Ord. No. 93-1]
    - (c) 50 feet from the right-of-way line on arterial streets and roads.
  - (3) Where an existing building setback line is established on at least 50% of the properties in a block in which the proposed development is located or within 200 feet immediately adjacent to the proposed development, the above minimum setbacks may be increased or decreased in order to conform to such established line.
  - (4) Building lines in a proposed subdivision shall not be less than 10 feet from a side lot line.
  - (5) Building lines in a proposed subdivision shall not be less than 25 feet from a rear lot line.
  - (6) Additional side and rear yard setbacks shall be required for proposed buildings or structures that are four or more stories or more than 45 feet in height.

**§ 85-22. Lot dimensions and minimum requirements for residential, commercial and industrial development.**

All lot areas shall be calculated from the street right-of-way lines. All setback lines shall be measured from the right-of-way lines.

**A. Residential development.**

(1) Single-family detached unit.

	Private Water and On-Site Sewer	Private Water and Public Sewer	Private Water and Proposed Public Sewer or Public Water and On-Site Sewer*	Public Water and Public Sewer
Area/unit (square feet)	40,000	10,000	20,000	7,500
Minimum width (feet)	140	75	100	75
Adequate percolation	Required	Not required	Required	Not required
Maximum lot coverage	35%	35%	35%	35%

NOTES:

\* Where on-site sewer facilities are to be elevated sand mounds, the minimum lot area shall be 40,000 square feet.

(2) Conversion unit.

- (a) Requirements for total lot area, width, coverage and percolation shall be the same as the requirements for the type of unit which is being created.
- (b) Two off-street parking spaces shall be provided on the same lot for each dwelling unit.

(3) Semidetached unit.

	Private Water and On-Site Sewer	Private Water and Public Sewer	Private Water and Proposed Public Sewer or Public Water and On-Site Sewer*	Public Water and Public Sewer
Area/unit (square feet)	30,000	12,000	20,000	7,500
Minimum width (feet)	120	70	100	65
Adequate percolation	Required	Not Required	Required	Not Required
Maximum lot coverage	35%	40%	35%	40%

NOTES:

\* Where on-site sewer facilities are to be elevated sand mounds, the minimum lot area shall be 30,000 square feet.

- (a) Two off-street parking spaces shall be provided for each dwelling unit.

(4) Attached, row or townhouse unit.

Area/unit (square feet)	2,500
Minimum width (feet)	20 for each unit planned
Maximum lot coverage	50%

- (a) The maximum number of dwelling units in a group of row dwellings shall be eight.
  - (b) No building shall exceed 180 feet in length.
  - (c) Two off-street parking spaces shall be provided for each dwelling unit. In addition, for every two dwelling units of this type, there shall be provided one additional parking space.
  - (d) Water and sewer facilities shall be public systems or approved private systems. No individual on-site systems shall be approved for attached, row or townhouse units.
  - (e) The minimum side yard shall be 20 feet for buildings containing four units, 25 feet for buildings containing five units and 30 feet for buildings containing six units or more.
  - (f) Recreation areas shall be provided for residential developments according to the following:
    - [1] Subdivisions or land developments of 10 or fewer units will provide 1,000 square feet.
    - [2] Subdivisions or land developments of 11 to 50 units will provide 100 square feet per unit in addition to the 1,000 square feet for the first 10 units.
    - [3] Recreation areas for subdivisions or land developments in excess of 50 units shall be negotiated with the municipality.
    - [4] Recreation areas will be of suitable location, topography and condition to provide for their intended use. Permanent easements will be provided as necessary to assure adequate access.
    - [5] At the request of the municipality, the recreation requirement may be met by the developer's providing a financial contribution to existing or proposed recreation facilities elsewhere in the municipality. Details of such arrangements will be negotiated between the municipality and the developer.
  - (g) A permanent easement shall be provided where the rear property line abuts any property other than a street for the purpose of nonvehicular ingress and egress by center property owners. Minimum width of said easement shall be five feet.
- (5) Multiple-dwelling or apartment units.

Area/unit (square feet)	2,500
Minimum total lot area (square feet)	7,500
Minimum width (feet)	20 for each unit planned
Maximum lot coverage	50%

- (a) Water and sewer facilities shall be public systems or approved private systems. No individual on-site systems shall be approved for multiple-dwelling or apartment units.
- (b) For subdivisions containing three or more units of this type, the minimum distance between principal buildings shall be equal to two times the height of the highest building. In no case shall this distance be less than 60 feet. Building setback lines shall be one times the height of the highest building, and in no case shall this distance be less than 30 feet.
- (c) If maintenance equipment storage areas are provided, they shall be provided with buffer zones.
- (d) Two off-street parking spaces shall be provided for each dwelling unit. In addition, for every two dwelling units of this type proposed, there shall be provided one additional off-street parking space.
- (e) Minimum building setback lines for any building containing only two multiple-dwelling units shall be the same as for single-family residences.
- (f) No building shall exceed 180 feet in length.
- (g) Recreation areas shall be provided for residential developments according to the following:
  - [1] Subdivisions or land developments of 10 or fewer units will provide 1,000 square feet.
  - [2] Subdivisions or land developments of 11 to 50 units will provide 100 square feet per unit in addition to the 1,000 square feet for the first 10 units.
  - [3] Recreation areas for subdivisions or land developments in excess of 50 units shall be negotiated with the municipality.
  - [4] Recreation areas will be of suitable location, topography and condition to provide for their intended use. Permanent easements will be provided as necessary to assure adequate access.
  - [5] At the request of the municipality, the recreation requirement may be met by the developer's providing a financial contribution to existing or proposed recreation facilities elsewhere in the municipality. Details of such arrangements will be negotiated between the municipality and the developer.

- (h) A permanent easement shall be provided where the rear property line abuts any property other than a street for the purpose of nonvehicular ingress and egress by center property owners. Minimum width of said easement shall be five feet.

(6) Condominiums.

Area/unit (square feet)	2,500
Minimum total lot area (square feet)	7,500
Minimum width (feet)	75
Maximum lot coverage	50%

- (a) Water and sewer facilities shall be public systems or approved private systems. No individual on-site systems shall be approved for condominiums.
- (b) Prior to completion of construction and occupation by unit owners, the owner and/or developer shall present to the Recorder of Deeds, Adams County, a declaration and a declaration plan, to be recorded in compliance with Pennsylvania Act No. 117 of 1963, the Unit Property Act.<sup>4</sup> All condominiums shall be subject to the provisions of the Unit Property Act.
- (c) Recreation areas shall be provided according to the following provisions:
  - [1] For subdivisions of up to 10 units, a minimum total area of 1,000 square feet shall be designated and reserved by the developer.
  - [2] For subdivisions of more than 10 but less than 50 units, a minimum of 100 square feet per unit shall be designated and reserved by the developer in addition to the 1,000 square feet for the 10 units.
  - [3] For subdivisions of over 50 units, the developer shall provide for recreation areas as negotiated with the municipality.
  - [4] Deeds for each unit shall reflect responsibility for maintaining recreation areas.
  - [5] The area shall be provided adjacent to the housing units.
  - [6] The area shall be suitably landscaped.
  - [7] The area shall not be considered for future development.
- (d) Two off-street parking spaces shall be provided for each dwelling unit. In addition, for every two dwelling units of this type, there shall be provided one additional off-street parking space.

B. Commercial development.

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4. Editor's Note: See 68 P.S. § 700.101 et seq.

- (1) Lots of five acres or less.
  - (a) Minimum lot area will be controlled by setback, building size and maximum impervious cover standards.
  - (b) Lot frontage shall be adequate to provide safe ingress and egress.
  - (c) Maximum impervious total coverage shall be 75%. Buildings shall occupy no more than 40% of the total lot area.
  - (d) Building setbacks shall be measured from the right-of-way line:
    - [1] 25 feet from the right-of-way line on minor streets.
    - [2] 30 feet from the right-of-way line on collector streets.
    - [3] 50 feet from the right-of-way line on arterial streets and roads.
  - (e) Side yards shall be 15 feet.
  - (f) Rear yard shall be 25 feet.
- (2) Lots of more than five acres.
  - (a) Minimum lot width shall be measured at the setback line.
  - (b) Maximum impervious total coverage shall be 75%. Buildings shall occupy no more than 40% of the total lot area.
  - (c) The building setback line shall be 100 feet measured from the right-of-way line.
  - (d) Side yards shall be 25 feet.
  - (e) Rear yard shall be 50 feet.
- (3) Development of land for commercial purposes shall be governed by the following:
  - (a) Any part or portion of the site which is not used for buildings, other structures, loading or parking spaces and aisles, sidewalks and designated storage areas shall be planted with an all-season ground cover and shall be landscaped with trees and shrubs in accordance with an overall landscape plan and shall be in keeping with natural surroundings. On properties adjacent to or contiguous to residential areas, landscaping shall include a planted or constructed visual barrier so placed as to effectively screen loading or service areas.
  - (b) Water and sewer systems shall meet the requirements of the Pennsylvania Department of Environmental Resources.
  - (c) Parking areas shall be designed in accordance with § 85-19 of this chapter.
  - (d) Storm drainage facilities shall be designed in accordance with § 85-30 of this chapter.

- (e) No design shall be approved which does not conform to appropriate federal, state, regional and local standards relative to water or air pollution, particle emission, noise, electrical disturbances, waste disposal, light, glare, heat, vibration, radioactivity and outdoor storage of materials or which involves any other activity generating a nuisance.

C. Industrial development.

- (1) Dimensions. For any lot or parcel of land being developed for use as an industrial site, the following dimensions shall apply:
  - (a) Minimum total lot area shall be one acre.
  - (b) Minimum lot width shall be 140 feet measured at the setback line.
  - (c) Maximum total impervious coverage shall be 75%. Buildings shall occupy no more than 40% of the total lot area.
  - (d) The building setback line shall be 100 feet measured from the right-of-way line.
  - (e) The side yards shall be 25 feet each.
  - (f) Rear yard shall be 50 feet.
- (2) Development of land for industrial purposes shall be governed by the following:
  - (a) Any part or portion of the site which is not used for buildings, other structures, loading or parking spaces and aisles, sidewalks and designated storage areas shall be planted with an all-season ground cover and shall be landscaped with trees and shrubs in accordance with an overall landscape plan and shall be in keeping with natural surroundings. On properties adjacent to or contiguous to residential areas, landscaping shall include a planted or constructed visual barrier so placed as to effectively screen loading or service areas.
  - (b) Water and sewer systems shall meet the requirements of the Pennsylvania Department of Environmental Resources.
  - (c) Parking areas shall be designed in accordance with § 85-19 of this chapter.
  - (d) Storm drainage facilities shall be designed in accordance with § 85-30 of this chapter.
  - (e) No design shall be approved which does not conform to appropriate federal, state, regional and local standards relative to water or air pollution, particle emission, noise, electrical disturbances, waste disposal, light, glare, heat, vibration, radioactivity and outdoor storage of materials or which involves any other activity generating a nuisance.

**§ 85-23. Easements.**

- A. The minimum width of easements for underground and overhead public utilities shall be 20 feet.
- B. Wherever possible, easements for public utilities shall be centered on side and/or rear lot lines.
- C. Electric and telephone facilities shall be installed underground unless conditions require otherwise.
- D. Drainage easements shall be of such adequate width as to serve the purpose for which they are intended. Such easements shall preserve the unimpeded flow of natural drainage or provide for the construction of drainage facilities. In no case shall they be less than 20 feet.

**ARTICLE V****Improvement and Construction Requirements****§ 85-24. Monuments and markers.**

Monuments and markers must be placed so that the scored or marked point coincides exactly with the point of intersection of the lines being monumented. They must be set so that the top of the monument or marker is level with the finished grade of the surrounding ground. Monuments must be marked on top with a copper or brass plate or dowel set in the concrete.

**A. Monuments.**

- (1) Monuments shall be set:
  - (a) At the intersection of all right-of-way lines.
  - (b) At the intersection of lines forming angles in the boundaries of the development.
  - (c) At such intermediate points as may be required by the Engineer.
- (2) Monuments shall be six inches square or four inches in diameter, 30 inches long and shall be made of concrete, stone or a four-inch cast-iron or steel pipe filled with concrete.

**B. Markers.**

- (1) Markers shall be set:
  - (a) At all lot corners except those monumented.
  - (b) Prior to the time the lot is offered for sale.
- (2) Markers shall be 3/4 of an inch square or 3/4 of an inch in diameter and 15 inches long. Markers shall be made of iron pipes or iron or steel bars.

- C. Removal. Any monuments or markers that are removed must be replaced by a registered engineer or surveyor at the expense of the person removing them.

**§ 85-25. Streets.**

Streets shall be surfaced to the grades and dimensions drawn on the plans, profiles and cross sections submitted by the subdivider and approved by the municipality. Before paving the street surface, the subdivider must install the required utilities and provide, where necessary, adequate stormwater drainage for the streets, as acceptable to the Township. Following a review of the subdivision plan and consultation with the subdivider and the Planning Commission, the Board of Supervisors shall determine the type of development and the specifications for the base and wearing surface of the streets in accordance with the following:

A. Urban or suburban developments.

(1) Minor streets.

- (a) Except when otherwise specified, the base course shall consist of six inches of compacted crushed stone, constructed according to the specifications set forth in Section 3.10, Crushed Aggregate Base Course, of the Pennsylvania Department of Transportation Specifications, 1970, or as amended.
- (b) Construction of the surface course shall comply with the specifications as set forth in Section 4.41, Bituminous Surface Course 2 1/2 inches CP-2, of the Pennsylvania Department of Transportation Specifications, 1970, as amended. Concrete may be substituted for the above, subject to the approval of the municipality.

(2) Collector streets.

- (a) Except when otherwise specified, the base course shall consist of eight inches of compacted crushed stone, constructed according to the specifications as set forth in Section 4.2, Crushed Stone Base Course, of the Pennsylvania Department of Transportation Specifications, 1970, as amended.
- (b) Construction of the surface course shall comply with the specifications as set forth in Section 4.20, Bituminous Surface Course 2 1/2 inches ID-2, of the Pennsylvania Department of Transportation Specifications, 1970, as amended. Concrete may be substituted for the above, subject to the approval of the municipality.

(3) Arterial streets.

- (a) For the construction of arterial roads or highways, the subdivider shall consult with and be governed by the Pennsylvania Department of Transportation for the method of construction to be used.
- (b) The Board of Supervisors shall decide if a collector or arterial street is required as a direct result of the construction of his subdivision, in which case the subdivider is responsible for paying the additional width required.

**B. Private streets.**

- (1) All private streets shall be constructed in accordance with this section or bonded in accordance with § 85-37 of this chapter prior to approval of the final plan.
- (2) Whenever a subdivider proposes to establish a street which is not offered for dedication to public use, the Planning Commission and/or Supervisors may require the subdivider to submit, and also to record with the plan, a copy of an agreement made with the municipality on behalf of his heirs and assigns, signed by the Municipal Solicitor, which shall establish the conditions under which the street may later be offered for dedication and shall stipulate, among other things:
  - (a) That the street shall conform to appropriate specifications or that the owners of the abutting lots shall include with the offer of dedication sufficient money, as estimated by the Municipal Engineer, to restore the street to conformance to specifications.
  - (b) That an offer to dedicate the street shall be made only for the street as a whole.
  - (c) That the method of assessing repair costs be as stipulated.
  - (d) That agreement by the owners of more than 50% of the front footage thereon shall be binding on the owners of the remaining lots.

C. Streetlights. If required by the municipality, a streetlight meeting municipal specifications shall be installed at one corner of every intersection.

D. Street signs. Street name signs shall be placed at one corner of every intersection. The design must be according to municipal specifications.

E. Street trees. The Planning Commission may require that shade trees be planted in a development, to conform to the following specifications:

- (1) The trees shall be located between the sidewalk and building setback line and at least five feet from the sidewalk. Trees shall be planted between the sidewalk and curb only if the curb and sidewalk are at least 10 feet apart.
- (2) Each tree shall be at least eight feet in height and have a diameter of at least 1 1/2 inches.

**§ 85-26. Curbs and gutters.**

A. In any proposed subdivision or land development with an average lot size or area per dwelling unit of 15,000 square feet or less or where any subdivision is immediately adjacent to or within 1,000 feet of any existing or recorded subdivision having curbs, curbs shall be installed on each side of the street.

B. Curbs may also be required along any existing or proposed street regardless of lot size where curbs are necessary to control the flow of surface water and regulate traffic and/or where lot widths are 80 feet or less.

- C. Curbs shall be provided in all streets and parking compounds located within multifamily development projects.
- D. In areas where curbing is not required, suitable gutters shall be installed to avoid erosion.
- E. All curbs shall be constructed of portland cement concrete. The construction of vertical curbs shall conform to the requirements of Section 715, Plain Cement Concrete Curb, Type A, of the Pennsylvania Department of Transportation Specifications, or as amended, Rolled curb and gutter-type curbs may be constructed.

**§ 85-27. Sidewalks.**

- A. In any proposed subdivision or land development with an average lot size or area per dwelling unit of 15,000 square feet or less or where a subdivision is immediately adjacent to or within 1,000 feet of any existing or recorded subdivision having sidewalks, sidewalks may be required on each side of the street in accordance with municipal specifications.
- B. The Planning Commission may require installation of sidewalks in any subdivision or development where the evidence indicates that sidewalks are necessary for the public safety.
- C. Sidewalks shall be within the right-of-way of the street and shall extend in width from the right-of-way line toward the curbline.
- D. Sidewalks must be at least four feet wide. In the vicinity of shopping centers, schools, recreation areas and other such facilities, sidewalks must be at least five feet wide and located within the street right-of-way.
- E. Sidewalks shall be constructed according to Pennsylvania Department of Transportation standards.

**§ 85-28. Sewer and water supply systems.**

- A. Private and on-site sewer systems.
  - (1) All properties shall be connected to a public sanitary sewer system if possible.
  - (2) Where a public sanitary sewer system is not accessible but is proposed for extension within five years to the development or to within 1,000 feet of the development, the developer shall install sewer lines, including lateral connections, to provide adequate service to each lot when connection with the public system is made. The sewer lines shall be capped at the street right-of-way line. When capped sewers are provided, on-site disposal facilities shall also be provided.
  - (3) If no public system is either proposed within five years or within 1,000 feet of the development, the Board of Supervisors may require that a study be prepared to determine the feasibility of constructing a separate private system or treatment facility or connecting to an existing private or public system over 1,000 feet away.

- (4) Upon completion of any sanitary sewer system installation, the plan for the system as built shall be filed with the municipality.
- (5) Where none of the above alternatives are possible or feasible, an individual sewage disposal system consisting of a septic tank and tile absorption field or other approved sewage disposal system shall be provided for each lot at the time improvements are erected or installed thereon. All such individual sewage disposal systems shall be constructed in accordance with the Pennsylvania Department of Environmental Resources regulations.

B. Private and on-site water systems.

- (1) Where a water main supply is within 1,000 feet or where plans approved by the municipality provide for the installation of public water facilities, the developer shall provide the development with a complete water supply system to be connected to the existing or proposed water main supply system in accordance with municipal specifications.
- (2) If connection to a public water supply system is not possible, a report on the feasibility of constructing a separate water supply system may be required by the Planning Commission and a report shall be submitted setting forth the findings.
- (3) The plans for installation of a private water supply system shall be prepared by the land developer and approved by the Pennsylvania Department of Environmental Resources. Upon completion of any water supply system, the plan for the system as built shall be filed with the municipality.
- (4) Where none of the above alternatives are possible or feasible, an individual water supply system shall be installed.
- (5) The water supply yield shall be adequate for the type of development proposed.
- (6) The installation of such systems shall not endanger or decrease groundwater supplies of adjacent properties.
- (7) Any such individual system shall meet any applicable Pennsylvania Department of Environmental Resources regulations.

**§ 85-29. Fire hydrants.**

Fire hydrants shall be provided as an integral part of any public water supply system.

- A. Fire hydrants shall be installed if their water supply source is capable of serving them in accordance with the requirements of the local fire authority.
- B. Fire hydrants shall be in accordance with specifications set forth by the National Fire Protection Association, or as amended.
- C. Fire hydrants shall be placed at intervals of not more than 600 feet or as specified by the Middle Department Association of Fire Underwriters.

**§ 85-30. Storm drainage.****A. General.**

- (1) Whenever the evidence available to the Planning Commission indicates that natural surface drainage is inadequate, the developer shall install storm sewers, culverts and related facilities as necessary to:
  - (a) Permit the unimpeded flow of natural watercourses.
  - (b) Ensure the drainage of all low points along the line of streets.
  - (c) Intercept stormwater runoff along streets at intervals reasonably related to the extent and grade of the area drained.
  - (d) Provide positive drainage away from on-site disposal facilities.
- (2) Storm sewers shall not be connected to sanitary sewers.
- (3) Stormwater drainage facilities which receive water from drainage areas in excess of 1/2 square mile (320 acres) shall be subject to the approval of the Pennsylvania Department of Environmental Resources, Division of Dams and Encroachments. Stormwater drainage plans which involve a state road shall be subject to the approval of PennDOT. Approval of a plan by the Planning Commission shall not be construed as an indication that the plan complies with the standards of any agency of the commonwealth.

**B. Design.**

- (1) Storm drainage facilities must be designed to handle not only the anticipated peak discharge from the property being developed, but also the anticipated increase in runoff that may occur when all the property at a higher elevation in the same drainage basin is fully developed.
- (2) The developer shall also study the effect of the development on the existing downstream drainage facilities outside the area of the development. Where the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Planning Commission shall not approve the subdivision until provision has been made for the improvement of said condition.
- (3) The USDA Soil Conservation Service Soil Cover Complex Method or the PennDOT Method are the recommended methods for calculating runoff.
- (4) The storm design intensity shall be established with a minimum ten-year-storm frequency. A frequency of one in 25 to 50 years is required for high-value districts and major highways.

- C. Existing facilities. Where existing storm sewers are reasonably accessible and of sufficient capacity, the developer must connect his stormwater facilities to these existing storm sewers.

**D. Abutting properties.**

- (1) In the design of storm drainage facilities, special consideration must be given to preventing excess runoff onto adjacent developed or undeveloped properties. In no case may a change be made in the existing topography which would:
  - (a) Increase the slope to more than one foot of vertical measurement for three feet of horizontal measurement for fills or one foot of vertical measurement for two feet of horizontal measurement for cuts within a distance of 20 feet from the property line unless an adequate retaining wall or other structure is provided.
  - (b) Result in a slope which exceeds the normal angle of slippage of the material involved.
- (2) All slopes must be protected against erosion.

**§ 85-31. Erosion and sedimentation.**

All development applications which involve grading or excavation shall conform to the requirements of the rules and regulations of the Pennsylvania Department of Environmental Resources pertaining to erosion and sedimentation. It shall be the responsibility of the applicant to secure approval of the Department of Environmental Resources. Approval of plans by the Supervisors shall not be construed as approval under such regulations.

**§ 85-32. Floodplain.**

- A. The floodplain corridor shall be defined and established as the area of inundation which functions as a storage or holding area for floodwater to a width required for a one-hundred-year flood, as delineated in one of the following reports:
  - (1) A hydrologic report prepared by an individual registered in the Commonwealth of Pennsylvania to perform such duties.
  - (2) A hydrologic report prepared by an agency of the United States Government.
- B. In case of any dispute concerning the boundaries of a floodplain corridor, the Board of Supervisors shall determine the ultimate location.
- C. Whenever a floodplain is located within or along a proposed land development, the plan shall include the location of the floodplain with a plan note that:
  - (1) The floodplain shall be kept free of structures, fill and other encroachments; and
  - (2) Any structures located within the floodplain shall be floodproofed to the limits of the floodplain corridor.
- D. All floodplain lands shall be excluded in the minimum lot area calculations. Additionally, the floodplain area shall be identified by elevation or by approximate distance from the

center line of the stream channel. Floodplain lines need not be identified by distances and bearings.

- E. No subdivision and/or land development or part thereof shall be approved if the proposed development and/or improvements will individually or collectively increase the one-hundred-year flood elevation more than one foot at any point.
- F. If it is determined that only a part of a proposed subdivision can be safely developed, the Board of Supervisors shall limit development to that part and shall require that development proceed consistent with this determination.
- G. The subdivision must in all respects comply in full with the Butler Township Floodplain Ordinance.<sup>5</sup>

**§ 85-33. Underground utility lines.**

Electric, telephone and all other utility facilities shall be installed underground. The developer shall be required to obtain a letter from the appropriate utility company confirming that the developer has entered into an agreement to provide for an underground electric and telephone system in accordance with the Pennsylvania Public Utility Commission Investigation Docket No. 99, as amended, or has obtained a waiver from said Pennsylvania Public Utility Commission to allow overhead electric and telephone facilities.

**§ 85-34. Petroleum lines.**

When any petroleum or petroleum products transmission line traverses a land development, the developer shall confer with the applicable transmission or distributing company to determine the minimum distance which shall be required between each dwelling unit and the center line of such petroleum or petroleum products transmission line.

**§ 85-35. Natural gas lines.**

The minimum distance from a natural gas line to a dwelling unit shall be as required by the applicable transmission or distributing company or as required by the applicable regulations issued by the Department of Transportation under the Natural Gas Pipe Line Safety Act of 1986, as amended, whichever is greater.

**§ 85-36. Land for recreation or park purposes.**

- A. In subdivisions which are intended to provide housing for more than four families, the Planning Commission shall consider the need for suitable open areas for recreation and shall make recommendation thereon based upon the following standards:

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5. Editor's Note: See Ch. 15, Building Construction, Part I.

<b>Families To Be Served</b>	<b>Minimum Playground Acreage To Be Recommended</b>
5 to 15	10,000 square feet
15 to 50	20,000 square feet
50 to 100	1 acre
Each additional 100	1 acre

- B. The land to be dedicated must be suitable in size, shape, topography and general character for the proposed use.
- C. In lieu of dedication of recreational areas, the developer and the municipality may agree on a capital contribution to be made by the developer to an existing or proposed park program.

**§ 85-37. Completion of improvements; guaranties.**

- A. No plat shall be finally approved unless the streets shown on such plat have been improved to a mud-free or otherwise permanently passable condition or improved as may be required by this chapter and any walkways, curbs, gutters, streetlights, fire hydrants, shade trees, water mains, sanitary sewers, storm drains and other improvements as may be required by this chapter have been installed in accordance herewith. In lieu of the completion of any improvements required as a condition for the final approval of a plat, the Planning Commission and/or the Township shall require for deposit with the Township financial security in an amount sufficient to cover the costs of any improvements or common amenities, including but not limited to roads, stormwater detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements or buffer or screen plantings. Without limitation as to other types of financial security which the municipality may approve, federal or commonwealth-chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security for the purpose of this chapter. Such financial security shall be posted with a bonding company or federal or commonwealth-chartered lending institution chosen by the party posting the financial security, provided that said bonding company or lending institution is authorized to conduct such business within the commonwealth.
- B. Such bond or other security shall provide for and secure to the public the completion of any improvements which may be required within one year of the date fixed in the subdivision plat for completion of such improvements. The amount of financial security shall be equal to 110% of the cost of the required improvements for which financial security is to be posted. The cost of the improvements shall be established by submission to the Township of bona fide bid or bids from the contractor or contractors chosen by the party posting the financial security to complete the improvements, or, in the absence of such bona fide bids, the cost shall be established by an estimate prepared by the Township Engineer. If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10%

for each one-year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above bidding procedure. Where development is projected over a period of years, the Township may authorize submission of final plats by sections or stages of development, subject to such requirements or guaranties as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development.

- C. As the work of installing the required improvements proceeds, the party posting the financial security may request the Township to release or authorize the release, from time to time, of such portions of the financial security as are necessary for payment to the contractor or contractors performing the work. Any such request shall be in writing, addressed to the Township, and the Township shall have 45 days from receipt of such request within which to allow the Township Engineer to certify, in writing, to the Township that such portion of the work has been completed in accordance with the approved plat. Upon such certification, the Township shall authorize the release by the bonding company or lending institution of an amount, as estimated by the Township Engineer, fairly representing the value of the improvements completed, or, if the Township fails to act within said forty-five-day period, the Township shall be deemed to have approved the release of the funds as requested. The Township may, prior to final release at the time of completion and certification by its Engineer, require retention of 10% of the estimated cost of the aforesaid improvements.
- D. Where the Township accepts dedication of all or some of the required improvements following completion, the Township may require the posting of financial security to secure structural integrity of said improvements as well as the functioning of said improvements, in accordance with the design and specifications as depicted on the final plat, for a term not to exceed 18 months from the date of acceptance of dedication. Said financial security shall be of the same type as otherwise required in this section with regard to installation of such improvements, and the amount of the financial security shall not exceed 15% of the actual cost of the installation of said improvements.
- E. If water mains or sanitary sewer lines, or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the Township, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this section. If financial security has been provided in lieu of the completion of improvements required as a condition for the final approval of a plat as set forth in this section, the municipality shall not condition the issuance of building, grading or other permits relating to the erection or placement of improvements, including buildings, on the lots or land as depicted on the final plat upon actual completion of the improvements depicted thereon. If financial security has been provided, occupancy permits for any building or buildings to be erected shall not be withheld following the improvement of the streets providing access to and from existing public roads to such building or buildings to a mud-free or otherwise permanently passable condition, as well as the completion of all other improvements as depicted on the approved plat, either upon the lot or lots or

beyond the lot or lots in question, if such improvements are necessary for the reasonable use of or occupancy of the building or buildings.

**§ 85-38. Release from improvement bond.**

- A. When the developer has completed all the necessary and appropriate improvements, the developer shall notify the Township in writing, by certified mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Township Engineer. The Township shall, within 10 days after receipt of such notice, direct and authorize the Township Engineer to inspect all of the aforesaid improvements. The Township Engineer shall thereupon file a report, in writing, with the Township, and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within 30 days after receipt by the Township Engineer of the aforesaid authorization by the Township; said report shall be detailed and shall indicate approval or rejection of said improvements either in whole or in part, and if said improvements or any portion thereof shall not be approved or shall be rejected by the Township Engineer, said report shall contain a statement of reasons for such nonapproval or rejection.
- B. The Township shall notify the developer in writing, by certified or registered mail, of the action of the Township with relation thereto.
- C. If the Township or Township Engineer fails to comply with the time limit contained herein, all improvements shall be deemed to have been approved and the developer shall be released from all liability pursuant to its performance guaranty bond or other security agreement.
- D. If any portion of the said improvements shall not be approved or shall be rejected by the Township, the developer shall proceed to complete the same, and upon completion the same procedure of notification as outlined in this chapter shall be followed.
- E. Nothing in this chapter, however, shall be construed in limitation of the developer's right to contest or question, by legal proceedings or otherwise, any determination of the Township or the Township Engineer.
- F. Where reference is made in this chapter to the Township Engineer, he shall be a duly registered professional engineer employed by the Township or engaged as a consultant to the Township.

**§ 85-39. Remedies to effect completion of improvements.**

In the event that any improvements which are required have not been installed as provided in this chapter or in accord with the approved final plan, the Board of Supervisors is hereby granted the power to enforce any corporate bond or other security by appropriate legal and equitable remedies. If proceeds of such bond or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by such security, the Township may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the

proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements covered by such security and not for any other Township purpose.

**§ 85-40. Dedication of improvements.**

Upon installation by the developer and subsequent inspection by the Township Engineer, the developer shall take final steps to dedicate the improvements and have them accepted by the Township. The recording of the final plan following approval by the Township has the effect of an irrevocable offer to dedicate all streets and other public ways and areas to public use. The offer, however, does not impose any duty on the Township concerning maintenance of improvements until the proper authorities of the Township have made actual acceptance either by ordinance or resolution.

ARTICLE VI

Fees

**§ 85-41. Fees established.**

The fees for subdivision and land development review and approval shall be as follows:

- A. Sketch plans. No fee shall be required for sketch plan review.
- B. Fee schedule. The Township shall adopt by resolution a Township Subdivision and Land Development Fee Schedule.<sup>6</sup> The Township shall not be required to review any plan unless the fee as provided in the fee schedule is first paid to the Township. [Amended 5-8-2006 by Ord. No. 2006-27 ]

ARTICLE VII

Variances

**§ 85-42. Authorization to grant.**

If any provision of this chapter is shown by the developer to be unreasonable or such as to cause undue hardship not of his own making in the special conditions of his proposed subdivision or land development, the Planning Commission or Board of Supervisors may grant a variance from the literal requirements of such provision, provided that such variance will not be contrary to the public interest, that justice will be done and the purpose and intent of this chapter will be observed.

6. Editor's Note: The fee schedule is on file in the office of the Township Secretary.

7. Editor's Note: This ordinance also repealed former Subsections B, Preliminary plans; C, Final plans; D, Resubmission of plans; and F, Consulting fees, and provided for the relettering of former Subsection E, Fee schedule, as Subsection B.

**§ 85-43. Procedure.**

- A. Any request for a variance shall be in writing and shall accompany and be a part of the submission of the plan, preliminary and/or final, to which it refers. The request shall state in full the ground and facts of unreasonableness or hardship on which the request is based, the provision(s) of this chapter involved and the exact variance therefrom which is requested.
- B. All proposals for variance from the provisions of this chapter shall be reviewed and a recommendation made by the Township, whether requested by the developer or deemed necessary by the Planning Commission.
- C. All proposals for variance from the provisions of this chapter shall be reviewed by and shall have effect only when approved by the Planning Commission and Board of Supervisors.
- D. A record of the action on all variances from the provisions of this chapter shall appear in the official minutes of the Planning Commission and on the Township minutes.

**ARTICLE VIII****Mobile Homes and Mobile Home Parks****§ 85-44. Contents of article.**

This article contains provisions setting forth minimum standards for the design, construction, alteration and extension of mobile home parks and related utilities and facilities.

**§ 85-45. Definitions.**

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

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

**MOBILE HOME LOT** — A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, which is leased to the occupants of the mobile home erected on the lot.

**MOBILE HOME PARK** — A parcel of land under single ownership which has been planned and improved for the placement of mobile homes for nontransient use, consisting of two or more mobile home lots.

**PERSON** — Any individual, firm, trust, partnership, public or private association or corporation or other entity.

RECREATIONAL VEHICLE — A vehicle which is designed for human occupancy under transient circumstances, such as camping, travel or other recreation, sometimes variously known as a "travel trailer" or a "camping trailer."

SERVICE OR RECREATIONAL BUILDING — A structure housing operational, office, recreational, park maintenance and other facilities, built to conform to required local standards.

**§ 85-46. Approval for mobile home park construction, alteration or extension.**

All mobile home park plans shall have the same status as preliminary and/or final plans as described in Article III of this chapter. Approved final plans for mobile home parks shall be recorded as described in § 85-12D of this chapter.

- A. Permit required. It shall be unlawful for any person to construct, alter or extend any mobile home park unless a valid permit has been issued by the Pennsylvania Department of Environmental Resources in the name of such person for specific construction, alteration or extension proposed.
- B. Application to the Pennsylvania Department of Environmental Resources. All applications for permits shall be made by the owner of the mobile home park or his authorized representative to the Department of Environmental Resources or other designated agency in accordance with its rules and regulations concerning mobile home parks.
- C. Application to the Township Planning Commission. Copies of the application submitted to the Pennsylvania Department of Environmental Resources shall be concurrently filed with the Butler Township Planning Commission. Such application shall be accompanied by a plan drawn at a scale of not less than one inch equals 50 feet and containing the following information:
  - (1) All information as required by the Pennsylvania Department of Environmental Resources.
  - (2) Name of mobile home park, if any.
  - (3) Name and address of owner of record and/or applicant.
  - (4) Name of engineer, surveyor or other qualified person preparing the plan.
  - (5) North arrow, scale and date of plan preparation.
  - (6) Location map.
  - (7) Site data.
    - (a) Number of mobile home lots.
    - (b) Total number of acres.
    - (c) Number of lots per acre.

- (d) Number of off-street parking spaces.
  - (8) Topography showing existing and proposed contours at intervals of two or five feet, depending upon the slope of the land.
  - (9) The location of any existing bodies of water or watercourses, floodplain areas, tree masses, buildings or structures, public facilities and any other man-made or natural features within or near the proposed mobile home park area.
  - (10) A storm drainage plan and storm drainage calculations (see § 85-30 of this chapter).
  - (11) Existing and proposed property, lot and boundary lines, including building setback lines, and information concerning lot dimensions, lot areas, the location of all utilities and the street number assigned to each lot.
  - (12) Location and dimensions of all mobile home stands.
  - (13) The location of all existing and proposed streets, with information concerning pavement widths, types of paving and street names.
  - (14) Typical cross section of all streets.
  - (15) Street center-line profiles.
  - (16) Location of all off-street parking areas.
  - (17) Location and dimension of all pedestrian walkways and sidewalks.
  - (18) Location of proposed recreation areas.
  - (19) Location of all plantings and landscaping.
  - (20) Location, dimensions and proposed use of all service and accessory structures.
  - (21) Engineer's or surveyor's seal with certification that survey and plan are correct.
  - (22) Block for approval by Planning Commission and Board of Supervisors.
- D. Review and approval of plans. All actions on plans for mobile home parks shall follow the same procedure as actions on preliminary and final subdivision plans and the rules of §§ 85-10B and C and 85-12B and C of this chapter.
- E. Fees. Any and all applicable fees as required by the fee schedule set forth in Article VI of this chapter shall be paid by the applicant.

**§ 85-47. Design standards.**

- A. Site locations. The location of all mobile home parks shall comply with the following minimum requirements:
- (1) The site shall be free from adverse influence by swamps, marshes, garbage or rubbish disposal areas or other potential breeding places for insects or rodents.

- (2) The area shall not be subject to flooding.
- (3) The site shall not be subject to any hazard or nuisance, such as excessive noise, vibration, smoke, toxic matter, heat, odor, glare, etc.

B. Site drainage.

- (1) The ground surface in all parts of a park shall be graded and equipped to drain surface water in a safe, efficient manner. Where necessary, storm sewers, culverts and related facilities shall be provided to permit the unimpeded flow of natural watercourses and to ensure the adequate drainage of all locations within the park.
- (2) A drainage plan (as described in § 85-30 of this chapter) shall be prepared and submitted for review and approval by the Butler Township Planning Commission with the mobile home park plan.
- (3) All stormwater facilities shall be kept completely separate from any sanitary waste facilities.

C. Soil and ground cover requirements.

- (1) Ground surfaces in all parts of every park shall be paved or planted with a vegetative growth that is reasonably capable of preventing soil erosion and the emanation of dust during dry weather.
- (2) All paving and/or planting shall be designed in accordance with the storm drainage plan.

D. Park areas for nonresidential uses.

- (1) No part of any park shall be used for nonresidential purposes, except such uses as are required for recreation, direct servicing, management or maintenance of the park and its residents.
- (2) Nothing contained in this section shall be deemed as prohibiting the sale of a mobile home located on a mobile home lot and connected to utilities.

E. Setbacks, buffer strips and screening.

- (1) Mobile homes in parks shall be located at least 70 feet from the center line of any abutting existing or proposed public local street and 80 feet from the center line of any abutting existing or proposed public collector street.
- (2) There shall be a minimum distance of 35 feet between an individual mobile home, including accessory structures attached thereto, and the center line of an abutting park street.
- (3) Mobile homes shall be located:
  - (a) At least 25 feet from any park property line.
  - (b) At least 10 feet from any rear mobile home lot line.

- (c) A total of 20 feet from the two side lines of the mobile home lot, with neither side being less than five feet.
  - (4) Mobile homes, including any additions or accessory structures attached thereto, shall be separated from each other and from other buildings by at least 20 feet on all sides.
  - (5) Mobile home parks located adjacent to any industrial or commercial land use shall be required to provide screen planting (trees, shrubs) along the property boundary line separating the park from such adjacent use.
- F. Park street system.
- (1) A safe and convenient vehicular access shall be provided from abutting public streets or roads.
  - (2) The entrance road or area connecting the park with a public street or road shall have a minimum pavement width of 36 feet.
  - (3) Other internal streets shall be as follows:
    - (a) The minimum cartway width shall be 16 feet.
    - (b) In addition, stabilized shoulders may be added on one or both sides of the cartway. Such shoulders shall be 10 feet. Parking shall be permitted only on these shoulders, if it is permitted on the street at all.
    - (c) Dead-end streets shall be provided at the closed end with a paved turnaround having an outside diameter of at least 60 feet.
  - (4) Grades of all streets shall be at least 0.5% and not more than 8.0%.
  - (5) Intersections of more than two streets are prohibited.
  - (6) Within 100 feet of an intersection, streets shall be at approximately right angles. In no case shall streets intersect at less than 75°.
  - (7) If intersecting streets are not in alignment, a distance of at least 125 feet shall be provided between the center lines of the intersecting streets.
  - (8) Minimum curb or edge of pavement radii at intersections shall be as follows:
    - (a) Minor street with minor street: 15 feet.
    - (b) Minor street with collector street: 20 feet.
    - (c) Collector street with collector street: 20 feet.
  - (9) All streets shall be constructed in accordance with § 85-25 of this chapter.
  - (10) All streets within a mobile home park shall be privately owned and maintained.
- G. Off-street parking areas. A paved off-street parking space for two motor vehicles shall be provided at each mobile home lot.

## H. Walks.

- (1) All mobile home parks shall be provided with pedestrian walks on both sides of the street. Such walks shall be at least three feet in width. Where such walks constitute a continuation of existing sidewalks, they shall be continued at the same width as that existing walk, but in no case shall they be less than three feet in width.
- (2) All mobile home lots shall be connected to a pedestrian walk with an individual walk at least two feet in width.
- (3) All pedestrian walks shall be constructed in accordance with Pennsylvania Department of Transportation regulations.

## I. Mobile home lots.

- (1) All lots shall abut and be accessible from a park street.
- (2) Mobile home lots within the park shall have the following minimum dimensions:
  - (a) Minimum area shall be 5,000 square feet.
  - (b) Minimum width at any point shall be 45 feet.
- (3) Each mobile home lot shall be improved to provide a mobile home stand and adequate frost-free foundation for the placement of the mobile home unit.
- (4) Individual lots in a mobile home park shall not be sold separately.

## J. Block dimensions. The length of blocks shall not exceed 900 feet.

## K. Streetlights.

- (1) In any mobile home park of five or more units, streetlights shall be required at a separation distance of not more than 300 feet.
- (2) In lieu of requiring streetlights in parks of five units or more or when considering a proposal of less than five units, the Planning Commission may require individual lot lights in a ratio of 1:1.

## L. Recreation areas. In all mobile home parks, a recreation area or areas with suitable facilities shall be maintained within the park for the use of all park residents. Such recreation areas:

- (1) Shall not be located in areas which are unsuitable or hazardous.
- (2) Shall be so located as to provide reasonable access by all park residents.
- (3) Shall not include less than 10% of the gross area of the mobile home park.

**§ 85-48. Water supply.**

- A. An adequate supply of safe water of satisfactory quality under adequate pressure shall be provided in all parks, to all mobile homes, service buildings and other accessory facilities. Where a public water supply system of satisfactory quantity, quality and pressure is available, connection shall be made thereto and its supply shall be used exclusively.
- B. Where a satisfactory public water supply system is not available, water shall be provided by a private water supply system which has been approved by the Pennsylvania Department of Environmental Resources.

**§ 85-49. Sewage disposal.**

- A. An adequate and safe sewage disposal system shall be provided in all parks for conveying and disposing of sewage from mobile homes, service buildings and other accessory facilities. Where a public sewage disposal system of adequate capacity is available, connection shall be made thereto and it shall be used exclusively.
- B. Where a satisfactory public sewage disposal system is not available, a private system shall be provided which has been approved by the Pennsylvania Department of Environmental Resources.

**§ 85-50. Service buildings and other community service facilities.**

- A. Applicability. The requirements of this section shall apply to service buildings, recreation buildings and other community service facilities as follows:
  - (1) Management offices, repair shops and storage areas.
  - (2) Laundry facilities.
  - (3) Indoor recreation areas.
- B. Facilities.
  - (1) Every mobile home park shall have a structure clearly designated as the office of the mobile home park manager.
  - (2) Service and accessory buildings located in a mobile home park shall be used only by residents of the mobile home park.
- C. Structural requirements for buildings. All portions of the structure shall be properly protected from damage by ordinary uses and by decay, corrosion, termites and other destructive elements. Exterior portions shall be of such materials and be so constructed as to prevent entrance or penetration of moisture and weather.

**§ 85-51. Fire protection.**

- A. Local regulations. The mobile home park area shall be subject to any local fire protection rules and regulations.
- B. State and federal regulations.
  - (1) All methods of fire protection employed shall be in compliance with any applicable state and federal regulations.
  - (2) Installation of fire protection facilities, such as hydrants, shall be in accordance with National Fire Protection Association standards.

**ARTICLE IX****Administration, Enforcement and Penalties****§ 85-52. Administration and enforcement.**

- A. From and after the effective date of this chapter, no subdivision of any lot, tract or parcel of land within the Township shall be made, and no street, sanitary sewer, storm sewer, water main or other facility in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel or for the common use of occupants of buildings abutting thereon, except in strict accordance with the provisions of this chapter.
- B. No lot in a subdivision may be sold; no permit to erect, alter or repair any building upon land in the subdivision may be issued, and no building may be erected in the subdivision or no land development may take place, unless and until a plan for the subdivision or development has been approved by the Board of Supervisors or until the improvements required by the Board of Supervisors in connection therewith have either been constructed in strict conformance with the standards of this chapter or guaranteed pursuant to § 85-37 of this chapter.
- C. The Board of Supervisors shall have the duty of and authority for the administration and general enforcement of the provisions of this chapter, as specified or implied herein.
- D. Permits required by the Township for the erection or alteration of buildings, the installation of sewer or sewage disposal systems or for other appurtenant improvements to or use of the land shall not be issued by any Township official until he has ascertained that the site for such building, alteration, improvement or use is located in a development approved and publicly recorded in accordance with the provisions of this chapter. Also, such permits shall be issued only after it has been determined that the site for such building, alteration, improvement or use conforms to the site description as indicated by the approved and recorded final plat or other land description acceptable in accordance with the provisions of this chapter and that it is in compliance with all applicable provisions of this chapter.
- E. The Township Building Permit Officer shall require that applications for building permits contain all the information necessary for him to ascertain that all is in strict compliance with this chapter, and he shall not issue any building permit until he determines that the

site and plan for the proposed building, alteration or improvement are acceptable in accordance with the provisions of this chapter.

- F. The Township Sewage Enforcement Officer shall require that applications for sewage disposal system permits contain all the information for him to ascertain that everything is in compliance herewith, and he shall not issue any sewage disposal system permit until he determines that the site for the proposed system is acceptable in accordance with the provisions herein.

**§ 85-53. Violations and penalties.**

- A. Any person, partnership or corporation who or which, being the owner or agent of the owner of any lot, tract or parcel of land, shall lay out, construct, open or dedicate any street, sanitary sewer, storm sewer, water main or other improvements for public use, travel or other purposes or for the common use of occupants of buildings abutting thereon, or who sells, transfers or agrees or enters into an agreement to sell any land in a subdivision or land development, whether by reference to or by other use of a plat of such subdivision or land development or otherwise, or erect any building thereon, unless and until a final plat has been prepared in full compliance with the provisions of this chapter, shall be guilty of a misdemeanor, and upon conviction thereof, such person or the members of such partnership or the officers of such corporation or the agent of any of them responsible for such violation shall pay a fine not exceeding 1,000 per lot or parcel or per dwelling within each lot or parcel.
- B. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided. The Board of Supervisors may also enjoin such transfer or sale or agreement by action for injunction brought in any court or equity jurisdiction, in addition to the penalty herein provided.

**§ 85-54. Action for relief by Township.**

The Board of Supervisors may obtain a writ of injunction against the owner or agency who attempts the improper sale or conveyance of land, to set aside and invalidate any conveyance of land made prior to final plan approval of any development.

**§ 85-55. Other actions.**

Nothing herein shall prevent the Board of Supervisors from taking such other action as is necessary to prevent or remedy any violation.

**§ 85-56. Appeals.**

The decision of the Board of Supervisors with respect to the approval or disapproval of plans may be appealed directly to court by any person, partnership, corporation or officer or agent thereof. Such appeal shall be filed not later than 30 days following the date of the decision being appealed.

**§ 85-57. Repealer; subdivisions previously approved.**

All ordinances or parts thereof inconsistent herewith are hereby repealed; provided, however, that any land development or subdivisions approved under the former Subdivision and Land Development Ordinance may be enforced pursuant to the terms thereof insofar as the same does not pertain to new development or subdivision, which will be controlled by this chapter.



# Chapter 90

## TAXATION

### ARTICLE I Per Capita Tax

- § 90-1. Purpose.
- § 90-2. Definitions.
- § 90-3. Tax imposed.
- § 90-4. Recordkeeping.
- § 90-5. Notification of tax; due date.
- § 90-6. Collection of tax.

### ARTICLE II Amusement Tax

- § 90-7. Short title.
- § 90-8. Definitions.
- § 90-9. Tax levied.
- § 90-10. Report of collections required.
- § 90-11. Recordkeeping; confidential information.
- § 90-12. Enforcement officer.
- § 90-13. Fine for overdue tax.
- § 90-14. Violations and penalties.

### ARTICLE III Earned Income and Net Profits Tax

- § 90-15. Purpose.
- § 90-16. Short title.
- § 90-17. Definitions.
- § 90-18. Imposition of tax.
- § 90-19. Declaration and payment of tax.
- § 90-20. Collection at source; forms to be filed; deductions.
- § 90-21. Powers and duties of income tax officer.
- § 90-22. Suit for recovery of taxes.

- § 90-23. Interest and penalties on unpaid balance.
- § 90-24. Payments and refunds.
- § 90-25. Applicability.
- § 90-26. Violations and penalties.
- § 90-27. Statutes to govern.

### ARTICLE IIIA Collection of Earned Income and Net Profits Taxes

- § 90-27.1. Collection at the source.
- § 90-27.2. Costs and fees for collection of delinquent earned income taxes.
- § 90-27.3. Adoption of Adams County Tax Collection Committee provisions.
- § 90-27.4. Designated collector.

### ARTICLE IV Realty Transfer Tax

- § 90-28. Short title.
- § 90-29. Statutory authority.
- § 90-30. Definitions.
- § 90-31. Imposition of tax; interest.
- § 90-32. Exempt parties.
- § 90-33. Excluded transactions.
- § 90-34. Taxable documents.
- § 90-35. Acquired company.
- § 90-36. Tax credits.
- § 90-37. Extension of lease.
- § 90-38. Judicial sale.
- § 90-39. Duties of recorder of deeds.

§ 90-40. Statement of value required.

ARTICLE V

§ 90-41. Violations and penalties.

Local Taxpayers Bill of Rights

§ 90-42. Tax to become lien.

§ 90-48. Disclosure statement.

§ 90-43. Enforcement.

§ 90-49. Petition for appeal and refund.

§ 90-44. Collection of tax.

§ 90-50. Administrative appeal procedures.

§ 90-45. Severability.

§ 90-46. Effective date.

§ 90-51. Effective date.

§ 90-47. Repealer.

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

ARTICLE I

Per Capita Tax

[Adopted 3-5-1956]

**§ 90-1. Purpose.** [Amended 4-13-1988 by Ord. No. 88-1]

A per capita tax for general purposes of the Board of Supervisors is hereby imposed, levied and assessed in pursuance of the authority granted by the Act of December 31, 1965, P.L. 1257, known as the "Local Tax Enabling Act" (53 P.S. § 6901 et seq.) as is hereinafter provided.

**§ 90-2. Definitions.**

Unless otherwise expressly stated, the following terms shall have, for the purposes of this article, the meanings herein indicated:

**ADULT RESIDENT** — Any person who has attained the age of 18 years by the beginning of the tax year and who shall be domiciled and have residence within the district of Butler Township, Adams County, Pennsylvania. [Amended 12-14-1972 by Res. No. 72-8]

**ASSESSOR** — The duly qualified and acting Assessor of Butler Township, Adams County, Pennsylvania.

**BOARD** — The Board of Supervisors of Butler Township, Adams County, Pennsylvania.

**COLLECTOR** — The duly qualified and acting Tax Collector of Butler Township, Adams County, Pennsylvania.

**§ 90-3. Tax imposed. [Amended 4-13-1988 by Ord. No. 88-1]**

A tax of \$5 per capita is hereby imposed, levied and assessed for general revenue purposes.

**§ 90-4. Recordkeeping.**

The Assessor shall list in his official record as such the name of every adult resident, and a per capita tax of \$5 for the purposes set forth in this article shall be assessed, levied and charged against each of such adult residents.

**§ 90-5. Notification of tax; due date. [Amended 4-13-1988 by Ord. No. 88-1]**

The Tax Collector shall, by official notice given as prescribed by existing law, notify adult residents of the per capita tax of \$5 herein imposed, further advising that said adult residents shall pay said per capita tax to the Tax Collector on or before August 1.<sup>1</sup>

**§ 90-6. Collection of tax.**

The tax imposed by this Article may be collected from persons owing such taxes or liable for such taxes by any of the methods and remedies as provided by law for the collection of tax, together with all penalties and costs. In addition thereto, the persons owing such taxes or liable for such taxes shall be subject to the payment of costs and penalties as provided by existing law.

**ARTICLE II****Amusement Tax**

[Adopted 10-11-73 as Ord. No. 73-1]

**§ 90-7. Short title.**

This Article shall be known and may be cited as the "Butler Township Amusement Tax Ordinance of 1974."

**§ 90-8. Definitions.**

The following words and phrases, when used in this Article, shall have the meanings ascribed to them in this section:

**ADMISSION** — The monetary charge of any character whatever, including money, donations, contributions, fees, dues or membership fees (periodical or otherwise), charged to or paid by the general public or a limited or selected number thereof, directly or indirectly, for the privilege of attending, viewing or engaging in amusements as hereinafter defined.

1. Editor's Note: Original Section V, regarding collection of tax against husband for wife, which immediately followed this section, was deleted 4-13-1988 by Ord. No. 88-1.

AMUSEMENT — All manner and forms of entertainment, including but not limited to theatrical performances, carnivals, circuses, shows, amusement parks and all forms of entertainment therein, swimming or bathing pools, golf, ski facilities, bowling, billiards or pool, dancing, sport events, athletic contests and any other form of diversion, sport, pastime or recreation for which admission is charged or paid, provided, however, that "amusement" shall not, for the purpose of this Article, include the following, which shall not be taxable hereunder: any form of entertainment sponsored by and from which the proceeds thereof, after payment of reasonable expenses, inure to the benefit of religious, educational or charitable institutions, societies or organizations or properly chartered volunteer fire companies.

PERSON — Any individual, partnership, limited partnership, association or corporation.

**§ 90-9. Tax levied. [Amended 4-13-1988 by Ord. No. 88-1; 2-8-1989 by Ord. No. 89-1]**

A tax is hereby imposed, assessed and levied for general revenue purposes at the rate of 10% of the price of admission to each and every amusement conducted within Butler Township, which tax shall be paid by the persons so admitted; provided, however, that the person conducting such amusement shall be responsible for the collection of said tax. On admissions to bowling alleys or bowling lanes, the tax base upon which the tax shall be levied shall not exceed 40% of the charge imposed upon a patron for the sale of admission to and a privilege of admission to a bowling alley or bowling lanes to engage in one or more games of bowling.

**§ 90-10. Report of collections required.**

On or before the 15th day of each month following the conduct of an amusement, the person conducting such amusement shall transmit to the Secretary of the Board of Supervisors of Butler Township a report of the total admissions charged or collected during the previous month and the total amount of tax due and, at the same time, shall pay to the Secretary of the said Board the total amount of tax due for the operations of the preceding month.

**§ 90-11. Recordkeeping; confidential information.**

Each person conducting an amusement within Butler Township shall keep an accurate record of all admissions charged or collected, and the Township Supervisors or their properly appointed agent shall have access to the books and records relating to the number of admissions charged or collected by the person conducting such amusement at reasonable times for the purpose of verifying and ascertaining the number of paid admissions received or charged by such person; provided that any information gained by the Township Supervisors or their duly authorized agents as a result of any reports, investigations or verifications required or authorized by this Article shall be confidential except for official purposes, and any disclosure of any information contrary to the provisions of this section shall constitute a violation of this Article.

**§ 90-12. Enforcement officer.**

The Chairman of the Board of Supervisors of Butler Township is hereby charged with the enforcement of this Article.

**§ 90-13. Fine for overdue tax.**

If any tax levied in pursuance of this Article shall not be paid when due, a penalty of 6% of the amount of tax due and unpaid shall be added thereto.

**§ 90-14. Violations and penalties. [Amended 4-13-1988 by Ord. No. 88-1]**

Any person who shall be convicted before a District Justice for violating or failing to carry out any of the provisions of this Article shall be liable, upon conviction, to pay a fine or penalty not exceeding \$300 for each and every offense, together with the costs of prosecution thereof, and in default of payment of any such fine and costs, such person may be committed by said District Justice to imprisonment in the Adams County Jail for not more than 30 days, provided that such fine or penalty shall be in addition to any other penalty imposed by any other section of this Article.

**ARTICLE III****Earned Income and Net Profits Tax  
[Adopted 3-8-1979 as Res. No. 79-10]****§ 90-15. Purpose.**

The Township Supervisors of Butler Township, Adams County, Pennsylvania, do hereby resolve that a tax for general revenue purposes for the said Township aforesaid is hereby imposed, levied and assessed pursuant to the provisions of the Act of General Assembly approved the 31st day of December 1965, known as Act No. 511, the "Local Tax Enabling Act,"<sup>2</sup> as follows.

**§ 90-16. Short title. [Amended 4-13-1988 by Ord. No. 88-1]**

This Article shall be designated and known as the "Butler Township Earned Income and Net Profits Tax Resolution of 1979."

**§ 90-17. Definitions.**

The following words and phrases, when used in this Article, including the various portions of the section thereof, shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning:

**ASSOCIATION** — A partnership, limited partnership or any other unincorporated group of two or more persons.

**BUSINESS** — An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit, whether by a person, partnership, association or any other entity.

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

**CORPORATION** — A corporation or joint-stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency.

**CURRENT YEAR** — The calendar year for which the tax is levied.

**DOMICILE** — The place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily "domicile," for "domicile" is the fixed place of abode, which, in the intention of the taxpayer, is permanent rather than transitory. "Domicile" is the voluntary fixed place of habitation of a person, not for a mere special or limited purpose but with the present intention of making a permanent home until some event occurs to induce him to adopt some other permanent home. In the case of a business or association, the "domicile" is that place considered as the center of business affairs and the place where its functions are discharged.

**EARNED INCOME** — Salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation received by a person or his personal representative for services rendered, whether directly or through an agent, and whether in cash or in property: not including, however, wages or compensation paid to persons on active military service, periodic payments for sickness and disability other than regular wages received during a period of sickness, disability or retirement or payments arising under workmen's compensation acts, occupational disease acts and similar legislation, or payments commonly recognized as old-age benefits, retirement pay or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment, or payments commonly known as "public assistance" or unemployment compensation payments made by any governmental agency, or payments to reimburse expenses or payments made by employers or labor unions for wage and salary supplemental programs, including but not limited to programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement.

**EMPLOYER** — A person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary, wage, commission or other compensation.

**INCOME TAX OFFICER OR OFFICER** — The person, public employee or private agency designated by the governing body to collect and administer the tax on earned income and net profits.

**NET PROFITS** — The net income from the operation of a business, profession or other activity, except corporations, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the accounting system used in such business, profession or other activity, but without deduction of taxes based on income.

**NONRESIDENT** — A person, partnership, association or other entity domiciled outside the taxing district.

**PERSON OR INDIVIDUAL** — A natural person.

**PRECEDING YEAR** — The calendar year before the current year.

**RESIDENT** — A person, partnership, association or other entity domiciled in the taxing district.

**SUCCEEDING YEAR** — The calendar year following the current year.

**TAXABLE PERIOD** — The period beginning July 1, 1979, and ending December 31, 1979, of the current year, and the period from January 1 until December 31 for each succeeding year.

**TAX COLLECTOR** — The person appointed by Butler Township to collect the earned income and net profits tax.

**TAXPAYER** — A person, partnership, association or any other entity required hereunder to file a return of earned income or net profits or to pay a tax thereon.

**§ 90-18. Imposition of tax.**

- A. A tax for general revenue purposes of 1/2 of 1% is hereby imposed on the following:
- (1) Salaries, wages, commissions and other compensation earned by residents of Butler Township during the taxable period.
  - (2) Net profits earned by residents of Butler Township during the taxable period.
- B. The tax hereby imposed shall become effective on the first day of July and shall continue in full force and effect until December 31, 1979, and for each succeeding year thereafter without annual reenactment unless the rate of the tax is subsequently changed.

**§ 90-19. Declaration and payment of tax.**

- A. Net profits. Every taxpayer who, during the taxable period, can reasonably be expected to earn net profits or earnings not subject to the provision of § 90-20 relating to collection at source shall make and file with the Officer, on a form prescribed or approved by the Officer, a declaration setting forth the amount of net profits anticipated by him for such taxable period and subject to tax, the amount of estimated tax imposed thereon by this Article and such other relevant information as the Officer may require. The declaration of estimated tax shall be filed and the tax shall be paid at the following times:
- (1) If said net profits can reasonably be expected on or before the 15th day of April of the taxable period, the taxpayer shall file a declaration of his estimated net profits during the period beginning January 1 and ending December 31 of the current year, and on or before the dates as hereinafter set forth shall pay the estimated tax shown thereon in equal quarterly installments on or before the said 15th day of April, on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year.<sup>3</sup>
  - (2) Any taxpayer who first anticipates any net profit after April 15 of the current year shall make and file the declaration hereinabove required on or before June 15 of

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

the current year, September 15 of the current year or December 31 of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, and pay to the Officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.

- (3) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Officer, on a form prescribed or approved by the Officer, a final return showing the amount of net profit earned during the year beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the Officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the Officer, on or before January 31 of the succeeding year, the final return as hereinabove required.
- (4) Where the taxpayer who has filed a declaration required hereinabove shall thereafter reasonably be expected to earn during the taxable period additional net profits or earnings not subject to collection at the source or finds that he has overestimated his net profits or earnings, he may file an amended declaration with the Tax Officer, setting forth such relevant information as the Tax Officer may require.
- (5) In the event of the death of a taxpayer during the taxable period, his personal representative or, in the absence of the personal representative, his heirs, shall, within 60 days of the taxpayer's death, pay the tax due or demand refund in the case of overpayment.
- (6) Every taxpayer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

B. Earned income.

- (1) Annual income tax return. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Officer, on a form prescribed or approved by the Officer, a final return showing the amount of earned income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
- (2) Earned income not subject to withholding. Every taxpayer who is employed for a salary, wage, commission or other compensation and who receives any earned income not subject to the provisions relating to collection at the source shall make and file with the Officer, on a form prescribed or approved by the Officer, a quarterly return on or before April 30 of the current year, July 31 of the current

year, October 31 of the current year and January 31 of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding by him during the three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively, and subject to the tax, together with such other information as the Officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the Officer the amount of tax shown as due thereon.

- C. In the event that Butler Township shall join with other political subdivisions in operating a tax collection bureau, it shall be an unincorporated agency organized and operated for the collection of taxes imposed hereunder and similar taxes imposed by such other political subdivisions. Such tax collection bureau shall supersede the Income Tax Officer and shall be charged with the duties and powers of such Income Tax Officer as herein set forth, in addition to such powers and duties as may be prescribed by the Board of Supervisors of Butler Township, Adams County, Pennsylvania, by resolution duly adopted.

**§ 90-20. Collection at source; forms to be filed; deductions.**

- A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within Butler Township, Adams County, Pennsylvania, who employes one or more residents, other than domestic servants, on a salary, wage, commission or other compensation basis, shall deduct at the time of the payment thereof the tax imposed by this Article on the earnings due his employee or employees and, within 30 days after the 30th of September of the initial taxable period and within 30 days after each quarter of a year thereafter, shall make and file a return with the Income Tax Officer, on a form prescribed by the Income Tax Officer, setting forth the taxes so deducted during the preceding three-month period and such other relevant information as the Income Tax Officer may require, and shall pay to Butler Township the amount of taxes so deducted. Any employer who, for two of the preceding four quarterly periods, has failed to deduct the proper tax or any part thereof or has failed to pay the proper amount to the taxing authority, may be required by the Officer to file his return and pay the tax monthly.
- B. On or before February 28 of the succeeding year, every such employer shall make and file with the Income Tax Officer, on a form prescribed by the Income Tax Officer:
- (1) A return showing the total amount of the earnings of his employee or employees during the portion of the preceding calendar year ending December 31 and embraced within the taxable period, the total amount of earned income, the total amount of tax deducted and the total amount of tax paid to the Officer for the period beginning January 1 of the current year and ending December 31 of the current year.
  - (2) A return withholding statement for each employee employed during all or any part of the current year, showing the total amount of the employee's earnings during the portion of the current year ending December 31 and embraced within the taxable period, the amount of tax deducted therefrom, the employee's social security number, name and address and such other relevant information as the Income Tax

Officer may require. Such employer, on or before February 28 of each of the said years shall furnish two copies of such return to the employee named in the return.

- C. Every employer who discontinues business prior to the close of the taxable year shall, within 30 days after the discontinuance of business, file the returns hereinabove required and pay the tax due. Where discontinuance of business is due to the death of the employer, his personal representative, or in the absence of a personal representative, his heirs, shall, within 60 days after the death of the employer, file his return and pay the tax due.
- D. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax or from complying with the requirements of this Article relating to the filing of declarations and returns.
- E. If the employer makes a deduction of tax as required by this section, the amount deducted shall constitute in the hands of such employer a trust fund held for the account of Butler Township as beneficial owner thereof, and the employee from whose earnings such tax was deducted shall be deemed to have paid such tax.
- F. The withholding of earnings and the payment and return thereof by the employer under the provisions of this section shall not be required in respect to earnings of domestic servants, farm labor and casual labor not in the course of the employer's business. This subsection shall not be construed to exempt such employees from the requirements of filing a declaration and a return of such earnings and the payment of tax thereon under the provisions of § 90-19.

**§ 90-21. Powers and duties of income tax officer.**

- A. It shall be the duty of the Income Tax Officer to collect and receive the taxes, fines and penalties imposed by this Article. It shall also be his duty to keep a record showing the amount received by him from each person paying the tax and, if paid by such person in respect to another person, the name of such other person and the date of such receipt.
- B. Each Income Tax Officer, before entering upon his official duties, shall give bond to Butler Township in an amount to be determined by the Township. Said bond shall comply with the requirements of the Local Tax Enabling Act.
- C. The Income Tax Officer is hereby charged with the administration and enforcement of this Article, and he is hereby empowered, subject to the approval of the Supervisors of Butler Township, to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Article, including provisions for the reexamination and correction of declarations and returns and of payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this Article.
- D. The Income Tax Officer and agents designated in writing by him are hereby authorized to examine the books, papers and records of any person or employer in order to verify the accuracy of any declaration or return or, if no declaration or return was filed, to

ascertain the tax due. Every person or employer is hereby directed and required to give to the Income Tax Officer or to any agent so designated by him the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

- E. Any information gained by the Income Tax Officer or his agents or by any official, agent or employee of Butler Township as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Article shall be confidential and shall not be disclosed to any person except for official use in connection with the administration or enforcement of this Article or as otherwise provided by law.
- F. Any person aggrieved by any action of the Income Tax Officer shall have the right to appeal as provided by law.

**§ 90-22. Suit for recovery of taxes.**

- A. The Income Tax Officer or the Tax Collector may sue in the name of Butler Township for the recovery of taxes due and unpaid under this Article.
- B. Any suit brought to recover the tax imposed by this Article shall be begun within three years after such tax is due or within three years after a declaration or return has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:
  - (1) Where no declaration or return was filed by any person, although a declaration or return was required to be filed by him under the provisions of this Article, there shall be no limitation.
  - (2) Where a false or fraudulent declaration or return was filed with the intent to evade tax, there shall be no limitation.
  - (3) Where any person has deducted taxes under the provisions of this Article and has failed to pay the amounts so deducted to Butler Township, there shall be no limitation.
  - (4) In the case of substantial understatement of tax liability of 25% or more but no fraud, suit shall be begun within six years.
- C. This section shall not be construed to limit Butler Township from recovering delinquent taxes by any other means provided by law.
- D. The Officer may sue for recovery of an erroneous refund, provided that such suit is begun within two years after making such refund, except that the suit may be brought within five years if it appears that any part of the refund was induced by fraud or misrepresentation of material facts.

**§ 90-23. Interest and penalties on unpaid balance.**

If for any reason the tax is not paid when due, interest at the rate of 6% per annum of the amount of said tax and an additional penalty of 1/2 of 1% of the amount of the unpaid tax for

each month or fraction thereof during which the tax remains unpaid shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

**§ 90-24. Payments and refunds.**

The Income Tax Officer or Tax Collector, whoever is designated by Butler Township, is hereby authorized to accept payment of the amount of tax claimed by Butler Township in any case where any person disputes the validity or amount of Butler Township's claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the Income Tax Officer or Tax Collector, the amount of the overpayment shall be refunded to the person who paid.

**§ 90-25. Applicability.**

A. The tax imposed by this Article shall not apply to:

- (1) Any person as to whom it is beyond the legal power of Butler Township to impose the tax herein provided for under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.
- (2) Any institution or organization operated for public, religious, educational or charitable purposes; any institution or organization not organized or operated for private property; or a trust of a foundation established for any of the said purposes.
- (3) The net profits of any corporation which is subject to the Pennsylvania corporate net income tax or exempt from the Pennsylvania corporate net income tax and any foreign corporation which is subject to the Pennsylvania franchise tax.

B. This section shall not be construed to exempt any person who is an employer from the duty of collecting the tax at source from his employees and paying the amount collected to Butler Township under the provisions of § 90-20 of this Article.

**§ 90-26. Violations and penalties.**

A. Any person who fails, neglects or refuses to make any declaration or return required by this Article: any employer who fails, neglects or refuses to pay the tax deducted from his employees; any person who refuses to permit the Income Tax Officer or any agent properly designated by him to examine his books, records and papers; and any person who makes an incomplete, false or fraudulent return to avoid the payment of the whole or any part of the tax imposed by this article, shall, upon conviction thereof before any District Justice, be sentenced to pay a fine of not more than \$500 for each offense and costs, and in default of payment of said fine and costs, to be imprisoned in the Adams County Jail for a period not exceeding 30 days. [Amended 4-13-1988 by Ord. No. 88-1]

- B. Any person who, except as permitted by the provisions of § 90-21E of this article, divulges any information which is confidential under the provisions of said subsection, shall, upon conviction thereof before any District Justice, be sentenced to pay a fine of not more than \$500 for each offense and costs, and in default of payment of said fine and costs, to be imprisoned in the Adams County Jail for a period not exceeding 30 days.  
[Amended 4-13-1988 by Ord. No. 88-1]
- C. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this Article.
- D. The failure of any person to receive or procure the forms required for making any declaration or return required by this Article shall not excuse him from making such declaration or return.

**§ 90-27. Statutes to govern.**

Any issues or problems that may arise in the imposing, levying, assessing and collection of the earned income and net profits tax or in the general administration thereof which are not specifically covered under this Article shall be governed by the laws and regulations of the Local Tax Enabling Act of the Commonwealth of Pennsylvania, Act No. 511, as amended.<sup>4</sup>

**ARTICLE IIIA**

**Collection of Earned Income and Net Profits Taxes**

[Adopted 12-12-2005 by Ord. No. 2005-2]

**§ 90-27.1. Collection at the source.**

- A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation who has not previously registered shall, within 15 days after becoming an employer, register with the York Adams Tax Bureau or other designated tax officer his name and address and such other information as the Township may require.
- B. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation shall deduct at the time of payment thereof the tax imposed by this article on the earned income due to his employee or employees and shall, on or before April 30 of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, file a return and pay to the Officer the amount of taxes deducted during the preceding three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively. Such return, unless otherwise agreed upon between the Officer and employer, shall show

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

the name and social security number of each such employee, the earned income of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total income of all such employees during such preceding three-month period and the total tax deducted therefrom and paid with the return. Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax or any part thereof or who has failed to pay over the proper amount of tax to the taxing authority may be required by the York Adams Tax Bureau or designated tax officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the York Adams Tax Bureau or designated tax officer on or before the last day of the month succeeding the month for which the tax was withheld.

- C. Every employer shall deduct or withhold from employees, exclusive of domestic servants and Maryland residents, at the following rates:
- (1) Resident taxpayers at the applicable rates imposed by the Township and applicable school district on the resident taxpayer's earned income and net profits.
  - (2) Nonresident taxpayers at the rate of no less than 1% of the nonresident taxpayer's earned income and net profits.
- D. On or before February 28 of the succeeding year, every employer shall file with the Officer:
- (1) An annual return showing the total amount of earned income paid, the total amount of tax deducted and the total amount of tax paid to the Officer for the period beginning January 1 of the current year and ending December 31 of the current year.
  - (2) A return withholding statement for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year setting forth the employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the political subdivision imposing the tax upon such employee and the amount of tax paid to the York Adams Tax Bureau or designated tax officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.
- E. Every employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.
- F. Every employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which he is required to withhold to the extent that such taxes have not been recovered from the employee.
- G. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax or from complying with the requirements of this article relating to the filing of declarations and returns.

- H. No employer shall be required to register, deduct or withhold taxes, file returns or pay taxes with regard to domestic servants or residents of Maryland.

**§ 90-27.2. Costs and fees for collection of delinquent earned income taxes.**

- A. The Township hereby approves and adopts the Cost of Collection Schedule, as provided in a Resolution of the Township adopted from time to time, to be imposed by the York Adams Tax Bureau, or such other tax collection entity hereafter designated by the Township for the collection of local taxes, upon any taxpayer whose taxes are or become delinquent and/or remain due and unpaid.
- B. The York Adams Tax Bureau, or such other tax collection entity designated by the Township, is authorized to retain such costs of collection as set forth in the attached schedules in recovering delinquent taxes and as permitted to be assessed to delinquent taxpayers pursuant to law.

**§ 90-27.3. Adoption of Adams County Tax Collection Committee provisions. [Added 11-14-2011 by Ord. No. 2011-2]**

From on and after January 1, 2012, the policies, procedures, rules, requirements, and regulations for the administration and collection of the earned income and net profits tax levied by the Township shall be in accord with those policies, procedures, rules, requirements, and regulations adopted by the Adams County Tax Collection Committee.<sup>6</sup> The policies, procedures, rules, requirements, and regulations of the Adams County Tax Collection Committee, as they may be promulgated, adopted, repealed, interpreted by the judicial branch, and/or amended from time to time shall control the administration and collection of the earned income and net profits tax levied by the Township thereafter.

**§ 90-27.4. Designated collector. [Added 11-14-2011 by Ord. No. 2011-2]**

The selection of the York Adams Tax Bureau, as formed by the joint action of the Adams County Tax Collection Committee and the York County Tax Collection Committee, is confirmed as the designated collector of earned income and net profits tax levied on or before December 31, 2011, but uncollected as of January 1, 2012.

**ARTICLE IV**

**Realty Transfer Tax**

**[Adopted 3-14-1990 as Ord. No. 90-1]**

**§ 90-28. Short title.**

This Article shall be known as and may be cited as the "Realty Transfer Tax Ordinance of Butler Township."

5. Editor's Note: The schedule of fees of the York Adams Tax Bureau is on file in Township offices.
6. Editor's Note: This ordinance stated that all provisions contained in this article shall remain in effect with regard to earned income taxes levied prior to 1-1-2012.

**§ 90-29. Statutory authority.**

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within Butler Township, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer took place, as authorized by Article XI-D, Local Real Estate Transfer Tax, 72 P.S. § 8101-D et seq.

**§ 90-30. Definitions.**

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

**ASSOCIATION** — A partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two or more persons other than a private trust or decedent's estate.

**COLLECTOR** — The Recorder of Deeds of Adams County, Pennsylvania; provided, however, that if the Recorder of said County cannot be lawfully required to serve, then such other person as shall be appointed by the Butler Township Supervisors.

**CORPORATION** — A corporation, joint-stock association, business trust, or banking institution which is organized under the laws of this commonwealth, the United States or any other state, territory, foreign country or dependency.

**DOCUMENT** — Any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof, unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest or confirm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording under § 90-35 of this Article.

**FAMILY FARM CORPORATION** — A corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the same family. The business of agriculture shall not be deemed to include:

- A. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing.
- B. The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities.
- C. Fur farming.
- D. Stockyard and slaughterhouse operations.
- E. Manufacturing or processing operations of any kind.

**MEMBERS OF THE SAME FAMILY** — Any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing and the estate of any of the foregoing. Individuals related by the half-blood or legal adoption shall be treated as if they were related by the whole-blood.

**PERSON** — Every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person," as applied to associations, shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

**REAL ESTATE** —

- A. All lands, tenements or hereditaments within Butler Township, including, without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant.
- B. A condominium unit.
- C. A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

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REAL ESTATE COMPANY — A corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, 90% or more of the ownership interest in which is held by 35 or fewer persons and which:

- A. Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or
- B. Holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

TITLE TO REAL ESTATE —

- A. Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years, including, without limitation, an estate in fee simple, life estate or perpetual leasehold.
- B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold, including, without limitation, a leasehold interest or possessory interest under a lease or occupancy agreement for a term of 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

TRANSACTION — The making, executing, delivering, accepting or presenting for recording of a document.

VALUE —

- A. In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate, provided that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale.
- B. In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations.
- C. In the case of an easement or other interest in real estate the value of which is not determinable under Subsection A or B, the actual monetary worth of such interest.

- D. The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principal of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

**§ 90-31. Imposition of tax; interest.**

- A. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording shall be subject to pay for and in respect to the transaction or any part thereof a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of becoming an acquired company.
- B. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the Collector whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.
- C. It is the intent of this Article that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. § 6901 et seq., so that, if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by Butler Township under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be 1/2 of the rate and such one-half-rate shall become effective without any action on the part of Butler Township; provided, however, that Butler Township or any other political subdivision which imposes such tax on the same person or transfer may agree that, instead of limiting their respective rates to 1/2 of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.
- D. If for any reason the tax is not paid when due, interest at the legal rate in effect at the time the tax is due shall be added and collected.

**§ 90-32. Exempt parties.**

The United States, the commonwealth or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this Article. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

**§ 90-33. Excluded transactions.**

- A. The tax imposed by § 90-31 shall not be imposed upon:

- (1) A transfer to the commonwealth or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property line adjustments, provided that said reconveyance is made within one year from the date of condemnation.
- (2) A document which Butler Township is prohibited from taxing under the Constitution or statutes of the United States.
- (3) A conveyance to a municipality, Township, school district or County pursuant to acquisition by the municipality, Township, school district or County of a tax delinquent property at sheriff sale or tax claim bureau sale.
- (4) A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
- (5) A transfer or division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by co-tenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.
- (6) A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided that the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister, between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer.
- (7) A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- (8) A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the Collector is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- (9) A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- (10) A transfer for no or nominal actual consideration from a trustee to a successor trustee.

- (11) A transfer for no or nominal actual consideration between principal and agent or straw party or from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Article. Where the document by which title is acquired by a grantee or a statement of value fails to set forth that the property was acquired by the grantee from or for the benefit of his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.
- (12) A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the Collector reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Article.
- (13) A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years.
- (14) A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency or authority.
- (15) A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, pollution control, warehousing or agriculture and the agency or authority has the full ownership interest in the real estate transferred.
- (16) A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
- (17) Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
- (18) A transfer to a conservancy which possesses a tax exempt status pursuant to Section 501 (c)(3) of the Internal Revenue Code of 1954, [68A Stat. 3, 26 U.S.C. § 501(c)(3)] and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.
- (19) A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.

- (20) A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
  - (21) A transaction wherein the tax due is \$1 or less.
  - (22) Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.
- B. In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this Article.

#### § 90-34. Taxable documents.

Except as otherwise provided in § 90-33, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this Article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

#### § 90-35. Acquired company.

- A. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company and of itself or together with prior changes has the effect of transferring, ~~directly or indirectly, 90% or more of the total ownership interest in the company within~~ a period of three years.
- B. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Article.
- C. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition to the collector of each County in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such County. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

#### § 90-36. Tax credits.

- A. Where there is a transfer of a residential property by a licensed real estate broker, which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time

of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.

- B. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.
- C. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.
- D. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
- E. If the tax due upon the transfer is greater than the credit given under this section, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover credit shall be allowed.

**§ 90-37. Extension of lease.**

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method of calculating the rental charge is established.

**§ 90-38. Judicial sale.**

The tax herein imposed shall be fully paid and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made, except the state realty transfer tax, and the sheriff or other officer conducting said sale shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

**§ 90-39. Duties of recorder of deeds.**

- A. As provided in 16 P.S. § 11011-6, as amended by Act of July 7, 1983, P.L. 40, No. 21, the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable upon a redetermination of the amount of tax due, without compensation from Butler Township.
- B. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.

- C. On or before the tenth of each month, the Recorder shall pay over to Butler Township all local realty transfer taxes collected, less 2% for use of the County, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The 2% commission shall be paid to the County.
- D. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional realty transfer tax form only when both the commonwealth and local amounts and a rerecording or recording fee has been tendered.

**§ 90-40. Statement of value required.**

Every document lodged with or presented to the Recorder of Deeds for recording shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Article. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for the purpose. The provisions of this section shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Article.

**§ 90-41. Violations and penalties.**

- A. If any part of any underpayment of tax imposed by this article is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.
- B. In the case of failure to record a declaration required under this article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% of the amount of such tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

**§ 90-42. Tax to become lien.**

The tax imposed by this article shall become a lien upon the lands, tenements or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of Butler Township, which lands, tenements, hereditaments or interest therein, are described in or conveyed by or transferred by the document which is the subject of the tax imposed, assessed and levied by this article, said lien to begin at the time when the tax under this article is due and payable, and continue until discharge by payment, or in accordance with the law, and the solicitor is authorized to file a municipal or tax claim in the Court of

Common Pleas of Adams County, in accordance with the provisions of the Municipal Claims and Tax Liens Act of 1923, 53 P.S. § 7101 et seq., its supplements and amendments.

**§ 90-43. Enforcement.**

All taxes imposed by this article, together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered.

**§ 90-44. Collection of tax.**

The Collector (Recorder of Deeds) shall be charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. § 8101-C et seq., are incorporated into and made a part of this article.

**§ 90-45. Severability.**

Should any section, subsection, sentence, clause or phrase of this article be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the article in its entirety or of any part thereof other than that declared to be invalid.

**§ 90-46. Effective date.**

This article shall be effective on July 1, 1990.

**§ 90-47. Repealer.**

Prior ordinances inconsistent with this article are hereby repealed.

ARTICLE V

**Local Taxpayers Bill of Rights  
[Adopted 4-10-2000 by Ord. No. 2000-1]**

**§ 90-48. Disclosure statement.**

The Board of Supervisors may from time to time adopt a form for disclosure statement, to be in compliance with the Local Taxpayers Bill of Rights (LTBR). Initially, such form shall be substantially as set forth in the version which is attached hereto, is incorporated herein and is hereby approved and adopted.<sup>6</sup>

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6. Editor's Note: The disclosure statement is on file in the township offices.

**§ 90-49. Petition for appeal and refund.**

The Board of Supervisors may from time to time adopt a form for petition for appeal and refund, to be in compliance with the LTBR. Initially, such form shall be substantially as set forth in the version which is attached hereto, is incorporated herein and is hereby approved and adopted.<sup>7</sup>

**§ 90-50. Administrative appeal procedures.**

The governing body hereby determines that administrative appeal procedures relating to petitions for appeal and refund submitted by taxpayers in connection with the assessment, determination or refund of an eligible tax under the LTBR shall be undertaken by the governing body in executive session.

**§ 90-51. Effective date.**

This article shall become effective in accordance with the provisions of law and shall be applicable to eligible taxes as of January 1, 1999.

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7. Editor's Note: The petition for appeal and refund is on file in the township offices.

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VEHICLES AND TRAFFIC

Chapter 96

VEHICLES AND TRAFFIC

ARTICLE I

Weight Limits on Roads and Highways

- § 96-1. Weight limits designated.
- § 96-2. Exemptions.
- § 96-3. Violations and penalties.
- § 96-4. Conflicts with Acts of Assembly.

ARTICLE II

Weight Limits on Bridges

- § 96-5. Weights and bridges designated.
- § 96-6. Violations and penalties.

ARTICLE III

Speed Limits

- § 96-7. Locations and limits designated.
- § 96-8. Violations and penalties.

ARTICLE IV

Snow and Ice Emergencies

- § 96-9. Declaration of emergency.
- § 96-10. Parking on snow emergency routes.
- § 96-11. Designation of snow emergency routes.
- § 96-12. Violations and penalties; towing.
- § 96-13. Payment of towing and storage charges.
- § 96-14. Reclamation costs.

§ 96-15. Records of impounded vehicles.

§ 96-16. Restrictions on removal.

#### ARTICLE V Stop Intersections

§ 96-17. Three-way stop intersections.

§ 96-18. Establishment of controlled intersections.

[HISTORY: Adopted by the Board of Supervisors of the Township of Butler: Art. I, 8-6-1962 by Ord. No. 62-1; Art. II, 12-4-1967 by Res. No. 67-5, amended in its entirety 4-13-1988 by Ord. No. 88-1; Art. III, 9-14-1983 by Ord. No. 83-1; Art. IV, 1-8-1992 by Ord. No. 92-1; Art. V, 2-8-1995 by Ord. No. 95-2. Sections 96-3, 96-7 and 96-8 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

#### GENERAL REFERENCES

Streets and roads — See Ch. 82.

#### ARTICLE I Weight Limits on Roads and Highways [Adopted 8-6-1962 by Ord. No. 62-1]

§ 96-1. Weight limits designated.

It shall be unlawful for anyone to operate on or upon any of the roads or highways maintained by Butler Township any vehicle when the gross weight of such vehicle exceeds 16,000 pounds.

§ 96-2. Exemptions.

Farm equipment, school buses and vehicles making local deliveries within Butler Township shall be exempt from the restrictions of this article and the said article shall not apply to such vehicles.

§ 96-3. Violations and penalties. [Amended 4-13-1988 by Ord. No. 88-1]

Any person who violates any provisions of this Article shall be punishable as provided in Section 4902(g) of the Vehicle Code [75 Pa.C.S.A. § 4902(g)]

(Cont'd on page 9603)

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**§ 96-4. Conflicts with Acts of Assembly.**

Nothing in this Article is to be determined to conflict with or nullify any of the provisions of the Acts of Assembly in such case made and provided.

**ARTICLE II**

**Weight Limits on Bridges**

**[Adopted 12-4-1967 as Res. No. 67-5; amended in its entirety 4-13-1988 by Ord. No. 88-1]**

**§ 96-5. Weights and bridges designated.**

It shall be unlawful for any person or persons to drive any vehicle or combination having a gross weight in excess of the maximum prescribed below on the following bridges in the township:

<b>Bridge</b>	<b>Maximum Gross Weight</b>
Center Mills Road Bridge	6 tons

**§ 96-6. Violations and penalties.**

Any person who violates any provisions of this Article shall be punishable as provided in Section 4902(g)(1) of the Vehicle Code [75 Pa.C.S.A. § 4902(g)(1)].

**ARTICLE III**

**Speed Limits**

**[Adopted 9-14-83 as Ord. No. 83-1]**

**§ 96-7. Locations and limits designated.**

Maximum speed limits are established on portions of specified streets and highways as follows, and it shall be unlawful for any person to drive a vehicle on any part of the street where maximum speed limits are applied at a higher speed than the maximum prescribed for that part of the street:

§ 96-7

BUTLER CODE

§ 96-8

Name of Street	Speed Limit (mph)	Location
Belmont Road [Added 11-24-87]	35	From Goldenville Road to township line
Clearview Drive [Added 4-13-1988 by Ord. No. 88-1]	35	From Beecherstown Road to Hillcrest Drive
Guernsey Road [Added 1-8-1992 by Ord. No. 92-1]	35	From Pennsylvania Route No. 234 to Old Carlisle Road LR 4001
Heckenluber Road [Added 11-24-87]	35	From Route No. 234 to township line
Hillcrest Drive [Added 4-13-88 by Ord. No. 88-1]	35	From Route No. 234 to Clearview Drive
Old Carlisle Road, known as "Township Road T-500" [Added 2-8-89 by Ord. No. 89-2]	45	From Route No. 234 to Route No. 394
Township Road No. 530, known as "Center Mills Road" [Added 6-12-85]	35	From State Route No. 234 to State Route No. 531
Township Road No. 530, known as "Stone Jug Road"	35	From Heidlersburg Road (Pennsylvania Route No. 234) south to Straban Township line

**§ 96-8. Violations and penalties. [Amended 4-13-88 by Ord. No. 88-1]**

Any person who violates any provisions of this Article shall be punishable as provided in Section 3362(c) of the Vehicle Code [75 Pa.C.S.A. § 3362(c)].

ARTICLE IV  
**Snow and Ice Emergencies**  
 [Adopted 1-8-1992 as part of Ord. No. 92-1]

**§ 96-9. Declaration of emergency.**

In order to facilitate the removal of snow and ice from certain township streets and to facilitate the movement of traffic and to combat the hazards of snow and ice on the snow emergency routes named in § 96-11 of this Article, it is hereby declared to be a snow and ice emergency when snow and ice accumulation on the streets is in excess of two (2) inches or at such other times when the Chairman of the Board of Supervisors of Butler Township, in his discretion, may declare a snow and ice emergency (designated in this Article as a "snow emergency"). Where a snow emergency is declared by the Chairman of the Board of Supervisors for reasons other than an accumulation of two (2) inches or more of snow and ice, the information on such emergency may be given by the township through radio, newspaper or other available media, and the information for the termination of the emergency may be given by use of the same media.

**§ 96-10. Parking on snow emergency routes.**

After there is an accumulation of snow and/or ice in excess of two (2) inches or in the event that a snow emergency is declared by the Chairman of the Township Supervisors, it shall be unlawful, at any time during the continuance of the emergency or until such time as the streets have been plowed, for any person to park a motor vehicle or allow that vehicle to remain parked anywhere on any snow emergency route designated in § 96-11 of this Article.

**§ 96-11. Designation of snow emergency routes.**

The following are designated as snow emergency routes:

Street	Limits
Hillcrest Drive (T-321)	From Pennsylvania Route No. 234 to Clearview Drive
Clearview Drive (T-322)	From Hillcrest Drive to Beecherstown Road (T-349)

**§ 96-12. Violations and penalties; towing.**

- A. If, at any time during a period of snow emergency, a person shall park a motor vehicle or allow a motor vehicle to remain parked anywhere upon a snow emergency route, that person shall be guilty of a violation of this Article and, upon conviction, shall be sentenced to pay a fine of not more than twenty-five dollars (\$25.), and costs.
- B. Any person found to be violating this part of this Article shall be subject to having his or her vehicle towed from the street by the township. The cost of towing and the cost of impounding the vehicle shall be paid to the township at the time the owner reclaims the vehicle.

**§ 96-13. Payment of towing and storage charges.**

The payment of any towing and storage charge authorized by this Article shall, unless payment is made under protest, be final and conclusive and shall constitute a waiver of any right to recover the money so paid. If payment of any towing or storage charge is made under protest, the offender shall be entitled to a hearing before a District Justice. Payment of towing and storage charges shall not relieve the owner or driver of any vehicle from liability for any fine or penalty for the violation of the provision of this Article for which the vehicle was removed or impounded.

**§ 96-14. Reclamation costs.**

In order to reclaim his vehicle, the owner shall pay towing and storage charges, plus a fee of twenty-five dollars (\$25.).

**§ 96-15. Records of impounded vehicles.**

The township shall cause a record to be kept of all vehicles impounded under this Article and shall be able at all reasonable times to furnish the owners or the agents of the owners of those vehicles with information as to the place of storage of the vehicle.

§ 96-16. Restrictions on removal.

No vehicle shall be removed under the authority of this Article if, at the time of the intended removal, the owner or the person for the time being in charge of the vehicle is present and expresses a willingness and intention to remove the vehicle immediately.

ARTICLE V

Stop Intersections

[Adopted 2-8-1995 by Ord. No. 95-2]

§ 96-17. Three-way stop intersections.

A. The following described intersections are hereby designated as three-way stop intersections, and stop signs are located as follows:

Stop Sign on	Side	At Intersection of
Clearview Lane	South-east	Hillcrest Drive
Hillcrest Drive	South-west	Clearview Lane
Hillcrest Drive Extended	North-east	Clearview Lane and the existing portion of Hillcrest Drive

B. Penalties for violating these stop signs shall be as determined by other ordinances of Butler Township or, if none are applicable, with any state laws pertaining to stop sign violations.

§ 96-18. Establishment of controlled intersections; violations and penalties. [Added 6-12-2000 by Ord. No. 2000-2]

A. The intersections described hereinafter are hereby established as stop intersections, and official stop signs shall be erected in such a position upon the first named street as to face traffic approaching the second named street in the direction or directions indicated. Every driver of a vehicle approaching any such intersection upon the first named street, in the direction or directions indicated in each case, shall come to a full stop and shall not enter the intersection until such movement can be done with safety.

Controlled Street	Through Street	Direction on Controlled Street
West Guernsey Road	Quaker Run Road	Easterly

- B. Any person who violates this section shall be subject to prosecution and punishment pursuant to the Pennsylvania Vehicle Code (75 P.S. § 101 et seq., as amended) as one who has committed a summary offense.

## Chapter 98

### WEEDS, BRUSH AND GRASS

§ 98-1. Short title.

§ 98-4. Notice.

§ 98-2. Growth prohibited.

§ 98-5. Violations and penalties.

§ 98-3. Removal.

**[HISTORY: Adopted by the Board of Supervisors of the Township of Butler 1-9-2006 by Ord. No. 2006-1. Amendments noted where applicable.]**

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**§ 98-1. Short title.**

This chapter shall be known as and may cited as the "Butler Township Weed Ordinance."

**§ 98-2. Growth prohibited.**

No person, firm, partnership or corporation owning or having a present interest in or occupying any real estate or any lot where houses inhabited by humans are closer than 300 feet to each other and including any land within a one-hundred-fifty-foot radius from each of these dwellings, also to include 150 feet on each side of any public road right-of-way which lies within the above-described radius, shall permit any grass or weeds or vegetation not edible or planted for some useful or ornamental purpose to grow or remain on such premises so as to exceed a height of 10 inches or to throw off any unpleasant or obnoxious odor or to conceal any debris or to create or to produce pollen. All such vegetation is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Township; provided, however, that weeds or grass intermingled with growing cultivated crops on agricultural land or land in agricultural use shall not come within the provisions of this chapter.

**§ 98-3. Removal.**

The owner of any such premises, whether occupied by the owner or not, shall be responsible to remove, trim or cut all such vegetation growing or remaining upon such premises in violation of the provisions of the first section of this chapter. Both the owner and the occupant, in the case of premises occupied by other than the owner, shall be jointly responsible for the compliance with this chapter.

**§ 98-4. Notice.**

Prior to the enforcement of the penalties as hereinafter imposed in this chapter, the Township Supervisors, or any officer or employee of the Township designated thereby for the purpose, is hereby authorized to give notice in writing by United States certified mail or by personal delivery to the owner or the occupant, or either of them, of a violation of the terms and conditions of this chapter, directing and requiring such occupant or owner or both of them to

remove, trim or cut such grass, weeds or vegetation so as to conform to the requirements of this chapter within 10 days after receipt of such notice.

**§ 98-5. Violations and penalties.**

If any such owner and/or occupant shall neglect to comply with such notice within the period of time stated herein, the Township authorities shall have the following remedies:

- A. They may remove, trim or cut such grass, weeds or vegetation so as to comply with the provisions of this chapter, and the reasonable cost thereof, together with an additional penalty of 10% of reasonable costs, may be collected by the Township from such owner or occupant as a penalty under the provisions of this chapter or in any other manner provided by law. This right, as herein vested in the Township, shall be in addition to penalties prescribed by the provisions of this chapter for the conviction of the owner or occupant as aforesaid to comply with the terms of this chapter.
- B. They may initiate summary proceedings against any person, firm or corporation who shall violate any of the provisions of this chapter, who shall, upon conviction thereof by a summary proceeding before a District Justice, be sentenced to pay a fine of not more than \$1,000 and the costs of prosecution; each day's continuation of violation of this chapter shall constitute a separate offense. The first day of violation shall commence 24 hours after the receipt of the notice of violation.

Chapter A102

STREET ORDINANCES

§ A102-1. Chronological listing.

GENERAL REFERENCES

Streets and roads — See Ch. 82.  
Vehicles and traffic — See Ch. 96.

§ A102-1. Chronological listing.

[The following is a listing of those ordinances which lay out, accept or vacate streets in the township. The complete text of each ordinance is on file in the township offices.]

Ordinance No.	Adoption Date	Purpose
69-1	10-10-1969	To lay out Hillcrest Drive and Clearview Drive
91-1	10-9-1991	To accept South View Drive
93-2	12-8-1993	To vacate a portion of Township Road T-643 (from Punch Road to Old Legislative Route 01018)
95-1	2-8-1995	To accept an opening and extension of Hillcrest Drive



**DISPOSITION  
LIST**



## Chapter DL

### DISPOSITION LIST

**§ DL-1. Disposition of legislation.**

The following is a chronological listing of legislation of the Township of Butler adopted since 01-01-2005, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Consult municipal records for disposition of prior legislation.

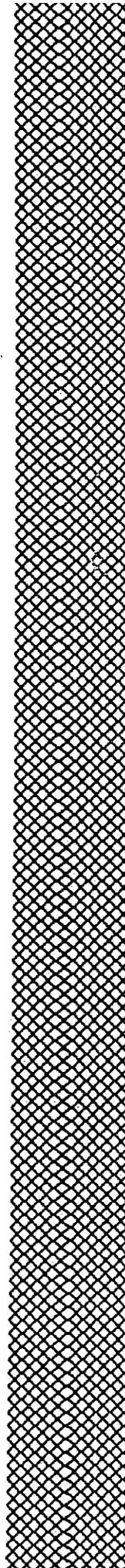
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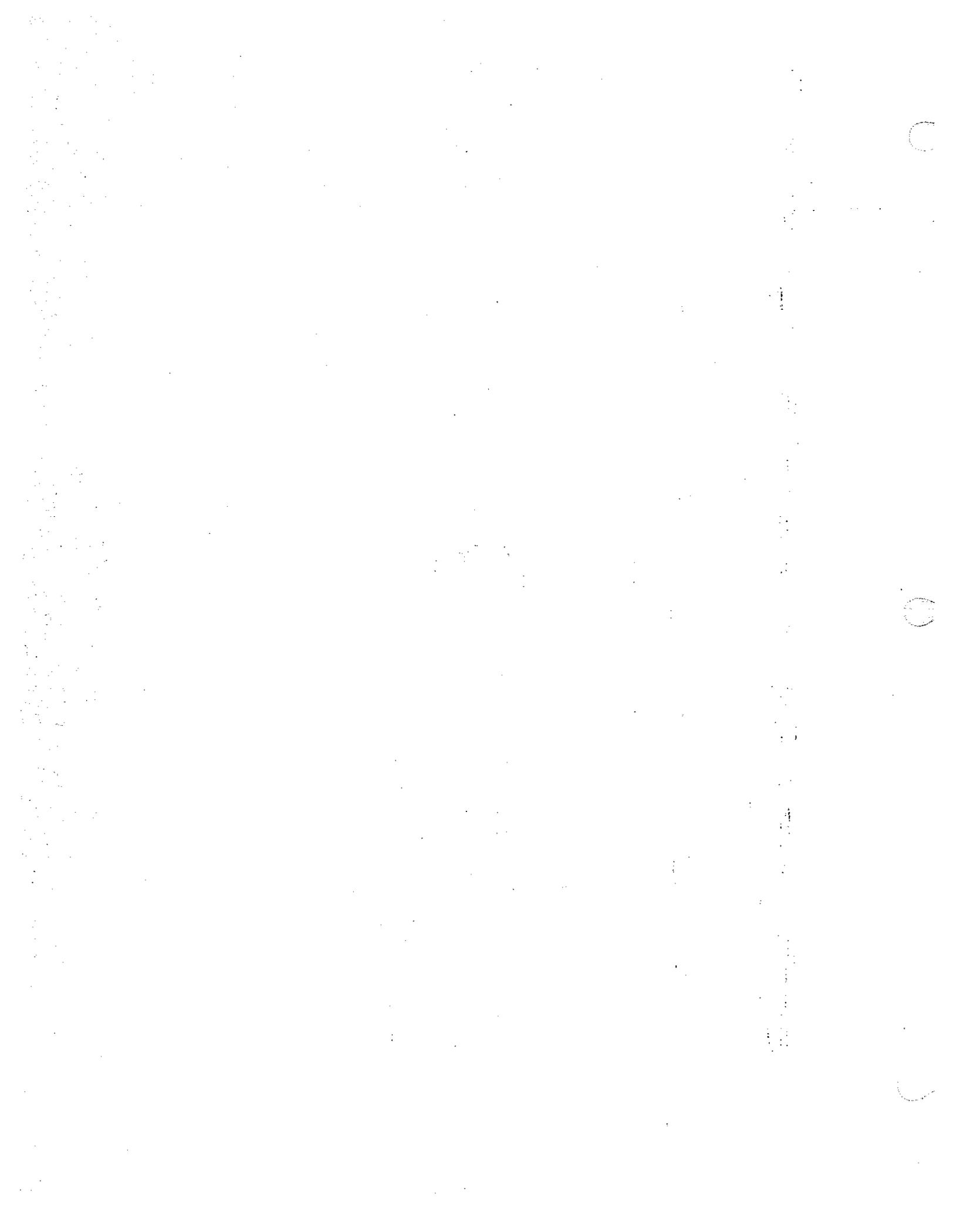
**§ DL-1. Disposition of legislation.**

<b>Ordinance No.</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
2005-1	9-12-2005	Intergovernmental agreements: Shared Adams County UCC Board of Appeals	Ch. 49, Art. I
2005-2	12-12-2005	Collection of earned income and net profits tax	Ch. 90, Art. IIIA
2005-3	12-12-2005	Stormwater management	Superseded by Ord. No. 2012-1
2006-1	1-9-2006	Weeds, brush and grass	Ch. 98
2006-2	5-8-2006	Subdivision and land development amendment	Ch. 85
2006-3	5-8-2006	Intergovernmental agreements: Pennsylvania Local Government Investment Trust	Ch. 49, Art. II
2007-1	5-14-2007	Subdivision and land development amendment	Ch. 85
2007-2	5-14-2007	Building permits and flood hazard areas amendment	Ch. 15, Part I
2007-3	10-8-2007	Outdoor burning	Ch. 68
2009-1	1-12-2009	Building permits and building in floodplain areas commencing February 18, 2009	Ch. 15, Part 3
2009-2	4-13-2009	Sewers: holding tanks	Ch. 78, Art. V
2009-3	8-10-2009	Council of governments	Ch. 26
2009-4	10-12-2009	Noise: domestic pets	Ch. 61, Art. I
2010-1	2-8-2010	Building construction: demolition permits	Ch. 15, Part 4

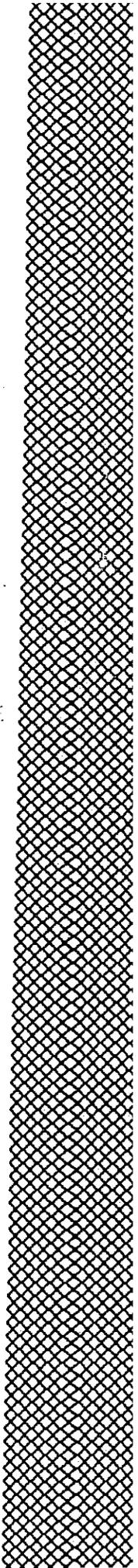
<b>Ordinance No.</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
2010-2	2-8-2010	Intergovernmental agreements: Biglerville-Butler Emergency Management Intermunicipal Agreement	Ch. 49, Art. III
2011-1	1-10-2011	Stormwater management amendment	Superseded by Ord. No. 2012-1
2011-2	11-14-2011	Collection of earned income and net profits tax	Ch. 90, Art. IIIA
2012-1	7-9-2012	Stormwater management	Ch. 81
2013-1	9-9-2013	Subdivision and land development amendment	Ch. 85
2014-1	12-8-2014	Intergovernmental agreements: PSATS Unemployment Compensation Group Trust	Ch. 49, Art. IV
2014-2	12-8-2014	Intergovernmental agreements: PSATS Pension Group Trust	Ch. 49, Art. V
2014-3	1-12-2015	Intergovernmental agreements: Pennsylvania Townships Health Insurance Cooperative Trust	Ch. 49, Art. VI
2015-1	11-9-2015	Intergovernmental agreements: Northern Adams Regional Emergency Management Agency	Ch. 49, Art. VII
2016-1	3-14-2016	Intergovernmental agreements: agreement for implementing Northwest Adams Joint Comprehensive Plan	Ch. 49, Art. VIII

# APPENDIX





**INDEX**



## INDEX INSTRUCTIONS

The main **INDEX**, beginning on page 1, will guide you to the legislation contained within the Code at the time the main **INDEX** was originally prepared. As new legislation is adopted, or existing legislation is amended, the Code pages are replaced by supplementary pages which include the new material, thereby causing some **INDEX** entries to become obsolete. **INDEX** entries to the new material will be provided for in the **SUPPLEMENTAL INDEX**, beginning on page SI-1.

The **SUPPLEMENTAL INDEX** should, therefore, be consulted first, since it refers to the more recent legislation. Then reference should be made to the main **INDEX**.

When received, **SUPPLEMENTAL INDEX** pages should be placed directly following this page and in front of the main **INDEX**, according to the instructions accompanying the supplement.

Numbers in the indices refer to section numbers in the Code, e.g., 39-3 is a reference to Chapter 39, Section 3.

# BUTLER SUPPLEMENTAL INDEX

**DEFINITIONS NOTE:** For the convenience of the Code user, all terms defined in this Code are included in the Index under the heading "Definitions and Abbreviations."

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