

Chapter 27

Zoning

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Part 1**Title, Purpose, and Interpretation****§27-101. Short Title.**

This Chapter shall be known, and so cited, as the “East Nottingham Township Zoning Ordinance of 1971, Revised in 1989, as Amended from Time to Time Including a Comprehensive Amendment in 2005.” It shall be referred to herein as “this Chapter.” (Ord. 2005-9, 12/29/2005, §101)

§27-102. Purpose.

1. This Chapter as amended is prepared in accordance with community goals and objectives as set forth in the East Nottingham Township Open Space Plan, the land use policies of the Chester County *Landscapes* plan element, and with consideration for the character of East Nottingham Township, its various parts, and the suitability of the various parts for particular uses and structures, and with the view to conserving the value thereof and encouraging the most appropriate use of land throughout the Township. The Chapter is enacted under and pursuant to the Pennsylvania Municipalities Planning Code, Act 247 of 1968, 53 P.S. §10101 *et seq.*, as amended.

2. The purpose of this Chapter is to provide zoning regulations:

A. To promote, protect, and facilitate:

- (1) Public health, safety, morals, and general welfare.
- (2) Coordinated and practical community development.
- (3) Proper density of population.
- (4) Provisions of adequate light and air.
- (5) Vehicle parking and loading space.
- (6) Safe and efficient travel by vehicles, bicycles, and pedestrians.
- (7) Water, sewerage, schools, public grounds, and other public requirements.

B. To preserve:

- (1) Prime agricultural land, considering topography, soil type and classification, historic use, traditional character, and present use.
- (2) Environmentally sensitive lands and historic resources.

C. To avert:

- (1) Overcrowding of land, blight.
- (2) Congestion in travel and transportation.
- (3) Loss of health, life, or property from fire, flood, panic, or other dangers.

(Ord. 2005-9, 12/29/2005, §102)

§27-103. Community Development Objectives.

The Board of Supervisors hereby states the policy goals of the Township as listed in the following community development objectives. These objectives are in accordance with the purposes stated in §27-102, are designed to implement those purposes, and should be used when interpreting the provisions of this Chapter:

A. Guide the future development of the Township in accordance with the goals, objectives, and planning strategies identified in any adopted East Nottingham Township Comprehensive Plan. This includes planning for land use and population density, reflecting the most beneficial and desirable relationship between natural resource protection and developed lands, and between land uses.

B. Provide measures that afford the maximum opportunity for the continued viability of the agricultural economy in the Township and the retention of agriculturally suited soils for that purpose.

C. Protect and conserve the rural character of the Township through orderly and planned development, which enhances the social and economic stability of the Township and maintains significant amounts of land in open space.

D. Protect the natural and historic resources of the Township and insure their presence and integrity in the future.

E. Regulate land use so as to bring about the most beneficial relationship between land use and the existing road network, having particular regard to traffic circulation, to the avoidance of congestion, and the provision of safe and convenient access to all tracts and land uses.

F. Protect and conserve the value of Township land and buildings appropriate to the various zoning districts established herein.

G. Provide opportunities for a variety of commercial and industrial uses in appropriate Township areas that limit the impact on other land use types and neighboring communities.

H. Guide public policy and action in the efficient provision of public facilities and services, including the provision of safe and proper wastewater treatment and disposal, water supply, stormwater management, and recreation opportunities.

(Ord. 2005-9, 12/29/2005, §103)

§27-104. Application

The provisions, regulations, limitations, and restrictions of this Chapter shall apply to all land uses, structures, buildings, and signs in the Township.

(Ord. 2005-9, 12/29/2005, §104)

§27-105. Interpretation.

In interpreting and applying this Chapter, its provisions shall be held to be minimum requirements for the promotion of health, safety, morals, and general welfare of the Township and the purposes of the Chapter. Any use permitted subject to the regulations prescribed by the provisions of this Chapter shall conform with all regulations for the zoning district in which it is located and with all other pertinent regulations of the Chapter. This Chapter is not intended to interfere with, abrogate, annul, supersede, or cancel any easements, covenants, restrictions, or reservations contained in deeds or other agreements, but if this Chapter imposes more stringent

restrictions upon the use of buildings, structures, and land than are contained in such deeds or agreements, the provisions of the Chapter shall control.

(Ord. 2005-9, 12/29/2005, §105)

§27-106. Conflict.

Where this Chapter imposes greater restrictions on the use of buildings or land, or upon height and bulk of buildings, or prescribes larger open spaces than are required by the provisions of another ordinance, enactment, rule, regulation, or permit, the provisions of this Chapter shall control. Where the provisions of any statute, other ordinance, or regulation impose greater restrictions than this Chapter, the provisions of such statute, ordinance, or regulation shall control.

(Ord. 2005-9, 12/29/2005, §106)

Part 2**Definitions****§27-201. General Interpretation.**

Unless otherwise expressly stated, the words and phrases listed in this Part shall be construed throughout this Chapter to have the meanings indicated herein. Words in the present tense include the future tense, words in the masculine gender include the feminine, words in the singular include the plural, and those in the plural include the singular. The words “person,” “developer,” “subdivider,” and “owner” include a corporation, unincorporated association, and a partnership or other legal entity, as well as an individual. The words “should” and “may” are permissive. The words “shall” and “will” are mandatory and directive and are not discretionary. The word “Township” means East Nottingham Township, Chester County, Pennsylvania; the term “Board of Supervisors” or “Board” means the Board of Supervisors of East Nottingham Township unless specifically indicated otherwise or in Part 22, where the term “Board” means “Zoning Hearing Board”; the term “Zoning Hearing Board” means the Zoning Hearing Board of East Nottingham Township; and the term “Planning Commission” means the Planning Commission of East Nottingham Township. Where terms or words are not specifically defined, they shall have their ordinarily accepted meanings or such as the context may imply.

(Ord. 2005-9, 12/29/2005, §201)

§27-202. Specific Terms.

Terms or words used herein, unless otherwise expressly stated, shall have the following meanings:

Accessory building—a building with less than 2,000 square feet of ground floor area, subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building.

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. [Ord. 2006-3]

Adult arcade—any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas. [Ord. 2009-18]

Adult bookstore, adult novelty store or adult video store—a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other

visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(2) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as adult bookstore, adult novelty or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

[Ord. 2009-18]

Adult cabaret—a nightclub, bar, restaurant or similar commercial establishment which regularly features:

(1) Persons who appear in a state of nudity or semi-nudity.

(2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

(3) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

[Ord. 2009-18]

Adult entertainment business—an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, escort agency, massage parlor, nude model studio and sexual encounter center.

[Ord. 2009-18]

Adult motion picture theatre—a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

[Ord. 2009-18]

Adult theater—a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities. [Ord. 2009-18]

Agricultural building—shall have the meaning ascribed to it in the Pennsylvania Construction Code Act, 35 P.S. §7210.101 *et seq.*, as the Act and such definition may be amended from time to time. [Ord. 2007-3]

Agricultural use—the use of a property for agriculture, as defined herein.

Agriculture—the cultivation of the soil and the raising and harvesting of the products of the soil including, but not limited to, nurserying, horticulture, mushroom growing, and the breeding and raising of customary domestic animals.

Animal unit (AU)—1,000 pounds live weight of livestock or other animals,

regardless of the actual number of individual animals comprising the unit.

Antenna, commercial communications—a device used to collect and/or transmit wireless communications, radio, and television signals, including panels, microwave dishes, wires, and single poles known as “whips.” This definition shall not include private residence-mounted satellite dishes or television antennae or amateur radio equipment, including without limitation ham and/or citizen band radio antennae.

Antenna, commercial communications, support structure height—the vertical distance measured from the base of a commercial communications antenna support structure at the undisturbed grade to the highest point of the structure. If the commercial communications antenna support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the commercial communications antenna support structure height.

Antenna, commercial communications, support structure (tower)—a monopole or a lattice-construction steel structure designed and intended solely for the support of, and attachment to it, of one or more commercial communications antennas and appurtenant communications equipment; a tower.

Antenna, satellite, or satellite dish—a ground-based reflector, usually parabolic in shape, that receives electronic signals from a satellite. This term shall also include any pedestal or attached structure.

Antenna, standard—a device, partially or wholly exterior to a building, that is used for receiving and/or transmitting short-wave or citizens band radio frequencies or for receiving television, radio or similar frequencies, but not including a satellite dish antennae or a commercial communications antennae.

Antenna, standard, height of—the height of a standard antenna and/or standard antenna support structure shall be measured as follows:

(1) The height of a standard antenna and/or standard antenna support structure unsupported by a separate foundation which is attached to a building shall be measured from the average level of the finished grade along the exterior of the building to which the antenna is attached to the top of the highest point of the antenna.

(2) The height of a standard antenna and/or standard antenna support structure which has a separate foundation and is also attached to a building (not on the roof) shall be measured from the ground level at the point where the antenna is anchored to the ground to the top of the highest point of the antenna.

(3) The height of a standard antenna and/or standard antenna support structure which has a separate foundation and is detached from any building shall be measured from the average ground level of a circle with a center where the antenna is anchored to the ground and extending a radius of 10 feet to the top of the highest point of the antenna.

Antenna, standard, support structure—any pole, monopole, telescoping mast, tower, tripod, lattice construction steel structure or similar structure which supports or has attached to it a standard antenna(s).

Basal area—the cross-sectional area of all stems of a species or all stems in a

stand, measured at breast height (4.5 feet above the ground) and expressed on a per acre basis.

Basement—any area of the building having its floor below ground level on all sides. A basement shall be considered a building story if more than 33.3 percent of the perimeter walls are 5 feet or more above grade and if the net area of the door or window openings in the exterior walls is equal to not less than 10 percent of the enclosed floor area. [Ord. 2006-3]

Bed-and-breakfast establishment—a residential accessory use located wholly within an owner-occupied single-family detached residential dwelling providing public lodging rooms not meeting the definition of “dwelling unit” and facilities for serving food prepared within the building to registered transient guests.

Billboard—a type of off-premises advertising sign which conveys a commercial or noncommercial message unrelated to the activity conducted on the lot where the sign is located, or a sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered, or existing elsewhere than on the same lot where the sign is located.

Board—the Board of Supervisors of East Nottingham Township.

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. [Ord. 2006-3]

Building coverage—the total ground floor area of all buildings on a lot, expressed as a percentage of the net area of the lot on which they are located.

Building height—a building’s vertical measurement from the mean level of the ground surrounding the building to the highest point of the roof, provided that chimneys, spires, towers, elevator, and other unoccupied utility penthouses, tanks, and similar projections shall not be included in calculating the height.

Building setback line—an established line within a lot defining the minimum required distance between any principal building and an adjacent street right-of-way line or other front, side, or rear lot line, and which is sufficient to provide for the minimum lot width or to provide for the minimum yard requirements for the particular district as specified by this Chapter.

Cellar—a story partly underground but having at least one-half of its height (measured from finished floor to finished ceiling) below the average height of the finished grade where such grade abuts the exterior walls of the building. A cellar shall not be counted as one story in determining the permissible number of stories.

Cemetery—a burial place or graveyard, including a mausoleum, crematory, or columbarium, in which human or animal remains are buried. A cemetery may be operated, in accordance with the terms of this Chapter, as a principal use or as a use accessory to agriculture, a church, or a dwelling. The interment or scattering of remains of properly cremated humans is not regulated by this Chapter.

Class I historic resource –

- (1) All sites designated by the Secretary of the Interior as national historic landmarks.
- (2) All buildings, sites, structures, and objects listed individually in the

National Register of Historic Places.

(3) All buildings and structures classified as certified historic structures by the Secretary of the Interior.

(4) All buildings, sites, structures, and objects documented as contributing resources in a National Register Historic District.

(5) Any resources which have received a determination of eligibility (DOE) by the Pennsylvania Historical and Museum Commission (PHMC).

(6) Any buildings, sites, structures, or objects documented as contributing resources within any historic district which has received a determination of eligibility (DOE) from the PHMC.

[Ord. 2007-7]

Class II historic resource –

(1) Has significant character, interest or value as part of the development, heritage or cultural characteristics of the Township, County, region, Commonwealth or nation, or is associated with the life of a person significant in the past.

(2) Is associated with an event of importance to the history of the Township, County, region, Commonwealth or nation.

(3) Embodies distinguishing characteristics of an architectural style or engineering specimen.

(4) Is the noteworthy work of a designer, architect, landscape architect or designer, or engineer whose work has significantly influenced the historical, architectural, economic, social, or cultural development of the Township, County, region, Commonwealth or nation.

(5) Has yielded, or may be likely to yield, information important in prehistory or history.

(6) Exemplifies the cultural, political, economic, social or historical heritage of the community.

(7) Is listed in the East Nottingham Township Historic Resources Inventory.

[Ord. 2007-7]

Clear-cutting—a logging method that removes all trees, or the vast majority of all trees, from a tract of land or a portion thereof. Clear cutting shall be deemed to occur when a lot has been cleared to less than 30 basal feet/acre.

Club, fraternal organization—an establishment operated for social, athletic, recreational, or educational purposes, generally open to members only and not to the public.

Commercial communications equipment building—a building or cabinet in which electronic receiving, relay, or transmitting equipment for a wireless communications facility is housed.

Commercial composting processing operation—any mixing, combining, processing, aerating, packaging, shipping, or similar use of any composting materials or storing processed compost for the purpose of sale or distribution. The

term commercial composting operations shall include all manure storage operations and land application of any composting materials, but shall not include the manure resulting from an on-site agricultural operation, nor manure product being spread on fields as fertilizer for agriculture. The term shall include spent mushroom growing substrate, as well as material being processed to be used as “fresh” mushroom compost.

Completely dry space—a space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

Composting materials—any organic waste material, including, but not limited to, the manure of any animal, organic material produced or reclaimed from cleaning any barn or other building used for raising of agricultural products, livestock, poultry or horse stable or similar structure, or any other organic material which is stored, combined, processed, aerated, packaged, shipped for reuse or application on any property or any additional processing.

Composting, residential –

(1) Normal waste materials of a residential property, generated on same property and contained in some manner.

(2) Containment of residential compost materials must meet setback regulations for accessory buildings within district.

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

Convenience store—a retail use structure and associated facilities providing convenience items and services to the general public including, but not limited to, the sale of food, beverages, personal care items, automotive fuel and lubricants, and similar items, and automatic teller machine banking facility.

Day care facility—a facility providing supervision of minors or special needs adults by individuals other than family members for which a fee may or may not be charged. A day care facility shall not provide overnight accommodations. A day care facility shall not be a school as defined by this Chapter, except as noted herein.

(1) *Adult day care*—a use providing supervised care and assistance primarily to persons who are mentally retarded and/or physically handicapped who need such daily assistance because of their limited physical abilities, Alzheimer’s disease or mental retardation. This use shall not include persons who need oversight because of behavior that is criminal or violent.

(2) *Child day care*—a use involving the supervised care of children under age 16 outside of the children’s own home primarily for periods of less than 18 hours during the average day. This use may also include educational programs that are supplementary to State-required education, including a nursery school. Such use shall comply with all applicable Federal and State laws. The care of children by their own relatives is permitted without regulation by this Chapter.

(3) *Family day care*—a type of day-care use that provides care for six or fewer children at one time, in addition to children who are relatives of the

caregiver, when permitted by special exception as a home occupation.

(4) *Day care as a principal use*—a type of day-care use that provides care for seven or more persons at any one time, in addition to persons who are relatives of the primary operator; such facility shall constitute the principal use of the property.

(5) *Day care as an accessory use*—a type of day-care use where the provision of day-care service is incidental and secondary to the principal use of a lot (e.g., a church nursery or employee day care facility).

Diameter breast height (dbh)—the diameter of a tree at breast height, usually measured 3½ feet from the ground surface.

Demolition—the razing or destruction, whether entirely or in significant part, of a building, structure, site, or object. Demolition includes the removal of any building, structure, or object from its site, or the removal or destruction of the facade or surface.

Developer—any landowner, agent of such landowner, or tenant with the permission from a landowner, who makes or causes to be made the improvements associated with a subdivision or land development.

Development—any man-made change to improved or unimproved real estate including, but not limited to, the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land. [Ord. 2006-3]

Dwelling, dwelling unit—a building or portion thereof providing one or more rooms arranged for the use of one or more individuals living together as a single housekeeping unit, and having no cooking or sanitary facilities in common with any other dwelling unit. Dwellings may be classified as follows:

(1) *Single-family detached*—a building having only one dwelling unit from ground to roof, independent outside access, and open space on all sides.

(a) The term “single-family detached dwelling” shall be deemed to include a “sectional or modular home” which is designed for transportation after fabrication in one or more units and constructed so that it must be assembled on a permanent perimeter foundation and which complies with this Chapter and the Uniform Construction Code (UCC), which is the Township Building Code [Chapter 5, Part 1].

(b) A “group home,” as defined by this Chapter, shall be deemed a single-family detached dwelling.

(c) A mobile home or manufactured home, as defined below, shall be deemed a single-family detached dwelling.

(2) *Mobile (manufactured) home*—a transportable dwelling intended for permanent occupancy by one family, contained in one unit or in more 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 as to be used without a permanent foundation, including any

addition or accessory structure, such as porches, sheds, decks, or additional rooms. A mobile home shall meet the construction standards set by the U.S. Department of Housing and Urban Development, but is not required to meet the Uniform Construction Code (UCC), which is the Township Building Code [Chapter 5, Part 1]. The term includes park trailers, travel trailers, and recreational and other similar vehicles that are placed on a site for more than 180 consecutive days. The terms “mobile home” and “manufactured home” have the same meaning.

(3) *Two-family*—a building containing two dwelling units (detached or semidetached) including, but not limited to, twin or duplex:

(a) *Twin*—a building containing two dwelling units, separated by a party wall, each having independent outside access and open space on three sides.

(b) *Duplex*—a building containing two dwelling units from ground to roof, each of which has independent outside access and open space on all sides.

(4) *Multi-family*—a building containing three or more dwelling units including, but not limited to, quadraplex (fourplex, four-family), townhouse (single-family attached), and apartment buildings:

(a) *Quadraplex*—a building containing four dwelling units, each of which has independent outside access, two nonparallel walls in common with adjacent dwelling units, and open space on two nonparallel sides.

(b) *Townhouse*—a building containing dwelling units separated by parallel party walls, each of which has only one dwelling unit from ground to roof, independent outside access, not more than two walls in common with adjoining units, and open space to the front and rear (internal units) or front, rear, and one side (end units).

(c) *Apartment*—a building, not exceeding two and one-half stories in height, containing three or more dwelling units separated by party walls, which may have more than one dwelling unit from ground to roof, common outside accesses, and in which no more than six dwelling units have common hallways and entrances.

Easement—a permanent right-of-way granted for limited use of private land, for a private, public or quasi-public purpose (e.g., utility, drainage, public access, conservation). The owner of the property shall have the right to make any other use of the land that is not inconsistent with the rights of the grantee.

Easement, conservation—a legal agreement between a property owner and an appropriate conservation organization or governmental entity, through which the property owner establishes certain use restrictions over all or portions of the property for conservation purposes.

Escort agency—a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration. [Ord. 2009-18]

Essentially dry space—a space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially

impermeable to the passage of water.

Even-aged stand—a stand of trees composed of a single age class in which the range of ages is usually +/- 20 percent of the total stand rotation.

Family –

(1) A single person occupying a dwelling unit and maintaining a household.

(2) Two or more persons related by blood, marriage, formal foster relationship, or adoption occupying a dwelling unit, living together and maintaining a common household, including not more than two boarders, roomers, or lodgers.

(3) Not more than four unrelated persons occupying a dwelling unit, living together and maintaining a common household.

Fill—material, exclusive of structures, placed or deposited so as to form an embankment or raise the surface elevation of the land.

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

Flood—a temporary inundation of normally dry land areas. [Ord. 2006-3]

Flood hazard—the highest level of flooding that, on the average, is likely to occur every 100 years, i.e., that has a 1 percent chance of occurring each year, as delineated by maps and related materials developed by the Federal Emergency Management Agency for the National Flood Insurance Program.

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

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. [Ord. 2006-3]

Floodproofing—any combination of structural and nonstructural additions, changes, or adjustments to properties and structures which reduces or eliminates flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

Floodway—the designated area of a flood plain required to carry and discharge flood waters of a given magnitude. For purposes of the Chapter, the floodway shall be capable of carrying and discharging the waters of the 100-year flood.

Floor area—the sum of the area of the several floors of a building or buildings, measured from the face of the exterior walls or from center lines of walls separating two buildings. In particular, floor area includes, but is not limited to, the following:

(1) Basement space if it meets the requirements of a building story.

(2) Elevator shafts, stairwells, and attic space (whether or not a floor has been laid) providing structural headroom of 8 feet or more.

(3) Roofed terraces, exterior balconies, breezeways or porches, provided that over 50 percent of the perimeter of these is enclosed.

(4) My other floor space used for dwelling purposes, no matter where located within the building.

(5) The area of accessory buildings.

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

Fresh mushroom compost—composting materials as herein defined being prepared and processed for the purpose of creating a medium in which to grow mushrooms.

Funeral home—an establishment, approved by the Pennsylvania Board of Funeral Directors, wherein a licensed funeral director conducts the professional practice of funeral directing, including the preparation, care, viewing, and funeral services for deceased humans. A funeral home shall not include a cemetery, columbarium, mausoleum, or entombment.

Golf course—either a publicly or privately owned and operated course which shall have a minimum of nine holes of golf. Neither a commercial driving range nor a commercial miniature golf area shall be considered a golf course for purposes of this Chapter.

Group home—a dwelling unit occupied by a maximum of four unrelated individuals, suffering a medically recognized mental or physical impairment or disability not currently requiring hospitalization, residing together as a single housekeeping unit and using cooking facilities and certain household rooms in common as though they were a family unit.

(1) The term “group home” shall not include any use meeting the definition of a “treatment center” or “personal care home.”

(2) The term “group home” shall not involve the housing or treatment of persons who could reasonably be considered a threat to the physical safety of others.

(3) The term “group home” shall not involve the housing or treatment of people whose residence at the home is transient in nature.

(4) The term “group home” shall not apply to a facility where profit motive of the operator is the basis of the relationship among the residents.

(5) A group home shall be subject to the regulations applicable to a single-family detached dwelling in the zoning district in which it is located.

Habitable space—a space in or attached to a building for living, sleeping, eating, or cooking. Decks, porches, and garages shall be considered habitable space.

Hazardous waste—garbage, refuse, or sludge from an industrial or other waste water treatment plant; sludge from a water supply treatment plant or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or

contained gaseous material resulting from municipal, commercial, industrial, institutional, mining, or agricultural operations, and from community activities; or a combination of the above; which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may do one of the following:

- (1) Cause or significantly contribute to an increase in mortality or increase in morbidity in either an individual or the total population.
- (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Historic resource—a Class I or Class II historic resource as defined in §27-2502 and this Part, and which is listed on the East Nottingham Township Historic Resource Inventory. [Ord. 2007-7]

Historic resource impact study—a study of the potential impacts of proposed land development and/or land disturbance on nearby historic resources, including study of potential means to mitigate negative impacts, required to be submitted to the Township in certain land development scenarios, in accordance with §27-2511 of this Chapter. [Ord. 2007-7]

Historic resources inventory—the East Nottingham Township Historic Resources Inventory, a list and corresponding map indicating the locations of all Class I and Class II historic resources in the Township, including both principal and contributing resources, to which the provisions of §§27-2503 through 27-2505 of this Chapter apply. [Ord. 2007-7]

Historic structure—Any structure that is designated a Class I or Class II historic resource. [Ord. 2007-7]

Historically significant structure or site—a building, structure, or site located within East Nottingham Township that is:

- (1) Listed in the National Register of Historic Places.
- (2) Recipient of a Determination of Eligibility (DOE) for the National Register.
- (3) Deemed by the East Nottingham Township Historical Commission to meet substantially the National Register criteria.

Home occupation, no-impact—a use that is customarily accessory to, and carried on within, a dwelling unit by one or more residents of such dwelling unit in accordance with the standards of this Chapter. Such use shall be clearly secondary to the principal residential use, and shall meet the standards for a “no-impact home business” contained in the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*

Home occupation, major—a use that is customarily accessory to a principal residential use, but that does not meet the criteria for a no-impact home occupation and requires review and approval as a special exception by the Zoning Hearing Board in accordance with the standards of this Chapter.

Hotel, motel, inn—a building or group of two or more buildings located on a lot held in single and separate ownership, designed, intended, and used principally for providing sleeping accommodations to the transient public in rooms or suites which may include a kitchen facility, and which are provided with a daily maid service.

The following ancillary facilities may be provided as an integral part of a hotel, motel, or inn, provided, however, that no gambling or electronic gambling devices shall be permitted: restaurant, meeting rooms, banquet facilities, and shops for the sale of books, papers, magazines, clothing, and sundries to guests; recreation facilities for use only by registered guests, such as a swimming pool, exercise area or room; and similar ancillary facilities commonly accessory to a hotel, motel, or inn.

Hydric soils—those soils identified as hydric soils or soils with hydric inclusions in the *Soil Survey of Chester and Delaware Counties*.

Identified floodplain area—the floodplain area specifically identified in this Chapter as being inundated by the 100-year flood.

Impervious surface—a surface which prevents the penetration of water into the ground, including roofs, concrete, asphalt, composed shale, sidewalks, etc. Any area which may be designed initially to be semi-pervious (e.g., gravel, crushed stone, porous pavement, etc.) shall be impervious surface for the purpose of calculations.

Improvement—an appurtenance developed by human design including, but not limited to, buildings, structures, objects, landscape features, and manufactured units, including by way of example mobile homes, boats, docks, carports, storage buildings, utilities, and driveways.

Invasive species—any plant species, native or exotic, that disrupts the natural diversity of an ecosystem by aggressively out-competing native species. Such species shall include, but not be limited to, those regulated under the Pennsylvania Noxious Weed Control Law, 3 P.S. §255.1 *et seq.*

Junkyard—an area and/or structure used for the collection, storage, and/or sale of used and discarded materials including, but not limited to, house furnishings, wastepaper, scrap metal, building materials, machinery, or wrecked, disabled, or unregistered vehicles or parts thereof, with or without the dismantling, processing, salvaging, or other use or disposition of same. Two or more wrecked, disabled, currently unregistered vehicles or vehicles without a current inspection sticker, or the major parts thereof, excluding farm vehicles or vehicles contained in a towing service impoundment area, shall constitute a junkyard and shall only be stored in a licensed junkyard. Toxic wastes, radioactive materials, poisons and other substances that are potentially harmful to man, as well as the collection, storage, and/or disposal of tires unattached to a vehicle, are excluded from this definition and prohibited as part of a junkyard operation.

Kennel—a place for the keeping, breeding, and/or boarding of more than four dogs or similar domestic animals for commercial purposes.

Land development—any of the following activities:

(1) The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:

(a) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure.

(b) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective

occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

(2) A subdivision of land.

(3) Development in accordance with §503(1.1)(i) and (iii) of the Municipalities Planning Code, 53 P.S. §10503(1.1)(i), (iii). The addition of an accessory building or construction of any agricultural building on a lot or lots subordinate to an existing principal building shall not be considered a land development for purposes of this Chapter. [*Ord. 2007-3*]

(4) The addition or expansion of access driveways and parking lots less than 2,000 square feet shall not be considered land development for purpose of this Chapter.

(5) The addition of features to an existing development in order to conform to the requirements of Part 17 of this Chapter (i.e., lighting, screening, landscaping, etc.) shall not be considered land development.

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

Logging—a forestry activity involving the cutting down and removal of trees and logs to be converted to any forest product or for sale to others. Logging shall not include the cutting and removal of trees as part of a Christmas tree farm operation or when part of site preparation in association with an approved subdivision or land development plan.

Lot—a parcel of land held in single and separate ownership, undivided by any street or dedicated future street right-of-way. Such parcel shall be separately described by metes and bounds, the description of which is recorded in the office of the Recorder of Deeds of Chester County by deed description or is described by an approved subdivision plan recorded in the office of the Recorder of Deeds of Chester County.

Lot area, gross—the area of land contained within the property lines of a lot as defined in the deed or as shown on an approved subdivision plan.

Lot area, net—the gross area of the lot, but excluding the following conditions or features:

(1) Any area within an existing or proposed right-of-way or easement for aboveground or underground utilities, including water supply and wastewater facilities, other than for local service.

(2) Any area comprising a stormwater management basin, lake, or pond, but not including on-lot berms.

(3) Any area delineated as a wetland.

(4) Any area which has existing natural slope exceeding 25 percent.

(5) Any area designated by the Township as floodplain.

(6) Any portion of an access strip connecting an interior lot to a street.

(7) Any area within the first 25 feet of the Riparian Corridor Conservation

District.

Where a lot contains land with more than one of the above features, such area shall be excluded once in calculating the net lot area.

Lot, corner—a lot bounded on at least two sides by streets whenever the lines of such streets extended from an interior angle of 135 degrees or less. All yards adjacent to streets shall be considered front yards. The remaining yards shall be side yards.

Lot, interior (flag)—a lot which does not adjoin a street but is connected thereto by an access strip of required minimum width. Minimum lot area and other dimensional requirements shall be those of the applicable zoning district, and shall be met on that portion of the lot exclusive of the access strip. The access strip must be a fee simple portion of the lot, but shall not be counted as part of the minimum lot area required by applicable zoning provisions.

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

Lot line, front—the lot line abutting any street and coinciding with any street line. In the case of a corner lot, each of the two (or more) street-abutting lot lines shall be considered a front lot line. In the case of an interior lot, the front lot line shall be the line most parallel and closest to the street line at the end of the access strip; all other lines shall be side or rear lot lines.

Lot line, rear—a lot line opposite and most distant from the front lot line; if the rear lot line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line. In the case of a corner lot, any lot line that is not a front lot line or a side lot line.

Lot line, side—any lot line not a front or rear lot line; in the case of a corner lot, any lot line that intersects a front lot line shall be considered a side lot line.

Lot, nonconforming—a lot which does not conform to the minimum width, depth, or area dimensions specified for the district where such lot is situated but was lawfully in existence at the time of enactment of this Chapter or a prior zoning ordinance, or is legally established through the granting of a variance by the Zoning Hearing Board.

Lot, reverse frontage—a lot extending between and having frontage on an arterial or collector street and a local street, with vehicular access solely from the local street.

Lot width—the horizontal distance between the side lot lines, measured at right angles to the lot depth.

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 Chapter.

Manufactured home—see “mobile home” within the definition of “dwelling unit.”

Massage parlor—an establishment in which personal massages are offered to customers or clients but excluding any establishment or use therein which would be prohibited by the Pennsylvania Crimes Code, 18 Pa.C.S.A. §101 *et seq.* [Ord. 2009-18]

Minor repair—the replacement of existing work with equivalent materials for the purpose of routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting 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, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

Mobile home lot—the area upon which an individual mobile home shall be placed in a mobile home park.

Mobile or manufactured home park—a parcel of land under single ownership, which has been planned and improved for the placement of two or more mobile or manufactured homes for nontransient use.

Municipalities Planning Code—Pennsylvania Act 247-1968, 53 P.S. §10101 *et seq.*

New construction—structures for which the start of construction commenced on or after August 17, 1985, and includes any subsequent improvements thereto, for the purpose of complying with the requirements of the National Flood Insurance Program. [Ord. 2006-3]

Noxious vegetation—plant material that is undesirable or offensive due to unsightliness, threats to health, or prolific and uncontrollable growth. For purposes of this Chapter, noxious vegetation shall include, but not be limited to, ragweed, multiflora rose, Canada thistle, Japanese honeysuckle, oriental bittersweet, and other such vegetation as shall be determined by the Pennsylvania Department of Agriculture.

Nude model studio—any place where a person who appears semi-nude, in a state of nudity or who displays specified anatomical areas and is observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the Commonwealth of Pennsylvania or an establishment within an educational use as defined in this Chapter. [Ord. 2009-18]

Nudity or a state of nudity—the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state. [Ord. 2009-18]

One hundred year flood—a flood that, on the average, is likely to occur once every 100 years (i.e., that has 1 percent chance of occurring each year, although the

flood may occur in any year).

Parking space—a parking space consists of:

- (1) Space with a dustless, approved all-weather surface.
- (2) Space in a private garage or similar structure.
- (3) Space for one vehicle that is a minimum of 10 feet by 20 feet in size.
- (4) Space that has safe and convenient access, in all seasons, to a public way.

Paved surface—the total area of impervious surface, exclusive of building coverage, on a lot, expressed as a percentage of the net area of the lot on which such surface is located.

Person—includes a firm, company, corporation, partnership, proprietorship, trust, organization, association or any other legal entity, as well as an individual. Person shall include the partners of such partnership, the officers of such organization, association, or corporation, the trustees of such trust and all individuals of which such legal entity is comprised. [Ord. 2009-18]

Personal care home—a residential use providing residential and support services primarily to persons who are over age 60, physically handicapped and/or developmentally disabled, and that is licensed as a personal care home by the Commonwealth of Pennsylvania. Not more than eight residents, together with the operator and any required support staff, shall occupy a personal care home.

Place of religious worship—an institution or structure that people use primarily to participate in or hold religious services, meetings, and other religious related activities. The term shall include any building, other than a principal residence, in which the religious services of any denomination or faith are held.

Planned commercial village—a type of shopping center, designed for three or more commercial uses, in which the scale, design, and type of uses are intended to maximize compatibility with traditional village and neighborhood commercial settings, and which can be accessed by pedestrians and vehicles.

Planning Commission—the Planning Commission of East Nottingham Township.

Pre-commercial timber stand improvement—a forest practice, such as thinning or pruning, which results in better growth, structure, species composition, or health for the residual stand but which does not yield a net income to the landowner because any trees cut are of poor quality or are too small or otherwise of limited marketability or value.

Professional forester—a person who has a B.S. or higher degree in forestry from a 4-year school of forestry associated with or accredited by the Society of American Foresters.

Protected open space—a parcel or parcels of land, an area of water, or a combination of land and water which, regardless of ownership, is restricted from further subdivision or development for other than open space purposes permitted in accordance with this Chapter.

Recreational vehicle—a vehicle which is (1) built on a single chassis; (2) not more than 400 square feet, measured at the largest horizontal projections; (3)

designed to be self-propelled or permanently towable by a light-duty truck; (4) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. [Ord. 2006-3]

Regulatory flood elevation—the 100-year flood elevation plus a freeboard safety factor of 1½ feet.

Rehabilitation—the process of returning a property to a state of utility through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historical, architectural, and cultural values.

Residential conversion—the creation of two or more dwelling units within an existing single-family detached dwelling, with the resulting units each having independent kitchen, bath, and sleeping facilities.

Restaurant—the following types of restaurants are addressed by this Chapter:

(1) *Restaurant*—an establishment that sells ready-to-eat meals to the public which are clearly primarily consumed within the building or the place of business, and where waiters and/or waitresses serve the clear majority of non-buffet food and beverages to patrons while the customers are seated. Unless otherwise stated, such restaurant shall not include a drive-through lane.

(2) *Fast-food restaurant*—a restaurant that sells ready-to-eat meals to the public and which does not meet the definition of a “restaurant” in subparagraph (1), above. This use typically involves customers making orders at an inside window or service area or cafeteria line, with the food consumed either at seating areas within the building or off the premises, and which typically involves customers eating the food outside of the building relatively frequently.

(3) *Restaurant with drive-through service*—a restaurant that includes service to customers remaining seated in automobiles, either through an exterior window or service area or through service to parked automobiles.

Retained open space development—a tract or tracts of land, controlled by one applicant, to be developed as a single entity for residential purposes, in which the otherwise applicable lot sizes and densities for the zoning district are modified in exchange for the retention and permanent protection of open space.

Riparian corridor—areas surrounding surface water bodies, including creeks, lakes, intermittent watercourses, and wetlands that intercept surface water runoff, wastewater, subsurface flow, and/or deep groundwater flows from upland sources and function to remove or buffer the effects of associated nutrients, sediment, organic matter, pesticides, or other pollutants prior to entry into surface waters. These areas may also provide wildlife habitat, control water temperature, attenuate flood flow, and provide opportunities for passive recreation. These corridor areas may or may not contain trees and other native vegetation.

Running-at-large—any instance in which an animal is running about loose on a street, or upon the property of a person other than the owner of such animal, unleashed and unaccompanied by the owner or custodian or any member of the owner’s family or by any servant or agent of the owner of such animal.

Sanitary landfill—a lot or portion of a lot used primarily for the disposal of garbage, refuse, and other discarded materials including, but not limited to, solid and liquid waste materials resulting from industrial, commercial, agricultural, and residential activities. The operation of a sanitary landfill shall be permitted only in compliance with the terms of this Chapter; it shall normally consist of:

- (1) Depositing discarded material in a planned, controlled manner.
- (2) Compacting the discarded material in thin layers to reduce its volume.
- (3) Covering the discarded material with a layer of earth.
- (4) Compacting the earth cover.

A sanitary landfill shall comply fully with all aspects of the definition for such a facility contained in the applicable regulations of the Pennsylvania Department of Environmental Protection.

School, farm-related—a private, nonprofit educational facility for academic instruction, located as an accessory use on a property of at least 20 acres that is actively involved in agriculture.

School, private—an educational use properly certified by the Commonwealth of Pennsylvania, including: pre-school, elementary/middle, or secondary school; college; or similar non-public educational facility for academic instruction, but excluding: (i) private vocational or similar adult trade school or training center; (ii) therapeutic, rehabilitative, or correctional institution; and (iii) any principal residential use.

School, public—an educational use operated and/or administered by the Oxford Area School District or its lawful successors, including: public pre-school, elementary/middle, or secondary school; charter school when in accordance with the regulations of the Commonwealth of Pennsylvania; or similar educational facility for academic instruction.

School, trade—a facility that is primarily intended for education of a work-related skill or craft or a hobby, and that does not primarily provide State-required education to persons under age 18; may include, e.g., dancing school, martial arts school, or ceramics school, or private vocational school.

Selective cutting—the felling of certain, but not all, trees in an area for purposes of:

- (1) Removing dead, diseased, damaged, mature, or marketable timber.
- (2) Improving the quality of a tree stand or species.
- (3) Meeting personal domestic needs.

Self-service storage warehouse—a building or group of buildings divided into individual, separately accessed units that are rented or leased for the storage of personal and small business property.

Semi-nude or in a semi-nude condition—the state of dress in which clothing partially or opaquely covers specified anatomical areas. [Ord. 2009-18]

Sewage facilities—

- (1) *Individual system*. The disposal of sewage by use of septic tanks or other safe and healthful means, approved by the Chester County Health Department and generally within the confines of the lot on which the use is

located.

(2) *Community system.* A sanitary sewage system in which sewage is carried from individual dischargers by a system of pipes to one or more common treatment and disposal facilities. Treatment and disposal may occur either on-site or off-site, and shall be approved by the Pennsylvania Department of Environmental Protection.

(3) *Public system.* Any system designed and operated by the Oxford Area Sewer Authority for the treatment and disposal of sewage in which sewage is conveyed by a system of pipes to an off-site, publicly-operated treatment facility and disposed of through means approved by the Pennsylvania Department of Environmental Protection.

Sexual encounter center—a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex.

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

[Ord. 2009-18]

Sign—any device for visual communication which is used or intended to attract the attention of the public with a purpose of identifying, when display of the device is visible beyond the boundaries of the public or private property upon which the display is made. The term “sign” shall not include any flag or badge or insignia of the United States, State of Pennsylvania, Chester County, East Nottingham Township, or official historic plaques of any governmental jurisdiction or agency.

Single and separate ownership—the ownership of a lot by one or more persons, which ownership is separate and distinct from that of any adjoining property.

Slash—unusable woody material such as large limbs, tops, cull logs, and stumps that remain after a logging operation.

Sludge—digested sewage treatment plant sludge or other commercial waste materials which any person seeks to spread or place on the land, other than commercially prepared and sold agricultural fertilizers and agriculturally-produced animal wastes.

Small-scale keeping of livestock—any activity involving the breeding, raising, caring for, housing, and principally the hobby/personal use of domestic animals and/or products derived from those animals for use by the occupant, owner, or lessee of the lot on which such use is located. Such animals may include, but need not be limited to, equine species such as horses and ponies, camelids such as llamas and alpacas, and other species not defined as household pets or regulated elsewhere in this Chapter; the term shall not include poultry, fowl, or the operation of a kennel. Incidental sales of animals or animal products directly associated with the use may be permitted; however, no stock-in-trade sales, mail order business, sales building or sales area shall be permitted. A small-scale livestock use shall be considered accessory to single-family detached dwelling or other permitted principal use located on the same lot; otherwise, the livestock use shall be

considered the principal use for all regulatory purposes.

Soil survey—a scientific survey of soil conditions and characteristics prepared by the former United States Soil Conservation Service or current Natural Resources Conservation Service; in particular, the Soil Survey of Chester and Delaware Counties (1963), as it may be updated or amended.

Special permit—a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain. [Ord. 2006-3]

Specified anatomical areas—human genitals, pubic region, anus, buttocks, female breast(s) below a point immediately above the top of the areola, or human male genitals in a discernible turgid state, even if completely covered. [Ord. 2009-18]

Specified sexual activities—any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy.

(3) Excretory functions as part of or in connection with any of the activities set forth in subparagraphs (1) and (2) above.

[Ord. 2009-18]

Spent mushroom growing substrate (also “spent mushroom compost”)—any material or substance remaining, which is no longer used for growing mushrooms, after the mushroom growing cycle is complete, and the crop harvested. The material generally consists of organic material such as straw, manure, hay, cobs, peat moss, and/or soil as remains after crop harvest. This definition shall be deemed to include “aged spent mushroom compost” which is the material remaining after the spent mushroom compost has been subjected to natural elements for a period of time, after which the fibrous constituents thereof have been naturally conditioned by the elements, leaving a primarily humus-type material suitable for potting soil or topsoil.

Stand—any area of forest vegetation whose site conditions, past history, and current species composition are sufficiently uniform to be managed as a unit.

Standard animal weight—the given weight of a particular animal, whether mature or immature, used to determine how many animals comprise an “animal unit” as defined by this Chapter. For example, the standard weight for a mature horse for nondraft breeds shall be 1,000 pounds and for draft breeds shall be 1,700 pounds. Standard animal weights shall be as listed in Table A of 25 Pa.Code §83.262 of the Pennsylvania Nutrient Management Rules and Regulations.

Start of construction (including “substantial improvement”)—the date of issuance of a building permit, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or

the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Steeple—a tall tapering structure narrowing to a point at the top that is located on the roof of or is a part of the superstructure of a church or other place of worship.

Story—that portion of a building located between the surface of any floor and the ceiling or roof next above it.

Stream bank—the boundary of a stream channel within which is contained the volume of surface water of the stream under normal flow conditions.

Stream centerline—a surveyed line established in the middle of the surface water of a stream, running parallel to and equidistant from each bank under normal flow conditions.

Street—a way intended for general public use to provide a means of approach for vehicles and pedestrians. The word “street” includes the words “road,” “highway,” “thoroughfare,” and “way.”

Street right-of-way line—the line dividing a lot from the full street right-of-way, not just the cartway. The word “street” shall include, but not be limited to, the words “road,” “highway,” and “thoroughfare.”

Structure—any material or combination of materials which are constructed or erected, the use of which requires location on or in the ground or water, or attached to something located on or in the ground or water, including but not limited to, buildings, sheds, manufactured homes, and other similar items. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land. [Ord. 2006-3]

Structure, nonconforming—a structure which does not comply with the applicable area/bulk, floor area, and/or design standards of this Chapter, but which was lawfully in existence prior to the enactment of this Chapter or a prior zoning ordinance.

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. The subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

Substantial damage—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 percent 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 percent of the market value of the structure before the “start of construction” of the improvement.

This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications, which have been identified by the local 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.

(2) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

Swimming pool—a temporary or permanent structure containing a pool of water with a depth of more than 2 feet, which is used or intended to be used for swimming or bathing.

Township—the Township of East Nottingham.

Tract—one or more lots assembled and presented as a single property for purposes of subdivision or land development.

Tract area, gross—the total acreage of a tract lying within existing property lines, as defined by the deed, prior to the initiation of subdivision or land development.

Tract area, net—the gross area of a tract, but excluding the following conditions and features:

(1) Any area within an existing right-of-way or easement for: (a) a public or private street; or (b) above-ground or underground utilities, including water supply and wastewater facilities, other than for local service.

(2) Any area comprising an existing lake or pond.

(3) Any area delineated as a wetland.

(4) Any area which has existing natural slopes exceeding 25 percent.

(5) Any area designated by the Township as floodplain.

(6) Any area within the first 25 feet of the Riparian Corridor Conservation District.

Where a tract contains land with more than one of the above features, such area shall be excluded once in calculating the net tract area.

[Text continued on p. 27-33]

Treatment center—a use (other than a correctional facility) providing housing facilities for more than five persons who need specialized housing, treatment, and/or counseling for stays that are routinely less than 1 year and who need such facilities because of:

- (1) Criminal rehabilitation, such as a criminal halfway house or a treatment/housing center for persons convicted of driving under the influence of alcohol.
- (2) Addiction to alcohol and/or a controlled substance.
- (3) A type of mental illness or other behavior that could cause a person to be a threat to the physical safety of others.
- (4) A medically recognized mental or physical impairment or disability not currently requiring hospitalization.

Truck freight terminal—a building used for the temporary storage of goods and materials, generally for subsequent distribution to other locations and not involving retail activities.

UCC—the Uniform Construction Code, which is the East Nottingham Township Building Code [Chapter 5, Part 1].

Use—any purpose for which a building or other structure or tract of land may be designed, arranged, intended, maintained, or occupied, or any activity or occupation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Use, accessory—a use subordinate to the principal use of land or a building on a lot and customarily incidental thereto.

Use and occupancy permit—a permit issued by the Zoning Officer prior to the lawfully permitted use or change in use of any structure, building, or the land thereon, in accordance with the terms of this Chapter.

Use, conditional—certain specified uses which may be suitable in certain areas of a district and are allowed or denied by the Board of Supervisors after recommendation by the Planning Commission pursuant to express standards and criteria set forth in this Chapter.

Use, municipal—a use conducted by East Nottingham Township or an authority of which the Township is a member, this use does not include a school.

Use, nonconforming—a use which does not comply with the applicable use provisions of this Chapter, but which was lawfully in existence prior to the enactment of this Chapter or a prior zoning ordinance.

Use, permitted by-right—a use that does not require zoning approval as a use by the Zoning Hearing Board or the Board of Supervisors, but may require plan approval under the terms of the Township Subdivision and Land Development Ordinance [Chapter 22].

Use, principal—the single dominant use or single main use on a lot.

Use, special exception—a use for which the Zoning Hearing Board may grant permission following a public hearing and findings of fact consistent with this Chapter, and provided the Zoning Hearing Board finds that the use complies with

the conditions and standards required by this Chapter.

Variance—relief granted from the terms of this Chapter, pursuant to the provisions of Part 20 of the Chapter and Articles VI and IX of the Municipalities Planning Code, 53 P.S. §§10601 *et seq.*, 10901 *et seq.*

Water supply, central—a system for supplying water from a common groundwater source or sources to multiple users. A water supply, central system must either be a public water supply system or a community water supply system.

Water supply, individual—a system for supplying water to a single user from a private groundwater source located on the same lot as the use.

Water supply system, community—a system which (1) is owned and/or operated by the Township, a municipal authority organized by the Township, a public utility or a bonafide association of lot or building owners, (2) serves only one community, residential subdivision, or commercial or industrial development and (3) is not interconnected with other water supply systems.

Water supply system, public—a system which provides water to the public for human consumption which has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. The term includes collection, treatment, storage and distribution facilities under control of the operator of the system and used in connection with the system. The term includes collection or pretreatment storage facilities not under such control which are used in connection with the system. The term also includes a system, which provides water for bottling or bulk hauling for human consumption. Water for human consumption includes water that is used for drinking, bathing, and showering, cooking, dish washing or maintaining oral hygiene.

Wetland—an area of land and/or water meeting one or more definitions of a “wetland” under Federal and/or Pennsylvania law and/or regulations, whichever is more inclusive.

Yard —an open space on the same lot with a building or group of buildings measured from specified lot lines which restricts the locations of buildings and structures and which is required to be unoccupied and unobstructed from the ground upward, except as herein permitted.

Yard, front—a yard extending the full width of the lot parallel to the front lot line and extending in depth from the front lot line to the nearest point of any part of a structure on the lot; the front yard shall contain no buildings. The minimum depth of a front yard shall be as measured from the ultimate right-of-way of any existing or proposed street.

Yard, rear—a yard extending the full width of the lot parallel to the rear lot line and extending in depth from the rear lot line to the nearest point of any part of a structure on the lot.

Yard, side—a yard extending from the front yard to the rear yard measured parallel to each side lot line, and contained entirely within the lot.

Zoning Map—a map of East Nottingham Township indicating the location of boundaries for each zoning district.

Zoning Officer—the Township officer charged with enforcing the literal terms of the Chapter, and the representative agent of the Zoning Hearing Board.

Zoning Hearing Board—the Zoning Hearing Board of East Nottingham Township.

(*Ord. 2005-9*, 12/29/2005, §202; as amended by *Ord. 2006-3*, 11/14/2006, §I; by *Ord. 2007-3*, 3/29/2007, §1; by *Ord. 2007-7*, 11/19/2007, §2; by *Ord. 2009-18*, 7/13/2009, §3; and by *Ord. 2011-26*, 10/17/2011, §2)

Part 3**Zoning Districts****§27-301. Types of Zoning Districts.**

1. The Township shall be divided into the following base zoning districts:
 - A. R-1 Agricultural-Residential District.
 - B. R-2 Residential District.
 - C. R-3 Residential District.
 - D. C-1 Special Limited Business District.
 - E. C-2 Highway Commercial District.
 - F. I-1 Industrial District.
 - G. I-2 Limited Industrial District.

The locations and boundaries of such base districts shall be as shown on the East Nottingham Township Zoning Map.

2. Further, areas contained within the following zoning overlay districts:
 - A. Floodplain Conservation District;
 - B. Riparian Corridor Conservation District;
 - C. Retained Open Space Development;
 - D. R-1A Transitional Residential Overlay District;

are, in addition to the otherwise applicable provisions of this Chapter, subject to the terms of §27-402, "Floodplain Conservation District"; §27-403, "Riparian Corridor Conservation District"; Part 13, "Retained Open Space Development"; and Part 6, "R-1A Transitional Residential Overlay District," respectively.

(Ord. 2005-9, 12/29/2005, §301)

§27-302. Zoning Map.

1. A Zoning Map shall be kept on file in the Township office. Said map and all notations, references, and data shown thereon are hereby incorporated by reference into this Chapter and shall be as much a part of the Chapter as if all were fully described herein.

2. The Zoning Map shall be so labeled, identified by the signature of the Chairman of the Board of Supervisors, attested by the Secretary of the Board of Supervisors, and shall bear the seal of the Township.

(Ord. 2005-9, 12/29/2005, §302)

§27-303. District Boundary Lines.

1. Boundary lines of the base zoning districts are intended to coincide with lot lines, centerlines of streets and alleys, railroad rights-of-way, beds of streams existing at the time of passage of the Chapter, the corporate boundary of the Township, or as dimensioned on the Zoning Map. If and when dimensions are shown on the Zoning Map between a street and a district boundary line, they indicate that the district boundary

line runs parallel to the centerline of the street, a distance equivalent to the number of feet so indicated. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the Zoning Map.

2. In the event of dispute about the location of the boundary of any district, the Zoning Officer shall investigate and render a determination on the location of the line. Appeals from the determination of the Zoning Officer shall be made to the Zoning Hearing Board.

(Ord. 2005-9, 12/29/2005, §303)

§27-304. Boundary Tolerances.

Where a district boundary line divides a lot at the effective date of this Chapter, the use regulations applicable to the less restricted district shall extend over the portion of the lot in the more restricted district a distance of not more than 50 feet beyond the district boundary line.

(Ord. 2005-9, 12/29/2005, §304)

Part 4**Natural Features Protection Standards****§27-401. Statement of Intent.**

The standards and requirements in this Part are intended to afford appropriate levels of protection to those natural features within East Nottingham Township that represent significant resource opportunities to the Township and its surrounding region or which, when subject to undue disturbance, may constitute threats to public health, safety, and welfare. The Township considers adherence to these standards a basic prerequisite to any land development or disturbance otherwise authorized under this Chapter or other regulations, and has designed the balance of this Chapter to work in harmony with the terms of this Part.

(*Ord. 2005-9, 12/29/2005, §401*)

§27-402. Floodplain Conservation District.

1. *Statement of Intent.* The purposes of the Floodplain Conservation District are:

A. Regulate development that will cause unacceptable increases in flood heights, velocities, and frequencies.

B. Restrict or prohibit certain uses susceptible to flood damage.

C. Protect aquifer recharge areas and other areas of the Township sensitive to pollution and contamination.

D. Require all uses that do occur in floodplain areas to be protected against flooding and to be provided with all necessary access and utilities, which shall also be protected from flood damage.

E. Minimize danger to public health and safety by protecting water supply, sanitary sewage disposal, and natural drainage.

F. Protect the quantity and quality of surface and subsurface water supplies adjacent to and underlying floodplain areas.

G. Contribute to: (1) the protection of stream water against sedimentation; (2) the prevention of stream bank erosion; (3) the maintenance of cool water temperatures; and (4) the preservation of fish and wildlife habitats, through the protection of trees and other riparian vegetation.

H. Maintain the scenic and aesthetic character of the streams and stream valleys.

2. *Description of Floodplain Areas.*

A. *Identification.* The identified floodplain area shall be those areas of East Nottingham Township, Chester County, which are subject to the 100-year flood, as identified in the Flood Insurance Study (FIS) dated September 29, 2006, and the accompanying maps as prepared by the Federal Emergency Management Agency (FEMA), or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study. [*Ord. 2006-3*]

B. *Floodplain Areas.* The identified floodplain area shall consist of the

following specific areas:

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

(2) FF (Flood Fringe Area)—the remaining portions of the 100-year floodplain in those areas identified as an AE Zone in the Flood Insurance Study, where a floodway has been delineated.

C. *Floodplain Boundaries.* The basis for the outermost boundary of the Floodplain Conservation District shall be the 100-year flood elevations as shown in the flood profiles contained in the Flood Insurance Study.

(1) FA (General Floodplain Area)—the areas identified as Zone A in the FIS for which no 100-year flood elevations have been provided. When available, information from other Federal, State, and other acceptable sources shall be used to determine the 100-year elevation, as well as a floodway area, if possible. When no other information is available, the 100-year elevation shall be determined by using a point on the boundary of identified floodplain area which is nearest the site in question.

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

[Ord. 2006-3]

D. *Changes in Identification of Area.* The delineation of any identified floodplain area may be revised by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency (FEMA). [Ord. 2006-3]

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

3. *Permitted Uses.*

A. *Uses Permitted by Right.* The following uses are permitted by right only if conducted under and in accordance with the current provisions of the following: Clean Streams Law of Pennsylvania, 35 P.S. §691.1 *et seq.*; the rules and regulations of the Pennsylvania Department of Environmental Protection; and, all other applicable provisions of this Chapter and the principle that no rise will occur in the 100-year flood level as a result of the proposed activity or development. [Ord. 2006-3]

(1) Agricultural, horticultural, and forestry uses, excluding any

structures, and excluding any grading or filling.

(2) Public and private parks and/or recreation areas, excluding swimming pools, campgrounds, and any structures. Picnic tables, park benches, fireplaces, grills, and playground equipment shall be permitted, if anchored to prevent flotation.

(3) Activities related to the preservation and conservation of natural resources and amenities, excluding any structures; installation and/or enhancement of riparian buffer vegetation.

(4) Stream improvements, fish and farm ponds, dams, or stream relocations, as approved by the Pennsylvania Department of Environmental Protection and, as appropriate, in consultation with the Pennsylvania Fish and Boat Commission and/or the U.S. Fish and Wildlife Service.

(5) Erosion and sedimentation control measures, facilities, and structures, provided no increase in flood heights or frequency, unhealthful ponding, or other unsanitary conditions shall occur.

(6) Yards and open space areas.

(7) One- and two-strand fences.

(8) Culverts, bridges, and the approaches to such culverts and bridges, as also approved by the Pennsylvania Department of Environmental Protection and/or the U.S. Army Corps of Engineers.

B. *Uses Permitted by Conditional Use.* The establishment and/or expansion of the following uses is permitted when approved as a conditional use by the Board of Supervisors in conformance with §27-2110, the standards of this Section, and all other applicable provisions of this Chapter elevated or designed and constructed to remain completely dry up to at least 1½ feet above the 100-year flood. [Ord. 2006-3]

(1) Water-oriented uses and structures, such as fish hatcheries, water-monitoring devices, water wheels, and weirs.

(2) Parking lots, loading areas, driveways, and any other paved at grade surfaces.

(3) Floodproofing and flood hazard reduction structures for nonconforming uses and structures.

(4) Improvements and/or additions to existing structures within the Floodplain Conservation District.

(5) Hydropower plants.

(6) Fire protection facilities for the purpose of collecting and storing water for fire protection purposes.

(7) The placing or stripping of topsoil or fill material of any kind.

(8) Modification or waivers of the otherwise applicable terms of this Section regulating nonconforming uses and structures, with respect to historic structures, as provided in subsection .6.

4. *Activities Specifically Prohibited in the Floodplain Conservation District.* The following activities, whether proposed in conjunction with a permitted use or otherwise,

shall not occur in any portion of the Floodplain Conservation District:

A. Clear-cutting of trees, as defined in Part 2 of this Chapter, or the clearing of vegetation, except where such clearing is necessary:

(1) To prepare land for a use permitted by this Chapter or by action of the Zoning Hearing Board. Where clear-cutting is proposed in conjunction with the site of a stormwater management basin, such clear-cutting shall be authorized only when in accordance with an approved plan for development which the basin is to serve.

(2) As a reforestation measure.

(3) As a means to eliminate dead, diseased, or hazardous tree stands.

Where a clear-cutting operation is deemed permissible for one of the above reasons, it shall be consistent with the terms of a woodland management plan approved by the Board of Supervisors. Under no circumstances shall a clear-cutting operation be conducted within 25 feet of a stream.

B. Sod farming.

C. Storage of any material which, if inundated, would float, or of any flammable or toxic material or any other material which, if inundated or otherwise released to the stream, would degrade or pollute the stream, or cause damage if swept downstream.

D. Storage of, and the construction, enlargement, or expansion of, any structure which would be used for the production, storage, or maintenance of, a supply of the following toxic chemicals which are listed in the Pennsylvania Flood Plain Management Act, 32 P.S. §679.101 *et seq.*, and are dangerous to human or animal 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) Herbicides or pesticides (including insecticides, fungicides, and

rodenticides).

(18) Radioactive substances, insofar as such substances are not otherwise regulated.

(19) Any other dangerous materials or substances regulated by the appropriate Federal or State agencies, or any materials or substances which may be added to the list contained in the Flood Plain Management Act, 32 P.S. §679.101 *et seq.*, subsequent to enactment of this Chapter or which may be deemed similar thereto.

E. Installation of subsurface sewage disposal areas.

F. The construction, placement, enlargement, or expansion of mobile homes, mobile home parks, mobile home subdivisions, manufactured homes, manufactured home parks, manufactured home subdivisions, travel trailer parks, or travel trailers.

G. The construction, enlargement, or expansion of hospitals (public or private).

H. The construction, enlargement, or expansion of nursing homes (public or private).

I. The construction, enlargement, or expansion of jails or prisons.

J. Junkyards.

5. *Special Requirements for Mobile Homes, Manufactured Homes, and Travel Trailers.*

A. Within the Floodplain Conservation District, any mobile home, manufactured home, mobile home or manufactured home park, mobile home or manufactured home subdivision, travel trailer, or travel trailer park not already existing on a lot as of the date of enactment of this Chapter shall be prohibited.

B. Within any existing mobile home park, manufactured home park, mobile home subdivision, manufactured home subdivision, or travel trailer park within the Floodplain Conservation District, all permitted replacement units or additions to existing units shall be:

(1) Placed on a permanent foundation.

(2) Anchored to resist flotation, collapse, or lateral movement.

(3) Elevated so that the lowest floor of the home is 1½ feet or more above the elevation of the 100-year flood.

6. *Nonconforming Structures and Uses in the Floodplain Conservation District.* Nonconforming structures and uses of land within the Floodplain Conservation District shall be regulated under the provisions of Part 20 of this Chapter, but the following additional regulations also shall apply:

A. Existing nonconforming structures or uses located in the Floodway (FW) shall not be expanded or enlarged.

B. The modification, alteration, repair, reconstruction, or improvement of any kind to a nonconforming structure or use in a Floodway (FW) and the modification, expansion, enlargement, alteration, repair, reconstruction, or improvement of any kind to a nonconforming structure or use located in a Flood Fringe (FF) must be authorized as a special exception by the Zoning Hearing Board under the provisions

of Part 20 of this Chapter. In considering such special exceptions, the Zoning Hearing Board shall apply the following standards and criteria:

(1) No modification, alteration, repair, reconstruction, or improvement of any structure in the Floodway (FW) shall be permitted that will cause any increase in the 100-year flood elevation.

(2) The proposed change is consistent with the spirit, purpose, and intent of this Chapter.

(3) The proposed use is feasible and suitable in relation to the land use capabilities of the property in question, particularly its capabilities in terms of a suitable water supply, drainage, sewage disposal, topography, soil conditions, and ecological considerations.

(4) The proposed change will serve the best interests of the Township, the convenience of the community, where applicable, and the public welfare.

(5) The adequacy of sanitation and public safety provisions, where applicable, is assured and a certificate of adequacy or permit for sewage and water facilities has been obtained from the appropriate governmental agencies required herein or deemed advisable by the Zoning Hearing Board.

(6) If improvements to the Floodway (FW), or any filling or alterations to the elevation of the ground in the Floodway (FW) or Flood Fringe (FF), or any alterations or relocations of any perennial stream are contemplated, the Zoning Hearing Board shall determine that the applicant:

(a) Has complied with the provisions of this Section with regard to the effect of such filling or alterations on base flood elevations.

(b) Has notified in writing, by certified mail, those adjacent communities within the stream's watershed that may be affected by such alterations.

(c) Has provided copies of such notification to the Township for submission to the Pennsylvania Department of Community and Economic Development and the Federal Insurance Administrator.

(d) Has, in addition, obtained a permit from the Pennsylvania Department of Environmental Protection, Division of Dams and Waterway Management.

(7) Any permissible modification, alteration, repair, reconstruction, expansion, or improvement of any kind to a nonconforming structure or use located in the Flood Plain Conservation District to an extent or amount less than 50 percent of its market value shall be elevated and/or floodproofed to the greatest extent possible.

(8) Any modification, alteration, repair, reconstruction, expansion, or improvement of any kind to a nonconforming structure or use, regardless of location within the Floodplain Conservation District, to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with the provisions of this and any other applicable ordinances.

(9) All structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a

minimum obstruction effect upon the flow and height of flood water.

(10) The Zoning Hearing Board shall have the right to waive any of the requirements of this subsection .6 for any structure or site listed in or determined eligible for the National Register of Historic Places or the Pennsylvania Inventory or Register of Historic Places or its equivalent. To be eligible to be considered for such a waiver, the site or structure must be identified as an Historic Site on the _____. In deciding upon any request for such a waiver, the Board shall be guided by the criteria in subsection .8, Hardships, and shall follow the procedures for acting on special exceptions as specified in Part 22 of this Chapter. The Board shall consider: (a) the appropriateness of the proposed activity in relation to the quality and integrity of the historic structure; (b) the degree to which the requested waiver will be essential in preserving the structure; (c) the preservation benefits of the proposed activity against its potential impact on flood heights and velocities; (d) the flood hazards attendant to the structure itself; and (e) consistency of the proposed waiver with FEMA requirements.

7. *Development and Construction Requirements.*

A. *Basements and First Floors.*

(1) *Nonresidential Structures.*

(a) 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.

(b) Any nonresidential structure, or part hereof, having a lowest floor which is not elevated to at least 1½ feet above the 100-year flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the WI or W2 space classification standards contained in the publication entitled "Floodproofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended 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, that the proposed design and methods of construction are in conformance with the above-referenced standards.

(c) Fully enclosed space below the lowest floor (including basement) is prohibited.

(2) *Residential Structures.* No basement shall be permitted in residential structures. First floor levels in residential structures shall be constructed at or above an elevation of 1½ feet above the elevation of the 100-year flood.

B. *Fill.* If fill is used to raise the finished surface of the floor 1½ feet above the elevation of the 100-year flood:

(1) Fill shall extend laterally 15 feet beyond the building line from all points.

(2) Fill shall consist of soil or small rock materials only. Sanitary land fills shall not be permitted.

(3) Fill slopes shall be no steeper than 1 vertical on 2 horizontal, unless substantiating data, justifying steeper slopes, are submitted to and approved by the Township Engineer.

(4) Fill shall be used only to the extent to which it does not adversely affect adjacent properties.

C. *Placement of Buildings and Structures.*

(1) All buildings and structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

(2) The following shall not be placed or caused to be placed in the designated Floodplain Conservation District: fences, except two-wire fences, other structures or other matter which may impede, retard, or change the direction of the flow of water, or that will catch or collect debris carried by such water, or that is placed where the natural flow of the stream or flood waters would carry the same downstream to the damage or detriment of either public or private property adjacent to the floodplain.

D. *Anchoring.*

(1) All buildings and structures shall be firmly anchored to prevent flotation, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.

(2) All air ducts, large pipes, and storage tanks located at or below the first floor level shall be firmly anchored to prevent flotation.

E. *Floors, Walls, and Ceilings.*

(1) Wood flooring used at or below the lowest floor level shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain, without incurring structural damage to the building.

(2) All finished flooring used at or below the lowest floor level shall be made of materials which are dimensionally stable and resistant to water damage resulting from submersion for at least a 48-hour period.

(3) All carpeting or carpet cushions employed as a finished flooring surface at or below the lowest floor level shall be made of materials which are resistant to water damage resulting from submersion for at least a 5-day period.

(4) Plywood used at or below the lowest floor level shall be of any "exterior" or "marine" grade and of a water-resistant or waterproof variety.

(5) Basement ceilings in nonresidential structures shall have sufficient wet strength and be so installed as to survive inundation.

F. *Electrical Systems.*

(1) All electric water heaters, furnaces, and other critical electrical installations shall be permitted only at elevations of 1½ feet or more above the level of the 100-year flood.

(2) No electrical distribution panels shall be allowed at an elevation less than 3 feet above the level of the 100-year flood.

(3) Separate electrical circuits shall serve lower levels and shall be dropped from above.

G. *Plumbing.*

(1) Water heaters, furnaces, and other critical mechanical installations shall be permitted only at elevations of 1½ feet or more above the level of the 100-year flood.

(2) No part of any on-site sewage disposal system shall be constructed within the Floodplain Conservation District.

(3) Water supply systems and sanitary sewage systems shall be designed to preclude infiltration of flood waters into the systems and discharges from the systems into flood waters.

(4) All gas and oil supply systems and all other utilities shall be designed to preclude the infiltration of flood waters into the systems and discharges from the systems into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

H. *Paints and Adhesives.*

(1) Adhesives used at or below the lowest floor level shall have a bonding strength that is unaffected by inundation.

(2) Doors and all wood trim at or below the lowest floor level shall be sealed with a waterproof paint or similar product.

(3) Paints or other finishes used at or below the lowest floor level shall be capable of surviving inundation.

I. *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.

J. *Water Facilities.* All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.

K. *Other Utilities.* All other utilities, such as gas lines, electrical and telephone systems shall be located, elevated (where possible), and constructed to minimize the possibility of impairment during a flood.

L. *Streets.* The finished elevation of all new streets shall be no more than 1 foot below the regulatory flood elevation.

M. *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 subsection .4, "Activities Specifically Prohibited in the Floodplain Conservation District," shall be stored at or above the regulatory flood elevation and/or floodproofed to the maximum extent possible.

N. *Fuel Supply Systems.* All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the

system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

O. *Uniform Construction Code Coordination.* The standards and specifications contained in 34 Pa.Code, Chapters 401–405, as amended, and not limited to the following provisions, shall apply to the above and other Sections and subsections of this Chapter, to the extent that they are more restrictive and/or supplement the requirements of this Chapter:

(1) International Building Code (IBC) 2003 or the latest edition thereof: §§801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

(2) International Residential Building Code (IRC) 2003 or the latest edition thereof: §§R104, R105, R109, R323, Appendix AE101, Appendix E, and Appendix J.

[Ord. 2006-3]

8. *Hardships.*

A. When the provisions of this Section are deemed by the applicant to be unreasonable or to create a substantial hardship, the applicant shall have a right to:

(1) In the case of applications for permitted uses, make an appeal to the Zoning Hearing Board for a variance in accordance with the provisions of Part 22 of this Chapter.

(2) In the case of an application to the Zoning Hearing Board for a special exception under the provisions of subsection .4, supply additional testimony and evidence to the Zoning Hearing Board as part of the request for relief from such hardship.

B. All decisions on such appeals shall adhere to the following criteria:

(1) The Zoning Hearing Board shall not grant a variance or special exception for any construction, development, use, or activity within any floodway area that would cause any increase in the base flood elevation.

(2) The Zoning Hearing Board shall grant special exceptions only upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the special exception would result in substantial hardship to the applicant, and (c) a determination that the granting of a special exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, creation of nuisance, fraud on or victimization of the public or conflict with existing local laws or ordinances.

(3) The Zoning Hearing Board shall grant a special exception only upon determination that it is the minimum necessary to afford relief, considering the flood hazard. In the case of requirements for floodproofing, the highest feasible class of floodproofing as defined by floodproofing regulations promulgated by the Office of the Chief of Engineers, U.S. Army, shall be provided.

(4) The Zoning Hearing Board shall notify the applicant in writing over the signature of the Chairman of the Zoning Hearing Board that (a) the issuance of a decision to allow construction of a structure below the base flood elevation will result in increased premium rates for flood insurance, and (b)

such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with a record of all decisions as required in subparagraph (5), below.

(5) The Zoning Hearing Board shall (a) maintain a record of all decisions, including justification for their issuance, and (b) report such decisions issued to the Township Secretary for purposes of inclusion in the annual report submitted by the Township to the Federal Insurance Administrator.

(6) No special exception or variance shall be granted for any requirement pertaining to developments which may endanger human life (as described in subsections .4.D, .F, .H, .I, and .J of this Section), in accordance with the Pennsylvania Flood Plain Management Act, 32 P.S. §679.101 *et seq.*

(7) Upon receiving an application for a special exception or variance, the Zoning Hearing Board shall, prior to rendering a decision thereon, require the applicant to furnish such of the following material as is deemed necessary by the Board:

(a) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot and existing and proposed uses; photographs showing existing uses and vegetation; soil types and other pertinent information.

(b) A series of cross-sections at 25-foot intervals along the lot shoreline, showing the stream channel and elevation of adjoining land areas to be occupied by the proposed uses, and high water information. Cross-sections shall be field-run topography based on a known USGS benchmark.

(c) Profile showing the slope of the bottom of the channel.

(d) Specifications for building materials and construction, floodproofing, filling, dredging, grading, storage, and water supply and sanitary facilities.

(e) Computation of the increase, if any, in the height of the base flood which would be attributable to any proposed uses.

(f) A deed notation or lease notation, to be placed on record to run with the land, which notation shall contain the following provision:

“This lot is entirely (partially) within a Floodplain Conservation District as defined by Article II of the East Nottingham Township Zoning Ordinance.”

(8) In considering any application for a special exception or variance, the Zoning Hearing Board may request at the hearing the testimony of any Township board, commission, or technical advisor concerning the extent to which the proposed use would (a) diminish the capacity of the Floodplain Conservation District to store and absorb flood waters, to moderate flood velocities, and to accommodate sediment; (b) be subject to flood damage; (c) cause erosion and impair the amenity of the Floodplain Conservation District; or (d) adversely affect the area contiguous to the Floodplain Conservation District as well as areas downstream; or on any other pertinent aspect of the case.

(9) In all proceedings before the Zoning Hearing Board, including application for special exception from the provisions of this Section, the burden of proof shall be on the applicant to show that the use requested will be in general conformity with the objectives of this Section, that proper safeguards will be observed, and that the use will not be injurious to the public health, safety, and general welfare.

9. *Issuance of Building Permit.*

A. The Zoning Officer shall issue a building permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

B. Prior to the issuance of any building permit, the Zoning Officer shall review the application for permit to determine if all other necessary government permits such as those required by State and Federal laws have been obtained, such as those required by the Pennsylvania Dam Safety and Encroachments Act, 32 P.S. §693.1 *et seq.*; the U.S. Clean Water Act, §404, 33 U.S.C. §1344; and the Pennsylvania Clean Streams Act, 35 P.S. §691.1 *et seq.* 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 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. [Ord. 2006-3]

10. *Application Procedures and Requirements.*

A. Application for a building permit shall be made, in writing, to the Zoning 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. [Ord. 2006-3]
- (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. [Ord. 2006-3]
- (7) A plan of the site showing exact size and location of proposed construction and any existing buildings or structures.

B. Where any proposed construction or development is located entirely or partially within the Floodplain Conservation District, applicants for building permits shall provide all the necessary information in sufficient detail and clarity to enable the Zoning Officer to determine that:

(1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances.

(2) All utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage.

(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 as may be required by the Zoning Officer to make the above determination:

(1) A completed building permit application form.

(2) A plan of the entire site, drawn at a scale of 1 inch equals 100 feet or less, showing the following:

(a) North arrow, scale, and date.

(b) Location map showing the vicinity in which the proposed activity or development is to be located within the Township.

(c) Topography based upon the National Geodetic Vertical Datum of 1929 showing existing and proposed contours at intervals of 2 feet.

(d) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet.

(e) The location of all existing streets, drives and other access ways with information concerning widths, pavement types, and construction elevations.

(f) The location of any existing bodies of water or watercourses, buildings, structures, and other public or private facilities, and any other natural or man-made features affecting, or affected by, the proposed activity or development.

(g) The location of the identified floodplain boundary line, floodway line, if available, information and spot elevations concerning the 100-year flood elevations, and information concerning the flow of water including the direction and velocities.

(h) A general plan of the entire site accurately showing the location of all proposed buildings, structures, and any other improvements, including the location of any existing or proposed subdivision and land development in order to assure that:

1) All such proposals are consistent with the need to minimize flood damage.

2) All utilities and facilities, such as sewer, gas, and electric are constructed to minimize or eliminate flood damage.

3) Adequate drainage is provided so as to reduce exposure to flood hazards.

(3) Plans of all proposed buildings, structures, and other improvements, drawn at suitable scale showing the following:

(a) Detailed architectural or engineering drawings including building size, floodplains, sections and exterior building elevations, as appropriate.

(b) The proposed lowest floor elevations of any proposed building based upon National Geodetic Vertical Datum of 1929.

(c) The elevation of the 100-year flood.

(d) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with a 100-year flood.

(e) Detailed information concerning any proposed floodproofing measures.

(f) Cross-section drawings for all proposed streets, drives, and other accessways and parking areas showing all rights-of-way and pavement widths.

(g) Profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades.

(h) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

(4) The following data and documents:

(a) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within the FE (Special Floodplain Area), when combined with all other existing and anticipated development, will not increase the elevation of the 100-year flood more than 1 foot at any point.

(b) A document, certified by a registered professional engineer or architect, which states that the proposed construction has been adequately designed to withstand the 100-year flood elevations, pressures, velocities, impact, and uplift forces and other hydrostatic, hydrodynamic and buoyancy factors associated with the 100-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.

(c) The appropriate component of the Department of Environmental Protection "Planning Module for Land Development."

(d) Where any excavation or grading is proposed, a plan meeting the requirements of the Chester County Conservation District, to implement and maintain erosion and sedimentation control.

(4) *Start of Construction.* The start of construction, as defined by this Chapter, and its completion shall occur within the time frames established for zoning permits in §27-2104.2 of this Chapter.

(5) *Inspection and Revocation.*

(a) During the construction period, the Zoning 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 regulations 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 Zoning Officer shall have the authority to enter any building, structure, premises, or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Chapter.

(c) In the event the Zoning Officer discovers that the work does not comply with the permit application or any applicable laws, regulations, or ordinances, or that there has been a false statement or misrepresentation by any applicant, the Zoning 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 Chapter shall be maintained.

11. *Review by the Chester County Conservation District.* A copy of all plans for development of the Floodplain Conservation District to be considered for approval shall be submitted by the Zoning Officer to the Chester County Conservation District for review and comment prior to the issuance of a permit. The recommendations of the Conservation District may be incorporated into the plan to provide for protection against predictable hazards.

12. *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 Zoning Officer to any other appropriate agencies and/or individuals (e.g., Township Planning Commission, Township Engineer) for review and comment.

13. *Warning and Disclaimer of Liability.*

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

B. This Chapter 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 Chapter or any administrative decision lawfully made hereunder.

14. *Interpretation of Chapter.* This Chapter supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. In the event that there is any conflict between any of the provisions of this Chapter, the more restrictive shall apply. [Ord. 2006-3]

(Ord. 2005-9, 12/29/2005, §402; as amended by Ord. 2006-3, 11/14/2006, §I)

§27-403. Riparian Corridor Conservation District.

1. *Statement of Intent.* In expansion of §27-102, "Purpose," and §27-103,

“Community Development Objectives,” of this Chapter, and to address comprehensively all water resource protection benefits provided by riparian buffer areas, the purposes of this Section, among others, are as follows:

A. Reduce the amount of nutrients, sediment, organic matter, pesticides, and other harmful substances that reach watercourses, wetlands, subsurface and surface water bodies by using scientifically proven processes including filtration, deposition, absorption, adsorption, plant uptake, and denitrification, and by improving infiltration, encouraging sheet flow, and stabilizing concentrated flows.

B. Improve and maintain the safety, reliability, and adequacy of the water supply for domestic, agricultural, commercial, industrial, and recreational uses along with sustaining diverse populations of aquatic flora and fauna.

C. Regulate the land use, siting, and engineering of all development to be consistent with the intent and objectives of this Chapter, accepted conservation practices, and to work within the carrying capacity of existing natural resources.

D. Assist in the implementation of pertinent State laws concerning erosion and sediment control practices, including the Pennsylvania Clean Streams Law, 35 P.S. §691.1 *et seq.*, 25 Pa.Code, Chapter 102, and any subsequent amendments thereto, as administered by the Pennsylvania Department of Environmental Protection and the Chester County Conservation District.

E. Contribute to implementation of the recommendations of the Elk Creeks River Conservation Plan that call for creation of regulations to establish riparian forested buffer areas along streams within the watershed.

F. Conserve the natural features important to land or water resources (e.g., headwater areas, groundwater recharge zones, floodways, floodplains, springs, streams, wetlands, woodlands, prime wildlife habitats) and other features constituting high recreational value or containing amenities that exist on developed and undeveloped land.

G. Complement the provisions of this Chapter addressing the Floodplain Conservation District, steep slopes, hydric soils, wetlands, vegetation, and topsoil in this Part, and any other ordinances or regulations that protect environmentally sensitive areas, in order to minimize hazards to life, property, and riparian features.

H. Recognize that natural features contribute to the welfare and quality of life of the Township’s residents.

I. Conserve natural, scenic, and recreation areas within and adjacent to riparian areas for the community’s benefit.

J. Provide shade which moderates and protects fish habitat by retaining more dissolved oxygen and encouraging the growth of diatoms, beneficial algae, and aquatic insects.

K. Provide for stream bank stabilization which protects fish habitat and controls erosion and sedimentation, particularly through tree roots that consolidate the soils of the floodplain and stream banks, reducing the potential for severe stream bank erosion.

L. Provide organic nutrients through leaves that fall into the stream and are trapped on woody debris (fallen trees and limbs) and rocks where they provide food

and habitat for small bottom-feeding creatures (such as insects, amphibians, crustaceans, and small fish) that are critical to the aquatic food chain.

M. Reduce the prevalence of nuisance drainage problems, which can result from, among other factors, poor road drainage design, agricultural areas without contour plowing or hedgerow filtration, and other development activities that encroach into the flood fringe of a stream.

N. Reduce or eliminate engineered water-holding facilities in headwater areas of streams.

O. Recognize and protect the fragile and unique water quality characteristics of the areas underlain by the Serpentine Barrens.

2. *Overlay Concept, Establishment, and Width Determination of the District.*

A. *Overlay Concept.* The provisions of the Riparian Corridor Conservation District create an overlay district that is applicable within all other zoning districts established by this Chapter. To the extent the provisions of this Section are applicable and more restrictive, they shall supersede conflicting provisions in any other Part of this Chapter and all other ordinances of East Nottingham Township. However, all other provisions of this Chapter and all other ordinances of East Nottingham Township shall remain in full force.

B. *Establishment and Width Determination.*

(1) The Riparian Corridor Conservation District (RCCD) shall apply to the following watercourses and water bodies and the land adjacent to them:

(a) All naturally occurring watercourses that normally contain flowing water during all times of the year, including streams that may dry up during periods of extended drought. These shall include, but not be limited to:

1) Perennial streams identified in the most recent *Soil Survey of Chester County* and/or soil surveys conducted for special projects wherein remapping of the soils has resulted and been approved by the Township.

2) Perennial streams identified on United States Geological Survey maps with a scale of 1:2,400.

The RCCD shall be measured from the top of each stream bank.

(b) All intermittent watercourses otherwise identified in the most recent *Soil Survey of Chester County*, or identified on plans submitted by applicants, wherein remapping of the soils has resulted and been approved by the Township. The RCCD shall be measured from the centerline of the stream.

(c) All watercourses bordered by the following alluvial soils, and/or local alluvium soils, as mapped in the most recent *Soil Survey of Chester County* provided the local alluvium soil is connected to a listed alluvial soil:

- 1) We — Wehadkee Silt Loam.
- 2) Ch — Chewacla Silt Loam.
- 3) WoA, WoB, WoC — Worsham Silt Loam

The RCCD shall be measured from the centerline of the stream.

(d) Lands at the margins of delineated wetlands with an area of 10,000 square feet or greater. The RCCD shall be measured from the delineated wetland edge.

1) A wetland delineation shall be required in accordance with the terms of §27-404 of this Part.

2) In the absence of a wetland delineation, the wetland boundary shall be assumed to be the hydric soil boundary as mapped in the most recent *Soil Survey of Chester County*; such soils shall include, but not be limited to, the Glenville, Guthrie, and Chrome series.

(e) Lands at the margins of ponds with an area of 5,000 square feet or greater. The RCCD shall be measured from the edge of the mean water surface level.

(2) The minimum width of the Riparian Corridor Conservation District shall be measured horizontally on a line perpendicular to the point of measurement for each watercourse or surface water body as prescribed in subparagraph (1), above. Except as noted in subparagraph (3), below, required minimum widths shall be as follows:

(a) For watercourses defined in subparagraph (1)(a), above, 75 feet from the top of each bank.

(b) For watercourses defined in subparagraphs (1)(b) and (1)(c), above, 75 feet in both directions from the stream centerline.

(c) For surface water bodies defined in subparagraphs (1)(d) and (1)(e), above, 25 feet.

(3) Where the 100-year floodplain extends greater than 75 feet from a regulated waterway, the Riparian Corridor Conservation District shall extend to the outer edge of the 100-year floodplain. The 100-year floodplain shall be determined by the FEMA Flood Insurance Study for East Nottingham Township or by a hydrologic stream profile analysis, in accordance with the terms of §27-402 of this Part.

3. *Uses Permitted in the Riparian Corridor Conservation District.*

A. Within the first 25 feet of any designated Riparian Corridor Conservation District, permitted uses shall be limited to open space uses that are primarily passive in character and do not generally involve disturbance to the land; such uses may include wildlife sanctuaries, nature preserves, forest preserves, passive areas of public and private parklands, reforestation, and stream bank stabilization. Existing natural vegetative conditions shall be maintained unless determined by the Township to be undesirable and/or contrary to the objectives of this Section. Neither cultivation nor lawn conditions shall be permitted within this area. Following the date of enactment of this Section, proposed vegetative cover shall reflect natural site conditions and shall be designed to maximize the filtration of surface water runoff prior to its discharge into a surface water body or infiltration into the groundwater.

(1) Where slopes in excess of 25 percent are located within this 25-foot

strip, these limitations on use and disturbance shall extend the entire distance of this sloped area or 75 feet, whichever is less.

(2) Access to a stream by livestock or other large domestic animals shall be excluded by means of fencing.

(3) A trail for pedestrian use only may be retained or established within this 25-foot strip, provided the surface of such trail shall be retained in a natural condition and maintained primarily through user traffic.

(4) Permitted activity within the Riparian Corridor shall include the removal of invasive species, as defined by this Chapter. Such species shall include, but are not limited to, Purple Loosestrife, Bamboo, Norway Maple, and Multiflora Rose.

B. Within the remainder of the Riparian Corridor Conservation District, uses permitted within a Flood Fringe or approximated floodplain area, as specified in §27-402 of this Part, shall be permitted.

4. *Uses Specifically Prohibited in the Riparian Corridor Conservation District.*

A. Any use or activity not authorized by subsection .3, above, shall be prohibited within the Riparian Corridor Conservation District.

B. In addition, the following activities and facilities are specifically prohibited:

(1) Any use or activity specifically prohibited by the terms of §27-402 of this Part.

(2) Use of fertilizers, pesticides, herbicides, and/or other chemicals in excess of prescribed industry standards or the recommendations of the Chester County Conservation District.

(3) Planting of any invasive species, including exotic or nonnative, within the Riparian Corridor or in any area from which such species may enter the Riparian Corridor by root growth or seed dispersion.

(4) Mowing or defoliation, except to remove invasive or exotic species.

(5) Motor or wheeled vehicle traffic in any area not designed to accommodate adequately the type and volume.

(6) Parking lots.

(7) Any type of permanent structure, except structures needed for a use permitted under the terms of this Section.

5. *Nonconforming Structures and Uses.* Nonconforming structures and uses of land within the Riparian Corridor Conservation District shall be regulated in accordance with the requirements of §27-402 of this Part.

6. *Boundary Interpretation and Appeals Procedure.*

A. When a landowner or applicant disputes the boundary of the Riparian Corridor Conservation District or the defined edge of a watercourse or surface water body, the landowner or applicant shall submit to the Township a report with appropriate documentation showing the landowner's or applicant's proposed boundary and providing justification for the proposed boundary change. Such report shall be prepared by a registered landscape architect, registered soil

scientist, or similar professional experienced in conducting such delineations.

B. The Township Engineer and/or other advisors selected by the Board of Supervisors shall evaluate all material submitted and provide a written determination within 45 days to the Board of Supervisors, Township Planning Commission, and landowner or applicant.

C. Any party aggrieved by any such determination or other decision or determination under this Section may appeal to the Zoning Hearing Board under the provisions of Part 22 of this Chapter. The party contesting the location of the boundary shall have the burden of proof in case of any such appeal.

7. *Inspection and Application of Riparian Corridor Conservation District.*

A. Lands within or adjacent to the Riparian Corridor Conservation District will be inspected by the Zoning Officer and/or Township Engineer when:

- (1) A subdivision or land development plan is submitted.
- (2) A building permit is requested.
- (3) A change or resumption of a nonconforming use is proposed.

B. The district may also be inspected by the Zoning Officer and/or other representatives designated by the Board of Supervisors at any time when the presence of an unauthorized activity or structure is brought to the attention of Township officials.

8. *Management of the Riparian Corridor Conservation District.* A Riparian Corridor Management Plan shall be developed:

A. When required by the East Nottingham Township Subdivision and Land Development Ordinance [Chapter 22], consistent with the requirements therein.

B. As a condition of approval for (1) a proposed special exception or variance, or (2) a proposed conditional use, when deemed appropriate by the Zoning Hearing Board or Board of Supervisors, respectively. Such plan shall be prepared in accordance with the requirements of the Subdivision and Land Development Ordinance [Chapter 22].

C. Prior to undertaking any other use, development, or disturbance of land containing an area or areas of the RCCD, when determined necessary under the criteria contained in the Subdivision and Land Development Ordinance [Chapter 22].

(Ord. 2005-9, 12/29/2005, §403)

§27-404. Wetlands.

1. *Indication of Wetlands on a Property.* The existence of wetlands shall be indicated by any one or more of the following:

A. National Wetlands Inventory mapping, as prepared by the U.S. Fish and Wildlife Service or any other governmental agency having jurisdiction.

B. Hydric soils or soils with hydric inclusions, as depicted in the *Soil Survey of Chester and Delaware Counties* and/or in USDA NRCS Hydric Soils Lists.

C. The existence of hydrophytic vegetation or hydrologic conditions, as determined by on-site investigations performed in accordance with the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands* dated January 10,

1989, or as later amended.

2. *Need and Basis for Delineation.*

A. Where the existence of wetlands on a property is indicated on the basis of subsection .1, above:

(1) A wetlands delineation shall be performed on any site where a determination of net tract or net lot area is required.

(2) A wetlands delineation shall be performed and, as determined necessary, a jurisdictional determination shall be obtained for any site where required by any other applicable permit or plan review process.

B. Delineation of the wetlands boundary shall be conducted in accordance with the terms of §22-508.8 of the Township Subdivision and Land Development Ordinance [Chapter 22].

(Ord. 2005-9, 12/29/2005, §404)

§27-405. Steep Slope Regulations.

1. *Use Regulations.* The following uses are the only uses permitted in areas where the grade of the slope exceeds 25 percent, as determined by the terms of this Section.

A. Parks and outdoor recreational uses, consistent with the goals of watershed protection.

B. Selective cutting of trees, as defined by this Chapter. Maximum precautions shall be taken to avoid destruction of or injury to understory brush and trees.

C. Grading for the minimum portion of a driveway necessary to access a single-family dwelling when it can be demonstrated by a professional engineer on behalf of the applicant that no other routing which avoids slopes exceeding 25 percent is feasible.

D. Accessory uses (excepting swimming pools) necessary for the operation and maintenance of the above-permitted uses.

2. *Delineation.*

A. The basis for determining areas where the grade of the slope exceeds 15 percent shall be that area shown as 15 percent or greater slope on a topographic survey of the subject property, prepared on behalf of the applicant by a surveyor or engineer licensed to practice in Pennsylvania.

B. Unless otherwise approved by the Township, the topographic survey shall delineate contours at 2-foot intervals, and the minimum area of steep slope shall be: (1) as measured over three contiguous contour intervals or not less than 6 feet, and (2) consisting of at least 500 square feet in area.

C. Where the subject property contains any area of steep slope in excess of 25 percent, such area shall be delineated and distinguished from the balance of the area with slope exceeding 15 percent.

D. Each application for construction or land disturbance containing an area or areas delineated as steep slope shall be submitted in accordance with subsection .3, below. Any area of slope exceeding 15 percent that falls within the subject lot or lots shall be interpolated and shown by the applicant on the site plan required

under subparagraph .3.A(1) through shading of such area or areas; any area of slope exceeding 25 percent shall be delineated separately. The site plan shall contain a certification by the registered surveyor or engineer having prepared the plan as to the accuracy of the slopes as depicted on the plan.

E. Where the exact boundary of an area of slope exceeding 15 percent in relation to a given parcel is in question, the applicant's topographic survey may be supplemented by any other documentation deemed pertinent. The Township Engineer shall evaluate all such material submitted and make a written report of the results of his determination, a copy of which shall be provided to the Board of Supervisors.

F. Any party aggrieved by any such determination of the Township Engineer or other decision or determination under this Section may appeal to the Zoning Hearing Board. The burden of proof, as demonstrated by clear and convincing evidence, shall be on the appellant.

3. *Application Procedure.*

A. Before a permit is issued for any construction or land disturbance activity on land designated as steep slope under the terms of this Section, the following material, in whole or in pertinent parts, shall be submitted for review by the Township Engineer:

(1) An earthmoving plan of the property which indicates existing grades, with contour lines at 2-foot intervals. Proposed grades within the area of any proposed activity, disturbance, or construction also shall be shown. All areas with slope exceeding 15 percent shall be shaded accordingly. In addition, where the property contains an area with slope exceeding 25 percent, such area shall be delineated and distinguished from the balance of the steep slope area.

(2) A site plan indicating existing and proposed structures, on-site sewage facilities, on-site water supply wells, other impervious surfaces, storm drainage facilities, and retaining walls. The site plan also shall locate and identify existing vegetation and ground cover within areas of steep slope, as well as proposed landscaping material to be installed.

(3) Architectural plans, elevations, and sections.

(4) A statement, signed and sealed by a registered architect or engineer, explaining the building methods to be used in overcoming foundation and other structural problems created by slope conditions, preserving the natural watersheds, and preventing soil erosion and excessive surface water runoff to neighboring properties and/or streets.

(5) An erosion and sedimentation control and drainage plan, as it applies to all site disturbance activities including maintenance of the erosion and sedimentation control structures. The drainage plan shall show all drainage features and structures, with supporting calculations.

(6) Plan profile and typical cross-sections of any proposed street, emergency access, or driveway.

(7) A statement, signed by the owner or future occupant at the time of subdivision, land development, or building permit application, that there is a full understanding of any difficulties associated with access stemming from

steep slopes.

B. No approval or building permit shall be authorized by the Zoning Officer, and no special exception shall be granted by the Zoning Hearing Board, without the Township Engineer's review of this material and his recommendation thereon.

C. A fee, in an amount as specified by resolution of the Board of Supervisors, shall be paid by the applicant to cover the cost of review and recommendation by the Township Engineer.

(Ord. 2005-9, 12/29/2005, §405)

§27-406. Forestry and Logging Standards.

1. *Statement of Intent.* It is the purpose of this Section to provide for the regulation of logging operations to ensure:

A. That long-term production of forest crops and benefits is encouraged.

B. That the right to harvest trees is exercised with due regard for the protection of the physical property of adjacent landowners.

C. That the potential for negative environmental impacts resulting from improper logging operations is minimized and sound forest stewardship is practiced.

D. That unreasonable and unnecessary restrictions on the right to undertake logging operations are avoided.

2. *Scope and Applicability.*

A. The provisions and requirements of this Section shall apply to any logging operation, as defined by this Chapter, where the harvest area in which the logging operation will occur occupies 1 acre or more of land within East Nottingham Township.

B. A zoning permit in accordance with the terms of this Section shall be required for all logging operations, except as noted in paragraph .C, below.

C. The following operations are specifically exempt from the requirement to obtain a zoning permit or prepare a forestry/logging plan:

(1) Removal of dead or diseased trees.

(2) Removal of trees that are in such a condition or physical location as to constitute a danger to the occupants of a property or the structures thereon, or to a public right-of-way.

(3) Removal of up to five trees per year on any identified acre of woodland for the purpose of timber stand improvement.

(4) Christmas tree farming.

(5) Orchard operations.

(6) Removal of nursery stock.

(7) Timber harvest for home use, normal property maintenance and upkeep.

3. *Responsibility.*

A. It shall be the responsibility of each landowner on whose land a logging

operation is to be carried out to develop or have developed a written forestry/logging plan, in form and content as specified by this Section, and to submit such plan to the Zoning Officer as part of the application for a zoning permit. No logging operation shall occur until the plan has been reviewed and approved by the Township. It shall be the joint responsibility of the landowner and the operator to see that the provisions of the forestry/logging plan are carried out. The plan shall be available at the harvest site at all times during the logging operation and shall be provided to the Zoning Officer upon request.

B. For any logging operation, the landowner shall notify the Zoning Officer at least 10 business days prior to commencement of the operation and within 5 business days of completion of the operation. Notification shall be in writing and shall specify the land on which the operation will occur and the anticipated starting or completion dates of the operation.

4. *Preparation and Content of Forestry/Logging Plan.*

A. Each forestry/logging plan for a logging operation within East Nottingham Township shall be prepared by a professional forester or similar professional acceptable to the Township.

B. Any logging plan shall, at minimum, include the following:

(1) Property description, including location and brief description of each stand on the property.

(2) Goals and objectives of the logging operation.

(3) A narrative stand analysis describing stocking (in terms of basal area or relative density), species composition, and average diameter of stand.

(4) Narrative description of the residual stand.

(5) The following appendices:

(a) Proof of current general liability and/or workers' compensation insurance.

(b) Copy of erosion and sedimentation control plan with a letter of adequacy from the Chester County Conservation District, and including all associated permits and reports, as applicable.

(c) Proof of a PennDOT highway occupancy permit or an East Nottingham Township driveway permit for temporary access, as applicable.

(6) A site map containing the following information:

(a) Site location and boundaries, including both the boundaries of the property on which the logging operation will take place and the boundaries of the proposed harvest area within the property.

(b) Location of all earth disturbance activities such as roads, landings, and water control measures and structures.

(c) Location of all proposed crossings of waters of the Commonwealth.

(d) The general location of the proposed operation in relation to Township and State roads, including proposed access to those roads.

(e) Topography, including areas with slope between 15 percent and

25 percent and areas with slope greater than 25 percent, and soils of the property and harvest site.

(f) Location of any wetlands or other sensitive environmental areas and the proposed measures to protect such areas.

(7) Demonstration of compliance with all applicable State laws and regulations including, but not limited to:

(a) Erosion and sedimentation control regulations contained in 25 Pa.Code, Chapter 102, promulgated pursuant to the Clean Streams Law, 35 P.S. §691.1 *et seq.*

(b) Stream crossing and wetland protection regulations contained in 25 Pa.Code, Chapter 105, promulgated pursuant to the Dam Safety and Encroachments Act, 32 P.S. §693.1 *et seq.*

(c) Stormwater management plans and regulations issued pursuant to the Stormwater Management Act, 32 P.S. §680.1 *et seq.*

(8) Demonstration of compliance with all applicable Federal laws and regulations including, but not limited to, the best management practices (BMPs) as set forth at 33 CFR §323.4(a)(6)(I-xv).

(9) Identification of, and measures that will be taken to protect, specimen vegetation (as defined in the Township Subdivision and Land Development Ordinance [Chapter 22]).

(10) The forestry/logging plan shall include a plan for the reforestation of the site, including the retention of a sufficient number of younger, healthy trees. The plan shall be consistent with accepted forest management practices including, but not limited to, the use of deer fencing and herbicides. Plant material to be used for reforestation purposes shall conform to the standards of the publication "American or U.S.A. Standard for Nursery Stock," ANSI or USAS Z60.1 of the American Association of Nurserymen, as amended. All plant material used on the site shall have been grown within the same USDA hardiness zone as the site and shall be nursery grown, unless it is determined by the Township that the transplanting of trees partially fulfills the requirements of this Section. The plan also shall address measures to use and/or dispose of downed trees and other slash.

(11) Where a logging operation is proposed on land with a slope between 15 and 25 percent, the forestry/logging plan shall include all applicable information required by §27-405 of this Chapter.

5. *Forestry Practices in Relation to Logging Operations.* The following requirements shall apply to all logging operations:

A. Felling or skidding on or across any public road is prohibited without the express written consent of the Township or the Pennsylvania Department of Transportation, whichever party is responsible for maintenance of the road.

B. Clear-cutting, as defined by this Chapter, shall not be permitted as part of any logging operation.

C. There shall be no logging permitted on any land with a slope of 25 percent or greater.

D. No tree shall be felled across a property line without the consent of the adjoining landowner.

E. Litter resulting from any logging operation shall be cleaned up and removed from the site before it is vacated by the operator.

F. Upon completion of the cutting and removal of trees from the site, all remaining tops and slash shall be removed from the site. The forestry/logging plan shall detail the means by which this will be accomplished. A form of financial security, consistent with the terms of §22-601.3 of the East Nottingham Township Subdivision and Land Development Ordinance [Chapter 22], shall be provided by the landowner or operator to assure that all tops and slash are removed from the site and that the required terms for reforestation of the site are accomplished. Such guarantee shall be for an amount not less than \$3,000 per acre of tract area being harvested.

(Ord. 2005-9, 12/29/2005, §406)

§27-407. Stripping of Topsoil.

On any property in the Township, topsoil or sod may be removed only under the following conditions:

A. In connection with the construction or alteration of a street, building, or parking lot.

B. In connection with agricultural pursuits, provided that a minimum of 8 inches of topsoil is left in place and that areas where topsoil is removed are reseeded with an appropriate ground cover within 1 year.

(Ord. 2005-9, 12/29/2005, §407)

Part 5**R-1 Agricultural-Residential District****§27-501. Statement of Intent.**

It is the purpose of this district to provide for limited density of residential development in certain open areas of the Township, for the purpose of enabling the retention of significant agricultural land uses while preserving natural features and scenic landscapes. In this district, which contains much of the Township's most agriculturally productive soils, the intent is to minimize land uses that are incompatible with agriculture and to manage their potential impacts on the district's agricultural and open lands. The R-1 District provisions are intended to support the existing agricultural economy by limiting residential density and encouraging appropriate site design. Potential residential development also may be shifted to other, more appropriate locations within the Township through use of transferable development rights provisions. Residents of the R-1 District must be willing to accept the impacts associated with daily farming practices and related businesses.

(Ord. 2005-9, 12/29/2005, §501)

§27-502. Use Regulations.

Land and buildings in the R-1 Agricultural-Residential District shall be used for only one of the following purposes:

A. *Uses Permitted by Right.* A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any one of the following principal uses, together with the permitted accessory uses, by right in accordance with the applicable standards contained in §27-1602 and any other applicable provisions of this Chapter:

- (1) Agriculture.
- (2) [Reserved]. [Ord. 2011-26]
- (3) Single-family detached dwelling.
- (4) Creation of a lot from an agricultural property for single-family dwelling purposes, in accordance with the terms of §27-505.
- (5) Clustered residential development of single-family detached dwellings.
- (6) Public utility operating facility.
- (7) Municipal, County, State, or Federal use, excluding sanitary landfills and correctional or penal institutions.
- (8) Forestry, as defined by this Chapter, including logging activities when in accordance with the standards in §27-406.
- (9) The following accessory uses, when in accordance with the applicable terms of §27-1602:
 - (a) Swimming pool.
 - (b) No-impact home occupation.

(c) Farm-related business.

(d) Other customary residential and agricultural accessory uses.

B. *Uses Permitted by Special Exception.* The following uses shall be permitted when approved as a special exception by the Zoning Hearing Board in conformance with Part 22, the applicable standards contained in §27-1603, and any other applicable provisions of this Chapter:

(1) Major home occupation.

(2) Bed-and-breakfast establishment, as a use accessory to a single-family dwelling.

C. *Uses Permitted as Conditional Uses.* The following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with the terms of §27-2111 and all applicable standards in §27-1604:

(1) Cemetery.

(2) Place of religious worship.

(3) Kennel.

(Ord. 2005-9, 12/29/2005, §502; as amended by Ord. 2011-26, 10/17/2011, §3)

§27-503. Area and Bulk Regulations.

The following minimum (or maximum, where noted) requirements shall apply, as applicable, to uses permitted in the R-1 District:

A. *Agricultural Use.* Agriculture, farm houses, and usual agricultural buildings shall be permitted without restriction except as follows: [Ord. 2007-3]

(1) To qualify as agricultural use, the minimum gross lot area shall be 10 acres.

(2) No barn lot, mushroom house, or area for the deposit, curing, or storage of compost or manure shall be established closer than 100 feet to any property line and/or any right-of-way line.

(3) In addition to a principal single-family detached dwelling, a property in agricultural use shall be permitted a second dwelling on the property.

(a) The second dwelling unit may be attached to the principal single-family dwelling on the property or may be a detached dwelling. Where detached, such dwelling shall be located in compliance with the minimum setback and yard regulations in paragraph .B(1). Creation of a separate, subdivided lot for the second dwelling unit shall not occur.

(b) The opportunity for a second dwelling on the property shall be separate from, and in addition to, the right to create an additional lot or lots as provided in §27-504.

(c) Creation of a second dwelling unit under the terms of this Section shall eliminate the opportunity otherwise provided in §27-1602 for placement of a temporary dwelling on the property for parents or grandparents.

(d) The owner of the agricultural property shall submit to the Township a permit for an individual on-lot sewage disposal system issued

by the Chester County Health Department, certifying that the sewage disposal facilities are adequate to serve the projected number of residents of the accessory dwelling and/or the accessory dwelling unit plus the principal dwelling unit.

(4) Agricultural buildings shall not be constructed closer than 85 feet to a front property line nor closer than 50 feet to a side or rear property line or right-of-way line. [Ord. 2007-3]

(5) No dwelling shall be constructed closer than 50 feet to a front property line or closer than 25 feet to a side or rear property line or right-of-way line.

(6) The composting, stockpiling, and/or storage of manure shall be prohibited unless the manure is generated from an agricultural use on the property where it shall be composted, stockpiled, or stored, and provided further that the same manure shall be composted, stockpiled, and stored for use on that same property in accordance with any other applicable standards of this Chapter. This is not intended to include temporary storage of manure from one agricultural property on a different agricultural property for ultimate spreading on the second property.

(7) The sale of farm products may be conducted on an agricultural property in accordance with the following standards:

(a) At least half of all produce and nursery products sold must be grown, raised, or harvested on the premises.

(b) Any permanent structure used to display and sell such goods shall be located at least 100 feet from any side or rear property line and 60 feet from the legal right-of-way line of any street. Where farm products are sold from a temporary structure, such structure shall be located a minimum of 25 feet from the street right-of-way. No temporary structure shall be larger than 200 square feet. Mobile stands (i.e., farm wagons, pick-up trucks, etc.) shall be located outside the street right-of-way.

(c) The structure and necessary parking area shall, in combination, occupy not more than 4,000 square feet of the lot area.

(d) All vehicular parking facilities shall be located outside of the street right-of-way.

B. *Single-Family Detached Dwellings.*

(1) On a lot or tract with a gross area of less than 5 acres as of the date of adoption of this Chapter (November 25, 2003).

(a) Net lot area—1 acre.

(b) Lot width at building setback line—150 feet.

(c) Lot width at street line—50 feet.

(d) Front yard—50 feet.

(e) Side yards—25 feet each.

(f) Rear yard—50 feet.

(g) Maximum impervious surface—25 percent of the net lot area.

(2) On a lot or tract with a gross area of 5 acres or greater as of the date

of adoption of this Chapter (November 25, 2003) where single-family detached dwellings are proposed without utilizing the cluster development design provisions authorized by this Section:

- (a) Net lot area—5 acres.
- (b) Lot width at building setback line—200 feet.
- (c) Lot width at street line—50 feet.
- (d) Front yard—50 feet.
- (e) Side yards—25 feet each.
- (f) Rear yard—100 feet.
- (g) Maximum impervious surface—5 percent of the net lot area.

(3) Clustered residential development of single-family detached dwellings with either individual or central water supply and individual sewage facilities.

- (a) Gross tract area—5 acres.
- (b) Maximum density—The maximum number of dwellings permitted shall be determined by establishing the net tract area, as defined by this Chapter, and multiplying the resulting net acreage by 0.4.
- (c) Net lot area—not less than 1 acre, in order to accommodate individual on-site sewage facilities.
- (d) Lot width at building setback line—150 feet.
- (e) Lot width at street line—50 feet.
- (f) Front yard—50 feet.
- (g) Side yards—25 feet each.
- (h) Rear yard—50 feet.
- (i) Maximum impervious surface—25 percent of the net lot area.
- (j) Minimum amount of protected open space—40 percent of the gross tract area.

(4) Clustered residential development of single-family detached dwellings with central water supply and community or public sewage facilities.

- (a) Gross tract area—40 acres, so as to provide a residential community of sufficient size and capability to support and/or manage off-site facilities.
- (b) Maximum density—the maximum number of dwellings permitted shall be determined by establishing the net tract area, as defined by this Chapter, and multiplying the resulting net acreage by 0.7.
- (c) Net lot area—10,000 square feet.
- (d) Lot width at building setback line—90 feet.
- (e) Lot width at street line—25 feet.
- (f) Lot depth—110 feet.
- (g) Front yard—20 feet.
- (h) Side yards—10 feet each.

- (i) Rear yard—35 feet.
 - (j) Maximum impervious surface—40 percent of the net lot area.
 - (k) Minimum amount of protected open space—65 percent of the gross tract area.
- C. Any other principal use permitted in the R-1 District:
- (1) Net lot area 5 acres.
 - (2) Lot width at building setback line—200 feet.
 - (3) Lot width at street line—50 feet.
 - (4) Front yard—50 feet.
 - (5) Side yards—75 feet each.
 - (6) Rear yard—100 feet.
 - (7) Maximum impervious surface—50 percent of the net lot area.
- D. Residential accessory buildings erected in side or rear yards shall not be located closer than 10 feet from any side or rear lot line. Residential accessory buildings shall not be permitted in any front yard.
- E. Maximum height of buildings and structures.
- (1) Single-family detached dwellings and other permitted non-agricultural uses—35 feet
 - (2) Barns, silos, other general agricultural buildings—85 feet. [*Ord. 2007-3*]

(*Ord. 2005-9, 12/29/2005, §503; as amended by Ord. 2007-3, 3/29/2007, §2*)

§27-504. Design Standards

1. Clustered residential development of single-family detached dwellings.
 - A. Except as otherwise required or permitted by this Section, the standards contained in §§27-1309 and 27-1310 of this Chapter pertaining to retained open space development shall be met.
 - B. Where dwellings are proposed to be served by individual water service and individual sewage facilities, as defined by this Chapter, such facilities shall be in compliance with the requirements of the East Nottingham Township Subdivision and Land Development Ordinance [Chapter 22], the Chester County Health Department, and the Pennsylvania Department of Environmental Protection.
 - C. The following standards shall apply to protected open space areas that are part of clustered residential development in the R-1 District:
 - (1) The preferred use of protected open space areas shall be agriculture. Any proposed design of a clustered residential development shall demonstrate measures to connect the protected open space on the tract with adjacent open space and agricultural land and to minimize the intrusion of the residential portion of the tract on agricultural activities.
 - (2) There shall be a minimum separation of 100 feet between any nonfarm dwelling constructed as part of the clustered residential development and: (a) any portion of the proposed protected open space on the tract that is to be used

for agricultural purposes; and (b) any land that is permanently restricted by conservation easement or similar perpetual limitation to agricultural use. Where it deems necessary and appropriate, the Board may require additional and/or alternative protection for agricultural lands in the form of architectural and/or vegetative screening, located within the yard areas of the proposed residential lots.

(3) Where some or all of the proposed protected open space on the tract is to be used for agriculture, such use shall be a factor in the design of the site for residential purposes. Proposed dwelling units, roads, and sewage facilities shall, where feasible and practical, be located so as to minimize disturbance to the tract's Class I, Class II, and/or Class III agriculturally-suitable soils, as those soils are designated in the *Soils Survey of Chester and Delaware Counties* (U.S. Dept. of Agriculture, 1963, as amended and updated.).

(4) On any tract with a gross area of 40 acres or more that is served by community water service and community or public sewage facilities, the area of protected open space shall include the following minimum buffer areas adjacent to new nonfarm residential lots within the tract:

(a) A buffer area with a minimum width of 50 feet, located between the residential lot line and any existing street frontage, shall be provided. Such buffer area shall be landscaped with street trees meeting the requirements of §22-507.C of the Township Subdivision and Land Development Ordinance [Chapter 22] that would otherwise be applicable to individual residential lots. The Board may require additional landscaping in the form of shrubs where it deems such landscaping necessary to mitigate and soften visual impacts on the road corridor from new residential lots. The buffer area shall contain no structures or any nonfarm residential driveway.

(b) A buffer area with a minimum width of 20 feet, located between the residential lot line and any immediately abutting side or rear tract boundary line, shall be provided. Such buffer area shall be landscaped to achieve visual screening in accordance with the terms of §22-507.A of the Township Subdivision and Land Development Ordinance [Chapter 22]. The buffer area shall contain no structure or any nonfarm residential driveway.

2. All uses permitted in the R-1 District shall be governed by the terms of the following provisions of this Chapter, as applicable:

- A. Part 17, "General Regulations."
- B. Part 18, "Signs."
- C. Part 19, "Off-Street Parking and Loading."

(Ord. 2005-9, 12/29/2005, §504)

§27-505. Creation of Lots from Agricultural Properties.

1. To be eligible under the terms of this Section, a property must qualify as agricultural land. To qualify as agricultural land:

- A. The property shall be enrolled under and subject to the restrictions of

Pennsylvania Farmland and Forest Land Amendment Act of 1974, 72 P.S. §5490.1 *et seq.*, or Act of January 13, 1966, P.L. (1965) 1281, §1 *et seq.*, 16 P.S. §11941 *et seq.*

B. The property shall be contained within the East Nottingham Township Agricultural Security Area.

C. If not qualified under the terms of paragraph .A or .B, above, and only where deemed acceptable by the Board of Supervisors, the property shall be shown to be producing or potentially productive farmland on the basis of: (1) current agricultural activity on the property, investments made, and/or loans secured by the landowner for agricultural practices on the property; and (2) a majority of the gross tract area of the property contains prime agricultural soil (Soil Classes I, II, or III in the Soil Survey of Chester and Delaware Counties, U.S. Natural Resources Conservation Service).

2. An eligible property shall have a gross tract area of not less than 10 acres.

3. The owner of an eligible property may create a lot through subdivision from the tract under the terms of this Section. Such terms shall supercede the otherwise applicable standards of this zoning district.

4. The landowner shall be permitted to create, in any one 12-month period, one lot intended solely for residential use with a single-family detached dwelling unit.

5. The following minimum (or maximum, where noted) requirements shall apply to any lot created under the terms of this Section:

A. Net lot area—1 acre.

B. Maximum net lot area—2 acres.

C. Lot width at building setback line—150 feet.

D. Lot width at street line—50 feet.

E. Front yard—50 feet.

F. Side yards—25 feet each.

G. Rear yard—100 feet.

H. Maximum impervious surface—25 percent of the net lot area.

6. Starting from the date of enactment of the Chapter, the total acreage of the lots created under the terms of this Section cumulatively shall not exceed 10 acres of gross tract area or 10 percent of the gross area of the tract at the date of enactment of the Chapter, whichever is less.

7. When proposing to create a lot under the terms of this Section, the landowner shall comply with the requirements for a minor plan under the terms of the East Nottingham Township Subdivision/Land Development Ordinance [Chapter 22] (except that the limitation on further subdivision contained in §22-302.A(1)(e) shall not apply). The landowner shall discuss the land use and site design implications of the proposed lot with the Township Planning Commission regarding road access, driveway location, avoidance of a strip of frontage lots on existing roads, compatibility with Township objectives concerning retention of rural character, the viability of continuing or potential agricultural use of the tract, and maximum protection for prime agricultural soils on the tract. Consistent with these objectives, and unless deemed clearly infeasible or otherwise undesirable by the Township, the additional dwelling unit should be located adjacent to any existing dwellings.

8. The landowner shall demonstrate that the proposal is consistent with the applicable terms of Pennsylvania Farmland and Forest Land Amendment Act of 1974, 72 P.S. §5490.1 *et seq.*, or Act of January 13, 1966, P.L. (1965) 1281, §1 *et seq.*, 16 P.S. §11941 *et seq.*, the Township Agricultural Security Area, or any other program, covenant, or restriction affecting the tract. Upon creation of a lot under the terms of this Section, a note shall be placed on the final plan for recording, indicating the maximum amount of acreage and number of lots eligible to be created in the future under the terms of this Section.

(*Ord. 2005-9, 12/29/2005, §505*)

§27-506. Agricultural Nuisance Disclaimer.

Lands within the R-1 Agricultural-Residential District are intended principally for use in commercial agricultural production, including the keeping or raising of livestock or poultry. Owners, residents, and other users of this property may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations, including but not limited to: noise, odor, dust, the operation of machinery of any kind, the storage and disposal of manure, the application of fertilizers, herbicides, and pesticides. Owners, residents, and users of this property should be prepared to accept these conditions and are hereby put on official notice that §4 of the Pennsylvania “Right to Farm Law,” 3 P.S. §951 *et seq.*, may bar them from obtaining a legal judgment against such normal agricultural operations.

(*Ord. 2005-9, 12/29/2005, §506*)

Part 6**R-1A Transitional Residential Overlay District****§27-601. Statement of Intent.**

It is the purpose of this district to establish, by means of an overlay zone within the R-1 Agricultural-Residential District, regulations applicable to selected, eligible properties that represent logical transitions between the R-1 and R-2 Zoning Districts. Such properties, designated on the East Nottingham Township Zoning Map, are appropriate for this purpose on the basis of size, location relative to the R-2 District, and adjacency to Waterway Road and to central water and public sewer service. As an option in addition to the terms of the R-1 District, properties within the Transitional Residential Overlay District proposing to use the clustered residential development concept may utilize the density and open space standards applicable only to the overlay district.

(*Ord. 2005-9, 12/29/2005, §601*)

§27-602. Overlay District Concept.

The provisions of the R1-A Transitional Residential Overlay District create an overlay zoning district affecting properties within the R-1 Agricultural-Residential District that are explicitly designated on the East Nottingham Township Zoning Map. To the extent the provisions of this Part differ from the otherwise applicable provisions of this Chapter in relation to those designated properties, a landowner or applicant shall be entitled to proceed under the terms of this Part. However, all other terms of this Chapter and all other ordinances and regulations of East Nottingham Township shall remain in full force.

(*Ord. 2005-9, 12/29/2005, §602*)

§27-603. Use Regulations.

Land and buildings in the R-1A Transitional Residential Overlay District may be used for only one of the following purposes:

A. Any use permitted in §27-502 of this Chapter, in accordance with the standards and regulations for such uses applicable to the R-1 Agricultural-Residential District.

B. Clustered single-family detached dwellings also may be developed in accordance with the terms of §27-604.B of this Part.

(*Ord. 2005-9, 12/29/2005, §603; as amended by Ord. 2011-26, 10/17/2011, §4*)

§27-604. Area and Bulk Regulations.

The following requirements shall apply to uses permitted in the R-1A District:

A. For uses permitted under §27-603.A of this Part, the area and bulk regulations for the R-1 District, as contained in Part 5 of this Chapter, shall be applicable.

B. Development of clustered single-family detached dwellings in the R-1A

District shall be in accordance with the terms of §27-503.B(4) except for the following provisions that are applicable in the R-1A District only:

(1) Maximum density—The maximum number of dwellings permitted shall be determined by establishing the net tract area, as defined by this Chapter, and multiplying the resulting net acreage by 1.15.

(2) Minimum amount of protected open space—55 percent of the gross tract area.

(*Ord. 2005-9, 12/29/2005, §604; as amended by Ord. 2011-26, 10/17/2011, §5*)

§27-605. Design Standards.

Any use permitted in the R-1A District shall comply with the applicable design standards contained in §27-504 of this Chapter.

(*Ord. 2005-9, 12/29/2005, §605*)

§27-606. Agricultural Nuisance Disclaimer.

Protected open space lands within the R-1A Transitional Residential Overlay District are intended principally for use in commercial agricultural production, including the keeping or raising of livestock or poultry. Owners, residents, and other users of this property may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations including, but not limited to: noise, odor, dust, the operation of machinery of any kind, the storage and disposal of manure, the application of fertilizers, herbicides, and pesticides. Owners, residents, and users of this property should be prepared to accept these conditions and are hereby put on official notice that §4 of the Pennsylvania Right to Farm Law, 3 P.S. §954, may bar them from obtaining a legal judgment against such normal agricultural operations.

(*Ord. 2005-9, 12/29/2005, §606*)

Part 7**R-2 Residential District****§27-701. Statement of Intent.**

The R-2 Residential District is intended to enable the development of stable, well designed residential neighborhoods with a variety of dwelling types. Allowable gross densities seek to assure compatibility with the existing pattern of development and to achieve a transition between the Township's agricultural lands and its more urban landscapes. Efficient use of land and protection of open space and natural features are facilitated through the retained open space development mechanism.

(Ord. 2005-9, 12/29/2005, §701; as amended by Ord. 2011-26, 10/17/2011, §6)

§27-702. Use Regulations.

Land and buildings in the R-2 Residential District shall be used for only one of the following purposes:

A. *Uses Permitted by Right.* A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any one of the following principal uses, together with the permitted accessory uses, by right in accordance with the applicable standards contained in §27-1602 and any other applicable provisions of this Chapter:

- (1) Agriculture.
- (2) Single-family detached dwelling, where the tract contained a gross area of less than 5 acres as of November 18, 2002.
- (3) Retained open space development, subject to the provisions of Part 13 of this Chapter.
- (4) Public or private school.
- (5) Public utility operating facility.
- (6) Municipal, County, State, or Federal use, excluding sanitary landfills and correctional or penal institutions.
- (7) Club, fraternal institution, or nonprofit swimming pool, provided that a particular activity shall not be one that is customarily carried on as a business and provided that all services shall be for members and their guests.
- (8) Noncommercial recreational use.
- (9) Forestry, as defined by this Chapter, including logging activities when in accordance with the standards in §27-406.
- (10) The following accessory uses, when in accordance with the applicable terms of §27-1602:
 - (a) Swimming pool.
 - (b) No-impact home occupation.
 - (c) Noncommercial greenhouse.

(d) Farm-related business.

(e) Other customary residential and agricultural accessory uses.

B. *Uses Permitted by Special Exception.* The following uses shall be permitted when approved as a special exception by the Zoning Hearing Board in conformance with Part 22, the applicable standards contained in §27-1603, and any other applicable provisions of this Chapter:

(1) Major home occupation.

(2) Bed-and-breakfast establishment, as a use accessory to a single-family dwelling.

C. *Uses Permitted as Conditional Uses.* The following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with the terms of §27-2111 and all applicable standards in §27-1604:

(1) Cemetery.

(2) Golf course and golf house, including driving range as part of the same establishment, but excluding miniature golf course.

(3) Place of religious worship.

(4) Single-family detached dwellings, where the tract contained a gross area of 5 acres or greater as of November 18, 2002, and the retained open space development option is not used.

(5) Public school.

(Ord. 2005-9, 12/29/2005, §702)

§27-703. Area and Bulk Regulations.

Except where otherwise noted, the following requirements shall apply to uses permitted in the R-2 District:

A. Agricultural uses shall comply with the standards in §27-503.A.

B. Residential uses proposed as retained open space development shall be governed by the regulations in Part 13.

C. Single-family detached dwellings with community or public sewer service and central water supply, where the tract contained a gross area of less than 5 acres as of November 18, 2002, shall comply with the following requirements:

(1) Net lot area—22,000 square feet minimum.

(2) Lot width at street line—50 feet minimum.

(3) Lot width at building line—100 feet minimum.

(4) Front yard—40 feet minimum.

(5) Side yards—15 feet minimum.

(6) Rear yard—40 feet minimum.

(7) Maximum impervious surface—25 percent of the net lot area.

D. Single-family detached dwellings not qualifying under the terms of paragraphs .B or .C, above, and any other permitted use not governed by specific standards in Part 16, shall comply with the following requirements:

- (1) Net lot area—1 acre minimum.
- (2) Lot width at street line—50 feet minimum.
- (3) Lot width at building line—150 feet minimum.
- (4) Front yard—50 feet minimum.
- (5) Side yards—25 feet minimum.
- (6) Rear yard—50 feet minimum.
- (7) Maximum impervious surface—20 percent of the net lot area.

E. Residential accessory buildings may be erected in side and rear yards, provided that any such accessory building is located not less than 10 feet from any side or rear lot line. No accessory building may be located in any front yard.

(Ord. 2005-9, 12/29/2005, §703)

§27-704. Design Standards.

1. Residential uses proposed as a retained open space development shall be governed by the standards in Part 13.

2. All uses permitted in the R-2 District shall be governed by the terms of the following provisions of this Chapter, as applicable:

- A. Part 17, “General Regulations.”
- B. Part 18, “Signs.”
- C. Part 19, “Off-Street Parking and Loading.”

(Ord. 2005-9, 12/29/2005, §704)

Part 8**R-3 Residential District****§27-801. Statement of Intent.**

The R-3 Residential District provides opportunity for a variety of types and densities of residential use, primarily through the retained open space development process. The area is designed for the use of community or public sewage facilities and central water service, where available. Its location, adjacent and in close proximity to Baltimore Pike, is intended to allow a transition in land use pattern and intensity between the R-2 District and areas of commercial and industrial activity. The district also reflects suitable access, compatible existing residential development, and proximity to neighborhood commercial uses. Through these provisions, it is the intent of the Township to recognize and build upon existing settlement patterns.

(Ord. 2005-9, 12/29/2005, §801)

§27-802. Use Regulations.

Land and buildings in the R-3 Residential District shall be used for only one of the following purposes:

A. *Uses Permitted by Right.* A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any one of the following principal uses, together with the permitted accessory uses, by right in accordance with the applicable standards contained in §27-1602 and any other applicable provisions of this Chapter:

- (1) Agriculture.
- (2) Single-family detached dwelling, where the tract contained a gross area of less than 5 acres as of November 18, 2002.
- (3) Retained open space development, subject to the provisions of Part 13 of this Chapter.
- (4) Two-family dwelling.
- (5) Public utility operating facility.
- (6) Municipal, County, State, or Federal use, excluding sanitary landfills and correctional or penal institutions.
- (7) Club, fraternal institution, or nonprofit swimming pool, provided that a particular activity shall not be one that is customarily carried on as a business and provided that all services shall be for members and their guests.
- (8) Noncommercial recreational use.
- (9) Forestry, as defined by this Chapter, including logging activities when in accordance with the standards in §27-406.
- (10) The following accessory uses, when in accordance with the applicable terms of §27-1602:
 - (a) Swimming pool.

- (b) No-impact home occupation.
- (c) Noncommercial greenhouse.
- (d) Farm-related business.
- (e) Other uses customarily accessory to residential or agricultural uses.

B. *Uses Permitted by Special Exception.* The following uses shall be permitted when approved as a special exception by the Zoning Hearing Board in conformance with Part 22, the applicable standards contained in §27-1603, and any other applicable provisions of this Chapter:

- (1) Major home occupation.
- (2) Residential conversion to create two or more dwelling units.
- (3) Bed-and-breakfast establishment, as a use accessory to a single-family dwelling.

C. *Uses Permitted as Conditional Uses.* The following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with the terms of §27-2111 and all applicable standards in §27-1604:

- (1) Place of religious worship.
- (2) Single-family detached dwelling, where the tract contained a gross area of 5 acres or greater as of November 18, 2002, and the retained open space development option is not used.

(Ord. 2005-9, 12/29/2005, §802)

§27-803. Area and Bulk Regulations.

Except where otherwise noted, the following requirements shall apply to uses permitted in the R-3 District:

- A. Agricultural uses shall comply with the standards in §27-503.A.
- B. Residential uses proposed as retained open space development shall be governed by the regulations in Part 13.
- C. Single-family detached dwellings with community or public sewage facilities and central water supply, where the tract contained a gross area of less than 5 acres as of November 18, 2002, shall comply with the following requirements:
 - (1) Net lot area—15,000 square feet minimum.
 - (2) Lot width at street line—50 feet minimum.
 - (3) Lot width at building line—90 feet minimum.
 - (4) Front yard—40 feet minimum.
 - (5) Side yards—15 feet minimum.
 - (6) Rear yard—40 feet minimum.
 - (7) Maximum impervious surface—30 percent of the net lot area.
- D. Two-family dwellings with community or public sewage facilities and central water supply, where the tract contained a gross area of less than 5 acres as of November 18, 2002, shall comply with the following requirements:

- (1) Net lot area (per dwelling unit)–10,000 square feet minimum.
- (2) Lot width at street line (per dwelling unit)–45 feet minimum.
- (3) Front yard–40 feet minimum.
- (4) Side yards–15 feet minimum.
- (5) Rear yard–40 feet minimum.
- (6) Maximum impervious surface–35 percent of the net lot area.

E. Single-family detached dwellings not qualifying under the terms of paragraphs .B or .C, above, and any other permitted use not governed by specific standards in Part 16, shall comply with the following requirements:

- (1) Net lot area–1 acre minimum.
- (2) Lot width at street line–50 feet minimum.
- (3) Lot width at building line–150 feet minimum.
- (4) Front yard–50 feet minimum.
- (5) Side yards–25 feet minimum.
- (6) Rear yard–50 feet minimum.
- (7) Maximum impervious surface–20 percent of the net lot area.

F. Residential accessory buildings may be erected in side and rear yards, provided that any such accessory building is located not less than 10 feet from any side or rear lot line. No accessory building may be located in any front yard.

G. Agricultural uses shall comply with the terms of §27-503.A of this Chapter.

(Ord. 2005-9, 12/29/2005, §803)

§27-804. Design Standards.

1. Residential uses proposed as a retained open space development shall be governed by the standards in Part 13.

2. All uses permitted in the R-3 District shall be governed by the terms of the following provisions of this Chapter, as applicable:

- A. Part 17, “General Regulations.”
- B. Part 18, “Signs.”
- C. Part 19, “Off-Street Parking and Loading.”

(Ord. 2005-9, 12/29/2005, §804)

Part 9**C-1 Special Limited Business District****§27-901. Statement of Intent.**

It is the purpose of this district:

A. To provide convenient, limited areas for shopping and related services within and adjacent to residential neighborhoods, but not to satisfy broader regional commercial needs or serve as an employment center.

B. To protect adjacent residential land uses and residential zoning districts from adverse impacts of nonresidential land use activity.

C. To provide for the stable development of a mixed-use village land use pattern with predominantly small lots and smaller-scale businesses.

(Ord. 2005-9, 12/29/2005, §901)

§27-902. Use Regulations.

Land and buildings in the C-1 Special Limited Business District shall be used for only one of the following purposes:

A. *Uses Permitted by Right.* A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any one of the following principal uses, together with the permitted accessory uses, by right in accordance with the applicable standards contained in §27-1602 and any other applicable provisions of this Chapter:

(1) Retail sale of dry goods, variety and general merchandise, clothing, food, flowers, pharmaceuticals, and household supplies and furnishings.

(2) Sale and/or repair of jewelry, watches and clocks, optical goods, computers and related technology, and musical, professional, and scientific instruments.

(3) Business or professional office.

(4) Restaurant, including fast-food restaurant and drive-through service.

(5) Automotive and farm equipment/supply sales and service.

(6) Barber shop, hairdresser, cleaning and pressing, shoe repair, self-service laundry, and similar personal service establishments.

(7) Trade school.

(8) Bank or similar financial institution.

(9) Medical, dental, or veterinary clinic.

(10) Bakery, confectioner, or custom shop for production of articles to be sold at retail on the premises.

(11) Growers' market; farmers' market.

(12) Craftsman or artisan shop, including furniture restoration and refinishing, photography studio, artist's workshop or studio, and other similar uses.

(13) Day care facility for children or adults.

(14) One dwelling unit incorporated in any single building housing a commercial use.

(15) Forestry, as defined by this Chapter, including logging activities when in accordance with the standards in §27-406.

(16) The following accessory uses, when in accordance with the applicable terms of §27-1602:

(a) Swimming pool.

(b) No-impact home occupation.

(c) Other uses customarily accessory to commercial or residential uses.

B. *Uses Permitted by Special Exception.* The following uses shall be permitted when approved as a special exception by the Zoning Hearing Board in conformance with Part 22, the applicable standards contained in §27-1603, and any other applicable provisions of this Chapter:

(1) Major home occupation.

(2) Residential conversion to create two or more dwelling units.

C. *Uses Permitted as Conditional Uses.* The following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with the terms of §27-2110 and all applicable standards in §27-1604:

(1) Convenience store.

(2) Gasoline service station.

(3) Planned village commercial center, comprising one or more buildings containing three or more of the uses permitted under the terms of paragraph .A, above.

(4) Place of religious worship.

(5) Communications tower or antenna.

(6) Private school.

(7) Billboard.

(Ord. 2005-9, 12/29/2005, §902)

§27-903. Area and Bulk Regulations.

Except where otherwise noted, the following requirements shall apply to uses permitted in the C-1 District:

A. The following area and bulk regulations shall apply to any permitted use:

(1) Net lot area—1 acre minimum.

(2) Lot width at street line—100 feet minimum.

(3) Lot width at building line—150 feet minimum.

(4) Maximum impervious surface shall not exceed 65 percent of the lot area, provided that neither the maximum building coverage nor the maximum paved surface shall exceed 35 percent of the lot area. [Ord. 2011-26]

- (5) Front yard—40 feet minimum.
- (6) Side yards—15 feet minimum.
- (7) Rear yard—50 feet minimum.
- (8) Maximum building height shall not exceed 35 feet. [*Ord. 2011-26*]

B. Buildings accessory to nonconforming residential uses may be erected in side and rear yards, provided that any such accessory building is located not less than 10 feet from any side or rear lot line. No accessory building may be located in any front yard.

(*Ord. 2005-9, 12/29/2005, §903; as amended by Ord. 2011-26, 10/17/2011, §§7–10*)

§27-904. Design Standards.

All uses permitted in the C-1 District shall be governed by the terms of the following provisions of this Chapter, as applicable:

- A. Part 17, “General Regulations.”
- B. Part 18, “Signs.”
- C. Part 19, “Off-Street Parking and Loading.”

(*Ord. 2005-9, 12/29/2005, §903*)

Part 10**C-2 Highway Commercial District****§27-1001. Statement of Intent.**

It is the purpose of this district is to provide for a range of retail and service commercial establishments intended to serve both the adjacent neighborhoods within the Township and a broader regional market. The district is located so as to accomplish efficient highway access and internal circulation. Standards for parking and landscaping are intended to help create a quality environment for shopping and employment. The standards also are designed to protect adjacent residential land uses and residential zoning districts from adverse impacts of nonresidential land use activity.

(Ord. 2005-9, 12/29/2005, §1001)

§27-1002. Use Regulations.

Land and buildings in the C-2 Highway Commercial District shall be used for only one of the following purposes:

A. *Uses Permitted by Right.* A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any one of the following principal uses, together with the permitted accessory uses, by right in accordance with the applicable standards contained in §27-1602 and any other applicable provisions of this Chapter:

- (1) Retail sale of dry goods, variety and general merchandise, clothing, food, flowers, pharmaceuticals, and household supplies and furnishings.
- (2) Sale and/or repair of jewelry, watches and clocks, optical goods, computers and related technology, and musical, professional, and scientific instruments.
- (3) Business or professional office.
- (4) Restaurant, including fast-food restaurant and drive-through service.
- (5) Automotive and farm equipment/supply sales and service.
- (6) Barber shop, hairdresser, cleaning and pressing, shoe repair, self-service laundry, and similar personal service establishments.
- (7) Trade school.
- (8) Bank or similar financial institution.
- (9) Medical, dental, or veterinary clinic.
- (10) Hotel, motel, or inn.
- (11) Bakery, confectioner, or custom shop for production of articles to be sold at retail on the premises.
- (12) Growers' market; farmers' market.
- (13) Craftsman or artisan shop, including furniture restoration and refinishing, photography studio, artist's workshop or studio, and other similar

uses.

- (14) Day care facility for children or adults.
- (15) Public utility operating facility.
- (16) Municipal, County, State, or Federal use, excluding sanitary landfill and correctional or penal institution.
- (17) Club, fraternal organization, or nonprofit swimming pool, provided that all services shall be for members and their guests.
- (18) Funeral home or undertaker's establishment.
- (19) Plumbing, pipe-fitting, welding, carpentry, cabinet-making, furniture or upholstery shop; electrician or electronics repair shop.
- (20) Noncommercial recreational use.
- (21) Self-service storage warehouse.
- (22) One dwelling unit incorporated in any single building housing a commercial use.
- (23) Forestry, as defined by this Chapter, including logging activities when in accordance with the standards in §27-406.
- (24) The following accessory uses, when in accordance with the applicable terms of §27-1602:
 - (a) Swimming pool.
 - (b) No-impact home occupation.
 - (c) Other uses customarily accessory to commercial or residential uses.

B. *Uses Permitted by Special Exception.* The following uses shall be permitted when approved as a special exception by the Zoning Hearing Board in conformance with Part 22, the applicable standards contained in §27-1603, and any other applicable provisions of this Chapter:

- (1) Major home occupation.
- (2) Residential conversion to create two or more dwelling units.

C. *Uses Permitted as Conditional Uses.* The following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with the terms of §27-2111 and all applicable standards in §27-1604:

- (1) Convenience store.
- (2) Gasoline service station.
- (3) Planned village commercial center, comprising one or more buildings containing three or more of the uses permitted under the terms of paragraph .A, above.
- (4) Residential conversion to commercial use.
- (5) Place of religious worship.
- (6) Kennel.
- (7) Car wash.
- (8) Communications tower or antenna.

- (9) Private school.

(*Ord. 2005-9, 12/29/2005, §1002*)

§27-1003. Area and Bulk Regulations.

Except where otherwise noted, the following requirements shall apply to uses permitted in the C-2 District:

- A. The following area and bulk regulations shall apply to any permitted use:

- (1) Net lot area—1 acre minimum.
- (2) Lot width at street line—100 feet minimum.
- (3) Lot width at building line—150 feet minimum.
- (4) Maximum impervious surface shall not exceed 65 percent of the lot area, provided that neither the maximum building coverage nor the maximum paved surface shall exceed 35 percent of the lot area. [*Ord. 2011-26*]
- (5) Front yard—40 feet minimum.
- (6) Side yards—15 feet minimum.
- (7) Rear yard—50 feet minimum.
- (8) Maximum building height shall not exceed 35 feet. [*Ord. 2011-26*]

- B. Buildings accessory to nonconforming residential uses may be erected in side and rear yards, provided that any such accessory building is located not less than 10 feet from any side or rear lot line. No accessory building may be located in any front yard.

(*Ord. 2005-9, 12/29/2005, §1003; as amended by Ord. 2011-26, 10/17/2011, §§11–13*)

§27-1004. Design Standards.

All uses permitted in the C-2 District shall be governed by the terms of the following provisions of this Chapter, as applicable:

- A. Part 17, “General Regulations.”
- B. Part 18, “Signs.”
- C. Part 19, “Off-Street Parking and Loading.”

(*Ord. 2005-9, 12/29/2005, §1004*)

Part 11**I-1 Industrial District****§27-1101. Statement of Intent.**

1. It is the purpose of this district to provide opportunities for the development and/or continuation of a range of industrial uses, in locations well-served by transportation facilities and compatible with similar existing uses. The district permits such uses when they are in compliance with the performance standards contained in this Part; certain uses with the potential for substantial off-site impacts are permitted only by special exception or conditional use. The district requirements are intended to protect the health, safety, and welfare of Township residents, workers at such establishments, and visitors to the Township.

2. Residential uses are not permitted in this district, with the intent of minimizing incompatible land uses and maximizing opportunities for industrial land uses in the areas so zoned. The district also permits agriculture. [Ord. 2011-26] (Ord. 2005-9, 12/29/2005, §1101; as amended by Ord. 2011-26, 10/17/2011, §14)

§27-1102. Use Regulations.

Land and buildings in the I-1 Industrial District shall be used for only one of the following purposes:

A. *Uses Permitted by Right.* A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any one of the following principal uses, together with the permitted accessory uses, by right in accordance with the applicable standards contained in §27-1602 and any other applicable provisions of this Chapter:

- (1) Research, engineering, or testing laboratory.
- (2) Any production, processing, cleaning, testing, repair, storage, and distribution of materials, goods, and foodstuffs, not including a junkyard or the slaughtering of animals.
- (3) Public utility operating facility.
- (4) Truck freight terminal.
- (5) Contractor's establishment.
- (6) Administrative activities and offices.
- (7) Noncommercial recreational use.
- (8) Self-service storage warehouse.
- (9) Agriculture.
- (10) Forestry, as defined by this Chapter, including logging activities when in accordance with the standards in §27-406.
- (11) Adult entertainment business.

(12) The following accessory uses, when in accordance with the applicable terms of §27-1602:

- (a) Retail sales.
- (b) Swimming pool.
- (c) No-impact home occupation.
- (d) Noncommercial greenhouse.
- (e) Farm-related business.
- (f) Other uses customarily accessory to industrial, commercial, residential, or agricultural uses.

[Ord. 2009-18]

B. *Uses Permitted by Special Exception.* The following uses shall be permitted when approved as a special exception by the Zoning Hearing Board in conformance with Part 22, the applicable standards contained in §27-1603, and any other applicable provisions of this Chapter:

- (1) Major home occupation.
- (2) Sanitary landfill.
- (3) Junkyard.

C. *Uses Permitted as Conditional Uses.* The following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with the terms of §27-2111 and all applicable standards in §27-1604:

- (1) Commercial composting processing operation.
- (2) Kennel.
- (3) Any other lawful use not otherwise permitted by the terms of this Chapter.

(Ord. 2005-9, 12/29/2005, §1102; as amended by Ord. 2009-18, 7/13/2009, §4)

§27-1103. Area and Bulk Regulations.

Except where otherwise noted, the following requirements shall apply to uses permitted in the I-1 District:

- A. Agricultural uses shall comply with the standards in §27-503.A.
- B. Buildings accessory to nonconforming residential uses may be erected in side and rear yards, provided that any such accessory building is located not less than 10 feet from any side or rear lot line. No accessory building may be located in any front yard.
- C. All other uses shall comply with the following requirements:
 - (1) Net lot area—2 acres minimum.
 - (2) Lot width at street line—50 feet minimum.
 - (3) Lot width at building line—150 feet minimum.
 - (4) Front yard—100 feet minimum.
 - (5) Side yards—30 feet minimum.
 - (6) Rear yard—50 feet minimum.

(7) Maximum impervious surface shall not exceed 60 percent of the net lot area, provided that the maximum building coverage shall not exceed 30 percent of the net lot area and the maximum paved surface shall not exceed 40 percent of the net lot area. [*Ord. 2011-26*]

(8) Maximum building height shall not exceed 35 feet. [*Ord. 2011-26*]
(*Ord. 2005-9, 12/29/2005, §1103; as amended by Ord. 2011-26, 10/17/2011, §§15–18*)

§27-1104. Design Standards.

All uses permitted in the I-1 District shall be governed by the terms of the following provisions of this Chapter, as applicable:

- A. Part 17, “General Regulations.”
- B. Part 18, “Signs.”
- C. Part 19, “Off-Street Parking and Loading.”

(*Ord. 2005-9, 12/29/2005, §1104*)

Part 12**I-2 Limited Industrial District****§27-1201. Statement of Intent.**

1. It is the purpose of this district to provide opportunities for the development and/or continuation of a range of industrial uses, including those existing uses that have been in operation over a considerable period of time. The district permits such uses when they are in compliance with the performance standards contained in this Part. The district requirements are intended to protect the health, safety, and welfare of the Township residents, workers at such establishments, and visitors to the Township.

2. The district also permits agricultural and residential uses, with the latter intended to reflect existing development within and adjacent to the district. As such, residential uses are permitted on a limited basis, with single-family detached dwellings upon land developments of five or fewer lots being permitted as consistent with existing development and more extensive developments and developments using the retained open space option being permitted only by conditional use to assure compatibility with existing and potential nonresidential uses. Use of the retained open space development option is permitted and encouraged. [*Ord. 2011-26*]

(*Ord. 2005-9, 12/29/2005, §1201; as amended by Ord. 2007-2, 3/29/2007, §1; and by Ord. 2011-26, 10/17/2011, §19*)

§27-1202. Use Regulations.

Land and buildings in the I-2 Limited Industrial District shall be used for only one of the following purposes:

A. *Uses Permitted by Right.* A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any one of the following principal uses, together with the permitted accessory uses, by right in accordance with the applicable standards contained in §27-1602 and any other applicable provisions of this Chapter:

- (1) Research, engineering, or testing laboratory.
- (2) Any production, processing, cleaning, testing, repair, storage, and distribution of materials, goods, and foodstuffs, not including a junkyard or the slaughtering of animals.
- (3) Public utility operating facility.
- (4) Truck freight terminal.
- (5) Contractor's establishment.
- (6) Administrative activities and offices.
- (7) Noncommercial recreational use.
- (8) Self-service storage warehouse.
- (9) Agriculture.
- (10) Forestry, as defined by this Chapter, including logging activities when

in accordance with the standards in §27-406.

(11) Single-family detached dwellings not using the retained open space development option, provided that they are to be constructed in land developments of five or fewer lots. No portion of a tract once subdivided as permitted by this provision may be subdivided again except as approved by conditional use in accordance with the terms of §27-2110 and all applicable standards in §27-1604. This subdivision limitation shall be reflected in deed restriction, in form and substance acceptable to the Township and its Solicitor, recorded against each lot permitted by this provision. [Ord. 2007-2]

(12) The following accessory uses, when in accordance with the applicable terms of §27-1602:

- (a) Retail sales.
- (b) Swimming pool.
- (c) No-impact home occupation.
- (d) Noncommercial greenhouse.
- (e) Farm-related business.
- (f) Other uses customarily accessory to industrial, commercial, residential, or agricultural uses.

B. *Uses Permitted by Special Exception.* The following uses shall be permitted when approved as a special exception by the Zoning Hearing Board in conformance with Part 22, the applicable standards contained in §27-1603, and any other applicable provisions of this Chapter:

- (1) Major home occupation.
- (2) Bed-and-breakfast establishment, as a use accessory to a single-family dwelling.

C. *Uses Permitted as Conditional Uses.* The following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with the terms of §27-2110 and all applicable standards in §27-1604:

- (1) Single-family detached dwellings, within land developments of more than five lots, not using the retained open space development option.
- (2) Retained open space development, in accordance with the terms of Part 13 of this Chapter.

[Ord. 2007-2]

(Ord. 2005-9, 12/29/2005, §1202; as amended by Ord. 2007-2, 3/29/2007, §1)

§27-1203. Area and Bulk Regulations.

Except where otherwise noted, the following requirements shall apply to uses permitted in the I-2 District:

- A. Agricultural uses shall comply with the standards in §27-503.A.
- B. Residential uses proposed as retained open space development shall be governed by the regulations in Part 13.
- C. Single-family detached dwellings with community or public sewage facilities and central water supply, where the tract contained a gross area of less

than 5 acres as of November 12, 2002, shall comply with the following requirements:

- (1) Net lot area—22,000 square feet minimum.
- (2) Lot width at street line—50 feet minimum.
- (3) Lot width at building line—100 feet minimum.
- (4) Front yard—40 feet minimum.
- (5) Side yards—15 feet minimum.
- (6) Rear yard—40 feet minimum.
- (7) Maximum impervious surface—25 percent of the net lot area.

D. Single-family detached dwellings not qualifying under the terms of paragraphs .B or .C, above, shall comply with the following requirements:

- (1) Net lot area—1 acre minimum.
- (2) Lot width at street line—50 feet minimum.
- (3) Lot width at building line—150 feet minimum.
- (4) Front yard—50 feet minimum.
- (5) Side yards—25 feet minimum.
- (6) Rear yard—50 feet minimum.
- (7) Maximum impervious surface—20 percent of the net lot area.

E. Residential accessory buildings may be erected in side and rear yards, provided that any such accessory building is located not less than 10 feet from any side or rear lot line. No accessory building may be located in any front yard.

F. All other uses shall comply with the terms of §27-1103.C of this Chapter.

(Ord. 2005-9, 12/29/2005, §1203)

§27-1204. Design Standards.

1. Residential uses proposed as a retained open space development shall be governed by the standards in Part 13.

2. All uses permitted in the I-2 District shall be governed by the terms of the following provisions of this Chapter, as applicable:

- A. Part 17, “General Regulations.”
- B. Part 18, “Signs.”
- C. Part 19, “Off-Street Parking and Loading.”

(Ord. 2005-9, 12/29/2005, §1204)

Part 13**Retained Open Space Development****§27-1301. Specific Intent.**

The provisions in this Part are intended to achieve residential site designs on selected tracts within East Nottingham Township that retain a significant portion of the buildable land as permanently protected open space through reduced lot area and other dimensional requirements and the opportunity to construct a mix of dwelling types. Under these terms, the Township seeks to create effective buffers between new residential neighborhoods and working farmland on and adjoining those tracts. The retained open space development option also is established to maximize the advantage of community or public sewage facilities and central water supply in shaping efficient land use in combination, the results are meant to help the Township protect its agricultural base and rural character.

(Ord. 2005-9, 12/29/2005, §1301)

§27-1302. Applicability.

Any proposed development that meets all of the following site characteristics may be designed in accordance with the terms for retained open space development, as contained in this Part:

- A. The proposed tract is in the R-2, R-3, or I-2 District.
- B. The tract contained a gross area of 5 acres or more as of November 18, 2002.
- C. The dwellings will be served by community or public sewage facilities and community water service.

(Ord. 2005-9, 12/29/2005, §1302)

§27-1303. Permitted Uses.

The following uses are permitted on a tract utilizing retained open space development, consistent with the terms of this Part:

- A. Single-family detached dwellings.
- B. Two-family dwellings.
- C. Multi-family dwellings, including quadraplex, townhouse, and apartment structures.
- D. Mobile home parks, in the R-2 District only.
- E. Permanently protected open space land.
- F. Uses customarily accessory to residential and/or open space uses.

(Ord. 2005-9, 12/29/2005, §1303)

§27-1304. Type and Density of Residential Use.

On any tract meeting the eligibility criteria in §27-1302, above, residential development shall be permitted under the terms of retained open space development.

The type or types of dwellings and the maximum number of dwelling units permitted on the tract shall be determined as follows:

A. On any tract proposed for development, not less than 50 percent of the proposed dwellings shall be single-family detached. Up to 50 percent of the remaining dwellings may be two-family, multi-family and/or, in the R-2 District only, mobile homes within a mobile home park.

B. Where the tract is proposed to be developed with single-family detached dwellings only, the maximum number of such dwellings permitted shall be determined by establishing the net tract area, as defined by this Chapter, and multiplying the resulting net acreage by 1.7.

C. Where a portion of the tract is proposed to be developed with two-family or multi-family dwellings or a mobile home park use, the maximum number of dwellings permitted on the tract shall be determined as follows:

(1) Multiply the net tract area by the percentage of the proposed total number of dwelling units represented by single-family detached dwellings, and multiply that result by 1.7 to establish the maximum number of single-family detached dwellings permitted.

(2) Multiply the net tract area by the percentage of the proposed total number of dwelling units represented by two-family and/or multi-family dwellings, and multiply that result by 2.0 to establish the maximum number of two-family and/or multi-family dwellings permitted.

(3) In the R-2 District only, multiply the net tract area by the percentage of the proposed total number of dwelling units represented by mobile homes within a mobile home park, and multiply that result by 1.7 to establish the maximum number of mobile home dwellings permitted within the mobile home park.

[Text continued on p. 27-101]

(Ord. 2005-9, 12/29/2005, §1304; as amended by Ord. 2011-26, 10/17/2011, §20)

§27-1305. Lot and Yard Requirements.

Residential uses in a retained open space development shall comply with the following minimum (or maximum, where noted) requirements, as applicable to the type of dwelling unit:

A. *Single-Family Detached Dwellings.*

- (1) Net lot area—10,000 square feet.
- (2) Lot width at street line—25 feet.
- (3) Lot width at building setback line—90 feet.
- (4) Lot depth—110 feet.
- (5) Front yard—20 feet.
- (6) Side yard—10 feet, each.
- (7) Rear yard—35 feet.
- (8) Protected open space—as specified in §27-1310.A.
- (9) Maximum amount of impervious surface—as specified in §27-1308.

B. *Two-Family Dwellings.*

- (1) Net lot area—7,500 square per dwelling unit.
- (2) Lot width at street line—25 feet per dwelling unit.
- (3) Lot width at building setback line—65 feet per dwelling unit.
- (4) Lot depth—110 feet.
- (5) Front yard—20 feet.
- (6) Side yard—10 feet per yard.
- (7) Rear yard—35 feet.
- (8) Protected open space—as specified in §27-1310.A.
- (9) Maximum amount of impervious surface—as specified in §27-1308.

C. *Townhouse and Quadrplex Structures.*

(1) Net lot area (or equivalent area for non-fee simple units)— 3,200 square feet per dwelling unit.

(2) Width of unit—20 feet.

(3) Yard dimensions (for fee-simple units; comparable building placement shall be achieved for condominium or rental units, and compliance with the building setback and separation standards of this Section shall be required for all structures):

(a) Front yard—20 feet.

(b) Side yard—15 feet.

(c) Rear yard—35 feet.

(4) Distance between townhouse structures—40 feet.

(5) Setback from any tract boundary—50 feet.

- (6) Maximum length of any townhouse structure—150 feet.
- (7) Protected open space—as specified in §27-1310.A.
- (8) Maximum amount of impervious surface—as specified in §27-1308.

D. *Apartment Buildings.*

- (1) Setback from any tract boundary—50 feet.
- (2) Distance between buildings—40 feet.
- (3) Maximum length of any building—150 feet.
- (4) Amount of net tract area per apartment unit—3,000 square feet.
- (5) Protected open space—as specified in §27-1310.A.
- (6) Maximum amount of impervious surface—as specified in §27-1308.

E. *Mobile Home Park.*

- (1) Net lot area for each mobile home—8,000 square feet.
- (2) Lot width at street line—80 feet.
- (3) Distance between buildings—30 feet.
- (4) Distance of any mobile home from any public or private street right-of-way or tract boundary—50 feet.
- (5) Protected open space—as specified in §27-1310.A.
- (6) Maximum amount of impervious surface—as specified in §27-1308.
- (7) A mobile home park shall be subject to the standards in Part 7 of the East Nottingham Township Subdivision and Land Development Ordinance [Chapter 22].

(Ord. 2005-9, 12/29/2005, §1305)

§27-1306. Additional Siting Criteria for Dwelling Units.

1. There shall be a minimum separation of 100 feet between any residential structure within the retained open space development and: (A) any R-1 Zoning District boundary or other agricultural zoning district boundary; (B) any portion of the proposed protected open space on the tract that is to be used for agricultural purposes in accordance with §27-1310.D(3); and (C) any land not in the R-1 District or any other agricultural zoning district that is permanently restricted by conservation easement or similar perpetual limitation to agricultural use.

2. Where some or all of the proposed protected open space on the tract is to be used for agriculture in accordance with §27-1310.D(3), such use shall be a factor in the design of the site for residential purposes. Proposed dwelling units, roads, and sewage facilities shall, where feasible and practical, be located so as to minimize disturbance to the tract's Class I, Class II, and/or Class III agriculturally-suitable soils, as those soils are designated in the *Soils Survey of Chester and Delaware Counties* (U.S. Dept. of Agriculture, 1963, as amended and updated).

(Ord. 2005-9, 12/29/2005, §1306)

§27-1307. Setback Requirements for Garages.

1. For single-family detached and two-family dwellings, attached garages with

doors facing the street shall be set back a minimum of 25 feet.

2. The setback requirement in subsection .1, above, shall not apply to a side-loaded garage, the minimum front yard setback for which shall be the same as that required for the dwelling.

3. The side and rear wall of a garage not attached to a dwelling unit shall be set back from any side or rear property line a minimum of 10 feet, notwithstanding any other provision of this Chapter.

(Ord. 2005-9, 12/29/2005, §1307)

§27-1308. Maximum Amount of Impervious Surface.

Impervious surfaces shall not exceed the following maximum amounts:

- A. Single-family detached dwellings—40 percent of the net area of the lot.
- B. Two-family dwellings—45 percent of the net area of the lot.
- C. Quadraplex or townhouse dwellings—50 percent of the net area of the lot.
- D. Apartments—60 percent of the minimum tract area required for the number of apartment units proposed, as prescribed in §27-1305.D(4).
- E. Mobile homes—45 percent of the net area of the site.

(Ord. 2005-9, 12/29/2005, §1308)

§27-1309. Supplemental Requirements.

1. *Sewage and Water Supply Systems.*

A. Any tract to be developed as a retained open space development shall be served by public or community sewage facilities. Such facilities shall be:

(1) Provided through direct connection to the Oxford Area Sewer Authority (OASA) central system of wastewater collection, treatment, and disposal.

(2) Where connection to the OASA system is not feasible at the time of application, provided by a self-contained community sewage system constructed by the applicant.

B. Of the alternatives presented in subparagraph (1), above, direct connection to the OASA system shall be utilized where the site of the proposed retained open space development is within the service area designated in the OASA Act 537 Sewage Facilities Plan, the system has available capacity to serve the wastewater needs of the site, and the OASA conveyance system is available to the site or can be reasonably extended by the applicant.

C. Where the conditions in paragraph .B, above, do not exist, the applicant shall construct a self-contained community sewage system to serve the site. Design and construction of the system shall be in compliance with the applicable standards for “Community Treatment/Disposal Systems” contained in Chapter V, Standard Specifications, of the most recent edition of the Rules and Regulations of OASA. Upon construction, such system shall be dedicated to OASA, which will then own, operate, and maintain said system.

D. A self-contained community system shall be designed in accordance with

the preferred treatment and disposal methods stipulated in the OASA Act 537 Sewage Facilities Plan, and shall comply with all applicable requirements of the East Nottingham Township Subdivision and Land Development Ordinance [Chapter 22], OASA, and the Pennsylvania Department of Environmental Protection. In consultation with OASA, the system shall be constructed to enable future connection to the OASA central system or to remain a self-contained community system serving, at minimum, the subject tract.

E. Dwellings within a retained open space development shall be served by a central water supply system, subject to all applicable requirements of the East Nottingham Township Subdivision and Land Development Ordinance [Chapter 22], the Chester County Health Department, the Pennsylvania Department of Environmental Protection, and/or the Pennsylvania Public Utilities Commission.

2. *Street Trees.* Street trees shall be provided in accordance with the terms of §22-507.C of the Township Subdivision and Land Development Ordinance [Chapter 22]. Unless shown to be clearly impractical or infeasible, the applicant shall select native tree species from among those listed in Appendix 1: Recommended Street Tree Species, of this Chapter.

3. *Screening Requirements.*

A. All residential uses shall be screened from adjacent parking lots and active recreation areas on the tract. The method of screening shall be as required in §22-507.A(3) of the Township Subdivision and Land Development Ordinance [Chapter 22].

B. Except where used for agricultural purposes, any area of protected open space to be located adjacent to an existing agricultural operation shall be physically separated from such operation through fencing, hedgerow, or other means acceptable to the Township.

4. *Off-Street Parking.*

A. Notwithstanding the requirements of Part 19 of this Chapter, the minimum number of residential off-street parking spaces required on any lot or tract in association with dwelling units in a retained open space development shall be equal to the number of bedrooms contained in the dwelling unit(s) on the lot or tract. Each required parking space shall have minimum dimensions of 10 feet by 20 feet.

B. Required parking spaces may be provided within garages and in driveways. Any use of a driveway for parking shall not encroach upon any public sidewalk traversing the lot.

C. Any parking associated with a recreation area may be located within the protected open space. Off-street parking shall be provided adjacent to active or passive recreation areas, with the number of spaces being subject to approval by the Board of Supervisors and based upon the character and intensity of the active and/or passive recreation use.

5. *Mitigation of Traffic Impacts.* An applicant proposing a retained open space development shall demonstrate the feasibility of any measures necessary to prevent traffic congestion and hazards that could otherwise result from the development, and shall be responsible for accomplishing such measures. As part of an application for

subdivision approval, the applicant shall submit a traffic impact study when required by §22-513 of the Township Subdivision and Land Development Ordinance [Chapter 22].

(Ord. 2005-9, 12/29/2005, §1309)

§27-1310. Minimum Requirements for Protected Open Space.

The following requirements shall govern the protected open space to be established as part of the retained open space development. These requirements shall supersede the standards in §22-512 of the East Nottingham Township Subdivision and Land Development Ordinance [Chapter 22], where those standards may be inconsistent or in conflict with the requirements of this Section:

A. *Minimum Amount of Protected Open Space.* The minimum area required for permanently protected open space land shall be calculated in relation to the types of dwellings and the percentage of the total number of dwelling units represented by each dwelling type:

(1) Where the tract is to be developed with single-family detached dwellings only, the minimum amount of protected open space shall be not less than 40 percent of the gross tract area.

(2) Where the tract is to contain a combination of dwelling types, including two-family, multi-family, and/or mobile homes in a mobile home park, in addition to single-family detached, the minimum amount of protected open space shall be determined as follows:

(a) Multiply the gross tract area by the percentage of the total number of dwelling units represented by the number of dwelling units of the various dwelling types proposed, e.g., 50 percent single-family detached, 20 percent townhouse, 30 percent apartment.

(b) For that portion of the gross tract area represented by single-family detached dwellings, as determined by clause (a), above, an area not less than 40 percent of that portion of the tract shall be protected open space.

(c) For that portion of the gross tract area represented by two-family dwellings, as determined by clause (a), above, an area not less than 45 percent of that portion of the tract shall be protected open space.

(d) For that portion of the gross tract area represented by quadruplex or townhouse dwellings, as determined by clause (a), above, an area not less than 50 percent of that portion of the tract shall be protected open space.

(e) For that portion of the gross tract area represented by apartment dwellings, as determined by clause (a), above, an area not less than 55 percent of that portion of the tract shall be protected open space.

(f) For that portion of the gross tract area represented by mobile home dwellings within a mobile home park, as determined by clause (a), above, an area not less than 50 percent of that portion of the tract shall be protected open space.

(g) The minimum total amount of protected open space required on

the tract shall be the sum of the calculations under clauses (b) through (f), above, as applicable. This total amount of protected open space shall be subject to the design standards of this Section.

[Ord. 2011-26]

B. *Recreation Lands and Facilities.*

(1) Land and, as deemed appropriate by the Board of Supervisors, facilities suitable for active recreation shall be provided to serve the residents of any retained open space development. The location, type, and design of such recreation areas shall be subject to approval of the Board.

(2) Not less than 5 percent of the area designated as protected open space or 1 acre, whichever is greater, shall be suitable and set aside for active recreation, unless the Board specifically approves a lesser amount of land in response to the applicant's alternative plan for the protected open space. The Board, as it deems necessary and appropriate, also may accept a fee in lieu of some or all of the otherwise required active recreation land and/or facilities, consistent with the terms of §22-512 of the Township Subdivision and Land Development Ordinance [Chapter 22]. In evaluating any proposed alternative plan for the protected open space, the Board shall weigh the degree to which it meets the active recreation needs of the proposed development's intended residents, its consistency with the Township Open Space, Recreation, and Environmental Resources Plan, and the opportunity it presents to retain prime agricultural land in farming use or to buffer and separate existing farmland from new dwellings.

(3) Active recreation areas should include neighborhood scale park areas designed especially for the ages and needs of the prospective new residents, e.g., tot lots; fitness trails; basketball, volleyball, and tennis courts, informal playing fields; swimming pools; and playgrounds. Active recreation also may include agricultural activities in the form of "community gardens" for the residents of the development, provided that no more than 20 percent of the

[Text continued on p. 27-107]

area designated for active recreation is utilized as such.

(4) In addition to the active recreation area, the applicant is encouraged to include areas for passive recreation such as cycling, hiking, picnics, nature study, tot lots, jogging, equestrian, and pedestrian trails; such areas should require minimal site preparation.

(5) Active and passive recreation areas within the protected open space are intended to serve, and should be accessible to, all residents of the development. Unless clearly infeasible, access should be by a greenway trail, sidewalk, or similar linkage, and there should be no need to travel within a street cartway or upon private property to reach recreation areas.

C. *Protection of Natural Features.* Natural features such as woodlands, steep slopes, rock outcrops, wetlands, hydric soils, floodplains, riparian corridors, and similar areas needing protection from disturbance shall remain in a natural state to the maximum extent feasible and consistent with the requirements of this Chapter and other applicable regulations. All such features shall be shown on the plan and incorporated into the protected open space, or otherwise protected to the extent, and through measures, deemed acceptable to the Township.

D. *Open Space Uses.* Protected open space land may contain and be used for:

(1) Land surrounding historically significant structures and sites.

(2) Active and passive recreation, as described in paragraph .B.

(3) Agriculture including, but not limited to, the cultivation of nursery stock or orchard trees, but exclusive of retail sales; provided, however, that intensive agricultural uses, including mushroom production, poultry and swine production, and concentrated animal feeding operations, are not permitted:

(a) Except as otherwise provided in clause (c), below, agricultural use of protected open space shall comply with the standards for agricultural use contained in §27-503.A of this Chapter.

(b) When protected open space is to be used for agriculture, one farm dwelling may be located within the area of protected open space. Such dwelling shall be included in the calculation of the maximum number of dwellings permitted on the tract as part of the clustered residential development and shall be in compliance with the terms of §27-503.A of this Chapter.

(c) Except in the R-1 and R-1A Districts, the opportunity for a second dwelling, as provided in §27-503.A, shall not be available in areas of protected open space.

(d) The terms of §27-505 of this Chapter regarding the split-off of lots from agricultural properties shall not be applicable to areas of protected open space.

(4) Woodland, meadow, floodplain, steep slope, wetland, hydric soil, or similar conservation purpose.

(5) Spray and drip irrigation wastewater systems.

(6) Stormwater management facilities.

E. *Sewage and Stormwater Facilities in Open Space.* Where portions of the

protected open space are to be used for sewage and/or stormwater management facilities, the area devoted to such facilities shall not be eligible for calculating the minimum required open space area for the tract that is stipulated in paragraph .A. Where sewage and/or stormwater management facilities are located within the protected open space, easements shall be established to require and enable maintenance of such facilities by the appropriate parties.

F. Open Space Dimensions and Design.

(1) No individual segment of protected open space shall have an area less than 1 acre or 10 percent of the gross tract area, whichever is less, nor a width less than 100 feet at any point, except that the minimum area may be reduced to not less than 10,000 square feet and/or the minimum width may be reduced to not less than 15 feet where:

(a) The land is being used solely as a trail connector between areas of open space and/or residential development; either on or adjacent to the tract.

(b) The Board of Supervisors determines that, in specific locations, smaller and/or more narrow segments of open space better accommodate site design objectives and do not detract from the functional, recreational, and/or resource protection values of the overall open space area.

(2) In determining appropriate dimensions and site design factors, the Board shall place particular emphasis on:

(a) Accomplishing maximum protection for existing and potential agricultural uses, both on and adjacent to the site, from the impacts of the proposed residential use by locating non-agricultural protected open space and retaining significant existing vegetation to serve as a buffer between the two uses.

(b) Buffering stream corridors and existing street frontages with well-designed and located open space areas.

(c) Buffering along property lines adjacent to existing nonresidential uses or nonresidential zoning districts.

(d) Enabling interconnections with trails and/or open space areas on abutting properties or with potential future trail routes shown as part of a Township trail network.

(3) Other than for emergency or maintenance purposes or necessary farm equipment in relation to agricultural uses, no motorized vehicles shall be permitted within areas of protected open space and no trail shall be designed with the intent to accommodate motorized vehicles.

G. Protection of Open Space by Conservation Easement.

(1) All areas designated as protected open space shall be subject to a conservation easement restricting further subdivision or development of the open space and setting forth the terms for use, conservation, and maintenance as established by the Board of Supervisors. The easement shall not impose limits on agricultural practices and uses within the protected open space.

(2) Such easement shall be granted in favor of a qualified conservation organization, homeowners association, or other party acceptable to the Board

of Supervisors or, at the Board's discretion, shall be granted to the Township. The Township shall be under no obligation to accept easements on protected open space.

(3) Such easement shall be recorded in the office of the Recorder of Deeds of Chester County and noted on the final plan, as recorded.

H. *Ownership of Open Space Areas.*

(1) Protected open space may be owned, managed, and maintained by one or a combination of the following methods, subject to the approval of the Board. Methods of ownership, management, and maintenance are presented here in order of Township preference:

(a) By a private individual, including the owner of the tract at the time it is proposed for retained open space development, or by a private or nonprofit land trust or similar conservation organization acceptable to the Board.

(b) In common, among the owners of the newly created residential lots.

(c) Specifically designated and included within the lot lines of one or more of the individual lots, in which case that portion of the lot shall be subject to the terms of the conservation easement as stipulated in paragraph .G; not more than 20 percent of the total amount of protected open space within the tract may be owned under this method.

(d) By the Oxford Area Recreation Authority, where such ownership is proposed to the Authority by the Township and is formally accepted by vote of the Authority Board.

(e) By the Township, where the Board determines, in its sole discretion and following review and comment by the Township Planning Commission, that acceptance of dedication of some or all of the protected open space is the most effective means of achieving important Township open space objectives.

(2) Where any of the protected open space is to be owned in common among the lot or dwelling unit owners, a homeowners association shall be formed. Such homeowners association shall be governed by the following regulations:

(a) The owner or applicant proposing to establish a homeowners association shall provide to the Township a description of the organization, including its by-laws and documents governing maintenance requirements and use restrictions for the open space. The terms and conditions of such by-laws and documents shall be subject to the review and approval of the Township.

(b) The association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) prior to the sale of any lots or dwelling units within the development.

(c) Membership in the association shall be mandatory for all purchasers of dwelling units within the development, and for their

successors.

(d) Except where modified under terms of a lease, as authorized by clause (i), below, the association shall be responsible for maintenance of and insurance on the protected open space. Where the Township determines that the homeowners association or other responsible party has failed to maintain the land in accordance with the management plan required by paragraph .I, the Township shall have the right to assume maintenance responsibilities in the manner prescribed for planned residential developments in §705(f) of the Municipalities Planning Code, 53 P.S. §10705(f).

(e) Unless demonstrated by the applicant to be infeasible, he shall arrange with the Chester County Board of Assessment a method of assessment of the protected open space which will allocate to each tax parcel in the development a share of the total assessment for such open space.

(f) The members of the association shall share equitably the costs of maintaining, insuring, and managing the protected open space, in accordance with procedures established for the association.

(g) In the event of any proposed transfer of the protected open space by the homeowners association, or the assumption of maintenance of the open space by the Township, notice of such action shall be given to all members of the homeowners association by said association. Any proposed transfer of ownership of the protected open space by the homeowners association shall be subject to prior review and approval by the Board of Supervisors.

(h) The association shall have or hire adequate staff, as necessary, to manage and maintain the protected open space.

(i) The homeowners association may lease back some or all of the protected open space lands to, or enter into a contract with, the developer, his heirs or assigns, the owner of the tract prior to its development, a tenant farmer, or any other person or corporation qualified to operate, manage, and maintain the open space or an identified portion thereof for the purposes set forth in this Chapter. The lease or contract shall be subject to the approval of the Township, as shall any transfer or assignment of the lease or contract. A copy of the lease or contract, as approved and executed, shall be filed with the Township.

I. *Open Space Management Plan.*

(1) As part of the preliminary subdivision plan for a retained open space development, the applicant shall submit a conceptual plan for the long-term management of the protected open space that is to be created as part of the development. Such a plan shall include discussion of:

(a) The manner in which the protected open space will be owned and by whom it will be managed and maintained.

(b) The conservation, land management, and agricultural techniques and practices which will be used to conserve and perpetually protect the

open space, including conservation plans approved by the Chester County Conservation District where applicable.

(c) The professional and personnel resources that will be necessary in order to maintain and manage the property.

(d) The nature of public or private access that is planned for the protected open space.

(e) The source of money that will be available for such management, conservation, and maintenance on a perpetual basis.

(2) The conceptual management plan shall be transformed into a more detailed open space management plan and presented to the Township for review and approval as part of the final subdivision application. The Board of Supervisors may require that the detailed management plan be recorded with the final subdivision plan in the Office of the Recorder of Deeds of Chester County.

(3) In order to allow for the changing needs inherent in the perpetual management of land, the detailed management plan shall contain a provision allowing it to be changed upon written application to and approval by the Board of Supervisors, so long as the proposed change is feasible and consistent with the purposes of open space conservation and the plan for such change avoids the likelihood that the obligation for management and maintenance of the land will fall upon the Township without the consent of the Board.

(Ord. 2005-9, 12/29/2005, §1310; as amended by Ord. 2011-26, 10/17/2011, §21)

Part 14¹

[Reserved]

[Intentionally Omitted]

¹Editor's Note: Part 14, "Transferable Development Rights," was repealed and this Part reserved by §22 of *Ord. 2011-26*, 10/17/2011, which provides:

"22. Part 14 of the Zoning Ordinance providing for the establishment and regulation of the Transferable Development Rights Program is hereby deleted in its entirety, provided however, that in the exercise of the Township's right to terminate the Transferable Development Rights Program, no owner of the land or owner of development rights shall have any claim against the Township for damages resulting from the abolition of the Transferable Development Rights Program. As of the effective date of this Ordinance, any owner of development rights shall be entitled to use such development rights in accordance with the terms and provisions of Chapter 14 at the time the development rights were secured, for a period not to exceed five (5) years the development rights were secured."

Part 15**Land Application of Sludge****§27-1501. General.**

To insure the natural resources of the Township are protected against environmental hazards and also to protect the health and safety of the Township residents, as well as to allow a potentially valuable resource to be used, sludge may be applied to the land in the R-1 and R-2 Districts of the Township subject to the following regulations:

A. *Authorization.* The provisions of this Section are enacted pursuant to the authority granted to the Township under the Municipalities Planning Code, Article VI, 53 P.S. §10601 *et seq.*, and the Pennsylvania Solid Waste Management Act, 35 P.S. §6018.101 *et seq.*, as amended, with respect to protecting health and public safety of Township residents through the proper use of land and natural resources.

B. *Filing and Application.* The person generating sludge, or the person proposing to haul and apply sludge to any property, or any person intending to store sludge in the Township shall submit to the Township an application for special exception pursuant to the provisions of Part 22 of this Chapter. The owner of the property upon which sludge is to be disposed shall be a party to such application. Each site proposed for land application shall require a separate special exception. Applications shall include the following information to assist the Zoning Hearing Board in its review of each application, and to supply the Township with adequate data on which to base input into the review by the Department of Environmental Protection for permitting sludge land application:

(1) A description of the proposed application program, including the source or sources of the sludge and how it is to be transported to the site, a time table for application, a description of any storage operations, the proposed utilization rate, the total acreage involved, and the useful life of the proposed sites.

(2) A copy of the application for a permit for sludge utilization and disposal as submitted to the Pennsylvania Department of Environmental Protection.

(3) A survey of the property, prepared by a professional surveyor at a scale no greater than 1 inch to 200 feet, indicating:

(a) Topographical features of the tract using 2-foot contour lines.

(b) Soil types and their boundaries.

(c) Identification of adjacent property owners.

(d) Location of all public and private water supplies within one quarter mile of the site boundaries, including wells, springs, and other water bodies.

(4) A soils and geotoxic report indicating the physical characteristics of the site with respect to its suitability for application of sludge. The report shall be based on available soil survey and geologic data, and accompanied by field

test analysis. Field test shall include:

(a) Soil borings by a soil scientist to confirm that actual soil profile characteristics are consistent with published soil survey data.

(b) Groundwater monitoring well(s) shall be established to test water quality prior to, during, and after the application program. Groundwater composition shall be included in the application, along with subsequent quarterly monitoring during the application program. Prior to drilling any monitoring well, the Township Engineer must approve its location. In the event that the groundwater is found to flow in several directions, a monitoring well for each direction shall be required.

(5) A chemical analysis of the sludge from each proposed source. The analysis shall be done by an independent laboratory approved by the Township and shall involve a minimum of three samples. The analysis shall include the following items:

(a) Total moisture content.

(b) Percent total nitrogen (wet and dry weight).

(c) Percent ammonia nitrogen (wet and dry weight).

(d) Percent organic nitrogen (wet and dry weight).

(e) Biochemical oxygen demand.

(f) Ph.

(g) Percent (on a dry weight basis) of cyanide, sodium, cadmium, zinc, copper, nickel, lead, chromium, mercury, molybdenum, and other toxic substances and pathogens.

Additional analysis may be required by the Township Engineer from time to time during the application program to insure sludge content remains within the limits established by the Pennsylvania Department of Environmental Protection. At minimum, the monitoring program shall include four samples a year.

Sludge analysis shall show recommended rates and lifetime loading.

(6) A copy of the agreement between the generator of the sludge or the hauler and applicator and the landowner, showing provisions as to the term of the agreement, the operation to be carried out in spreading sludge, and the keeping of records.

C. *Standards.* The standards for application of sludge to the land shall be in accordance with the currently adopted standards of the Pennsylvania Department of Environmental Protection as set forth in 25 Pa.Code, Chapter 75, except that the following additional requirements shall be imposed.

(1) *Area.* No site shall be approved for land application of sludge that has a gross lot area less than 10 contiguous acres.

(2) *Distances from Property Line.* No sludge is to be disposed of at a point closer than 100 feet to any property line.

(3) *Slope Considerations.* Application shall not take place on slopes exceeding 15 percent.

(4) *Access.* All sites to be considered for sludge application shall have direct access to an improved public road with a mud-free driveway to insure safe access of delivery trucks and to prevent potential congestion, and excessive wear and tear on public roads. In the event access to a site is along a nonimproved road, the Township shall require the applicant to bear the cost of upgrading the road to meet all standards of a public improved and paved road in order to accommodate the number and weight of trucks anticipated visiting the site. It shall include, if necessary, the acquisition of rights-of-way and improvement thereof. In no case shall the access road be less than 18 feet in width. The access road shall be paved in accordance with the standards for public roads in the Township Subdivision/Land Development Ordinance [Chapter 22].

(5) *Records.* All applicants shall retain records on each application and these records shall be submitted to the Township upon request.

(Ord. 2005-9, 12/29/2005, §1501)

§27-1502. Storage of Sludge.

Storage of sludge shall be governed by the following regulations:

A. Sludge storage facilities shall be designed and constructed in accordance with prevailing regulations of the Pennsylvania Department of Environmental Protection. No storage facility may have a capacity greater than 500,000 gallons of liquid sludge.

B. All sludge storage facilities shall be lined and covered with impervious material.

C. A storage site shall have a minimum gross lot area of 10 contiguous acres and storage facilities shall be set back a minimum of 100 feet from any property line.

D. A storage facility shall be enclosed by a fence having a minimum height of 6 feet, which prevents trespassing. Entrance and exit gates shall be locked during non-use.

E. A storage facility shall have direct access to an improved public road with a mud-free driveway to insure safe access of delivery trucks and to prevent potential congestion, and excessive wear and tear on public roads. In the event access to a site is along a nonimproved road, the Township shall require the applicant to bear the cost of upgrading the road to meet all standards of a public improved and paved road in order to accommodate the number and weight of trucks anticipated visiting the site. It shall include, if necessary, the acquisition of rights-of-way and improvement thereof. In no case shall the access road be less than 18 feet in width. The access road shall be paved in accordance with the standards for public roads in the Township Subdivision/Land Development Ordinance [Chapter 22].

F. A delivery schedule shall be submitted to the Township prior to the issuance of a zoning permit. The schedule shall indicate the number of deliveries and types of trucks to be used. All deliveries shall occur during daylight hours.

G. A groundwater monitoring well(s) shall be required to test water quality

during the storage program. Prior to drilling, the Township Engineer must approve the location of monitoring wells.

(Ord. 2005-9, 12/29/2005, §1502)

§27-1503. Bonds.

1. *Performance Bond.* In order to assure the Township that the various tests and duties imposed upon an applicant by this Chapter are fully performed, sufficient surety for such performance shall be posted by the applicant before approval of a special exception. The applicant shall assure the Township by means of a corporate bond or deposit of funds or securities in escrow sufficient to cover the cost, as estimated by the Township Engineer, of performing the various tests and duties imposed upon him by the ordinance over the expected useful life of the site, plus 5 years. The bond shall be furnished under such conditions and form and with surety as shall be approved by the Township Solicitor to guarantee and secure that all such tests and duties are fully and adequately performed and are paid for by the applicant and that the Township shall, in no event, be held liable for the cost of any such duties or tests. In lieu of a bond, the applicant may deposit cash or securities with the Township or a bank or trust company to guarantee and secure the same requirements as set forth above. In the event that such cash or securities are deposited, said deposit must be made pursuant to an escrow agreement prepared and approved by the Township Solicitor. The escrow agent for the deposit of such cash or security shall be located in Chester County and shall be subject to the approval by the Township Solicitor.

2. *Improvement Bond.* In order to assure the Township that any improvements necessary to be performed by an applicant under the terms of this Chapter are completely made and maintained, an applicant shall post a sufficient surety for such improvements before approval of a special exception. The applicant shall assure the Township by means of a corporate bond or the deposit of funds or securities in escrow sufficient to cover the cost, as estimated by the Township Engineer, of making and maintaining necessary improvements. The bond shall be furnished under such conditions and form and with surety as shall be approved by the Township Solicitor to guarantee and secure that all improvements are made and maintained and are paid for by the applicant and that the Township shall, in no event, be held liable for the cost of any such improvements. In lieu of a bond, the applicant may deposit cash or securities with the Township or a bank or trust company to guarantee and secure the same requirements as set forth above. In the event that such cash or securities are deposited, said deposit must be made pursuant to an escrow agreement prepared and approved by the Township Solicitor. The escrow agent for the deposit of such cash or security shall be located in Chester County and shall be subject to approval by the Township Solicitor.

3. *Indemnification.* In addition to the foregoing requirement, all applicants for permits to utilize sludge upon property within the Township of East Nottingham shall, prior to the issuing of any permit for sludge application and/or storage, deliver to the Township, a liability indemnification with bond good for the useful life of the proposed site plus 5 years, on a form to be prepared by and approved by the Township Solicitor, pursuant to the terms of which, the applicant, individually and with surety, specifically agrees to full indemnify and hold harmless the Township and all of its officers, agents, and employees from any and all liability, expenses, or damages whatsoever and

litigation defense costs accruing to any or the same as a result of any use of any land in the Township pursuant to the provisions thereof.

The amount of the indemnification bond shall be equal to the cost of removal and/or clean up of any site and any engineering or legal fees pertaining thereto as estimated by the Township Engineer and Township Solicitor at the time of issuance of any permit, plus 15 percent per year thereof for the useful life of the site plus 5 years.

(Ord. 2005-9, 12/29/2005, §1503)

Part 16**Specific Use Development Requirements****§27-1601. Statement of Intent.**

It is the intent of this Part to provide specific standards for individual uses permitted in this Chapter by right, special exception, or conditional use. These standards should be addressed and adhered to by applicants for the uses, and utilized for guidance by Township decision makers reviewing applications. The standards are designed to mitigate the particular impacts that may be associated with an individual use, and to supplement other applicable requirements of this Chapter.

(Ord. 2005-9, 12/29/2005, §1601)

§27-1602. Uses Permitted by Right.

The following uses, where permitted by right in one or more of the zoning districts in this Chapter, shall comply with the applicable standards presented in this Section in addition to those requirements specified in the zoning district provisions including, as applicable, minimum lot or tract sizes; minimum side, front, and rear building setback distances or yards; maximum heights of buildings or structures; and maximum impervious surface area on a lot or tract:

A. All uses regulated by the terms of this Section shall also be in compliance with any other applicable standards of this Chapter including, but not limited to, those in the following Parts:

(1) Part 17, “General Regulations,” including, but not limited to, standards for lighting, landscaping, screening, internal circulation, access and traffic control, storage, and noise control.

(2) Part 18, “Signs.”

(3) Part 19, “Off-Street Parking and Loading.”

B. *Accessory Structures.* Accessory structures shall comply with the minimum yard, setback, and height requirements for principal structures in the base zoning district in which they are located, except as otherwise specified below:

(1) A detached structure accessory to a residential use shall not exceed a height of 15 feet or one and one-half stories.

(2) No accessory structure shall be located within a minimum required front yard area or closer to the front lot line than any portion of the principal structure.

(3) A structure accessory to a residential use may be located within a side or rear yard but not closer than 10 feet from the side or rear lot line.

(4) Structures accessory to agriculture.

(a) Detached structures accessory to agriculture including, but not limited to, barns, silos, and garages, shall be exempt from the building coverage limits of this Section, but shall not exceed the maximum building coverage limit established for the zoning district in which the structure is

located.

(b) Agricultural accessory structures shall comply with the minimum side and rear yard setback requirements for principal structures in the zoning district in which they are located.

(c) A barn and/or silo may exceed the otherwise applicable maximum height limit, provided that for every foot of height in excess of the applicable height limit, the required setback of such structure from a side or rear property line shall be increased by one foot. In no case shall such structure exceed a height of 90 feet.

(5) A tennis court shall be permitted in a rear and/or side yard, but shall not be closer to a side or rear property line than 10 feet. Tennis court fences shall be permitted, but shall not be closer to a side or rear property line than 10 feet.

[Ord. 2007-4]

C. *Accessory Uses.* No nonresidential accessory use shall be permitted in any residential zoning district except where specifically permitted by this Chapter. Nothing in this Section shall be construed to limit other uses not specifically mentioned, so long as such uses are clearly accessory to the permitted principal use of the property and do not create a threat to the public health, safety, and/or welfare.

(1) *Farm-Related Business.*

(a) *Intent.* This Section establishes standards for farm-related business uses, where such uses are permitted by this Chapter. In providing opportunities for such uses, it is the Township's intent that:

1) Any farm-related business shall be compatible with other existing and permitted uses on the property and within the surrounding neighborhood.

2) The farm-related business shall impose no negative impacts upon the residential and agricultural character of the neighborhood.

(b) *General Standards.*

1) A farm-related business may only be conducted on a property on which the principal use is agriculture, as that term is defined by this Chapter, and that has a minimum gross area of 10 acres. The business shall be incidental and secondary to the principal agricultural use of the property.

2) A permit to operate a farm-related business shall be obtained from the Township prior to commencing operation. The party applying for the permit to allow a farm-related business must be the owner of the farm property, whether or not the owner operates the farm or will operate the farm-related business.

3) The party proposing to conduct the farm-related business shall be the owner of the property and/or the operator of the farm on the property, and either he/she or a member of his/her immediate family must reside on the property on which the business is to be located. For purposes of this Section, "immediate family member"

shall be defined as parent, grandparent, child, grandchild, great grandchild, aunt, uncle, niece, or nephew.

4) More than one farm-related business may be permitted on an eligible property, providing compliance is achieved with all applicable standards of this Section.

5) The right to conduct a farm-related business will cease if the principal use of the property changes from agricultural to a more intensive non-agricultural use that converts some or all of the property, whether on a temporary or permanent basis, from open to developed land.

6) No building used for a farm-related business shall be constructed or used on lands restricted by an agricultural easement, except those uses which also are considered farm enterprises under statutory authority for establishing said easement.

(c) *Permitted Uses.* Uses permitted as a farm-related business shall include the following:

1) Blacksmith, farrier, harness making, tinsmithing, and tool sharpening shop.

2) Candle maker, baker.

3) Processing of locally-produced agricultural products.

4) Preparation of food or food products to be sold and served off-site.

5) Veterinary office, where the practice focuses on farm animals.

6) Manufacturing, assembly, warehousing, repair, and/or servicing of household articles, including such items as: chairs, tables, clocks, cabinets, and similar items involving carpentry, decorative iron work, pottery; and other articles of a similar nature for use in the home.

7) Repair and service of farm equipment, appliances, and small engines, provided that such activities shall not involve parts stripping for resale from derelict vehicles or any similar practices characteristic of a salvage yard or junkyard.

8) Greenhouse.

9) Taxi, limousine, and hauling service provided all vehicles are housed inside a building used for the farm-related business.

10) Plumbing shop, upholstery shop, shoe repair, printing shop, tailoring/sewing/dressmaking/quilting; etc. shop.

11) Homebuilding and remodeling business.

12) Bed and breakfast establishment.

(d) *Scale and Intensity of Use.*

1) The maximum scale and intensity of use permitted for a farm-related business shall be determined as follows:

Property Size (gross acres)	Maximum Building Coverage	Maximum # of Employees (nonfamily members)	Maximum Land Area Devoted to Use
10 to 15	2,000 sq. ft.	2	0.5 acres
> 15 to 20	3,000 sq. ft.	3	0.75 acres
> 20	4,000 sq. ft.	4	1.0 acres

2) The property owner is permitted additional building coverage, not to exceed 1,000 square feet, for fully enclosed storage of materials used in the farm-related business.

3) Occupations requiring more building coverage and/or land area than that permitted in clause (e)(1), below, shall locate within commercial or industrial districts as provided for in this Chapter.

(e) *Design Standards.*

1) A farm-related business must be conducted within a completely enclosed accessory building, and may also utilize a separate building for the storage of materials. The building(s) may be an existing accessory building(s) or a newly constructed, conforming accessory building(s). If a new building is constructed for the farm-related business, it shall be not be located closer than 85 feet to a front property line nor closer than 50 feet to a side or rear property line or right-of-way. Each building shall be designed to be consistent with traditional farmsteads and shall afford minimal external evidence of the nature of the business.

2) Materials, products, supplies, or vehicles comprising any part of the farm-related business shall be contained, stored, and/or parked within an enclosed building, unless outdoor storage is permitted as a conditional use by the Board of Supervisors. In no case shall outdoor storage be permitted in the front yard of the building containing the farm-related business, nor shall materials be stacked to a height greater than 6 feet.

3) All off-street parking and loading spaces shall comply with the applicable standards in Part 19 of this Chapter. Parking lots shall be provided only at the side or to the rear of a farm-related business structure.

4) One nonilluminated sign, not exceeding 6 square feet in area, shall be permitted for a farm-related business. Such sign shall be located no closer than 10 feet to any lot line and shall not interfere with any necessary sight distance.

5) A farm-related business may be conducted only between the hours of 7 a.m. and 8 p.m., except that there shall be no restriction on the hours of operation for a bed-and-breakfast establishment.

6) When a farm-related business is proposed to involve retail sales, the sales and display area shall not exceed 15 percent of the

first floor area of the structure devoted to the business.

7) The applicant shall provide documentation of the necessary approval for the proposed means of sewage treatment and disposal.

8) Any trash dumpster or similar solid waste facility shall be located only to the side or rear of the building in which the farm-related business is operated, and shall be completely enclosed within a masonry wall or other fencing equipped with a self-latching door or gate.

9) Any change in ownership or occupancy of the property containing a farm-related business, or any proposed change in the type of farm-related business, shall be reviewed under the terms of Part 21 of this Chapter regarding use and occupancy permits.

(2) *Farm-Related School.*

(a) A farm-related school, where permitted in one or more zoning districts, shall be deemed a use that is accessory to the principal agricultural use of the property.

(b) To be eligible for a farm-related school, a property must contain a gross lot area of least 20 acres and be actively involved in agriculture as defined by this Chapter.

(c) The site devoted to the farm-related school shall be limited to not more than 2 acres within the boundary of the agricultural property.

(d) It is not required that a child of the farm family residing on the property on which the school is located be a student of the school, but in no event shall the owners of the property earn a financial profit from the school being on the property.

(e) The population of the farm-related school shall not exceed 50 students.

(f) The farm-related school shall be a day school only, and in no case shall permit the boarding of pupils.

(3) *Keeping of Small Domestic Animals.* The raising or keeping of small animals on lots of less than 10 acres shall be permitted provided the following standards are met:

(a) Small animals refers to those normally kept in a hutch or animal house including, but not limited to, rabbits, chickens, ducks, and turkeys.

(b) Any lot on which the raising or keeping of small animals is to be practiced shall have a minimum gross and net lot area of 1 acre.

(c) The total number of small animals shall not exceed one per each $\frac{1}{8}$ acre of lot area.

(d) Fencing or an enclosed animal house structure shall be installed. An animal house structure shall comply with the setback requirements for accessory structures in the applicable base zoning district.

(e) Household pets which generally are kept within a dwelling unit including, but not limited to, dogs, cats, hamsters, and birds, shall not exceed 10 such animals on the property. In addition, no lot shall contain:

(i) more than six cats; (ii) more than four dogs, except that puppies from a litter born on the property shall not be included in this limit until 4 months following birth. The keeping of such household pets shall not be subject to the terms of clauses (a) through (d), above.

(f) Where dogs are being: (i) bred and raised commercially for resale, and/or (ii) commercially boarded for another owner, such operation shall be considered a kennel, as defined and regulated by this Chapter.

(g) The terms of this Section are intended to be separate and distinct from those of paragraph .C regarding small-scale keeping of livestock.

(h) On properties of 10 acres or greater, the regulations in clauses (a) through (e), above, shall not apply and the keeping of such animals shall be subject to applicable regulations for agricultural use.

(4) *No-Impact Home Occupation*. No-impact home occupations shall meet all of the following requirements:

(a) The business activity shall be compatible with the residential use of the property and surrounding residential uses.

(b) No exterior evidence of the activity, including signs, lighting, or the display, inventorying, or stockpiling of goods, shall be visible.

(c) No retail sales, exclusive of telephone and/or internet solicitation, may be conducted.

(d) Only residents of the dwelling may be engaged or employed in the activity.

(e) The activity may be conducted only within the dwelling unit and may not occupy more than 25 percent of the habitable floor area.

(f) The activity shall not require the delivery of materials and goods by trucks larger than standard panel trucks equipped with no more than one rear axle.

(g) The activity may not use any equipment or process that creates noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with radio or television reception, that is detectable in the neighborhood.

(h) The activity may not generate any solid waste or sewage discharge in volume or type that is not normally associated with residential use in the neighborhood.

(i) There shall be no customer or client traffic, whether vehicular or pedestrian, and no pickup, delivery, or removal functions to or from the premises, in excess of those normally associated with residential use.

(j) There shall be no more than one home occupation per dwelling unit.

(k) Prior to initiating the operation of a home occupation, the resident practitioner shall be required to obtain a permit from the Township and pay a fee in an amount as established by resolution of the Board of Supervisors. The Township may, as it deems necessary, conduct an inspection of the premises as part of the review of the permit application.

Such permit must be renewed every 2 years for continued operation of the home occupation, but no additional fee or inspection shall be required.

(5) *Small-Scale Keeping of Livestock.* A nonagricultural use involving the small-scale keeping of large domesticated animals, including horses, cows, llamas, goats, pigs, or sheep for private noncommercial and/or recreational use shall be practiced in the R-1, R-1A, R-2, R-3, and I-2 Districts only in accordance with the terms of this Section.

(a) *Maximum Gross Lot Area.* Small-scale keeping of livestock may be practiced in accordance with the terms of this Section on lots with a gross area of 10 acres or less. On properties of more than 10 acres, the keeping of such animals shall be regulated as an agricultural use under the terms of this Chapter.

(b) For nonagricultural use involving the keeping of only one horse, the minimum gross lot area shall be 2 acres. For the keeping of two to four horses, the minimum lot requirements of clause (c), below, shall apply.

(c) A minimum gross lot area of 3 acres shall be required for the keeping of one large domesticated animal other than a horse. A minimum gross lot area of 4 acres shall be required for keeping two large domesticated animals. A minimum gross lot area of 5 acres shall be required for keeping three large domesticated animals. A minimum gross lot area of 6 acres shall be required for keeping four large domesticated animals. The keeping of four large domesticated animals shall be the maximum number permitted on a lot with a gross area of between 6 and 10 acres.

(d) Any lot used for the keeping of one or more large domesticated animals shall contain a minimum of 1 acre of land, exclusive of buildings and impervious surfaces, for each such animal that is housed or pastured on the lot. The land designated as qualifying acreage for each such animal shall be used exclusively for such animal(s), and such open area shall be covered and maintained entirely in natural vegetation.

(e) All animals shall be kept within a fenced enclosure at all times when said animals are not leashed, haltered, or bridled and under the direct control of the owner or an authorized agent of the owner of the animals. Fences shall be a minimum of 3 feet from lot lines unless the fence is part of a mutually agreeable property boundary between two properties housing animals, in which case it may be along the property line.

(f) No large domesticated animal shall have direct access to a jurisdictional wetland, watercourse, spring, or well on the lot on which the animal is kept. Stabilized stream crossing areas designed and constructed as such shall be exempted from this requirement.

(g) Lots shall be graded so that animal waste from stables and/or barns is confined to the lot on which the stable or barn is located.

(h) Manure piles shall be not less than 50 feet from any lot line.

(i) The keeping of large domesticated animals shall not constitute a

nuisance with regard to noise, odor, vectors, dust, vibration, running-at-large, or other nuisance effects beyond the property lines of the property on which the use is located.

(6) *Swimming Pool.*

(a) A swimming pool shall be located in the rear yard or side yard of the dwelling to which it is accessory, and shall be located not less than 10 feet from any lot line.

(b) A swimming pool shall be separately enclosed with a continuous barrier not less than 4 in height, made of solid wood, wire mesh, or a similar material to guarantee inaccessibility.

(7) *Temporary Home for Family Members.* A mobile home may be placed upon any lot on a temporary basis for use and occupancy by a family member, under the following restrictions and conditions:

(a) Use of the same water and/or sewer system may be accomplished only with approval of the Chester County Health Department.

(b) Annual status reports shall be provided to the Board of Supervisors.

(c) The mobile home shall be removed within 30 days after death or vacation thereof by the family member.

(d) A mobile home will be a secondary or supplemental residence for the occupant in accordance herewith and the principal residence must have been previously occupied primarily by another family member for a period of not less than 2 years.

(e) Area and bulk regulations shall be complied with where physically possible and there shall be permitted only a minimum variance from the terms and conditions thereof.

(f) The mobile home shall be located so that there shall be no adverse aesthetic effect on the neighborhood.

(g) The mobile home shall be located in a manner which shall not adversely affect the health, safety, and welfare of the residents of East Nottingham Township and will not add increased traffic or fire hazard.

(8) *Temporary Use.*

(a) A temporary permit may be issued by the Zoning Officer, in accordance with §27-2108 of this Chapter, for an accessory use necessary during construction or other special circumstances of a nonrecurring nature.

(b) A mobile home may be permitted as a temporary dwelling unit where the existing residence on a property has been damaged by fire, natural disaster, or similar circumstance and is undergoing repair or restoration.

1) The Zoning Officer shall grant a temporary use permit only where the applicant demonstrates that the repair of the permanent dwelling on the property is being pursued in compliance with all applicable regulations and with due diligence, and that the temporary

dwelling will be utilized for the minimum practical time period and removed immediately upon the expiration of that period.

2) The temporary use permit shall expire 8 months from the date of issuance.

3) The temporary dwelling unit shall be set back a minimum of 15 feet from any lot line or in accordance with the applicable setback requirement for accessory structures, whichever is greater.

4) Where the property owner fails to remove the temporary dwelling unit in accordance with the terms of this Chapter, the Township shall be authorized to remove the temporary dwelling unit and take appropriate action against the property owner to recover the costs incurred by such action.

(c) An occupied travel trailer will be permitted as a temporary use for a period not to exceed 2 weeks.

(d) Nonresidential temporary uses include temporary tract offices and fairgrounds.

(e) A temporary tract office, located on a tract undergoing development, that is utilized for construction management purposes may, while serving that function, remain on the tract only during active development of the property. Removal shall occur immediately upon completion of the development process. Sales trailers may be located on such a tract only during active development of the property, but shall be removed no later than 1 year following the start of construction.

D. Automobile / Farm Equipment Sales and Service.

(1) All service and/or repair activities shall be conducted within a single, wholly-enclosed building.

(2) No outdoor storage of parts, lubricants, fuel, or other materials used or discarded as part of the service operation shall be permitted. Materials discarded as part of the service operation shall be contained within wholly-enclosed dumpster equipment.

(3) All ventilation equipment associated with fuel storage tanks shall be at least 100 feet from, and oriented away from, any residential property.

(4) All vehicles shall be repaired and removed from the premises as promptly as possible. Any vehicle not receiving repair work within the preceding 7 days shall be removed.

(5) The demolition or storage of junked vehicles and mobile homes and parts thereof is prohibited.

E. Club, Fraternal, Civic Organization.

(1) Minimum net lot area shall be 2 acres.

(2) No more than one permanent dwelling unit may be maintained or developed as part of the facilities.

(3) All sales of goods and services provided are exclusively to the members of the club or organization owning and developing the facilities.

(4) All activities and facilities shall be screened and buffered from

adjacent residential uses in accordance with the terms of §27-1714 of this Chapter.

(5) All facilities and activities shall be set back a minimum of 75 feet from any property boundary or road right-of-way, unless a greater setback is required by the applicable zoning district.

F. *Day Care Facility for Children or Adults.*

(1) The provisions of this Section shall apply to child or adult day care facilities as a principal use providing service, primarily for less than 18 hours per day, for children under 16 years of age, or for persons who otherwise have some form of disability.

(2) Day care facilities, as defined by this Chapter, are subject to the applicable standards of the Pennsylvania Department of Public Welfare's social service regulations. This Section does not apply to:

- (a) Family day care.
- (b) Day care as an accessory use.

(3) The following provisions shall apply only to child day care centers:

(a) Child drop-off areas shall be designed to eliminate the need for pedestrians to cross traffic lanes within or adjacent to the site.

(b) An outdoor play area, as required by DPW regulations, shall be provided for child day care facilities and shall not be located in the front yard.

(c) Outside play shall be limited to the hours of 8 a.m. until sunset, as defined by the National Weather Service.

(d) Play equipment shall be located not less than 10 feet from any abutting property line.

(e) The outdoor play area shall be enclosed by a fence with a minimum height of 4 feet.

(4) The following provisions shall apply to both child and adult day care centers:

(a) If the day care facility will be subject to DPW requirements, evidence of the ability to comply with said requirements must be presented as part of the zoning permit application.

(b) Sewage facilities shall be provided to the site in accordance with the requirements of the Pennsylvania Department of Environmental Protection and the Chester County Health Department.

(c) Fencing shall be provided, as necessary, to protect occupants from hazardous areas, such as open drainage ditches, wells, holes, and arterial and major collector roads. Natural or physical barriers may be used in place of fencing, so long as such barriers functionally restrict occupants from these areas.

(d) Adult and child day care facilities shall not provide medical or personal care services which extend beyond simple first aid and assistance with dressing, bathing, diet, and medication prescribed for self-administration, unless the facility is licensed by the DPW to provide such

additional services.

(e) The applicant shall submit a plan showing existing or proposed outdoor play areas, outdoor play equipment, fencing, access drives, adjacent streets, adjacent hazardous land uses, on-site hazardous areas (as described above), delivery areas, parking spaces, and the child or adult drop-off circulation pattern.

(f) Lighting shall be provided, in accordance with the terms of §27-1706 of this Chapter, for areas of the site to be used during nondaylight hours. Such areas shall include, but need not be limited to, entrance ways, pedestrian access to the outdoor play areas, sidewalks, drop-off areas, and all parking lots.

(g) Off-street parking shall be provided on the basis of:

- 1) One space per employee.
- 2) One space for each 10 child or adult clients.

G. *Dwelling in Conjunction with a Nonresidential Use.*

(1) One dwelling unit may be permitted in conjunction with a permitted, approved nonresidential use in the C-1 and C-2 Districts.

(2) If the dwelling unit is located within the same structure or building as the nonresidential use, not less than 20,000 square feet of lot area shall be provided for use by the occupants of the dwelling unit in addition to the lot area required by this Chapter for the nonresidential use. Separate entrances and exits shall be provided. All applicable codes regarding fire, safety, and housing shall be met.

(3) If the dwelling unit is located within a structure or building separate from the nonresidential use, not less than the minimum lot area required for a single-family dwelling in the zoning district shall be provided in addition to the lot area required for the nonresidential uses. All district requirements for yards, setbacks, and building height and density shall be met.

H. *Hotel Inn.*

(1) Minimum lot size required for such use within the district where it is permitted shall be 2,000 square feet of lot area for each single room with bath but without kitchen facilities accommodations and 5,000 square feet of lot area for each apartment or unit with kitchen facilities.

(2) Where on-lot subsurface sewage disposal systems are proposed for such use, the lot shall contain suitable area for an alternate or second subsurface disposal system.

I. *Restaurant, Including Fast-Food Restaurant and Drive-Through Service.*

(1) The applicant shall present a working plan for the clean-up and disposal of litter. Dumpsters or similar large-scale outdoor trash receptacles shall be completely screened from view, and access gates shall be closed at all times when not in use.

(2) Exterior seating and/or play areas shall be completely enclosed by a 3-foot high fence.

(3) No part of any structure on the subject property shall be located

within 200 feet of any residential district boundary.

(4) All lighting within the subject tract shall be designed and located so as not to produce a glare or direct illumination onto abutting properties or street rights-of way.

(5) Prior to the issuance of a use and occupancy permit, the applicant shall demonstrate compliance with any and all State and Federal regulations.

(6) For any fast-food restaurant, noise shall be controlled to avoid any impact on nearby residential properties.

(7) For any restaurant with drive-through service, outside loud speakers shall be audible only to persons in the immediate vicinity of the order-placing or pick-up areas.

J. Self-Service Storage Warehouse:

(1) All storage shall be located within an enclosed building except for any boat or recreational vehicle, which may be stored outside in designated areas. The storage of partially dismantled, wrecked, inoperable, unlicensed, or unregistered vehicles is prohibited.

(2) All self-service storage warehouse facilities shall be enclosed by an open metal fence of not less than 6 feet in height. Said fencing may be placed outside the building setback lines provided that all screening required by this Chapter is between the fence and the property lines.

(3) All driveways that have traffic traveling in two directions shall be at least 30 feet in width. Any driveway that has traffic proceeding in one direction shall be at least 24 feet in width if it services self-storage facilities on both sides of the driveway. If the driveway with traffic traveling in one direction services self-storage facilities on only one side, it shall be a minimum of 20 feet in width. Driveway designations, locations, and interior circulation shall be set forth on the plans accompanying the land development application.

(4) The storage of flammable liquids (except in the gas tanks of boats or recreational vehicles stored outside), highly combustible or explosive materials, or hazardous chemicals shall be prohibited. The use of property utilized for self-storage shall be limited to the storage of residential, commercial, or professional goods or records to which access is needed on a limited basis, i.e., general wholesale or retail distribution or sales are prohibited.

(5) The exterior fencing shall be provided with a lockable gate, and said gate shall be kept locked except during such time that the premises is open to the public or lessees of the facilities. During such time that the premises are so open to the public, there shall be an on-site manager provided, or his designee, who shall remain on the premises during all hours that the facility is open. A manager's quarters shall be permitted on the facility as an accessory use.

K. Truck Freight Terminal.

(1) All tractor trailer parking, outdoor storage, and loading/unloading areas visible from a public street or an adjacent residential use shall be screened by a 25-foot vegetated buffer. Plantings within the buffer shall comply with the terms of §27-1714.1 of this Chapter. Trees shall be selected, in part,

for resistance to diesel exhaust.

(2) Township requirements for landscaping the interior of parking areas shall not be applicable to this use.

(3) Any truck entrance, loading/unloading area, outdoor storage, or truck parking area shall be a minimum of 250 feet from any residential use.

(4) There shall be an appropriate system to contain and properly dispose of any fuel, grease, oils, or similar pollutants that may spill or leak where such substances are stored or where vehicles are fueled, repaired, or maintained.

L. *Veterinary Clinic.*

(1) All activities shall be provided within a fully-enclosed building, with the exception of exercise runs and outdoor space to be used for similar purposes.

(2) The owner/operator of the veterinary clinic shall be responsible to exercise suitable control over the animals and shall not allow a nuisance condition to be created in terms of excessive noise, dirt, or odor.

(3) Short-term boarding of animals shall be permitted when necessary in conjunction with other services being provided to an animal by the clinic. Such boarding operation shall not be conducted as a kennel.

M. *Location of Adult Entertainment Businesses.*

(1) A person commits a violation of this Chapter if the person operates or causes to be operated an adult entertainment business within 500 feet of:

(a) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

(b) A public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, special education schools, junior colleges and universities; school includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

(c) A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the Commonwealth of Pennsylvania.

(d) Any other adult entertainment use; or within 500 feet of a boundary of a property used for residential purposes or within 500 feet of:

1) A public park or recreational area which has been designated for park or recreational activities including, but not limited to, park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness area, or other similar public land within the Township which is under the control, operation or management of the Township park and recreation authorities.

2) An entertainment business which is oriented primarily towards children or family entertainment.

(2) A person commits a violation of this Chapter if that person causes or

permits the operation, establishment, substantial enlargement, or transfer of ownership or control of an adult entertainment business within 500 feet of another adult entertainment use.

(3) A person commits a violation of this Chapter if that person causes or permits the operation, establishment, or maintenance of more than one adult entertainment business in the same building, structure, or portion thereof, or the increase of floor area of any adult entertainment business in any building, structure, or portion thereof, containing another adult entertainment business.

(4) For the purpose of subparagraph (1) of this paragraph .M, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where an adult entertainment business is conducted, to the nearest property line of the premises of a use listed in paragraph (1). Presence of a municipal, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this paragraph .M.

(5) For the purpose of subparagraph (2) of this paragraph M, the distance between any two adult entertainment businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

[Ord. 2009-18]

N. *Hours of Operation of Adult Entertainment Businesses.* No adult entertainment business may remain open at any time between the hours of 1 a.m. and 6 a.m. on weekdays and Saturdays, and 1 a.m. and 12 p.m. on Sundays. [Ord. 2009-18]

(Ord. 2005-9, 12/29/2005, §1602; as amended by Ord. 2007-3, 3/29/2007, §3; by Ord. 2007-4, 4/30/2007, §§1, 2, and 3; and by Ord. 2009-18, 7/13/2009, §5)

§27-1603. Uses Permitted by Special Exception.

The following standards shall be addressed by the applicant and applied by the Zoning Hearing Board in evaluating an application for use by special exception, where such special exception is authorized in one or more of the base zoning districts of this Chapter. Any such proposed use also shall comply with the applicable standards and regulations of the base zoning district.

A. All uses regulated by the terms of this Section shall also be in compliance with any other applicable standards of this Chapter including, but not limited to, those in the following Parts:

(1) Part 17, “General Regulations,” including but not limited to standards for lighting, landscaping, screening, internal circulation, access and traffic control, storage, and noise control.

(2) Part 18, “Signs.”

(3) Part 19, “Off-Street Parking and Loading.”

B. *Bed-and-Breakfast Establishment.*

(1) Where permitted as a special exception under the terms of one or more

of the base zoning districts, a bed-and-breakfast establishment may be operated only within a single-family detached residential structure that is in compliance with all applicable area and bulk requirements.

(2) Operation of a bed-and-breakfast establishment shall require a minimum net lot area of 1 acre or the minimum net lot area required for a single-family detached dwelling in the applicable zoning district, whichever is greater.

(3) No external modifications that would alter the residential character of the dwelling, with the exception of fire escapes, are permitted.

(4) All floors above ground level shall have an emergency exit providing access to ground level.

(5) One off-street parking space shall be provided for each guest room, in addition to the required spaces for the existing dwelling.

(6) All parking areas shall be at least 25 feet from all property lines.

(7) One sign may be erected which shall be no larger than 6 square feet in size and which shall be no less than 10 feet from all property lines.

(8) A bed and breakfast shall not include more than three rooms for rent.

(9) In the absence of public or community sewage facilities, the applicant shall provide: (a) written notice from the Chester County Health Department that the existing sanitary sewage facilities are adequate to treat the anticipated sewage, or (b) a permit for a modified or alternative sewage disposal system.

(10) At least one bathroom shall be provided for the first guest room, plus one additional bathroom for each two additional guest rooms. The living quarters for the resident/operator shall have its own bathroom. Bathrooms shall be equipped with a toilet, washbasin, and bath and/or shower.

(11) Guests shall not remain in the same bed-and-breakfast establishment for more than 14 consecutive days:

(12) The bed-and-breakfast establishment shall be conducted only by the owner/occupant of the single-family dwelling. The owner/occupant's family member(s) residing on the property, and not more than two full-time equivalent employees who are nonresident, may be employed. As applied to the property, ownership shall comprise not less than a majority interest.

(13) Meals shall consist of breakfast only, and only for the guests of the facility. Owners shall comply with all Federal, State, and County regulations for the preparation, handling, and serving of food. There shall be no separate cooking facilities in any guest room.

(14) Any amenities, such as a tennis court or swimming pool, shall be solely for the use of the residents and guests of the facility.

(15) Each bed-and-breakfast establishment shall be equipped, at minimum, with smoke detectors and fire extinguishers in accordance with the requirements of the Pennsylvania Department of Labor and Industry. Guests shall be provided information regarding the floor plan of the dwelling and the location of emergency exits.

C. *Home Occupation, Major.* Where permitted as a special exception under the terms of this Chapter, a major home occupation shall meet the following requirements:

(1) *Purpose.* The purpose of the standards in this Section is to provide opportunity for certain home occupation uses that do not comply fully with the criteria in §27-1602.C for home occupations permitted by right, primarily due to the proposed employment of nonresident and/or the nature of the proposed use. It is the intent of this Section to assure that any home occupation is:

(a) Compatible with other uses permitted in the respective zoning districts.

(b) Incidental and secondary to the use of the property as a residential lot.

(c) Helping to maintain and preserve the character of the neighborhood.

(2) In addition to the standards contained in this subsection, any applicant seeking approval of a home occupation as a special exception shall comply with the standards in §§27-1602.C(1), (5), (6), (7), (8), and (10).

(3) No exterior evidence of the activity in the form of lighting, or the display, inventorying, or stockpiling of goods, shall be visible. Any sign associated with a home occupation shall comply with the standards in §27-1804 of this Chapter.

(4) If the resident conducting the home occupation is a tenant and not the owner of the property, the owner shall be party to the application for special exception approval.

(5) No more than two nonresident employees shall be permitted. However, where a home occupation is an office in the building trades and similar fields, the business may have additional employees for off-site activities provided they are not employed on-site, they do not park on or near the property, and they do not normally visit the property during the course of business.

(6) Major home occupations shall be limited to those occupations customarily conducted within a single-family detached dwelling. Major home occupations shall include, but not be limited to, the following activities:

(a) Medical, dental, or legal office.

(b) Family child/adult day care involving no more than six children or adults unrelated to the operator, and provided the following criteria are met:

1) Passenger drop-off and pick-up areas shall be provided on-site and arranged so that passengers are not required to cross traffic lanes on or adjacent to the site and vehicles are not required to back out onto the abutting street.

2) There shall be suitable outside activity/recreation area which shall be buffered from all adjoining properties with screening by evergreens, walls, fencing or other materials acceptable to the Zoning Hearing Board. Any wall or fence shall not be constructed of

corrugated metal, corrugated fiberglass, woven chain link, or sheet metal. Screening shall be arranged to block the ground level views between grade and the height of 6 feet. Landscape screens shall achieve this visual blockage within 2 years following installation.

3) The owner must be registered with the Pennsylvania Department of Public Welfare (DPW) and must demonstrate compliance with all DPW regulations for such homes.

4) The family day care use may operate on weekdays only. Outside play shall be limited to the hours between 9 a.m. and 5 p.m.

(c) Preparation of food or food products to be sold or served off-site.

(d) Other accessory uses that do not qualify as no-impact home occupations under the terms of §27-1602.C but, in the determination of the Zoning Hearing Board, are considered to be of the same general character as the home occupations listed herein and meet all the requirements for major home occupations contained in this Chapter.

(7) The applicant shall demonstrate that adequate off-street parking shall be provided for both the home occupation and the dwelling unit. In no event shall the parking spaces provided be less than two for the dwelling unit and one for each nonresident employee. For any office use permitted, a minimum of one parking space per 150 square feet of gross leasable floor area devoted to such use shall be provided, in addition to two spaces for the dwelling unit.

(8) Retail sale of merchandise, supplies, or products shall not be conducted on the property except for the following:

(a) The sale of items that are clearly incidental and subordinate to the conduct of the home occupation or items used in the home occupation such as the sale of beauty supplies used by the proprietor is permitted.

(b) Orders previously made by telephone, internet, appointment, or other prior contact may be filled at the site of the home occupation. There shall be no direct sales of products from display shelves or racks, but a person may pick up an order placed earlier as described above.

(9) Unless otherwise determined by the Zoning Hearing Board, an approved home occupation may be conducted only during the hours of 8 a.m. to 6 p.m., and shall not operate on Sundays or legal holidays.

(10) Where the proposed home occupation will include nonresident employees, in accordance with the terms of this Chapter, the Zoning Hearing Board may require appropriate documentation that the sewage facilities serving the property will be adequate to meet the wastewater treatment and disposal needs that will be generated on the property. Where such facilities cannot be provided, the Board may deny the request for special exception.

(11) Prior to initiating the operation of a major home occupation, the resident practitioner shall be required to obtain a permit from the Township and pay a fee in an amount as established by resolution of the Board of Supervisors. The Township shall conduct an inspection of the premises as part of the review of the permit application. Such permit must be renewed annually for continued operation of the home occupation, and the Township may conduct

an inspection, as it deems necessary, in conjunction with the permit renewal process.

D. Junkyard.

(1) Where a junkyard is located on a property adjacent to a residential zoning district or residential use, there shall be a setback from the adjacent residential zoning district boundary or residential use lot line of at least 100 feet, screened in accordance with subparagraph (12).

(2) Wherever the property containing a junkyard abuts a public or private street, the portion(s) of the property abutting the public or private street shall contain screening material that complies with the standards in subparagraph (12).

(3) The area where junk or any other material is stored outside shall be enclosed within a wall or fence at least 8 feet in height and which is designed and constructed so as to be at least 90 percent solid or opaque.

(4) Storage piles shall not exceed 8 feet in height, and no more than two adjoining rows of junked cars shall be stored together.

(5) There shall be provided at least a 12-foot-wide accessway which shall be kept clear and free at all times to provide for access to all parts of the premises for firefighting and other safety or emergency purposes.

(6) No explosive, toxic, radioactive, or highly flammable materials shall be kept on the property. Gasoline, oil, Freon, vehicle batteries, and other flammable or toxic substances shall be removed from any junk or other items stored on the premises. Such materials shall be removed and disposed of in accordance with applicable Federal, State, and local regulations and shall not be released into the air or deposited on or into the ground or watercourses.

(7) No junk or other material shall be burned on the premises.

(8) No garbage or other waste liable to give off a foul odor or attract vermin or insects shall be kept on the premises.

(9) All junk shall be stored or arranged to prevent accumulation of water.

(10) A junkyard shall obtain any applicable license or permit and shall remain in compliance with those requirements.

(11) There shall be no processing or sale of materials at a junkyard on Sundays, legal holidays, and between the hours of 6 p.m. and 7 a.m. prevailing time.

(12) Where a landscaped screen is required under the terms of this Section, such screen shall be located within a planting strip that has a minimum width of 10 feet. Plant material shall be a minimum of 8 feet in height at the time of installation, and shall be an evergreen hedge unless alternative plant materials and/or the incorporation of existing vegetation are specifically approved by the Zoning Hearing Board.

E. Residential Conversions.

(1) *Purpose.* The intent of this Section is to provide an alternative use for structurally sound, primarily older single-family detached dwellings. This Section also is intended to allow an increase in the supply of smaller dwelling

units and provide for more efficient use of the existing housing stock, while protecting the character of sound, stable residential neighborhoods and preserving the basic character of dwellings that might otherwise become obsolete.

(2) *Applicability.* The provisions established under this Section shall apply to all residential conversions where permitted by the appropriate zoning district.

(3) *Standards.* A single-family detached dwelling, existing on the effective date of this Section, may be converted into and used as a two-family or multi-family dwelling, when authorized as a special exception in accordance with the terms of §27-2203 of this Chapter and the following requirements of this Section:

(a) A site plan for the conversion of said dwelling shall be submitted as part of the application for special exception. The applicant also shall submit a copy of the floor plan, indicating all dimensions prior to and following conversion, and copies of any necessary permits from other agencies, as required by law, or documentation that such permits have been applied for.

(b) The resulting dwelling units shall have a minimum floor area of 800 square feet.

(c) Such dwellings shall be subject to the height, width, yard, and other applicable regulations effective in the zoning district where the existing single-family structure is located. Minimum required lot area for the structure, following conversion, shall be calculated as follows:

1) Where the converted dwelling units will be served by individual on-site sewage facilities, 50 percent of the product of the minimum lot area for a single-family dwelling with onsite sewage times the number of dwelling units (existing and proposed) to be contained in the converted structure:

2) Where the converted dwelling units will be served by a community or public sewage system, the minimum lot area shall be 50 percent of the product of the minimum lot area for a single-family dwelling when served by such a sewage system times the number of dwelling units (existing and proposed) to be contained in the converted structure.

(d) The existing building may be reduced in size during conversion, but shall not be enlarged except for the creation of fire escapes and outside stairways. Such additions shall be located at the rear of the building unless clearly impractical.

(e) The off-street parking requirements of this Chapter shall apply.

(f) Regardless of the size of the existing structure, the total number of dwelling units following conversion shall not exceed five.

(g) The resulting dwelling units shall be provided with appropriate sewage systems and water supply systems. The applicant shall submit to the Township a permit for an individual on-site sewage disposal system

issued by the Chester County Health Department, where a community or public sewage system is not available. Where a shared well is used for water supply, an agreement of use and maintenance shall be prepared and submitted to the Township.

(h) Each resulting dwelling unit shall meet the definition of dwelling unit contained in this Chapter and shall comply with all applicable Township codes and regulations regarding building, housing, plumbing, electric, fire safety, and the like.

(i) The Zoning Hearing Board may specify the maximum number of dwelling units to be created within any such structure, and may prescribe such further conditions and restrictions with respect to the conversion and use of such dwelling, and to the use of the lot, as the Board may consider appropriate.

(4) The Zoning Officer shall review all applications for residential conversions to determine compliance. Upon approval of the completion or alteration involved in a conversion, the Zoning Officer shall inspect the premises, prior to issuing an occupancy permit, to verify compliance with this Chapter and the terms of the special exception approval.

F. *Sanitary Landfill.*

(1) Any landfill approved under the terms of this Section shall be owned and operated by East Nottingham Township or by an Authority of which East Nottingham Township is an active participating member. The proposed facility shall conform to all requirements of the Pennsylvania Department of Environmental Protection.

(2) All solid waste processing operations shall be conducted within a wholly-enclosed building.

(3) No refuse shall be deposited or stored, and no building or structure shall be located, within 500 feet of any lot line.

(4) Any area used for the unloading, transfer, storage, processing, incineration, or deposition of refuse must be completely screened from ground-level view at the property line. The use of an earthen berm is recommended whenever possible. In addition, such areas must also be completely enclosed by an 8 foot-high fence, with no openings greater than 2 inches in any direction.

(5) The application for special exception approval must include written documentation demonstrating how the applicant will comply with all applicable State and Federal standards and regulations.

(6) All driveways into the site shall be paved for a distance of at least 200 feet from the street right-of-way line. In addition, a 50 foot-long gravel section of driveway should be placed beyond the preceding paved section to collect any mud that may have accumulated on the wheels of any vehicles.

(7) Access to the site shall be limited to those posted times when an attendant is on duty. In order to protect against indiscriminate and unauthorized dumping, all areas of the site shall be protected by locked barricades, fences, gates, or other means to prohibit access to the area at

unauthorized times or locations.

(8) Hazardous waste, as identified by the Pennsylvania Department of Environmental Protection, shall not be disposed of within the subject property.

(9) The application for special exception approval must include a working plan to prevent the scattering of debris and litter, as well as clean-up of the same.

(10) The facility shall employ qualified facility operators responsible for supervising all activities relating to unloading, processing, transfer, and deposition of solid waste.

(11) Leak-proof and vector-proof containers shall be provided for the storage of: (a) any waste that cannot be used in any disposal process, or (b) material that is to be recycled. Such containers shall be designed to prevent their being carried by wind and/or water and shall be stored within a wholly-enclosed building.

(12) No more solid waste shall be stored on the property than is necessary to keep the facility in constant operation. Under no circumstance shall such waste be stored longer than 72 hours.

(13) Any application for special exception approval shall include a contingency plan for the disposal of solid waste in the event of a facility shutdown.

(14) Leachate from the solid waste shall be disposed of in a manner in compliance with all applicable State and Federal laws or regulations. If leachate is to be discharged to a municipal sewage facility, appropriate permits shall be obtained from the applicable agencies and authorities. In no event shall leachate be disposed of in a storm sewer, to the ground, or in any other manner inconsistent with Department of Environmental Protection regulations.

(15) *Water Needs and Supply.*

(a) Any application for special exception approval shall include an analysis of the quantity of raw water needs (groundwater or surface water) from either private or public sources. If the source is from a municipal system, the applicant shall submit documentation that the public authority will supply the water needed.

(b) A water system which does not provide an adequate supply of water for the proposed landfill, considering both quantity and quality, or does not provide for adequate groundwater recharge considering the water withdrawn by the proposed landfill, shall not be approved as a special exception.

(c) The applicant also shall submit a water feasibility study to enable the Zoning Hearing Board to evaluate the impact of the proposed landfill on the groundwater supply and on existing wells. The study shall be prepared, submitted, and evaluated in accordance with the Township's regulations that address groundwater and the commercial use of water.

(16) Any application for special exception approval shall provide an analysis of the physical conditions of the primary road system serving the

proposed landfill. The analysis shall include information on the current traffic flows on this road system and projections of the amount and type of traffic generated by the proposed landfill. Improvements to the road or roads shall be provided by the applicant to assure safe turning movements to and from the site and safe through-movements on the existing roads.

(17) A perimeter landscaped buffer area not less than 100 feet in width shall be located along all property lines. No structures, storage, parking, or any other related activity or operation shall be permitted within this landscaped area. Any fence or other nonvegetative screening erected on the site shall not be located within this landscaped area.

(Ord. 2005-9, 12/29/2005, §1603)

§27-1604. Uses Permitted by Conditional Use.

The following standards shall be addressed by the applicant and applied by the Board of Supervisors in evaluating an application for conditional use, where such conditional use is authorized in one or more of the base zoning districts of this Chapter. Any such proposed use also shall comply with the applicable standards and regulations of the base zoning district:

A. All uses regulated by the terms of this Section shall also be in compliance with any other applicable standards of this Chapter including, but not limited to, those in the following Parts:

(1) Part 17, "General Regulations," of this Chapter including, but not limited to, standards for lighting, landscaping, screening, internal circulation, access and traffic control, storage, and noise control.

(2) Part 18, "Signs."

(3) Part 19, "Off-Street Parking and Loading."

B. *Billboard.*

(1) Billboards shall be permitted only within the C-1 Special Limited Business District and only when approved as a conditional use by the Board of Supervisors. To be eligible to contain a billboard, a property in the C-1 District must directly abut, and/or be contained within, the right-of-way of the U.S. Route 1 Bypass.

(2) Any application for approval of a billboard as a conditional use shall be evaluated in terms of the potential impact of the proposed billboard's location and dimensions on:

(a) Sight distance and other highway safety aspects that could affect motorists, pedestrians, or other travelers.

(b) Visual quality, natural features, or historic resources, as identified in the East Nottingham Township Open Space, Recreation, and Environmental Resources Plan.

(3) Any application for approval of a billboard as a conditional use shall demonstrate compliance with the following requirements:

(a) A billboard may only be constructed as a freestanding sign.

(b) The maximum sign area of any billboard shall be 300 square feet.

(c) The maximum height of any billboard shall be 25 feet, as measured from the ground surface to the top of the sign.

(d) No billboard shall be located closer than 50 feet to any property line.

(e) There shall be a minimum separation distance of 300 feet between any two billboards.

(f) The lighting of any billboard shall be in compliance with the requirements of §27-1706 of this Chapter.

C. *Car Wash.*

(1) All washing of vehicles shall be performed within an enclosed building. All materials and parts shall be stored within an enclosed building.

(2) Materials discarded as part of the operation shall be contained within completely enclosed dumpster equipment. The applicant for conditional use approval shall demonstrate compliance with all applicable County, State, and/or Federal regulations governing the intended use.

(3) There shall be no deleterious impacts from noise, odor, vibration, light, or electrical interference on adjacent properties.

(4) No outdoor storage of vehicles shall be permitted in any portion of a required minimum yard area.

(5) Access points shall be limited to two on each street abutting the lot.

(6) The property shall be served by a public water system. The car wash facility shall include a system to collect and recycle the water used in the car washing operation.

(7) Each car wash bay shall allow for a stacking of three vehicles.

D. *Cemetery.*

(1) The following standards shall apply to any commercial cemetery or cemetery that is accessory to a church or similar place of religious worship, but shall not be applicable to a private family cemetery that is a use accessory to a dwelling or an agricultural property.

(2) A minimum net lot area of 10 acres shall be provided for any commercial cemetery.

(3) The application for a zoning permit shall be accompanied by an informal sketch landscape plan, including narrative, that indicates the general landscape design intended, approximate type and amount of vegetation to be installed, etc.

(4) In addition to the installation of landscape material, natural buffer areas shall be retained to the greatest degree feasible to mitigate impacts to scenic landscape qualities and water recharge capacity. Use of plant material in lieu of fencing is encouraged to provide privacy, screening, and access control.

(5) The applicant shall provide sufficient hydrologic and other information to satisfy the Board of Supervisors that potential for groundwater contamination from development of burial grounds shall not be hazardous to any neighboring water supply wells. As a condition of approval, the Board may

require the installation of monitoring well(s) where potential hazard to neighboring well(s) is suspected.

(6) No burial ground or plot or any structure related to the cemetery operation shall be located within:

(a) One hundred feet of any property line or street line.

(b) Two hundred feet of any dwelling or existing well.

(c) Twenty-five feet of the cartway of any private vehicular accessway within the tract or any parking area.

(7) In no case shall any structure, burial ground, or burial plot be located within a 100-year floodplain.

(8) The maximum height of cemetery structures shall be:

(a) For a grave stone, monument, or statue marking an individual burial site—6 feet.

(b) For a mausoleum—15 feet.

(c) For any other structure—35 feet.

(9) The placement of burial vaults within burial ground areas shall comply with the following standards:

(a) Multiple burial vaults may be placed in a single plot (i.e., one above the other)

(b) No vault shall be located less than 3 feet beneath the ground surface after development, except where completely enclosed within a mausoleum

(c) No vault shall be located where, at its greatest depth below the ground surface, it may intrude upon the seasonal high water table.

(d) In order to provide for adequate percolation of groundwater, all burial vaults shall be placed such that minimum horizontal separation between vaults is no less than 2 feet. This provision shall not apply to burial vaults completely enclosed within a mausoleum.

E. *Commercial Composting Processing Operation.* An applicant seeking to establish a commercial compost processing operation must show compliance with the following:

(1) *Compliance*—the applicant must demonstrate compliance, and continue to comply, with all applicable State and Federal standards and regulations.

(a) An environmental impact statement will be prepared and submitted in accordance with Federal and State standards.

(b) A water feasibility study will be provided to enable the Township to evaluate the impact of the proposed development on the groundwater supply and on existing wells. The purpose of the study will be to determine if there is an adequate supply of water for the proposed development and to estimate the impact of the new development on existing wells in the vicinity. The water feasibility study shall be reviewed by the Township Engineer and appropriate Federal and State agencies. A water system which does not provide an adequate supply of water for the proposed

development, considering both quantity and quality, or does not provide for adequate groundwater recharge considering the water withdrawn by the proposed development, shall not be approved by the Township. A water feasibility study shall include the following information:

- 1) Calculations of the projected water needs.
- 2) A geologic map of the area with a radius of at least 1 mile from the site.
- 3) The location of all existing and proposed wells within 1,000 feet of the site and all known point sources of pollution.
- 4) Based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined.
- 5) A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams, and the groundwater table, including a baseline analysis of water quality and water quantity within a 1 mile radius of the proposed facility.
- 6) A statement of the qualification and signature(s) of the person(s) preparing the study.

(2) *Driveways.* All driveways onto the site must be paved for a distance of at least 100 feet from the street right-of-way line. In addition, a 50 foot-long gravel section of driveway shall be placed just beyond the preceding one-hundred-foot paved section to dislodge any mud that may have become attached to a vehicle's wheels.

(3) *Landscaping.* A landscape strip with a minimum width of 50 feet shall be located along all property lines. No structures, storage, parking or any other related activity or operation shall be permitted within this landscape strip. Fences or other screening erected on the site must be located on the interior of this landscape strip.

(4) *Leachate.* Leachate shall be disposed of in compliance with any applicable State and Federal laws or regulations. In no event shall leachate be disposed of in a storm sewer, to the ground, or in any other manner inconsistent with the Department of Environmental Protection regulations.

(5) *Minimum Setback.* No processing or storage of compost shall be permitted within 200 feet of any lot line or 500 feet of any residential district or use.

(6) *Nuisance Control.* The applicant shall submit a plan demonstrating safe access to the site, control of odors, and control of blowing litter.

(7) *Operations.* All composting activities including the processing, preparation, curing, loading, material handling, unloading, storing (including long-term storage) and packaging operations of compost for commercial purposes must be conducted within a completely enclosed building. The enclosed structure shall be located on a concrete slab with a proper drainage collection system so that no materials or liquids leak onto or beneath the ground surface. The structure will also be vector-proof and utilize state of the art technology for aerobic, thermophilic decomposition of the materials

involved in the compost preparation. At all stages the operation must utilize the best available air scrubbing technology to control odor and air pollution. Loading and unloading must occur on a concrete or asphalt surface. All composting activities must take place on the concrete impermeable pad, the size of which shall be determined by the Board of Supervisors during the conditional use hearing.

(8) *Screening*. The use shall be screened from all roads and adjoining properties by fencing or evergreen planting as determined by the Board of Supervisors.

(9) *Supervision*. Unloading, processing and transfer operations shall be continuously supervised by a qualified facility operator. Hours of operation are limited to 7 a.m. to sunset Monday through Saturday.

(10) *Unauthorized Dumping*. Access to the site shall be controlled to prevent unauthorized dumping.

(11) *Vehicle Stacking Lanes*. All uses shall provide sufficiently-long stacking lanes into the facility, so that vehicles waiting to be weighed or loaded/unloaded will not back-up onto public roads.

(12) Hay and straw utilized in the processing and preparation of compost may be stored outside.

(13) No hazardous materials as defined in the Hazardous Material Emergency Planning and Response Act, 35 P.S. §6022.103, may be utilized at any stage of the composting process, including materials to be incorporated into the process. The operator shall be required to supply Material Safety Data Sheets as identified in the Worker and Community Right to Know Act, 35 P.S. §7305, for any substance included therein.

(14) Construction of the lagoons to contain the water used in the processing of the compost and of the berms to hold the leachate wastewater must comply with all State and Federal regulations and with state of the art technology.

(15) All local water surface bodies and designated ground water downgrading/side gradient, monitoring well locations (to be installed by applicant if not otherwise available) are to be tested for pollutants once a month at the sole expense of the operator. Such tests will include, but not be limited to, levels of ammonia, chloride, fecal coliform, lead and other hazardous substances that are associated with composting operations in accordance with the Pennsylvania Department of Environmental Protection and the Chester County Department of Health regulations. Air sampling for hazardous pollutants and pathogens will occur on a monthly basis as the sole expense of the operator. Tests for hazardous pollutants and pathogens will be consistent with constituents that are associated with composting operations in accordance with the Pennsylvania Department of Environmental Protection and the Chester County Health Department. Copies of said reports shall be forwarded to East Nottingham Township and, where appropriate, to Federal and State agencies on a monthly basis. Testing shall be at the sole expense of the operator.

(16) If leachate is to be discharged into a municipal sewage facility, appropriate permits shall be obtained from the applicable agencies and

authorities.

(17) *Minimum Setback.* No processing shall be permitted within 500 feet of any wells, springs, lakes, and/or streams. In addition, any ventilation outlets must be oriented away from land within a residential zone. The setbacks contained in this Section shall not be reduced for any reason.

(18) *Application.* A person wishing to establish a compost operation in the Township shall present an application for a conditional use, pursuant to the procedures specified in this Chapter, which shall contain the following:

(a) A topographical drawing, prepared by a registered engineer to a scale no greater than 1 inch equals 200 feet, showing:

- 1) Location of site relative to public roads.
- 2) Owners of adjacent properties.
- 3) Proposed fencing and improvements.
- 4) Proposed screening.

(b) The identity of the owner of the site and relationship of applicant to the owner(s). The application shall include a description of all composting activities in which the owner(s) of the site and/or the applicant and/or their principals have been engaged under any business entity including fictional name registrations, partnership names and corporate names. The description of all composting activities shall include a history of all notices of violations, cease and desist orders, and civil and criminal citations under any prior business entity name in which the owner/applicant(s) were previously engaged.

(c) If the proposed use is contiguous to another property being used for the processing or preparation of compost, the applicant shall establish that the proposed use and location will not contribute to or compound any existing adverse safety, health, and welfare conditions as a result of the increased concentration of composting usage. The Board of Supervisors may deny outright or impose additional conditions arising out of problems caused by the over concentration of composting activities in the area in question.

(19) *Requirements and Standards Applicable to Compost Operation.* In considering the application for a commercial compost operation as a conditional use, the Board of Supervisors, shall require that:

(a) Any application for compost operation be in compliance with the requirements of the Pennsylvania Department of Environmental Protection and that, prior to the onset of site utilization, a permit be obtained from the Pennsylvania Department of Environmental Protection for said operations if the Pennsylvania Department of Environmental Protection so requires.

(b) An application must provide an analysis of the physical conditions of the primary road system serving the proposed use, including information on current traffic flows on the road system including ingress and egress to and from East Nottingham Township and projections of traffic generated by the proposed use to include anticipated increased

noise level, as well as the projected weight and number of vehicles. Any such site must have direct access to either an arterial or collector highway, or a township road that is paved with a surface and base course of sufficient depth to withstand traffic loads as established by the above traffic analysis.

(c) The proposed operation will not create a nuisance in the Township or otherwise impose a hardship on adjoining property owners or with the Township in general.

(d) That provision be made by the applicant that all trucks entering and leaving the site shall be covered and that as part of the daily operation of the site roads used for access to the site be patrolled daily to pick up and dispose of scattered and blowing papers or other refuse.

(e) That the site be properly fenced to prevent blowing papers and other nuisances on adjoining properties.

(f) When completed, be properly maintained such that it does not constitute a nuisance or danger to the adjoining property owners and to the surrounding areas from uneven settlement, emission of gases due to waste decomposition, and potential vandalism from being abandoned.

(20) *Minimum Acreage.* No site shall be approved for a compost operation which has a gross tract area less than 10 contiguous acres. In computing site sizes, properties divided by public roads shall not be deemed contiguous. No site shall be larger than 15 acres.

(21) Any commercial composting site shall apply for and secure the land development approval by East Nottingham Township in accordance with the Municipalities Planning Code, 53 P.S. §10101 *et seq.*

(22) *Performance Bond.* In order to assure the Township that the various tests and duties imposed upon an applicant are fully performed, the Board of Supervisors shall require that a sufficient surety for such performance shall be posted by an applicant before issuing any conditional use approval or permit. The applicant shall assure the Township by means of financial security sufficient to cover the cost, as estimated by the Township Engineer, of performing the various tests and duties imposed upon him by the Chapter.

(23) *Indemnification.* In addition to the foregoing requirements, all applicants to operate a compost operation upon property within the Township of East Nottingham shall, prior to the utilization of any site, deliver to the Township Board of Supervisors a liability indemnification, on a form to be prepared by or approved by the Township Solicitor, pursuant to the terms of which, the applicant specifically agrees to fully indemnify and hold harmless the Township of East Nottingham and all of its officers, agents, and employees from any and all liability and litigation defense costs accruing to any person(s) as a result of any use of any land in the Township permitted by the Board of Supervisors pursuant to this Section.

F. *Communications Towers Antennas, and Equipment.*

(1) *Communications Antenna.* A communications antenna may be attached to or mounted on an existing public utility building or structure, or

an existing communications tower, water tower, silo, or other nonresidential building or structure when approved as a conditional use by the Board of Supervisors, if the height of the antenna does not exceed the height of the existing structure by more than 10 feet. Any such antenna shall be constructed to simulate the architectural facade and/or color of the building or object to which it is attached, and shall comply with the Uniform Construction Code [Chapter 5, Part 1] and all other applicable requirements. A communications antenna may not be attached to a flag pole, as that term is defined in this Chapter.

(2) *Communications Tower.* A communications tower may be constructed in the C-1 or C-2 Districts, or on any property owned by the Oxford Area Sewer Authority or the Oxford Area Recreation Authority, when approved as a conditional use by the Board of Supervisors, in accordance with the terms of this Section. A communications tower also may be constructed on property owned by East Nottingham Township. Height of the communication tower shall not exceed 150 feet.

(3) *Communications Equipment Building.* A communications equipment building may cover no more than 350 square feet of ground. The applicant shall locate as much of the associated equipment below the ground surface as feasible.

(4) *Notification of Property Owners.* An applicant seeking to construct, relocate, or alter a communications tower and/or antenna shall file a written certification with the Board of Supervisors that all property owners within a 1,000 foot radius of the proposed site have been notified by the applicant, in writing by certified (return receipt) and regular mail at least 14 days prior to the date of the hearing, of the applicant's proposed construction, relocation, or alteration. The certification shall contain the name, address, and tax parcel number of each property owner so notified. Such notice also shall contain the date, time, and place of the public hearing at which the applicant shall appear.

(5) *Prohibited Uses.* All other uses ancillary to the tower, antenna, and/or communications equipment building (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the antenna or tower site unless otherwise permitted in the zoning district in which the site is located, in which case the area and bulk requirements for such use in that district shall be applicable.

(6) *Personnel and Parking.* Except where ancillary uses are permitted in the zoning district in which the site is proposed, the communications tower and/or antenna shall be fully automated and require only occasional or periodic on-site attention from maintenance or operational personnel. Unless specifically required for the ancillary use, off-street parking at the site shall not exceed two spaces.

(7) *Site Plan.* A full site plan shall be required and shall accompany the application for conditional use for any communications facility, showing all existing and proposed improvements including, but not limited to, proposed antennas, towers, structures, fencing, buffering, and ingress and egress. The plan shall comply with the requirements for a preliminary plan under the

Township Subdivision and Land Development Ordinance [Chapter 22].

(8) *Standards for Review of Conditional Use Requests.* In addition to the applicable requirements of this Section and other sections of the Chapter, the Board of Supervisors shall review a conditional use request to construct a communications antenna or tower and only approve same if the following standards are complied with:

(a) Subject also to the height limitation for a communications tower, as defined, the applicant shall demonstrate that the proposed communications tower and/or communications antennas proposed to be mounted thereon is/are the minimum height required to function satisfactorily. No antenna taller than this minimum height shall be approved unless the applicant proves that another provider of wireless, cellular, or personal communications services has already agreed to co-locate on the applicant's communications tower at greater height than the applicant requires.

(b) The applicant must demonstrate that the distance between the communications tower, including all supporting equipment and structures, and any property line or right-of-way shall be greater than or equal to the height of the communications tower. These setback requirements may be modified by the Board of Supervisors if it finds that placement of a communications tower and/or antenna in a particular location will reduce its visual impact.

(c) The applicant shall provide a plan prepared by a landscape architect showing landscaping to be installed to screen and buffer as much of the support structure as possible. Vegetative screening material shall be evergreen, balled and burlapped, and shall be a minimum of 6 feet in height at the time of installation and capable of reaching a minimum height of 30 feet at maturity. The landscape plan shall incorporate existing features where appropriate.

(d) Existing vegetation on and around the proposed site shall be preserved to the greatest extent feasible. Removal of any tree of 1 foot dbh or greater shall require approval from the Board of Supervisors, and such approval shall be granted only upon demonstration by the applicant that such removal is reasonably required to clear an area for construction of the tower.

(e) In order to reduce the number of communication towers needed in the Township in the future, the applicant shall demonstrate that the proposed communication tower shall be designed to accommodate other users, including other cellular communications companies and/or local police, fire, and emergency responders. The applicant shall produce specific documentation of contact made with the Chester County Department of Emergency Services for purposes of avoiding potential interference with emergency communications.

(f) No communications tower, antenna, or equipment building may be lighted except when required by the Federal Aviation Administration (FAA).

(g) The applicant shall provide for a removal bond, in an amount deemed appropriate by the Board of Supervisors, to assure that proper security is provided to accomplish removal of the communications tower and/or communications antennas if the permitted communications use is abandoned, as required in subparagraph (13), below.

(h) The applicant shall provide with its application to the Board of Supervisors:

1) A copy of its current Federal Communications Commission (FCC) license.

2) Where a communications antenna is proposed to be mounted on a structure owned by a party other than the applicant, the current name, address, and emergency telephone number of the owner or operator of the structure.

3) A certification signed by a duly authorized officer of the applicant providing that, after due inquiry, the information being supplied is true and correct to the best of his knowledge, information, and belief.

4) Copies of all applicable Federal regulations with which it is required to comply and a schedule of estimated FCC inspections.

(i) The applicant shall present a certificate of insurance, issued to the owner/operator of the communications tower and/or antennas, evidencing that there is adequate current liability insurance in effect insuring against liability for personal injuries and death and property damage caused by communications facilities.

(j) Communications towers and/or antennas shall either have a galvanized finish or be painted silver or other colors, such as green and blue, or a combination thereof (e.g., painted green up to the height of nearby trees and the remainder blue or blue gray to blend with the sky), as shall be required and approved by the Board of Supervisors. All such facilities, including associated equipment, shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighborhood buildings.

(k) No sign or similar structure shall be mounted on a communications facility, except as may be required by the FCC, FAA, or other governmental agency.

(l) In the event that a communications antenna is attached to an existing structure, vehicular access to the antenna and any accessory equipment shall not interfere with the parking or vehicular circulation on the site for the existing principal use.

(9) *Structural Standards.*

(a) Prior to issuance by the Township of a permit authorizing construction and erection of a communication tower, a structural engineer registered in Pennsylvania shall issue to the Township a written certification of the tower's ability to meet the structural standards of

either the Electronic Industries Association or the Telecommunication Industry Association including, but not limited to, the ability of the tower to withstand wind gusts of 100 mph. Further, the engineer shall certify the proper construction of the foundation, adequacy of the soils relative to the design of the foundation and location of any guy wires, and the erection of the tower.

(b) Where antennas are proposed to be attached to an existing structure, such engineer shall certify that both the structure and the antennas and their appurtenances meet the minimum industry standards for structural integrity.

(c) The certifications required by this Section shall constitute a condition of any conditional use approval granted by the Board of Supervisors for the proposed use.

(10) *Maintenance and Repair.* All communications towers, antennas, and associated equipment shall be maintained and kept in good repair as required by Federal Law H.R. 6180/S.2882, the Telecommunications Authorization Act of 1992, including amendments to §§303(q) and 503(B)(5) of the Communications Act of 1934, all other governmental regulations as from time to time amended, and all Township ordinances consistent therewith.

(11) *Annual Inspection and Report.* The applicant for approval to erect a communications tower, or the owner of the tower, shall submit annually to the Township Engineer, within 60 days following inspection, a copy of the annual inspection report for the tower, prepared by a structural engineer registered in Pennsylvania as required by the ANSI/EIA/TIA-222-E Code or other applicable regulations. Based upon the results of such an inspection, the Zoning Officer may require removal or repair of the communications tower or part thereof if public safety so requires. Such removal or repair shall be completed within 30 days after the Township's written notice requiring same to the owner of the facility. In the event the annual inspection referred to above is not performed and/or the required annual report is not filed with the Township Engineer in a timely manner, the owner shall be subject to the enforcement remedies of Part 23 of this Chapter.

(12) *Interference with Existing Reception.* In the event that a communications tower and/or antenna causes interference with: (a) the radio or television reception on any property within the Township, or (b) any police, fire, or similar emergency services communication, for a period of 3 consecutive days, the property owner or emergency service provider may notify the applicant of such interference and the applicant, at the applicant's sole expense, shall thereafter ensure that any interference problems are promptly corrected. In the event the applicant fails or refuses to take the necessary steps to correct the interference in a timely manner, the applicant shall be subject to the enforcement provisions of this Chapter.

(13) *Abandonment and Removal.* If use of the communications facility or any part thereof is abandoned or if the facility is not in use for its originally intended purpose for a period of 1 year or longer, the owner of the facility shall demolish and/or remove the facility from the site within 6 months of such

abandonment or non-use. Abandonment shall be presumed after 1 year of non-use, and the owner of the facility shall have the burden of proving non-abandonment. In the event the demolition or removal is not performed in a timely manner, the owner shall be subject to the civil enforcement proceedings of Part 23 of this Chapter.

G. *Convenience Store.*

(1) The following standards shall apply to any convenience store, as defined and specifically permitted under the terms of this Chapter. The standards in this Section shall supercede similar standards that may be contained in this Chapter. Standards elsewhere in this Chapter that are not addressed in this Section shall be applicable to the convenience store use.

(2) A gross lot area of not less than 2 acres shall be required for any convenience store.

(3) There shall be no limit on the operating hours of a convenience store. During the hours of 10 p.m. to 6 a.m. and on Sundays and legal holidays, however, there shall be no deliveries to the site or trash removal from the site, no operation of a vehicle in excess of 8,600 pounds on the property nor the idling of any motor of such vehicle, and no operation of any powered equipment or mobile refrigeration unit.

(4) Where a convenience store operation includes the retail sale of automotive fuel, the standards in subparagraph (5) below, shall be met.

(5) Where a convenience store offers the retail sale of automotive fuel, the maximum number of fueling positions, each containing one dispensing hose, shall be limited to one per 500 square feet, or portion thereof, of convenience store floor area. In no case, however, shall the number of fueling positions exceed 12.

(6) In addition to screening and landscaping as may be required by §§27-1714 and 27-1715, respectively, the Board may require supplemental fencing, consisting of materials and dimensions it deems appropriate, along any property line that abuts an agricultural or residential use or an agriculturally-zoned or residentially-zoned property.

(7) To assure satisfactory management of the property and the mitigation of potential off-site impacts:

(a) Food and beverage shall not be consumed within the parking area or any other exterior portion of the site.

(b) Trash disposal shall be managed to prevent any problem of littering on or off the site. Dumpsters or similar large-scale outdoor trash receptacles shall be completely screened from view, and access gates shall be closed at all times when not in use.

(c) Noise and lighting shall be controlled to avoid any impact on nearby residential properties.

(d) Outside loud speakers shall be audible only to persons in the immediate vicinity of the fueling positions.

(8) The applicant shall demonstrate that the proposed design of the building facade and related canopy or other structural elements on the

property will minimize incompatibility with the rural and agricultural character of the Township.

H. *Gasoline Service Station.*

(1) Any building or other area of the property in which the use is conducted shall be at least 300 feet from the lot line of any parcel containing a school, day care facility, playground, or library.

(2) Gasoline fueling positions shall be at least 30 feet from the street right-of-way line.

(3) Entrances and exits shall be a minimum of 30 feet in width.

(4) All ventilation equipment associated with fuel storage tanks shall be at least 100 feet from any agriculturally-zoned or residentially-zoned property.

(5) A maximum of 12 fueling positions shall be permitted as part of any retail fuel sales operation.

(6) No delivery tanker shall park within the public right-of-way during gasoline delivery, nor shall any hose be permitted within the public right-of-way.

(7) During any hours of operation when a fuel sales site is unattended, it shall have:

(a) Outdoor lighting at levels sufficient to see each fueling station from the adjoining street.

(b) An emergency cutoff mechanism, accessible to the fueling positions, that is prominently placed and immediately visible to customers at all times.

(8) No temporary or seasonal sales shall be conducted outside a building.

I. *Golf Course.*

(1) The minimum lot area for a golf course shall be as follows:

(a) Regulation 18 hole—130 acres.

(b) Executive 18 hole—90 acres.

(c) Nine hole—50 acres.

(d) Par three, 18 hole—45 acres.

(e) Par three, nine hole—25 acres.

(2) No building shall be located within 100 feet of any lot line.

(3) As a condition of approval, the Board may specify hours of operation and may require protective mesh fencing when necessary to provide protection to abutting properties and roads.

(4) The applicant shall provide a traffic impact study for the proposed use. The traffic impact study shall be prepared in accordance with the requirements of §22-513 of the Township Subdivision and Land Development Ordinance [Chapter 22].

(5) *Water Needs and Supply.*

(a) Any application for conditional use approval shall include an analysis of the quantity of raw water needs (groundwater or surface water)

from either private or public sources. If the source is from a municipal or municipal authority system, the applicant shall submit documentation that the public authority will supply the water needed.

(b) A water system which does not provide an adequate supply of water for the proposed golf course, considering both quantity and quality, shall not be approved as a conditional use.

(c) The applicant also shall submit a water feasibility study to enable the Board to evaluate the impact of the proposed golf course on the groundwater supply and on existing wells. The study shall be prepared, submitted, and evaluated in accordance with the terms of §22-510 of the Township Subdivision and Land Development Ordinance [Chapter 22].

(6) The application for conditional use approval shall include a description of the intended means of sewage treatment and disposal. The proposed system shall be consistent with the preferred treatment and disposal methods stipulated in the Township Act 537 Sewage Facilities Plan, and shall comply with all applicable requirements of the Township Subdivision and Land Development Ordinance [Chapter 22], the Oxford Area Sewer Authority, the Chester County Health Department, and the Pennsylvania Department of Environmental Protection.

J. *Kennel.*

(1) Kennels which are contained in a completely enclosed building shall be soundproofed and shall not be located closer than 150 feet to any residential lot line or street right-of-way line.

(2) Kennels for housing more than six dogs, or that are not contained in a completely enclosed building, shall be a minimum of 300 feet from any residential lot line or street right-of-way line.

(3) Animal boarding buildings that are not completely enclosed, and any outdoor animal pens, stalls, or runways, shall be located only within the rear yard.

(4) The kennel shall have all outdoor exercise yards entirely fenced to prevent animals from leaving the property.

(5) The applicant shall provide a plan for the disposal of animal wastes generated by the operation.

(6) The owner/operator of the kennel shall be responsible to exercise suitable control over the animals and shall not allow a nuisance condition to be created in terms of excessive noise, dirt, or odor.

(7) The applicant shall provide the Board with a plan for the disposal of animals that perish while on the property, either by controlled incineration or removal from the premises in a sanitary manner within 24 hours of their death.

(8) All animals shall be housed in an enclosed all-weather protective structure between the hours of 8 p.m. and 7 a.m.

(9) The applicant shall provide the appropriate Department of Agriculture license and obtain a use and occupancy permit prior to opening the operation.

(10) The sale of related products shall remain accessory to the kennel, and any area devoted to such sales shall comprise no more than 25 percent of the floor area of the principal building.

(11) There shall be no outdoor storage of materials unless fully screened from adjoining properties used for residential purposes, in accordance with §27-1714.

K. *Place of Religious Worship.*

(1) No person shall temporarily or permanently reside within a place of religious worship structure. Religious quarters associated with the place of religious worship shall be within a separate structure which meets all lot, setback, and building requirements for the structure as a separate use.

(2) In any zoning district in which a place of religious worship is permitted, the minimum lot area shall be 2 acres and the minimum lot width shall be 200 feet.

(3) Side yard and rear yard setbacks of not less than 50 feet shall be provided on any property.

(4) Off-street parking facilities shall be located not less than 25 feet from the street right-of-way line and from the side and rear property lines. The Board may require additional screening of any parking facility, if it is determined necessary.

(5) A maximum of 60 percent of the lot area may be covered by impervious surface.

(6) Related educational or day care facilities:

(a) Where educational facilities and programs are offered below the college level, the applicant shall include a plan for outdoor recreation that is acceptable to the Board. Such plan shall include appropriate screening and buffering from adjacent residential properties.

(b) Student and child drop-off areas shall be designed to eliminate the need to cross traffic lanes within or adjacent to the site.

(c) The applicant shall provide a parking plan which demonstrates that the proposed parking facilities are sufficient for the intended use and in compliance with the terms of this Chapter.

L. *Planned Commercial Village.*

(1) Minimum net lot area per individual use shall be 14,000 square feet.

(2) *Floor Area.* First floor/ground floor building footprint shall not be less than 10,000 square feet in gross floor area and shall not be greater than 40,000 square feet in gross floor area.

(3) Minimum front yard depth shall be 15 feet.

(4) Minimum side and rear yards.

(a) Where the tract abuts a nonresidential zoning district and/or nonresidential use, the minimum side and rear yard dimension shall be 15 feet.

(b) Where the tract abuts a residential zoning district or a property

used for agricultural or residential purposes, the minimum side and rear yard dimension shall be 50 feet.

(5) Minimum setback of parking areas from any side or rear property line shall be 5 feet.

(6) There shall be a landscaped perimeter buffer along all side and rear property lines that abut a residential zoning district or a residential or agricultural use. The buffer area shall have a minimum depth of 10 feet and plantings shall comply with the applicable terms of §27-1714 of this Chapter.

(7) Except as otherwise required by PennDOT or approved by the Board of Supervisors, the tract shall be served by a single, shared point of access. Access shall take the form of an internal road or driveway that directs traffic to a single entrance point with divided lanes.

(8) Landscaped walkways within parking lots shall be provided. Landscaping and variations in pavement shall be used to better define walkways and ensure safety.

(9) Loading and unloading spaces for delivery trucks shall not block major pedestrian ways or create blind spots.

(10) The tract proposed for development shall be in one ownership, or shall be the subject of an application filed jointly by the owners of the entire tract, and shall be under unified control. If ownership of the tract is held by more than one person or entity, the application shall identify and be filed on behalf of all the said owners. Approval of the conditional use application shall be contingent upon agreement by the applicant or applicants that the tract shall be developed under single direction in accordance with the terms of Board approval.

(11) The language, terms, and conditions of any proposed covenant or restriction shall be subject to review and recommendation by the Township Solicitor.

M. Public or Private School.

(1) The minimum net lot area for development or expansion of any such use where permitted as a special exception shall be 5 acres plus 1 acre per each 100 pupils for which the facility is designed.

(2) Maximum impervious surface coverage of the lot shall be 50 percent.

(3) All structures shall be set back at least 100 feet from any residentially-zoned land.

(4) Off-street parking areas shall not be utilized as recreation areas, and recreation areas shall not be located within the front yard and must be set back at least 25 feet from all other lot lines. Except where separated by a minimum of 300 feet, outdoor recreation areas shall be screened from adjoining agriculturally-zoned or residentially zoned properties and properties in agricultural or residential use by means of fences, plantings, or decorative enclosures sufficient to screen activities from adjacent lots. Any vegetative materials located within the recreation area shall be nonharmful (i.e., not thorny, poisonous, allergenic, etc.).

(5) All applicable State and Federal regulations for structures and

operations shall be met. Copies of any required licenses and permits shall be provided to the Township.

(6) Where on-lot subsurface sewage disposal systems are proposed, a replacement seepage bed area tested as suitable shall be designated and preserved for that use.

N. *Residential Conversion to Commercial Use.*

(1) The provisions of this Section shall apply to any existing residential property in the C-2 District that is proposed to be converted to commercial, office, or similar nonresidential use and for which an application for conditional use has approval has been submitted.

(2) A site plan for the conversion of the residential structure shall be submitted as part of the conditional use application. The site plan shall include all existing and proposed features, including buildings, parking areas, driveways, sidewalks, etc. The applicant also shall submit a copy of the floor plan, indicating all dimensions prior to and following conversion, and copies of any necessary permits from other agencies, as required by law, or documentation that such permits have been applied for.

(3) Following conversion, the commercial property shall be subject to the height, width, yard, impervious surface, and other applicable regulations effective in the C-2 District. Minimum net lot area for the structure, following conversion, shall be as required in the C-2 District. Where a lot exists with less net area than required, it may be converted for a commercial purpose so long as it is a legal nonconforming lot.

(4) The existing residential building shall not be enlarged by an amount greater than 10 percent of its floor area at the time of application, except for the creation of fire escapes and outside stairways which shall be located at the rear of the building unless clearly impractical.

(5) The off-street parking requirements of this Chapter shall apply.

(6) To the maximum extent feasible, the proposed conversion shall comply with the applicable standards in Part 17, "General Regulations," of this Chapter.

(7) The resulting commercial use shall be provided with an appropriate sewage system and water supply system. The applicant shall submit to the Township a permit for an individual on-site sewage disposal system issued by the Chester County Health Department, where a community or public sewage system is not available. Where a shared well is used for water supply, an agreement of use and maintenance shall be prepared and submitted to the Township.

(8) Upon conversion, the commercial use shall comply with all applicable Township codes and regulations regarding building, housing, plumbing, electric, fire safety, and the like.

(9) The Board of Supervisors may specify the maximum amount of commercial floor area to be created within the existing residential structure, and may prescribe such further conditions and restrictions with respect to the conversion and use of the structure, and to the use of the lot, as the Board may

consider appropriate.

(10) The Zoning Officer shall review all applications for such residential conversions to determine compliance. Upon completion of the alterations involved in the conversion, the Zoning Officer shall inspect the premises, prior to issuing an occupancy permit, to verify compliance with this Chapter and the terms of conditional use approval.

(11) Where the plan for a residential conversion complies with the terms of this Section, the Board of Supervisors, at its sole discretion, may subsequently waive the requirement for a land development plan under the terms of the Township Subdivision and Land Development Ordinance [Chapter 22] where the Board deems the potential for off-site impacts to be minimal.

O. *Retained Open Space Development.* In the I-2 Limited Industrial District, where retained open space development is permitted as a conditional use, the Board of Supervisors shall evaluate any application for such development in relation to the following:

(1) The statement of intent for the I-2 District.

(2) Opportunities that may exist for developing the tract with a use permitted by right in the district, and the potential importance of such development in furthering the Township's community development objectives.

(3) The degree to which the proposed development would be compatible with, or would present deleterious impacts on, existing land uses adjacent to the tract.

(4) The terms of Part 21 of this Chapter pertaining to conditional uses.

P. Single-family detached dwellings proposed on tracts with a gross area of 5 acres or more as of November 18, 2002, and not using the retained open space development option.

(1) Any application for conditional use approval for single-family dwelling units, where authorized in the applicable base zoning district, shall be evaluated and decided upon by the Board of Supervisors in relation to the requirements of this Section and the standards and procedures set forth in Part 21.

(2) Prior to submitting a formal application for conditional use approval, the applicant shall submit a generalized site plan to the Township Planning Commission and shall meet with the Planning Commission to discuss the proposed plan's relationship to the Township's community development objectives and to matters of recreation, open space, resource conservation, traffic and access management, agricultural preservation, and/or visual quality and rural character. In its subsequent recommendation to the Board of Supervisors concerning the formal application for conditional use approval, the Planning Commission will note any issues raised during its review of the generalized site plan and the degree to which the formal application has addressed and resolved those issues.

(3) In reviewing any application for conditional use approval for single-family dwellings, the Board shall examine and weigh the degree to which it complies with the specific purposes, area and bulk regulations, and site design

and development standards of the base zoning district in which it is permitted as a conditional use.

(4) The Board also shall review any such application in relation to the following factors:

(a) *Protection of Existing Site Resources and Features.* The applicant shall submit for the Board's review an existing features plan as prescribed in §§22-402.3.A and 22-402.3.E of the Township Subdivision and Land Development Ordinance [Chapter 22]. Based on this plan, the applicant must demonstrate, to the Board's satisfaction, how the proposed design and development of the site using conventional lot layout and not employing the retained open space development option, will protect, to the maximum extent practical, the identified site resources.

(b) *Compatibility with Adjacent Agricultural Lands.* The applicant shall demonstrate how the proposed site design will produce a residential development that minimizes potential incompatibilities with existing agricultural lands and uses in the vicinity of the subject tract. The site plan will be evaluated in terms of how well the siting of new dwelling units protects existing farmland and prime agricultural soils on adjacent tracts from the impacts of development. Proposed dwellings shall be located on the least productive farmland wherever practical.

(c) *Retention of Visual Quality and Character.* The Board shall review the site plan in terms of how the proposed retention of existing vegetation and the installation of new landscaping materials will protect traditional views of and across the proposed tract. As a condition of approval, the Board may require deeper front or side yard setback dimensions, the installation of vegetation or other screening material, or other measures to protect the visual quality of existing road frontages that it deems essential to the Township's visual character.

(d) *Ability to Utilize the Retained Open Space Development Option.* The applicant shall document site characteristics that make the use of the retained open space development option infeasible or inappropriate in terms of the objectives to be achieved by that option.

(Ord. 2005-9, 12/29/2005, §1604)

Part 17**General Regulations****§27-1701. Statement of Intent.**

In setting forth general regulations in this Part, it is the intent of the Township to establish clear standards for activities and the design and impact of site development that may be associated with a variety of zoning districts or types of land use. In most instances, these regulations are to be interpreted and applied in conjunction with the requirements of one or another use district of this Chapter; they are limited with respect to the Zoning Map only as stipulated by the terms of this Part.

(Ord. 2005-9, 12/29/2005, §1701)

§27-1702. Lot Area and Yard Requirements.

The minimum lot area or yard width requirements for any new building or use shall not include any part of a lot that is required by any other building or use to comply with requirements of this Chapter. No required lot area or yard shall include any property, the ownership of which has been transferred subsequent to the effective date of this Chapter, if such property was a part of the area required for compliance with the dimensional requirements applicable to the lot from which such transfer was made.

(Ord. 2005-9, 12/29/2005, §1702)

§27-1703. General Performance Standards.

No land or structure in any zoning district shall be used or occupied in any manner that creates any dangerous, injurious, noxious, or otherwise objectionable fire, explosive, or other hazard; noise or vibration; smoke, dust, odor, or other form of air pollution; heat, electromagnetic or other radiation; or other condition in such manner or in such amount as to affect adversely the reasonable use of the surrounding area or adjoining premises.

A. Performance Standard Procedure.

(1) With the exception of residential uses, any applicant for a zoning permit for any other principal or accessory use shall include with such application an affidavit acknowledging an understanding of the performance standard specified herein and applicable to such use, and affirming an agreement to conduct or operate such use at all times in conformance with such standards. Where there is reason to believe that the nature of the proposed use would make it difficult to comply with applicable standards, the Zoning Officer may require the applicant to submit plans of the proposed construction, as well as a description of the proposed machinery, operations, and products and the specifications for the mechanisms and techniques to be used in restricting the emission of any dangerous and objectionable elements listed in this Section.

(2) Regardless of whether a use is required to comply with the procedures of this subsection, every use shall comply with the performance standards specified in this Section.

B. *Dust, Dirt, Smoke, Vapors, Gases, Odors, and Heat.*

(1) The air pollution control regulations promulgated by the Pennsylvania Air Pollution Control Act, 35 P.S. §4001 *et seq.*, as amended, shall be used to control the emissions of dust, dirt, smoke, vapors, gases, odors, glare, and heat in the Township. Such regulations are contained in 25 Pa.Code, Subpart C, "Protection of Natural Resources," Article III, "Air Resources."

(2) No use shall carry on an operation that will produce heat perceptible beyond the property line of the lot on which the operation is situated.

C. *Electric, Diesel, Gas, or Other Power.* Every use requiring power shall be so operated that any service lines, substation, etc., shall conform to the highest applicable safety requirements, shall be constructed and installed so that they will be an integral part of the architectural features of the plant or, if visible from abutting residential properties, shall be concealed by evergreen planting.

D. *Control of Radioactivity or Electrical Emissions or Electrical Disturbances.* Activities which may emit radioactivity beyond enclosed areas shall comply with the requirements of the Pennsylvania Department of Environmental Protection, Division of Radiology. The Federal Nuclear Regulatory Commission shall also regulate the control of radioactive material associated with any activity in the Township. No electrical disturbances (except from domestic household appliances) shall be permitted to adversely affect any equipment at any time other than the equipment creating the disturbance.

(Ord. 2005-9, 12/29/2005, §1703)

§27-1704. Access and Traffic Control.

In order to encourage the sound development of street frontage and to minimize traffic congestion and hazard, the following special provisions shall apply:

A. *Off-Street Parking.* All areas for off-street parking, off-street loading and unloading, and the storage or movement of motor vehicles shall be physically separated from the highway or street by a raised curb, planting strip, wall, or other suitable barrier against unchanneled motor vehicle entrance or exit, except for necessary accessways or access roads which supply entrance to and egress from such parking, loading, or storage area. All parking areas or lots shall be designed to prohibit vehicles from backing out on the street, and the capacity of each lot shall provide adequate storage area and distribution facilities upon the lot to prevent back-up of vehicles on a public street while awaiting entry to the lot.

B. *Access.* Each use with less than 100 feet of frontage on a public street shall have not more than one accessway to each such street, and no business or other use with 100 feet or more of frontage on a public street shall have more than two accessways to any one street for each 300 feet of frontage. Where practicable, access to parking areas shall be provided by a common service driveway or minor street in order to avoid direct access to a major street. A driveway with a 6 percent slope or greater shall be stabilized within the Township right-of-way.

C. *Large Developments.* In the case of a shopping center, office complex, group of multi-family dwellings, or similar grouping of buildings on a lot, and in any other case where deemed necessary and practicable by the Board of Supervisors:

(1) All buildings shall front upon a marginal access street, service road, common parking lot, or similar area and not directly upon a public street.

(2) All points of vehicular access to and from a public street shall be located not less than 80 feet from the intersection of any public street lines with each other; provided, however, that any such point of vehicular access which, in effect, converts a “T” intersection into an intersection of two streets which cross one another shall be permitted.

(3) Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the development, without undue congestion or interference with normal traffic flow within the Township.

(4) All streets and accessways shall conform to the specifications determined by the Township Engineer and the requirements of the East Nottingham Township Subdivision and Land Development Ordinance [Chapter 22]. Provision shall be made for adequate signalization, for turning, standby, and/or deceleration lanes, and for similar facilities as deemed necessary.

(5) Where a number of individual parcels or buildings are being developed jointly, or where a parcel or building is being developed adjacent to another parcel used or suitable for nonresidential development, consideration shall be given to the following:

(a) The location and planning of driveway access points to permit their joint use by adjoining parcels so as to minimize the number of intersections with the street or highway from which they derive their access.

(b) The development of parking and loading facilities that permit convenient traffic circulation between adjoining parcels.

(c) The development of pedestrian walkways between adjoining parking areas and buildings.

(d) The provision of landscaping and other features which will enhance the usability, character, and attractiveness of the area.

D. *Reverse Frontage Encouraged.* Direct vehicular access onto any collector or arterial highway shall be strongly discouraged. Reverse frontage is strongly encouraged for such properties.

(Ord. 2005-9, 12/29/2005, §1704)

§27-1705. Internal Circulation.

Interior drives may be one way or two way. Areas provided for loading and unloading of delivery trucks and other vehicles, and for the servicing of shops by refuse collection, fuel, and other service vehicles shall be so arranged that they may be used without blocking or interfering with the use of accessways or vehicle parking facilities.

(Ord. 2005-9, 12/29/2005, §1705)

§27-1706. Lighting.

1. The following standards shall apply to all exterior light fixtures within East Nottingham Township, except street lighting and associated traffic safety devices

provided by a public utility or governmental entity within a public right-of-way:

A. The light from any exterior light fixture (the light source and its enclosure, including any reflectors or other devices for the control of light) shall be shaded, shielded, or directed to prevent direct light from being cast beyond an angle of 35 degrees from a vertical plane and to prevent glare or other objectionable problems to surrounding areas.

B. The intensity of any light source on a lot, when measured at the lot line, shall not exceed 0.5 foot candles.

C. No lighting fixture shall have any blinking, flashing, or fluttering lights or other illuminating device which has a changing light intensity, brightness, or color, nor will any beacon lights be permitted. Decorative seasonal light displays are exempt, provided they are not detrimental to the public health, safety, and welfare of East Nottingham Township residents.

D. Neither the direct nor reflected light from any lighting fixture shall create a disabling glare that would be a potential traffic hazard for motor vehicle operators on public roads.

2. All driveways, aisles, maneuvering spaces, vehicular service areas, or spaces between or about buildings, designed for use by more than four cars after dusk, other than those related to an individual dwelling, shall be illuminated during night hours in accordance with the standards in this Section.

3. Lighting systems and standards for major outdoor facilities such as athletic fields or stadiums, for which the above standards are inappropriate and unattainable, shall be permitted when approved as a special exception by the Zoning Hearing Board. The applicant shall demonstrate that the proposed lighting system is designed and will be operated to minimize objectionable impacts on other properties; the Board shall be further guided by the standards in §27-2203 of this Chapter.

4. Street lighting shall be provided where required under the terms of the Township Subdivision and Land Development Ordinance [Chapter 22].

(*Ord. 2005-9, 12/29/2005, §1706*)

§27-1707. Fences and Walls.

1. Except as regulated by subsection .2, below, or elsewhere by this Chapter, fences and walls maintained in good condition may be permitted in any required yard; provided, that they do not: (a) encroach into any State or East Nottingham Township right-of-way; (b) impose any resistance for an emergency vehicle's exit or entrance; or (c) obstruct any required clear sight triangle area. While no setback is required, a property owner may wish to set back a fence or wall from the property line to provide for maintenance and repair.

2. No solid fence shall be located closer to the front lot line than the minimum required front yard setback distance established for the zoning district in which the fence is located or the setback distance established by an approved subdivision or land development plan governing the property.

3. All fence posts and structural members shall face inward and not be exposed to neighboring properties.

4. There shall be no height limitations on hedges. Trees and other plant material

designed to enhance the livability and attractiveness of any lot may be located in any yard.

(*Ord. 2005-9, 12/29/2005, §1707*)

§27-1708. Exception to Height Limitations.

1. The height limitations of this Chapter shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, monuments, standpipes, chimneys on residential structures, or flagpoles.

2. The height limitations of this Chapter shall not apply to any principal or accessory agricultural building or structure including, but not limited to, a barn or silo.

3. Upon the granting of a special exception by the Zoning Hearing Board, the following may be erected to a maximum height of 50 feet or the equivalent of the distance to the nearest property line, whichever is less: ham radio or television masts, aerials, and antennae; windmills and similar wind energy conversion systems. The Zoning Hearing Board shall consider the following factors, in addition to the criteria in Part 22 of this Chapter, in deciding upon a request for special exception:

A. Compatibility of the proposed facility with existing and zoned uses in the general neighborhood with respect to safety, visual impact, aesthetics, noise, and lighting.

B. Compliance of the proposed facility with all applicable State and Federal licensing and permit requirements, including assurances that existing uses on surrounding properties will not be disrupted or otherwise negatively impacted by the operation of the proposed facility.

C. The relationship of the proposed site to other similar facilities within the Township or the immediate region, and the potential cumulative impacts that could result from a concentration of such facilities of excessive height.

D. The ability of the applicant to screen effectively the potentially negative visual, light, and noise impacts of the proposed facility.

(*Ord. 2005-9, 12/29/2005, §1708*)

§27-1709. Modification of Front Yard Requirements.

1. Where an unimproved lot is situated between two improved lots, on each of which there has existed since the effective date of this Chapter a principal building within 25 feet of the side boundary line of such improved lot and encroaching within the front yard otherwise required by this Chapter, the front yard depth of such unimproved lot may be the average depth of the front yards of the two adjacent improved lots, notwithstanding the yard requirements of the district in which the unimproved lot is located.

2. Where an unimproved lot adjoins only one improved lot, on which there has existed since the effective date of this Chapter a principal building within 25 feet of the common side lot line and encroaching within the front yard otherwise required by this Chapter, the front yard depth of such unimproved lot may be the average depth of the front yard of such adjacent improved lot and the front yard required for the district in which such unimproved lot is located, notwithstanding the yard requirements for such district.

(Ord. 2005-9, 12/29/2005, §1709)

§27-1710. Projections into Required Yards.

1. No principal building and no other building containing a dwelling unit or other habitable living space shall be erected within or shall project into any required yard in any district. The following components of such building, however, may project into any required side or rear yard so long as they are set back at least 15 feet from any side or rear lot line: terraces; uncovered platforms, decks, steps, and similar landings; buttresses; chimneys; cornices; piers or pilasters; unenclosed fire escapes, and access ramps for physically handicapped persons.

2. Where the lot dimensions, configurations, or topography allow no reasonable side or rear yard location, a handicapped access ramp may project into the required front yard; provided:

A. The Zoning Officer reviews and approves the proposal.

B. The ramp design represents the minimum projection necessary into the front yard.

C. No portion of such ramp is located closer than 30 feet from the front lot line.

3. On nonresidential properties only, an awning or movable canopy may project into any required side or rear yard not more than 25 feet, but shall not be closer than 15 feet from any side or rear lot line. In the C-1 District, an awning or movable canopy may project into required front yard, but shall not be closer than 5 feet from the front lot line.

4. Arbors, trellises, and similar uninhabitable accessory structures shall be permitted within side and rear yard areas provided they are not more than 12 feet in height and are set back at least 10 feet from the lot line.

(Ord. 2005-9, 12/29/2005, §1710)

§27-1711. Visibility at Intersections.

1. *Sightlines at Public Street Intersections.* The minimum standards for clear sight triangles at public street intersections shall be as contained in the East Nottingham Township Subdivision and Land Development Ordinance [Chapter 22], unless otherwise required by PennDOT.

2. *Sightlines at Private Accessway and Public Street Intersections.* At each point where a private accessway intersects a public street or road, a clear sight triangle in compliance with the standards of East Nottingham Township for driveways shall be maintained, except as otherwise required by PennDOT.

3. On any lot, no wall, fence, or other obstruction shall be erected, allowed, or maintained, and no hedge, tree, shrub, or other growth shall be planted or allowed to exist, which dangerously obscures the view of approaching traffic along a street or at intersections with driveways.

(Ord. 2005-9, 12/29/2005, §1711)

§27-1712. Outdoor Storage.

The following standards shall apply to the storage of all man-made materials:

A. Storage for periods in excess of 30 days shall be screened from view of any public right-of-way and any contiguous residential use. Screening shall consist of continuous evergreen plantings and/or include an architectural screen.

B. No storage shall be permitted within the front yard of a lot.

C. No merchandise, goods, articles, or equipment shall be stored, displayed, or offered for sale outside any building, except for the following:

(1) Seasonal articles which are too large or otherwise infeasible to be stored indoors. Such articles shall be stored adjacent to the building housing the principal use, and shall be enclosed by either walls or opaque fencing designed to be architecturally compatible with the building. Such enclosure shall be at least 6 feet high.

(2) As part of a permitted tent or sidewalk sale on a commercial property, or in conjunction with a yard, garage, or tag sale or a flea market where permitted as a temporary accessory use.

Any outdoor display area shall be considered sales floor area for purposes of computing parking requirements.

D. Any organic refuse and garbage shall be stored in tight, vermin-proof containers. On multi-family, commercial, or industrial properties, solid waste storage shall be centralized to expedite collection. Storage containers shall be enclosed on three sides by an architectural screen.

E. There shall be no storage of hazardous waste anywhere within the Township, including temporary storage in a parked vehicle. Hazardous waste shall be as defined in the Solid Waste Management Act, 35 P.S. §6018.101 *et seq.*, or any subsequent amendment or revision thereto.

F. All materials or wastes which might cause fumes or dust, or which constitute a fire hazard, shall be stored outdoors only if enclosed in containers adequate to eliminate such hazards. Flammable, combustible, or explosive liquids, solids, or gases shall be stored in accordance with the applicable fire code regulations. All applicable Pennsylvania Department of Environmental Protection regulations and Federal Office of Safety and Health Administration regulations shall be complied with.

G. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transported off the lot by natural causes or forces, nor shall any substance which can contaminate a stream or watercourse or otherwise render such stream or watercourse undesirable as a source of water supply or recreation, or which will destroy aquatic life, be allowed to enter any stream or watercourse. All applicable Pennsylvania Department of Environmental Protection regulations shall be complied with.

H. Storage of unregistered or unlicensed vehicles.

(1) Except as otherwise provided in this Section, vehicles of any kind or type without current registration or license plates shall not be parked on public streets or stored on any parcel of land in any zoning district except in a completely enclosed building.

(2) The following shall be exempt from the requirements of subparagraph

(1), above:

(a) In any zoning district, one vehicle without current registration or license plates that is kept on any parcel of land with an existing principal structure for utility use thereon.

(b) Agricultural or farm machinery, and vehicles awaiting service at service stations or body shops that are in compliance with the terms of this Chapter.

I. One duly licensed travel trailer, motor home camper, or pick-up truck camper may be stored in any residential district or on any residential lot, provided such travel trailer or pick-up truck camper is not stored between the street line and principal building or building setback line. In the event a covenant and/or restriction in an approved subdivision or land development plan is more restrictive than the terms of this subsection for the residential uses established therein, said covenant and/or restriction shall take precedence.

(Ord. 2005-9, 12/29/2005, §1712)

§27-1713. Noise Standards.

Any use or activity permitted under the terms of this Chapter shall comply with the terms of the East Nottingham Township Noise Pollution Ordinance, as those terms may be applicable to such use or activity.

(Ord. 2005-9, 12/29/2005, §1713)

§27-1714. Screening and Buffering.

1. Requirements for screening and buffering of selected land uses shall be as specified and administered under the terms of §22-507.A of the Township Subdivision and Land Development Ordinance [Chapter 22].

2. Any use permitted by special exception or conditional use shall be screened from other uses in accordance with the planting specifications in §22-507.A of the Township Subdivision and Land Development Ordinance [Chapter 22] when so directed by the Zoning Hearing Board or Board of Supervisors, respectively, as a condition of approval for the special exception or conditional use.

(Ord. 2005-9, 12/29/2005, §1714)

§27-1715. Landscaping.

1. Any part of a lot which is not used for building, other structures, loading or parking spaces and aisles, sidewalks, and designated storage areas shall be planted with an all-season ground cover approved by the Township. It shall be maintained to provide an attractive appearance. All nonsurviving plants shall be replaced.

2. Any use or activity proposed as part of a subdivision or land development shall further comply with the requirements for shade trees, street trees, replacement vegetation, and other landscaping components stipulated in the Township Subdivision and Land Development Ordinance [Chapter 22].

3. Plant materials shall be chosen to prevent soil erosion and subsequent sedimentation. For the purposes of promoting disease resistance, minimum maintenance, diverse natural plant associations, and long-term stability of plantings,

an applicant is strongly encouraged to choose those combinations of species which may be expected to be found together under more or less natural conditions on sites comparable to that where the plant material is to be installed.

4. The following requirements shall apply to all off-street parking areas having greater than five parking spaces:

A. Raised planting islands shall be located at each end of a parking space row and between every 12 or fewer parking spaces within a row. Planting islands shall be a minimum of 3 feet in width, extend the length of a parking space, and be planted with one shade tree per island. Existing trees may be credited toward this requirement if in good condition and located as required.

B. Perimeter plantings shall be provided in accordance with the terms of §22-507.A(3) of the Township Subdivision and Land Development Ordinance [Chapter 22].

C. Perimeter planting areas and raised planting islands shall be protected by curbing.

D. Surface treatment of raised planting islands and perimeter planting areas shall be grass, other ground cover, low-maintenance shrubs, or other plant material approved by the Township.

(Ord. 2005-9, 12/29/2005, §1715)

§27-1716. Stormwater Roof Drains.

1. Stormwater roof drains and pipes shall discharge water into a stormwater runoff dispersion and absorption control device and not into the storm sewer or upon open ground.

2. The dispersion and absorption control device shall be designed to control the roof runoff from a 2-year 24-hour storm per the direction of the Township Engineer.

3. If the percolation rate exceeds 120 minutes per inch, the Board of Supervisors may grant an exception from having to install the dispersion and absorption control device.

4. The provisions of this Section do not replace or supercede any requirements imposed by the SW NPDES permit for a project if required.

(Ord. 2005-9, 12/29/2005, §1716)

Part 18**Signs****§27-1801. General.**

1. No sign shall be erected within the lines of a street right-of-way except traffic signs and similar regulatory notices of a duly constituted governmental body.

2. No moving or flashing signs which may have the effect of distracting motorists on adjacent highways shall be permitted.

3. No sign which emits smoke, visible vapors or particles, sound, or odor shall be permitted.

4. No artificial devices shall be used as part of a sign where such light or devices interferes with, competes for attention with, or may be mistaken for a traffic signal.

5. Flood lighting shall be arranged so that the source of light is not visible from any point off the lot and that only the sign is directly illuminated thereby.

6. No sign shall be erected containing information on it which states or implies that a property may be used for any purpose not permitted under the provisions of this Chapter in the zoning district in which the property to which the sign relates is located.

7. Every sign permitted shall be constructed of durable material and kept in good condition, repair, and safe from collapse. Any sign which is allowed to become dilapidated shall be removed by the Township at the expense of the owner or lessee of the property on which it is located.

8. All distances provided for in this Part shall be measured along straight lines between signs and from the near edge to near edge of sign or sign structure. Such measurement shall apply in all cases, including locating new signs in relationship to currently existing nonconforming signs.

9. A permit shall be obtained before erecting any sign under these regulations, except as hereinafter provided.

10. No sign, other than official street signs, shall be erected or maintained nearer to a street line than a distance equaling the height of the sign, unless attached to the building.

11. Signs for adult entertainment businesses shall not depict nudity, a state of nudity, semi nude persons, specified anatomical areas or specified sexual activities. [Ord. 2009-18]

(Ord. 2005-9, 12/29/2005, §1801; as amended by Ord. 2009-18, 7/13/2009, §6)

§27-1802. Exempt Signs.

No permit shall be required before erecting any of the following signs. These signs, however, shall conform to all other regulations set forth in §27-1801:

A. Directional, information, or public service signs such as those advertising availability of rest rooms, telephone or similar public conveniences, and signs advertising meeting times and places of nonprofit service or charitable clubs and organizations may be erected or maintained; provided, that such signs do not

advertise any commercial establishment, activity, organization, product, goods, or services except those of public utilities. Directional and information signs provided for the guidance and convenience of the public within commercial establishments may also be erected. Such signs shall not exceed 2 square feet in area.

B. Trespassing signs, or signs indicating the private nature of a road, driveway, or premises, and signs prohibiting or otherwise controlling hunting or fishing upon particular premises, may be erected and maintained provided sign area does not exceed 2 square feet in area.

C. Signs offering individual properties for sale or rent, or indicating that a property has been sold, provided that such signs shall be located entirely within the lot lines of the particular property to which they refer and shall not exceed 6 square feet in area.

D. Signs placed on premises owned by or leased to nonprofit corporations but used for advertising off-premises businesses or activities.

(Ord. 2005-9, 12/29/2005, §1802)

§27-1803. Temporary Sign Regulations.

Temporary signs, including signs larger than 6 square feet in area advertising land or premises available for purchase, development, or occupancy; signs announcing special events; or signs advertising the temporary sale of products and goods, such as Christmas trees, shall be permitted, provided that:

A. Signs shall not exceed 32 square feet in area.

B. Any freestanding sign shall be located at least 10 feet from any lot line.

C. Signs shall be removed immediately upon expiration of permit.

D. The site or building on which the sign was erected shall be restored to its original condition upon removal of a sign.

E. A permit must be obtained before erecting any temporary sign. Permits shall run for a maximum period of 6 months, or less as the applicant chooses. Permits may be reissued for one successive 6-month period.

(Ord. 2005-9, 12/29/2005, §1803)

§27-1804. Business Signs.

Business signs, accessory to permitted commercial uses, shall be permitted; provided, that:

A. Signs mounted on the front of a building shall not exceed 10 square feet in area for each 5 linear feet of front building wall, and in no case shall exceed 30 feet in width or 8 feet in height at the minimum allowable building setback. For each additional 2 feet of setback, the maximum height of the sign may be increased by 1 foot; provided, that no sign shall exceed 20 feet in height and no sign area shall exceed 20 percent of the area of the front building wall.

B. Signs mounted on a side wall exposed to public view from either a street or parking area shall not exceed 10 square feet of area for each linear foot of such side building wall, and in no case shall exceed 30 feet in width.

C. Mounted signs shall be installed parallel to the supporting wall and project

not more than 10 inches from the face of such wall.

D. Freestanding signs shall not exceed 32 square feet in area.

E. Signs shall not be spaced closer to each other than a distance equal to ten times the largest dimension (height or width) of the sign having the largest dimension.

(Ord. 2005-9, 12/29/2005, §1804)

§27-1805. Billboards.

Where permitted as a conditional use under the terms of this Chapter, a billboard may be erected only in compliance with the standards for billboards contained in §27-1604 of this Chapter.

(Ord. 2005-9, 12/29/2005, §1805)

§27-1806. Sign Permits.

1. Applications for sign permits shall be filed in duplicate on forms furnished by the Township, and shall be accompanied by detailed plans and specifications and such other information deemed necessary by the Zoning Officer to determine the location and details of construction of such sign.

2. Application fees for sign permits shall be paid in accordance with a fee schedule adopted by resolution of the Board of Supervisors.

(Ord. 2005-9, 12/29/2005, §1806)

Part 19**Off-Street Parking and Loading****§27-1901. Single-Family Residential Parking Controls.**

A minimum of three parking spaces with proper and safe access on a street or alley shall be provided on each lot containing a single-family detached dwelling, either within a structure or in the open, to serve the dwelling adequately. Parking space for one vehicle shall be equal to at least 350 square feet for purposes of computing car spaces including stalls and driveways. Each parking space shall be at least 10 feet by 20 feet in size. Parking spaces will have an approved all-weather surface and shall have a safe and convenient access in all seasons.

(Ord. 2005-9, 12/29/2005, §1901)

§27-1902. Off-Street Parking Regulations Other than Single-Family Residential Use.**1. Standards.**

A. Off-street parking space or spaces, with proper and safe access from a street shall be provided on each lot, either within a structure or in the open, to serve the use adequately.

B. Parking space for one vehicle shall be equal to at least 350 square feet for purposes of computing car spaces including stalls and driveways. Each parking space shall be at least 10 feet by 20 feet in size. Parking spaces shall have an approved all-weather surface, and shall have a safe and convenient access in all seasons.

C. Parking lots for over 20 vehicles shall be so divided by permanent raised curbing that access lanes and parking bays are clearly defined and that moving traffic will be confined to designated access lanes.

D. Off-street parking spaces must be provided on the lot for which they are intended unless satisfactory evidence is presented to the Zoning Officer that an agreement exists which provides for sufficient permanent off-street parking spaces on another lot.

2. *Requirements.* There shall be sufficient parking spaces provided for each use so that there is a minimum of one space for each employee, plus additional parking spaces to be provided by the application of the appropriate formula listed below for each use. All uses not specified below shall provide at least one off-street parking space for each employee.

A. Eating and drinking places—one parking space for each four seats.

B. Golf course—one parking space for each one-half tee.

C. Theater or church—one parking space for each five seats.

D. Bowling alley—one parking space for each one-fifth alley.

E. Apartment, townhouse, or two-family dwelling—one parking space for each one-half dwelling unit.

F. Hospital, convalescent home—one parking space for each 750 square feet of floor space.

G. Wholesale sales and storage—one parking space for each 1,000 square feet of floor area.

H. Gasoline service station—one parking space for each one-half fueling position.

I. Elementary school—one parking space for every 20 students.

J. All other schools—one parking space for each five students.

K. Food store, convenience store, pharmacy—one parking space for each 100 square feet of sales area.

L. Department or variety store—one parking space for each 200 square feet of sales area.

M. Gift, apparel, hardware, or other housewares; service shop—one parking space for each 300 square feet of sales area.

N. Office, clinic, financial institution—one parking space for each 400 square feet of floor area.

O. All other uses—one parking space for every 500 square feet of floor space.

(Ord. 2005-9, 12/29/2005, §1902)

§27-1903. Off-Street Loading Regulations.

1. Standards.

A. Off-street loading and unloading space, with proper and safe access to a street, shall be provided on any lot where necessary to serve the use or uses of the lot. Such space shall be either within a structure or in the open.

B. Loading and unloading spaces shall be at least 12 feet wide and 45 feet long, and shall have at least 14 feet of vertical clearance.

C. Loading and unloading spaces shall have an all-weather surface to provide safe and convenient access during all seasons.

D. Loading facilities shall not be constructed between the building setback line and a street right-of-way.

E. Required off-street parking space shall not be used for loading and unloading purposes except during hours when business operations are suspended.

2. Requirements. Off-street loading shall be required of any new construction for commercial or industrial uses. The required number of spaces shall be adequate to serve the purpose intended.

(Ord. 2005-9, 12/29/2005, §1903)

Part 20**Nonconforming Lots, Structures, Uses, and Signs****§27-2001. Applicability.**

The regulations of this Part shall apply to existing lots, structures, uses, and signs that do not conform to the regulations of the zoning district in which they are located and were either in existence prior to the effective date of this Chapter, or subsequent amendments, or are rendered nonconforming by the adoption of this Chapter. As such, they shall be known and regarded as nonconforming, and the following regulations, as applicable, shall apply to them. Provided, however, that the burden of proof shall remain upon the landowner to prove that a lot, structure, use, or sign is lawfully nonconforming under the terms of this Part.

(Ord. 2005-9, 12/29/2005, §2001)

§27-2002. Alteration, Restoration, Enlargement, and Use of Nonconformities.

1. *Nonconforming Lots.* A lot which contains no structures and which is held in single and separate ownership on the effective date of this Chapter, or subsequent amendments, or rendered nonconforming by this Chapter, which does not meet the minimum lot area requirement or lot width requirement at the building line of the zoning district in which it is located, or which is of such unusual dimensions that the owner cannot reasonably comply with one or more of the other dimensional requirements of the zoning district in which it is located, may be used or a structure may be erected thereon for use as limited by the use regulations of the zoning district in which the lot is located, subject to the following conditions:

A. The owner does not own or control contiguous property sufficient to enable the owner to comply with the minimum lot area, width, building coverage, yard, and height regulations and design standards of the zoning district in which the property is located. For purposes of this regulation, a nonconforming lot under common ownership with a contiguous conforming or nonconforming lot shall be considered one lot.

B. The proposed structure or use shall comply with the design standards and the width, impervious coverage, yard, and height regulations, except minimum lot size and lot width at the building line, of the zoning district in which the lot is located. Otherwise, the lot shall not be used or a structure erected unless a variance is granted by the Zoning Hearing Board.

2. *Nonconforming Structures.*

A. *Continuation.* Any lawful nonconforming structure existing on the effective date of this Chapter, or subsequent amendments, or rendered nonconforming by this Chapter, may continue to exist and be used. Such structures shall not further deviate from the provisions of this Chapter, except as explicitly provided herein.

B. *Restoration.* Any lawful nonconforming structure which has been involuntarily damaged by fire, explosion, flood, or similar cause, or legally condemned as unsafe, may be restored or reconstructed within the limits of the existing foundation or footprint of the damaged structure; provided, that:

(a) The restored or reconstructed structure shall not exceed its original dimensions.

(b) Restoration or reconstruction shall commence within 1 year from the date of damage, destruction, or condemnation, and shall be completed within 1 year of the date of the commencement of such work.

(c) The use of the restored or reconstructed nonconforming structure shall be in accordance with this Part.

C. *Alteration and Enlargement.* Any lawful nonconforming structure existing on the effective date of this Chapter or subsequent amendments, or rendered nonconforming by this Chapter, may be altered or enlarged, provided that the total increase in area of the nonconforming structure shall not exceed an aggregate total of 50 percent of the existing floor area of the nonconforming structure. Floor area shall be based upon the total floor area of the structure at the time the use first became nonconforming. Such alteration or enlargement shall conform to all of the lot area, width, impervious coverage, height, and yard regulations and design standards of the zoning district in which it is located. The vertical expansion of a nonconforming structure shall be subject to the limitations on expansion contained in this Section.

D. *Repair, Renovation, and Modernization.* Repair, renovation, and modernization of nonconforming buildings or structures, such as renewal or replacement of outer surfaces or windows; addition of soundproofing materials, fireproofing materials, and air conditioning; and repair and/or replacement of structural parts of the structure, shall be permitted notwithstanding other provisions of this Part; provided:

(1) Such repair, renovation, or modernization does not change or substantially alter the physical configuration of the nonconforming building or structure.

(2) There shall be no increase in the size of or area covered by the said nonconforming building or structure, nor any extension or expansion of the nonconforming building or structure, in or on the lot where the use is located.

3. *Nonconforming Uses.*

A. *Continuation.* Any lawful nonconforming use of a structure or of land legally existing on the effective date of this Chapter, or subsequent amendments, or rendered nonconforming by this Chapter, may continue to exist and be used.

B. *Alteration and Expansion.* Any lawful nonconforming use of a structure or land may be altered or expanded, but only in strict conformity with the following regulations:

(1) Such alteration or expansion shall conform to all of the lot area, width, impervious coverage, height, and yard regulations and design standards of the zoning district in which it is located.

(2) The alteration or expansion of the nonconforming use shall be limited to and permitted only on the same lot that was in existence when the use first became nonconforming.

(3) The total increase in area of the nonconforming use of land or a structure shall not exceed an aggregate total of 50 percent of the existing

improved land or floor area that is devoted to the nonconforming use. Floor area shall be based upon the total floor area of the structure at the time the use first became nonconforming. For example, if all other requirements of this Chapter are met, a nonconforming use may be expanded once by 20 percent, and a second time by not more than 30 percent of the total floor area of the structure as it existed at the time the use first became nonconforming. If, prior to the effective date of this restriction, the use has been expanded by a percentage greater than 50 percent, it shall not be entitled to any further expansion under this Section. The vertical expansion of a nonconforming use of land or a structure shall be subject to the limitations on expansion contained in this Section.

(4) The total increase in area of the nonconforming use of land shall not exceed an aggregate total of more than 50 percent of the total area of the lot that is devoted to the nonconforming use.

(5) The alteration or expansion of a nonconforming use of a structure or of land shall be permitted only if a special exception is granted by the Zoning Hearing Board pursuant to Part 22.

C. *Change in Use.* Once changed to a conforming use, whether within a structure or on land, the conforming use shall not be permitted to revert to a nonconforming use. A nonconforming use may be changed to another nonconforming use only when approved by the Zoning Hearing Board as a special exception pursuant to Part 22 and under the following conditions:

(1) The applicant shall prove that the proposed nonconforming use cannot reasonably be changed to a use permitted in the zoning district in which it is located.

(2) The applicant shall prove that the proposed change in use will have the same or less impact than the existing nonconforming use with respect to the following factors:

(a) Traffic impact, including trip generation, traffic congestion, traffic safety, and access to the property.

(b) The applicable performance standards specified in Part 17, "General Regulations."

(c) Compatibility with nearby dwellings.

(d) Stormwater management.

4. *Nonconforming Signs.* Any sign lawfully in existence prior to the effective date of this Chapter or of any amendments to this Chapter hereafter enacted, and which did not conform to or comply with the provisions of this Chapter or its amendments at the time of enactment shall be a nonconforming sign.

A. *Alteration or Moving.* A nonconforming sign shall not be moved to another position or location upon the building, structure, or lot on which it is located, nor shall the size or area of such nonconforming sign be increased or its structure or construction altered or changed.

B. *Damage or Destruction.* Whenever a nonconforming sign has been damaged or destroyed by any means to the extent of 50 percent of its market value at the time of the destruction or damage, such sign shall not be restored or replaced

unless it conforms to all provisions of this Chapter.

C. *Discontinuance.* Whenever a nonconforming sign is accessory to a nonconforming use of a building, structure, or land and such nonconforming use of the building, structure, or land is discontinued for a continuous period of more than 12 months, then such nonconforming sign shall be removed within 6 months from the end of the aforesaid 12-month period and the use of signs upon such building, structure, or land shall not be resumed except in accordance with the provisions of this Chapter.

(*Ord. 2005-9, 12/29/2005, §2002*)

§27-2003. District Change.

Whenever the boundaries of a zoning district are changed, and the change results in a transfer of a lot from one zoning district to another zoning district, the provisions of this Part shall apply to any lawful nonconforming uses or structures existing in the zoning district to which the lot has been transferred.

(*Ord. 2005-9, 12/29/2005, §2003*)

§27-2004. Transfer of Ownership.

Whenever the title to a lot is transferred, such transfer shall not by itself adversely affect the lawful status of a lawful nonconforming lot, structure, use, or sign.

(*Ord. 2005-9, 12/29/2005, §2004*)

§27-2005. Abandonment of Nonconforming Use or Structure.

Whenever a lawful nonconforming use of land or of a structure is abandoned or discontinued or the use is removed for a period of 12 consecutive months, or the structure constituting or housing the nonconformity is razed and not reconstructed within a period of 12 consecutive months, such abandonment or discontinuance shall be presumed to constitute an intention to abandon or discontinue such use, and subsequent use of such land or structure shall conform to the regulations of the zoning district in which it is located, unless the Zoning Hearing Board, as a matter of law, determines that such abandonment has not occurred.

(*Ord. 2005-9, 12/29/2005, §2005*)

§27-2006. Irregularly Shaped Lots.

As specified in each zoning district, the minimum lot width shall be measured at the required building setback line. In the case of irregularly shaped lots, the lot frontage measured at the street right-of-way line shall not be less than 70 percent of the required minimum lot width, except in the following situations: on cul-de-sac or court streets or on street centerline curves of less than 350 feet radius, in which case the lot frontage measured at the street right-of-way line shall not be less than 40 percent of the required minimum lot width.

(*Ord. 2005-9, 12/29/2005, §2006*)

§27-2007. Existing Uses Requiring Special Exception or Conditional Use Approval.

Any use existing as of the date of adoption of this Chapter that is permitted by special exception or conditional use in the zoning district in which it is located under the terms of the Chapter, but which did not previously receive such approval, shall not be deemed a nonconforming use in such district, but shall, without further action by the Zoning Hearing Board or Board of Supervisors, respectively, be considered a conforming use.

(Ord. 2005-9, 12/29/2005, §2007)

§27-2008. Rules of Interpretation.

1. No special exception shall be granted under the provisions of this Part with respect to any property where the requested special exception will result in violations of other lot area, width, impervious coverage, setback, height, and yard regulations and design standards of the zoning district in which the property is located, unless a variance is granted by the Zoning Hearing Board from the regulation which is otherwise applicable. The owner of a nonconforming use or other nonconformity has no inherent right to expand, alter, or use any nonconformity in conflict with the applicable zoning district regulations.

2. In those zoning districts in which the district regulations establish different design standards or lot area, width, impervious coverage, setback, height, or yard regulations for uses permitted as of right, by special exception, or by conditional use, no lot shall be construed to be nonconforming for purposes of the regulations of this article which complies with the minimum lot area and other regulations applicable to uses permitted as of right. The regulations applicable to uses permitted by special exception or by conditional use shall not render the lot nonconforming, unless the owner demonstrates that the lot cannot reasonably be used for any use permitted as of right in such zoning district, or the Zoning Hearing Board grants a variance from the applicable regulations.

3. No provision of this Part which establishes a specific percentage limitation upon the expansion of a nonconforming use shall be construed to automatically authorize an expansion to the maximum permitted, nor shall a variance related to any nonconformity be granted from the applicable zoning district regulations in excess of the minimum variance necessary to afford relief. It shall be incumbent upon the applicant to prove the need for such expansion consistent with established principles of law.

(Ord. 2005-9, 12/29/2005, §2008)

Part 21**Administration****§27-2101. Interpretation and Application.**

The provisions of this Chapter, in its interpretation and application, shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, and general welfare. Every use, lot, structure, building, or sign shall conform to all provisions of this Chapter except those exempted by or under this Chapter. Nothing in this Chapter shall require any change in plans or construction of a building for which a building permit has been issued by the Township prior to the effective date of this Chapter and which is completed within 1 year of the effective date of this Chapter.

(Ord. 2005-9, 12/29/2005, §2101)

§27-2102. The Zoning Officer.

The provisions of this Chapter shall be administered and enforced by the Zoning Officer, who shall be appointed by and serve at the pleasure of the Board of Supervisors. The Zoning Officer shall meet qualifications established by the Township and shall be able to demonstrate to the satisfaction of the Board of Supervisors a working knowledge of municipal zoning. The Zoning Officer shall administer the Chapter in accordance with its literal terms and shall not have the power to waive or modify any term or condition of the Chapter or permit any construction or any use or change of use which does not conform to the Chapter. The Zoning Officer may be provided with assistance of such persons as the Board of Supervisors may direct.

(Ord. 2005-9, 12/29/2005, §2102)

§27-2103. Duties and Powers of the Zoning Officer.

The Zoning Officer shall be charged with the duty and shall have the power to enforce the provisions of this Chapter and its amendments. The Zoning Officer shall have such duties and powers as are conferred upon him by the Chapter and as reasonably implied for the purposes of enforcement. These duties may include, but are not limited to, the following:

A. Receive and examine all applications for permits governed by this Chapter and issue such permits only when in conformance with the provisions of the Chapter and with other Township ordinances; provided, however, that the issuance of a permit shall not be deemed a waiver of the requirements of any Township ordinance.

B. Keep an official record of all business and activities, including complaints of a violation of any of the provisions of this Chapter and of the action taken consequent to each such complaint. All such records shall be open to public inspection.

C. Before issuing any permit, and at his discretion, examine or cause to be examined all buildings, structures, signs, or lands and portions thereof for which an application has been filed.

D. Issue cease and desist orders and order, in writing, correction of all conditions found to be in violation of the provisions of this Chapter. Such written orders shall be served personally, or by constable, by general mailing, or by certified mail upon persons, firms, or corporations deemed by the Zoning Officer to be violating the terms of the Chapter. It shall be unlawful for any person to violate any such order lawfully issued by the Zoning Officer, and any person violating any such order shall be guilty of a violation of this Chapter.

E. With the approval of the Board of Supervisors, or when directed by the Board, institute any appropriate enforcement proceedings to prevent unlawful use; to restrain, correct, or abate violations so as to prevent the unlawful occupancy or use of any building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about such premises.

F. Revoke a permit issued:

(1) Under a mistake of fact.

(2) Contrary to the law or the provisions of this Chapter.

(3) On the basis of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based, if it is found that work performed or the use to which the property is put is not in conformance with the application.

G. Maintain a map showing the current zoning classification of all land.

H. Submit monthly to the Board of Supervisors a written statement of all permits, violations, and stop-work orders recommended or promulgated.

(Ord. 2005-9, 12/29/2005, §2103)

§27-2104. Permits and Certificates.

1. Applications to Zoning Officer.

A. All applications for zoning permits, building permits, use and occupancy permits shall be made directly to the Zoning Officer. (Application to additional County, State, and Federal agencies may be required.)

B. All applications shall be in writing on forms to be furnished by the Zoning Officer. The number of required copies of applications, supporting information and documents shall be determined by the Zoning Officer on an as needed basis.

C. Lot lines and corner markers shall be accurately located on the lot by a registered land surveyor and the proposed location of all buildings, structures, and required improvements shall be located and staked on the lot for review by the Zoning Officer or designee at the time of permit application submission.

2. Zoning Permits.

A. No person shall erect, alter, or convert any structure, building, or sign, nor alter any land, nor alter the use of any land or structure nor any other development, until the Zoning Officer issues a zoning permit (and, as necessary, a building permit) for said change or construction. Zoning permits shall be issued in duplicate. One copy shall be kept conspicuously on the premises, and no person shall perform building operations or site preparation operations of any kind unless a zoning permit is being displayed. [Ord. 2006-3]

B. A separate zoning permit is required for each use or tenant within any multi-tenant or multi-use building or on any multi-use parcel of land. Changes in tenancy, activities, or uses shall require zoning permits.

C. Any such permit shall expire and become invalid if: (1) the permitted construction or change in use is not commenced within 180 days from the date of issuance of the permit, or (2) the permitted construction or change of use is not completed within 5 years from the date of issuance of the permit.

D. In the event the project is not completed within 5 years from the date of issuance of the permit, the Zoning Officer may grant an extension of time to complete the project, provided there is no deviation from the original plan on which the zoning permit was based. Such extension shall be for the minimum time period necessary, but in no event shall exceed 1 year beyond the expiration date of the original zoning permit, as extended. The extension request shall be submitted on a form provided by the Township.

E. The Zoning Officer may issue a work cease and desist order if the work being done on the premises differs materially from that called for in the application.

3. *Building Permits.*

A. Except as a building or structure may be exempted under this Chapter or otherwise under the Township Building Code (UCC) [Chapter 5, Part 1], a building permit shall be required where a building or structure is to be erected constructed, reconstructed, structurally altered, or moved. An addition to a principal structure, where the proposed additional area is designed to be habitable, shall require a building permit under the terms applicable to a principal structure. Work to be performed under the terms of any building permit shall conform to the requirements of the UCC. No building permit shall be issued until the Zoning Officer or designee has certified that the proposed building, structure, or enlargement complies with the provisions of this Chapter and all other ordinances of East Nottingham Township and all applicable State and Federal statutes and regulations. [*Ord. 2007-3*]

B. All applications for building permits for principal structures shall be made in writing on a form furnished by the Township and shall be accompanied by the following supporting documents:

(1) A lines and grades plan showing the exact location of each of the following if applicable: lot boundaries, setback lines, existing and proposed buildings, ancillary structures (e.g., decks, patios, etc.), driveway, well, septic system, temporary erosion and sedimentation control measures, permanent stormwater management facilities, existing topography (2-foot contours) based on field/aerial photogrammetric surveys. The lines and grades plan shall be prepared and certified by a registered professional surveyor.

(2) If the lot is not part of a recent subdivision with an approved stormwater management plan and erosion and sedimentation control plan, then the building permit application shall be accompanied by stormwater management and erosion and sedimentation control plans prepared by a professional engineer.

(3) Permit from the Chester County Health Department for the

installation of an on-site septic system (if applicable) or a letter from the Oxford Area Sewer Authority confirming hook-up to public sewer (if applicable).

(4) Permit from the Chester County Health Department for the installation of an on-site well (if applicable) or a letter from the Chester Water Authority confirming hook-up to public water (if applicable).

(5) Driveway permit (if applicable) from the Township for access to a Township road or from PennDOT for access to a State road.

(6) In addition to the above, there shall be included with all applications such other plans, documents, and information as may be necessary to enable the Zoning Officer to ascertain compliance with this Chapter and all other pertinent ordinances.

After construction of the foundation and prior to construction commencing on the remainder of the structure, a foundation as-built plan shall be submitted demonstrating that the structure is properly placed on the lot. The as-built plan shall be prepared and certified by a registered professional surveyor. The Building Inspector shall review the as-built plan and perform a site inspection. Once he is satisfied that the structure is properly placed on the lot, he will authorize commencement of construction.

C. All applications for building permits for accessory structures shall be made in writing on a form furnished by the Township and shall be accompanied by the following supporting documents:

(1) A hand-drawn sketch of the lot showing the location of the proposed accessory structure with the dimensions to the property lines labeled.

(2) A hand-drawn sketch of the lot showing the size and shape of the proposed accessory structure.

(3) In addition to the above, there shall be included with all applications such other plans, documents, and information as may be necessary to enable the Zoning Officer to ascertain compliance with this Chapter and all other pertinent ordinances.

D. No more than 10 lots in a subdivision may have active building permits at one time. The eleventh building permit in a subdivision cannot be issued until one of the previous 10 building permits has been completed and a use and occupancy permit issued pursuant to §27-2107.

4. *Permitted Uses.* A zoning permit for a permitted principal or accessory use may be issued by the Zoning Officer. The Township Planning Commission or Board of Supervisors may elect to review an application prior to issuance of a permit. In those cases where subdivision or land development approval is required for a permitted use, such final approval and recording of the plan shall be required prior to issuance of a zoning or building permit.

5. *Permits Required for Mobile Homes.*

A. A building permit shall be required for the placement of a mobile home on any lot, whether or not such lot is located within a mobile home park. The terms of subsection .3, above, shall be applicable.

B. No mobile home shall be removed from any mobile home park or any other

lot within East Nottingham Township without first obtaining a removal permit from the Township Tax Collector or his/her designee, as required by Pennsylvania Act 54 of 1969, 72 P.S. §5020-407(e). Such permit shall be issued upon payment of the required fee and any real estate taxes assessed against the home and unpaid at the time the permit is requested.

(*Ord. 2005-9, 12/29/2005, §2104; as amended by Ord. 2006-3, 11/14/2006, §I; and by Ord. 2007-3, 3/29/2007, §4*)

§27-2105. Requirement for Use and Occupancy Permit.

1. It shall be unlawful for any person to use or occupy any building, other structure, or land until a use and occupancy permit has been duly issued.

2. A use and occupancy permit shall be required prior to any of the following:

A. Use and occupancy of any building or other structure hereafter erected or altered for which a building permit is required.

B. Change in the use of any building or structure or any part thereof.

C. Use of land or change in the use thereof, except that the use of vacant land or change in use for cultivation shall not require a use and occupancy permit.

D. Change in use or extension of a nonconforming use.

E. Operation of any home occupation as may be provided under terms of this Chapter.

3. It is the responsibility of the property owner to notify the Zoning Officer of a change in use of a building or structure or any part thereof or the completion of any activity authorized by a building permit.

(*Ord. 2005-9, 12/29/2005, §2105*)

§27-2106. Application for Use and Occupancy Permit.

Any application for a use and occupancy permit shall be made in writing by the landowner or his authorized agent on a form furnished by the Township. The application shall contain all information necessary to enable the Zoning Officer to determine compliance with this Chapter and other applicable regulations. As determined by the Zoning Officer, applications shall be accompanied by:

A. One copy of any approved plot plan, land development plan, or other data and information deemed appropriate by the Zoning Officer to evaluate compliance with this Chapter and other applicable regulations.

B. One copy of the architectural plans for any proposed building or structure under application.

(*Ord. 2005-9, 12/29/2005, §2106*)

§27-2107. Issuance of Use and Occupancy Permit.

1. No use and occupancy permit shall be issued until the Zoning Officer has certified that the proposed use complies with all provisions of this Chapter and all other applicable regulations of the Township, Chester County, and the Commonwealth of Pennsylvania, and has inspected the property to confirm compliance.

2. Within 15 days after receipt of the application, the Zoning Officer shall either

approve or deny the application and notify the applicant accordingly. If the application is denied, the Zoning Officer shall provide the applicant, in writing, the reasons for the denial.

3. Upon approval of an application, the Zoning Officer shall issue a use and occupancy permit to the applicant for the use indicated on the approved application.

4. Upon request, the Zoning Officer may issue a temporary use and occupancy permit for a period not to exceed 6 months to enable partial occupancy of a building pending completion of construction or alteration. The Zoning Officer may attach conditions and safeguards to such a temporary occupancy permit to protect the occupants and the public.

(Ord. 2005-9, 12/29/2005, §2107)

§27-2108. Permits for Temporary Uses.

The Zoning Officer may issue a permit for a temporary use permitted under §27-1602 of this Chapter. Such permit shall be for a period of time as stipulated in §27-1602.

(Ord. 2005-9, 12/29/2005, §2108)

§27-2109. Erosion and Sediment Control Permit.

1. *Requirements.* An East Nottingham Township erosion and sediment control permit (Township E&S permit) shall be required prior to earthmoving activities that involve more than 1,000 square feet. It shall be unlawful for any person to commence earthmoving activities without first obtaining a Township E&S permit.

A. *Residential.* Any earth disturbance greater than 1,000 square feet for the purpose of the following:

- (1) Construction, addition, or expansion of the primary residence.
- (2) The placement or construction of an accessory building less than 2,000 square feet.
- (3) Installation of a swimming pool.
- (4) Addition or expansion of driveways or parking areas.
- (5) The addition of a deck or patio.
- (6) Miscellaneous grading or contouring of the lot that results in more than 1,000 square feet of earth disturbance.

B. *Nonresidential (Commercial, Industrial, or Institutional).* Any earth disturbance greater than 1,000 square feet for the purpose of the following:

- (1) The placement or construction of an accessory building less than 2,000 square feet.
- (2) Installation of sidewalks.
- (3) Addition or expansion of access driveways or parking lots less than 2,000 square feet.
- (4) Miscellaneous grading or contouring of the lot that results in more than 1,000 square feet of earth disturbance.

C. *Agricultural.* Any earth disturbance greater than 1,000 square feet for the

purpose of the following:

- (1) Construction, addition, or expansion of a primary residence.
- (2) The placement or construction of an accessory building less than 2,000 square feet.
- (3) Addition or expansion of access driveways or parking lots.

D. *Exclusions.*

(1) A stormwater NPDES permit for earthmoving activities associated with the construction of site improvements in a new subdivision or land development shall be obtained from the Chester County Conservation District or Pennsylvania Department of Environmental Protection prior to final plan approval. This permit will supersede any requirement for a Township E&S permit for the installation of site improvements.

(2) Agricultural activities that result in earth disturbance, such as the planting and harvesting crops, are excluded from the requirement for a Township E&S permit.

(3) The resurfacing of driveways and parking lots are excluded from requiring a Township E&S permit.

(4) The addition or expansion of access driveways or parking areas in excess of 2,000 square feet shall require a land development plan.

2. *Application.* Any application for a Township E&S permit shall be made in writing on a form furnished by the Township and shall be accompanied by an erosion and sediment control plan drawn accurately and legibly in accordance with subsection .3, "Specifications," and §22-508, "Stormwater Management," of the Township Subdivision and Land Development Ordinance [Chapter 22].

3. *Specifications.* The application for a Township E&S permit shall be accompanied by a plan of the property showing:

A. A property sketch (drawn to approximate scale) of the lot on which the work is to be performed.

B. Description of the features, existing and proposed, surrounding the lot that are important to the proposed development.

C. Description of the general topographic (including drainage) and soil conditions on the lot (available through the Chester County Conservation District).

D. Location and description of existing and future man-made features of importance to the proposed development (i.e., wells, septic systems, cuts and fills, buildings, driveways, etc.).

E. Description and location of soil erosion and sediment control measures in accordance with standards and specifications of the Chester County Conservation District. The attached plan illustrates what a typical plan would look like. At a minimum the following items shall be included in the plan:

(1) An upstream diversion berm to direct runoff away from areas to be disturbed.

(2) A downstream E&S control (sediment trap, silt fence, etc.) designed to filter sediment from the runoff before leaving the lot.

(3) A stone construction entrance which overlaps the paving and extends into the lot at least 10 feet beyond the right-of-way.

F. A time schedule indicating the anticipated start and completion dates of the development sequence and the time of exposure of each area prior to the completion of the effective erosion and sediment control measures.

4. *Issuance.* A Township E&S permit shall be issued only when the following conditions are met:

A. The erosion and sediment control plan has been prepared in accordance with the above specifications and approved by the Township Engineer.

B. No more than 10 lots in a subdivision may undergo earthmoving activities at any one time. The eleventh permit in a subdivision cannot be issued until one of the previous 10 permitted lots has had its erosion and sediment control plan satisfactorily implemented, the control measures have been inspected and approved by the Township Engineer, and all major excavation and earthmoving activities necessary to start construction, including stripping topsoil and excavation of the basement and/or footers, are complete.

5. *Fees.* Fees required in the administration of the Township E&S permit process shall be paid in accordance with a schedule of fees adopted by resolution of the Board of Supervisors.

(Ord. 2005-9, 12/29/2005, §2109)

§27-2110. Conditional Use Procedures and General Standards.

1. *Intent.* In order to limit the potential impact that certain uses may create on other surrounding uses and the general welfare of the Township, certain reasonable conditions and safeguards are imposed prior to granting approval.

2. *Requirements.* The following provisions shall apply to conditional use applications, in addition to the provisions of the district in which the proposed use is located and any applicable standards and criteria in §27-1604.

3. *Application.* The application for a conditional use permit shall include a proposed plan indicating the size and location of the proposed use, the location of all proposed buildings and facilities, and the location of all existing buildings and structures on adjacent properties within 500 feet of the property line. Application for a conditional use permit shall be filed with the Township Secretary with accompanying form, text, and fees. All owners of land within 500 feet of the property shall be notified by the applicant of the conditional use application. The applicant shall be able to show proof at the conditional use hearing that all property owners were notified.

4. *Procedure for Review.*

A. The Township Planning Commission shall review each conditional use request pursuant to the criteria in this Chapter, and submit its recommendations to the Board of Supervisors.

B. After review by the Planning Commission, the Board of Supervisors shall hold a public hearing pursuant to public notice. The public hearing shall be held within 60 days from the date the application was filed, unless such time is extended in writing by the applicant.

C. Following the public hearing, the Board of Supervisors shall render a

decision on the matter in accordance with statutory requirements.

D. In granting an application for conditional use approval, the Board of Supervisors may waive or modify applicable area and bulk regulations and design standards when said waiver or modification is deemed by the Board of Supervisors to be in the public interest and in furtherance of the goals as set forth in this Chapter.

E. If the Board of Supervisors approves the application and accompanying generalized site plan, such approved plan shall accompany: (1) any application for subdivision or land development as prescribed by the Township Subdivision and Land Development Ordinance [Chapter 22], in addition to the detailed plans normally required, and (2) any application for a building permit or use and occupancy permit. The issuance or denial of such permit shall take place in the regularly prescribed manner herein pertaining to permits, but shall be preceded by compliance with the Township Subdivision and Land Development Ordinance [Chapter 22].

5. *Criteria.* The following criteria shall be used by the Board of Supervisors as a guide in evaluating a proposed conditional use. The burden of proof in establishing that all criteria have been met shall at all times rest upon the applicant:

A. The proposed use at the location in question shall be in the public interest and best serve the public health, safety, and general welfare.

B. The proposed use shall be consistent with the goals and objectives of the East Nottingham Township Comprehensive Plan and those of the East Nottingham Township Open Space, Recreation, and Environmental Resource Plan.

C. The size, scope, extent, and character of the proposed use shall be consistent with the spirit, purpose, and intent of this Chapter.

D. Applicant shall take into consideration the character and type of development in the area surrounding the tract, and determine that the proposed change will not injure or detract from the use of surrounding properties or from the character of the neighborhood.

E. Consideration shall be given to the effect of the proposed use with respect to the most appropriate use of land, conserving building and property values, and safety from fire and other dangers.

F. Sufficient land area shall be made available to be able to effectively screen the proposed conditional use from adjoining different uses.

G. Sufficient safeguards for parking, traffic control, screening, setbacks and other design requirements under this Chapter can be implemented to remove any potential adverse influences created by the proposed use.

H. The impact and effect on buildings or districts of historical or architectural significance shall be considered.

6. *Safeguards.* In granting a conditional use, the Board of Supervisors may attach such reasonable conditions and safeguards in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of the Chapter and the Municipalities Planning Code, 53 P.S. §10101 *et seq.*

(Ord. 2005-9, 12/29/2005, §2110)

§27-2111. Determination of Fees.

1. *Permit Applications.* Application fees for permits governed by this Chapter, including zoning permits, certificates of use and occupancy, temporary use permits, and building permits shall be paid in accordance with a fee schedule adopted by resolution of the Board of Supervisors.

2. *Applications or Appeals before the Board of Supervisors or Zoning Hearing Board.*

A. Upon submission of an application or appeal before either the Board of Supervisors or the Zoning Hearing Board, the applicant shall deposit an amount of money in accordance with a schedule of applicant expenses, adopted by resolution of the Board of Supervisors.

B. If, at any time, the charges then made against the applicant's deposit shall reduce the remaining balance to an amount less than 15 percent of the initial deposit amount and thereby render the balance insufficient to insure payment of all expenses that may accrue in the disposition of the pending appeal or application, the applicant shall, upon notice from the Township, provide additional deposits to assure adequate funds to pay such expenses as they may accrue. The failure of the Township or the Zoning Hearing Board to require and obtain additional deposits from time to time shall not relieve the applicant from liability for expenses in excess of deposits. Any amount deposited in excess of actual final expenses shall be refunded to the applicant.

C. The applicant shall be responsible for all costs related to the public hearing that are authorized by and consistent with the Municipalities Planning Code, 53 P.S. §10101 *et seq.* Responsibility for the costs of a conditional use hearing shall be the same as those specified in the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, for a hearing before the Zoning Hearing Board.

3. An application for conditional use, special exception, variance, validity challenge, curative amendment, petition for a zoning change, or appeal shall not be deemed complete or to have been filed until all application fees, charges, and expenses have been paid in full. Required fees shall accompany the application.

(*Ord. 2005-9, 12/29/2005, §2111*)

§27-2112. Municipal Liability.

The granting of any permit under this Chapter shall create no liability upon, nor a cause of action against, any Township official or employee for damages or injury that may occur from the use, construction, or enlargement of structures or the use of land.

(*Ord. 2005-9, 12/29/2005, §2112*)

Part 22**Zoning Hearing Board****§27-2201. General.**1. *Appointment.*

A. The Zoning Hearing Board shall consist of three residents of the Township appointed by the Board of Supervisors. The Zoning Hearing Board members shall serve terms of 3 years, so fixed that the term of office of one regular member shall expire each year and so that the term of not more than one alternate member expires each year. Members of the Zoning Hearing Board shall hold no other office in the Township.

B. *Alternate Members.* Alternate members may be appointed at the option of the Board of Supervisors and may serve within the provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*, as amended. Alternate members may participate fully in all proceedings of the Zoning Hearing Board.

2. *Vacancies.* The Zoning Hearing Board shall properly notify the Board of Supervisors of any vacancy that occurs. Appointments to fill vacancies shall be only for the unexpired portion of a term.

3. *Removal.* My Zoning Hearing Board member may be removed for just cause by a majority vote of the Board of Supervisors, if the member has received 15 days notice of the intent to take such vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

4. *Organization.*

A. The Zoning Hearing Board shall elect officers from its own membership. Officers shall serve annual terms and may succeed themselves.

B. For the conduct of any hearing and taking of any action, a quorum shall be not less than a majority of all members of the Zoning Hearing Board.

C. The applicant shall pay all fees, as established by the Board of Supervisors, for all proceedings, hearings, and actions by the Zoning Hearing Board.

5. *Board Jurisdiction.* The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

A. Substantive challenges to the validity of the zoning ordinance, except those brought before the Board of Supervisors pursuant to 53 P.S. §10609.1 and 53 P.S. §10916.1 of the Pennsylvania Municipalities Planning Code.

B. Challenges to the validity of the zoning ordinance raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance or amendment.

C. Appeals from the determination of the Zoning Officer including, but not limited to, the granting or denial of any permit or failure to act on the application for a permit, the issuance of any cease and desist order, or the registration or

refusal to register any nonconforming use, lot or structure.

D. Appeals from a determination by the Township Engineer or Zoning Officer with reference to the administration of floodplain regulations of the Township.

E. Applications for variances from the terms of this Chapter.

F. Applications for special exceptions under this Chapter.

G. Appeals from the Zoning Officer's determinations.

H. Appeals from the determination of the Zoning Officer or Township Engineer in the administration of any zoning ordinance or other land use ordinance with reference to sedimentation and erosion control and stormwater management, insofar as the same relate to development.

6. *Application Procedures.* Application procedures shall be as set forth in §27-2205.

(Ord. 2005-9, 12/29/2005, §2201)

§27-2202. Appeals from the Zoning Officer.

1. *Appeals.* All appeals from a decision of the Zoning Officer and applications for relief from the Zoning Hearing Board shall be in writing as set forth in §27-2205. Every appeal or application shall include the following:

A. The name and address of the applicant or appellant.

B. The name and address of the owner of the property to be affected by such proposed change or appeal, and a list of adjoining property owners and tax parcel identification numbers.

C. A brief description and location of the property to be affected by such proposed change or appeal.

D. A statement of the present zoning classification of the property in question, the improvements thereon, and the present use thereof.

E. A statement of the Section of this Chapter under which the appeal is made and reasons why it should be granted, or a statement of the Section of this Chapter governing the situation in which the alleged erroneous ruling is being appealed and the reasons for this appeal.

F. A reasonably accurate description of the additions or changes intended to be made under this application, indicating the size, material, and general construction of such proposed improvements. A plot plan of the property to be affected, indicating the location and size of the lot and the size of existing and intended improvements, shall be attached to the description.

2. *Appeal from the Zoning Hearing Board.* In the case of an appeal from the Zoning Hearing Board to the Court of Common Pleas, the Zoning Hearing Board shall make the return of the record required by law, and shall promptly notify the Township Solicitor of such appeal and furnish him with a copy of the return of the record, including the transcript of testimony. Any decision of the Zoning Hearing Board not appealed within 30 days after notice thereof shall be final.

(Ord. 2005-9, 12/29/2005, §2202)

§27-2203. Special Exception Plan, Procedures, and Conditions.

1. *Plan Requirements.* All applicants for a special exception use must submit an application as set forth in §27-2205 and any supporting documentation as required by the Zoning Officer when making application for a permit. If the application is considered a land development or subdivision, it must also meet the following site plan requirements:

A. A statement as to the proposed use of the building or land.

B. A site layout drawn to a scale of not less than 1 inch equals 50 feet showing the location, dimensions, and height of proposed buildings, structures, or uses and any existing buildings in relation to property and street lines. If the application relates to property scheduled to be developed in successive stages, such plans shall show the relationship of the portion scheduled for initial development to the proposed layout of the entire property.

C. The location, dimensions, and arrangements of all open spaces and yards and buffer yards, including methods and materials to be employed for screening.

D. The location, size, arrangement, and capacity of all areas to be used for motor vehicle access, off-street parking, off-street loading and unloading, and provisions to be made for lighting such areas.

E. The dimensions, location, and methods of illumination for signs, if applicable.

F. The location and dimensions of sidewalks and all other areas to be devoted to pedestrian use.

G. Provisions to be made for treatment and disposal of sewage and industrial wastes, water supply, and storm drainage.

H. The capacity and arrangement of all buildings used or intended to be used for dwelling purposes, including the proposed density in terms of number of dwelling units per acre of land.

I. A description of any proposed industrial or commercial operations in sufficient detail to indicate effects of those operations in producing noise, glare, air pollution, water pollution, fire hazards, traffic congestion, or other safety hazards.

J. Description of methods to be employed in controlling any excess noise, air pollution, smoke, fumes, water pollution, fire hazards, or other safety hazards.

2. *Standards for Special Exceptions.* The Zoning Hearing Board shall approve a proposed special exception if the applicant demonstrates compliance with the following:

A. All applicable standards of Part 17.

B. The applicable standards in §27-1603.

C. All applicable Federal, State, and Township laws and regulations.

3. *Conditions for Special Exceptions.* The Zoning Hearing Board shall consider all of the general standards as well as any specific standards that may be listed for the proposed use. The Zoning Hearing Board may impose reasonable conditions on a special exception use as it determines are necessary to ensure compliance with Township ordinances and State and Federal regulations; to protect the public health and safety; and to ensure compatibility and avoid nuisances among nearby uses.

(Ord. 2005-9, 12/29/2005, §2203)

§27-2204. Variances.

1. *Applicant.* Requests for a variance may be filed with the Zoning Hearing Board, in writing in accordance with §27-2205.

2. *Standards for a Variance.* The Zoning Hearing Board may grant a variance, provided that all of the following findings, where relevant, are made in a given case:

A. That there are unique physical circumstances or conditions (including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property) and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or district in which the property is located.

B. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and a variance is therefore necessary to enable the reasonable use of the property.

C. That such unnecessary hardship has not been created by the appellant.

D. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially nor permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.

E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

3. *Additional Conditions and Safeguards.* In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*, as amended.

(Ord. 2005-9, 12/29/2005, §2204)

§27-2205. Hearings and Procedures.

1. *Parties Appellant Before Board.* Appeals under 53 P.S. §10909.1(a)(1), (2), (3), (4), (7), (8) and (9) of the Pennsylvania Municipalities Planning Code, as amended, may be filed with the Zoning Hearing Board, in writing, by the landowner affected, any officer or agency of the Township, or any person aggrieved. Requests for a variance and for a special exception may be filed with the Zoning Hearing Board by any landowner or any tenant with the written permission of such landowner.

2. *Time Limitations.*

A. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after any application for development, preliminary or final, has been approved by an appropriate Township officer, agency, or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.

B. All appeals from determinations adverse to a landowner shall be filed by the landowner within 30 days after notice of the determination is issued.

3. *Application for a Hearing.* Parties appellant before the Board shall make application in writing including a list of property owners and their addresses under subsection .4.C. Applications shall not be accepted without all required elements for the action requested, and payment of the appropriate fee. The Zoning Officer shall transmit to the Board, and to the Township Planning Commission or other parties where necessary or appropriate, the submitted material comprising the application, including any drawings, sketches, plans, or supporting documentation relevant to the application.

4. *Hearings.* The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following:

A. *Notice of Hearings.* Notice of all hearings of the Zoning Hearing Board shall be given as follows:

(1) Public notice shall be published at least twice in a newspaper of general circulation in the Township. The first publication shall not be more than 30 days and the second publication shall not be less than 7 days from the date of the hearing. The notice shall state the time and place of the hearing and the particular nature of the matter to be considered. Notice of such hearing shall also be posted on the affected tract of land at least 1 week prior to the hearing.

(2) Notice shall be given to the applicant, the Zoning Officer, the Board of Supervisors, and any other person or group that has made a timely request for such notice, by personally delivering or mailing a copy of the published notice.

(3) Notice shall be mailed or delivered to the owner, if his residence is known, or the occupier of every lot within 1,000 feet of the said lot or building, provided that failure to give notice as required by this paragraph shall not invalidate any action taken by the Board.

(4) The Board of Supervisors may establish reasonable fees, based on cost, to be paid by the applicant for the holding of hearings and attendance cost.

B. *Time of Hearings.* The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed, in writing, to an extension of time.

C. *Parties.* The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any other person, including civic or community organizations, permitted to appear by the Zoning Hearing Board. The Zoning Hearing Board shall have power to require that all persons who wish to be considered parties enter appearances, in writing, on forms provided by the Zoning Hearing Board for that purpose.

D. *Oaths and Subpoenas.* The Chairman or Acting Chairman of the Zoning Hearing Board presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

E. *Representation by Counsel.* The parties shall have the right to be

represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

F. *Evidence.* Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

G. *Record.* The Zoning Hearing Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.

H. *Ex Parte Communications.* The Zoning Hearing Board shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate. The Zoning Hearing Board shall not take notice of any communication, reports, staff memoranda, or other materials except advice from its solicitor unless the parties are afforded an opportunity to contest the material so noticed. After the commencement of hearings, the Zoning Hearing Board shall not inspect the site or its surroundings with any party or his representative, unless all parties are given an opportunity to be present.

I. *Referral to Planning Commission.* Any application to the Zoning Hearing Board may, at the discretion of the Board of Supervisors, be referred to the Planning Commission for review.

J. *Decision/Findings.* The Zoning Hearing Board shall render a written decision or, when no decision is called for, make written findings on the application, within 45 days after the last hearing before the Zoning Hearing Board. All conclusions based on any provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*, as amended, or of this Chapter shall contain a reference to the provisions relied on and the reasons why the conclusion is deemed appropriate in light of the facts found.

K. *Notice of Decision.* A copy of the final decision or, where no decision is called for, a copy of the findings, shall be delivered to the applicant personally or mailed to him not later than the day following its date. The Zoning Hearing Board shall provide (by mail or otherwise) a brief notice of the decision or findings, and a statement of the place where the full decision or findings may be examined, to all other persons who have filed their name and addresses with the Zoning Hearing Board not later than the last day of the hearing.

(Ord. 2005-9, 12/29/2005, §2205)

Part 23**Enforcement****§27-2301. Enforcement Notice.**

1. If it appears to the Township that a violation of this Chapter has occurred, the Township shall initiate formal enforcement proceedings by sending an enforcement notice as provided in this Section. The Zoning Officer may informally request compliance prior to instituting formal proceedings.

2. The enforcement notice shall be sent to the owner of record of the parcel in which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.

3. An enforcement notice shall state at least the following:

A. The name of the owner of record and any other person against whom the Township intends to take action.

B. The location of the property in violation.

C. The specific violation with a description of the requirements that have not been met, citing in each instance the applicable provisions of the Chapter.

D. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

E. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedure set forth in this Chapter.

F. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation with possible sanctions clearly described.

4. In any appeal of an enforcement notice to the Zoning Hearing Board, the Township shall have the responsibility of presenting its evidence first.

5. Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Township if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.

(Ord. 2005-9, 12/29/2005, §2301)

§27-2302. Causes of Action.

1. Where any building, structure, landscaping, or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this Chapter or any prior enabling laws, the Board of Supervisors or, with the approval of the Board of Supervisors, the Zoning Officer or other duly authorized officer of the Township, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct, or abate such building, structure, landscaping, or land, or to prevent, in or

about such premises, any act, conduct, business, or use constituting a violation.

2. Where any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Township at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Board of Supervisors. No such action may be maintained until such notice has been given.

(Ord. 2005-9, 12/29/2005, §2302)

§27-2303. Enforcement Remedies.

1. Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this Chapter or any prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment, plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof.

2. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership, or corporation violating the Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the 5th day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

3. All judgments, costs, and reasonable attorney fees collected for the violation of this Chapter shall be paid over to the Township.

(Ord. 2005-9, 12/29/2005, §2303)

Part 24**Amendments****§27-2401. Power of Amendment.**

The Board of Supervisors may from time to time amend this Chapter, including the Zoning Map and its overlays, by proceeding in accordance with the applicable provisions of the Municipalities Planning Code, 53 P.S. §10101 *et seq.*

(*Ord. 2005-9, 12/29/2005, §2401*)

Part 25**Historic Preservation****§27-2501. Statement of Intent.**

This Part is intended to advance the following public purposes:

A. To promote the general welfare by facilitating protection of the historical integrity of the historic resources of East Nottingham Township.

B. To establish a clear process by which proposed land use changes affecting historic resources can be reviewed.

C. To discourage the unnecessary demolition of historic resources.

D. To provide incentives for the continued use of historic resources and to facilitate their appropriate reuse.

E. To encourage the conservation of historic settings and landscapes.

F. To implement the goals of the Pennsylvania Constitution, Article I, §27, which establishes the Commonwealth's policy of encouraging the preservation of historic and aesthetic resources.

(Ord. 2005-9, 12/29/2005, §2501; as added by Ord. 2007-7, 11/19/2007, §1)

§27-2502. Definitions.

As used in this Part, the following terms shall have the meanings given to them below:

Class I historic resource—

(1) All sites designated by the Secretary of the Interior as national historic landmarks.

(2) All buildings, sites, structures, and objects listed individually in the National Register of Historic Places.

(3) All buildings and structures classified as certified historic structures by the Secretary of the Interior.

(4) All buildings, sites, structures, and objects documented as contributing resources in a National Register Historic District.

(5) Any resources which have received a determination of eligibility (DOE) by the Pennsylvania Historical and Museum Commission (PHMC).

(6) Any buildings, sites, structures, or objects documented as contributing resources within any historic district which has received a determination of eligibility (DOE) from the PHMC.

Class II historic resource—

(1) Has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the Township, County, Region, Commonwealth, or Nation, or is associated with the life of a person significant in the past.

(2) Is associated with an event of importance to the history of the

Township, County, region, Commonwealth, or nation.

(3) Embodies distinguishing characteristics of an architectural style or engineering specimen.

(4) Is the noteworthy work of a designer, architect, landscape architect or designer, or engineer whose work has significantly influenced the historical, architectural, economic, social, or cultural development of the Township, County, region, Commonwealth, or nation.

(5) Has yielded, or may be likely to yield, information important in prehistory or history.

(6) Exemplifies the cultural, political, economic, social, or historical heritage of the community.

(7) Is listed in the East Nottingham Township Historic Resources Inventory.

Historic resource—a Class I or Class II historic resource as defined in this Section and Part 2 of this Chapter, and which is listed on the East Nottingham Township Historic Resource Inventory.

Historic resource impact study—a study of the potential impacts of proposed land development and/or land disturbance on nearby historic resources, including study of potential means to mitigate negative impacts, required to be submitted to the Township in certain land development scenarios, in accordance with §27-2511 of this Part.

Historic resources inventory—the East Nottingham Township Historic Resources Inventory, a list and corresponding map indicating the locations of all Class I and Class II historic resources in the Township, including both principal and contributing resources, to which the provisions of §§27-2503 through 27-2505 of this Part apply.

Historic structure—any structure that is designated a Class I or Class II historic resource.

(Ord. 2005-9, 12/29/2005, §2502; as added by Ord. 2007-7, 11/19/2007, §1)

§27-2503. East Nottingham Township Historic Resources Inventory.

The Township shall maintain an inventory of historic resources. The inventory shall be on file in the Township offices.

(Ord. 2005-9, 12/29/2005, §2503; as added by Ord. 2007-7, 11/19/2007, §1)

§27-2504. General Criteria for Classification of Historic Resources.

1. *Class I Historic Resources.* Any building, structure, site, or object which meets the definition of a Class I historic resource as set forth in §27-2502.

2. *Class II Historic Resources.* Any building, structure, site, or object which meets the definition of a Class H historic resource as set forth in §27-2502.

(Ord. 2005-9, 12/29/2005, §2504; as added by Ord. 2007-7, 11/19/2007, §1)

§27-2505. Procedure for Addition or Removal from Historic Resources Inventory.

1. Any building, structure, site, or object (“resource”) may be proposed for addition to or removal from the Historic Resources Inventory, or for a change in classification (Class I or Class II) by:

- A. The owner of such resource.
- B. The East Nottingham Historical Commission (“Historical Commission”).
- C. The Board of Supervisors.
- D. Notice from the designating organization (Pennsylvania Historical and Museum Commission or National Register) that the historic resource meets any of the criteria set forth in §27-2502 Class I Historic Resources, or the resource or no longer meets the criteria upon which its classification has been based.

2. All proposals for addition to or removal from the Historic Resources Inventory, or for a change in classification (Class I or Class II), shall be referred to the Historical Commission. The Historical Commission shall hold a public meeting after a written notice has been sent to the owner(s) of the resource affected. The Historical Commission shall consider oral testimony and/or documentary evidence regarding the proposal at the public meeting, which may be continued from time to time. The Historical Commission shall present a written report to the Board of Supervisors within 30 days following the close of testimony from all public meetings on the question, stating its recommendation regarding the subject proposal, together with the grounds therefor. An historic resource shall be recommended for removal from Class I if it does not currently meet the definition as set forth above or is determined by the Historical Commission to no longer be of historical significance based on the evidence presented at a public meeting(s). An historic resource removed from the Class I Historic Resource Inventory shall remain on the Historic Resource Inventory as a Class II Historic Resource unless it does not currently meet any of the criteria set forth above, in which case it shall be removed altogether from the Historic Resource Inventory.

3. After receiving the recommendations of the Historical Commission, the Board of Supervisors may from time to time, by resolution, add or delete resources to or from the Historic Resources Inventory or change the classification of an historic resource. Written notice of the proposed action of the Board of Supervisors shall be given to the resource owner.

(Ord. 2005-9, 12/29/2005, §2505; as added by Ord. 2007-7, 11/19/2007, §1)

§27-2506. Permitted Uses for Historic Resources.

1. An historic resource may be used for the following purposes:

A. Any use permitted in the underlying zoning district in which the property is located.

B. Where approved by the Board of Supervisors as a conditional use in accordance with the criteria contained in both §§27-2110 and 27-2508, an historic resource may be used for the following adaptive reuses:

(1) Artist studio or crafts workshop employing not more than three persons. Such workshops may include model making, rug weaving, lapidary work, furniture making, and similar crafts.

(2) Antique shop.

(3) Office or business office.

(4) Cultural studio, subject to the condition that if access is provided from a minor street, the use shall be limited to one class at a time with not more than 10 students in the class, and not more than two instructors.

(5) Child day-care center as a principal or accessory use.

(6) Adult day-care center.

(7) Bed-and-breakfast use.

(8) Food preparation or catering facility not involving food consumption, employing not more than three persons on the premises.

(9) Personal service shop, including tailor, barber, beauty salon, dressmaking, or similar shop, but not including dry cleaning or laundromat, with a limit of one employee per 500 square feet of gross habitable floor area devoted to the service shop use.

(10) Repair services, including small appliances, small business machines, watches, household furnishings, shoes, bicycles and locks, but shall not include any motorized vehicle including, but not limited to, automobile, snowmobile, truck, motorcycle or lawnmower repair, with a limit of one employee per 500 square feet of gross habitable floor area devoted to the repair service use.

(11) Any use of the same character demonstrably proven by the applicant to have no greater impact upon the neighborhood than any of the foregoing uses.

(12) Residential conversion of any structure designated as an historic resource into one or more dwelling units, subject to the following specific requirements:

(a) Except where otherwise provided in the applicable zoning district, where multiple dwellings result from the conversion of a structure designated as an historic resource, no individual dwelling unit shall contain less than 800 square feet of habitable floor area and the number of such dwelling units shall not exceed the number that can be accommodated within the building utilizing this minimum floor area requirement. No structural addition to the historic resource shall increase the number of dwelling units that can be achieved by application of this formula.

(b) Each individual dwelling unit created through the residential conversion of an historic resource shall contain its own bathroom and kitchen.

2. Uses which are not otherwise permitted in the underlying zoning district, but are granted as a result of the conditional use process outlined above shall be contained within the historic resource. All adaptive reuses shall comply with the parking regulations applicable to the proposed use.

3. Where approved by the Board of Supervisors as a conditional use, a property on which an historic resource is located may be proposed for additional development consistent with the regulations of the zoning district in which the property is located, provided that the historic resource shall be adaptively reused in conjunction with the

proposed development.

4. Where approved by the Board of Supervisors as a conditional use, a property on which an historic resource is located may be subdivided for additional development consistent with the regulations of the zoning district in which the property is located, provided that the historic resource shall be located on a single subdivided lot meeting the minimum lot area and bulk regulations and design standards of the zoning district in which the historic resource is located.

(*Ord. 2005-9, 12/29/2005, §2506; as added by Ord. 2007-7, 11/19/2007, §1*)

§27-2507. Lot Area, Width, Building Coverage, Height, and Yard Requirements for Historic Resources.

All lot area, width, building coverage, height, and yard requirements (“area and bulk regulations”) and design standards otherwise applicable in the underlying zoning district shall apply to the use or reuse of an historic resource. However, in order to facilitate the use of the historic resource permitted §27-2506, the Board of Supervisors, as part of the conditional use approval, may grant modifications to the otherwise applicable area and bulk regulations applicable to the use or adaptive reuse of the historic resource. In no event shall the Board of Supervisors grant modifications to the height requirement and design standards applicable to the historic resource.

(*Ord. 2005-9, 12/29/2005, §2507; as added by Ord. 2007-7, 11/19/2007, §1*)

§27-2508. Specific Requirements for Conditional Use Approval.

The Board of Supervisors, when determining whether to grant a conditional use to permit the use of an historic resource pursuant to §27-2506 or to modify the area and bulk or design standards applicable to an historic resource as permitted by §27-2507, shall make specific findings of fact that:

A. All applicable standards and criteria set forth in §27-2110 for conditional use approval shall be complied with to the satisfaction of the Township.

B. The granting of conditional use approval shall be deemed to be necessary to the preservation of the historic resource(s), for reasons other than purely economic grounds.

C. Except where clearly detrimental to the historical integrity of the historic resource and where public health, safety, and welfare are otherwise adequately provided for, all other applicable standards contained in this Chapter shall be complied with including, but not limited to, requirements for buffering, lighting, storage, access and traffic management, interior circulation, loading, parking, and signs.

D. The Board of Supervisors may deny the request for conditional use or for modification of area and bulk regulations where, upon the review of the Historical Commission, it deems the proposal to be destructive to the integrity of the historic resource and/or where the Board finds the proposed modification(s) to be out of character with the existing uses located in the immediate neighborhood.

E. All conditional uses granted shall contain a condition that the applicant shall comply with Commonwealth of Pennsylvania UCC accessibility requirements and shall comply with Township adopted codes for alterations and additions in

addition to the provisions of this Part.

(*Ord. 2005-9, 12/29/2005, §2508; as added by Ord. 2007-7, 11/19/2007, §1*)

§27-2509. Application Procedures for Conditional Use Approval.

1. An applicant seeking conditional use approval for use, reuse, adaptive reuse, or for modification of area and bulk regulations affecting an historic resource shall submit a conditional use application to the Township in accordance with the provisions of §27-2110. In addition, the conditional use application shall include the following supporting information:

A. A detailed description of the proposed use(s).

B. Any exterior physical changes proposed for the affected historic resource(s) and their surrounding landscape.

C. Any proposed modifications to otherwise applicable area and bulk regulations.

D. Photographs of all sides and interior rooms of the historic resource.

E. Twenty copies of an historic resource impact study (HRIS) or a written request for a waiver of the submission of an HRIS with justification therefor.

2. The Historical Commission shall review the conditional use application and submit a written recommendation to the Planning Commission within 45 days of receipt by the Township.

3. The Board of Supervisors shall act upon a conditional use application in accordance with the provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*, and with §27-2110.

(*Ord. 2005-9, 12/29/2005, §2509; as added by Ord. 2007-7, 11/19/2007, §1*)

§27-2510. Demolition.

1. *Demolition Permit Requirement.*

A. A demolition permit shall be required prior to the demolition, either in whole or in substantial part, of any historic resource.

B. These provisions shall not be construed to prevent:

(1) The ordinary maintenance or repair of any building, structure, site, or object where such work does not require a building permit and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, a building, structure, or object and to restore the same to its condition prior to the occurrence of such deterioration, decay, or damage.

(2) The construction of additions to or alterations of the historic resource, involving less than 50 percent of the exterior facades as they existed on the historic resource when it was first placed on the Historic Resources Inventory.

2. *Procedure for Approval or Denial of Demolition Permit.*

A. *Filing.* The applicant shall submit an original and two copies of the Township's standard form application for demolition permit to the Zoning Officer. If the Zoning Officer determines that the application seeks approval for the demolition of an historic resource, the Zoning Officer shall not issue the demolition

permit but shall so notify the applicant that the application is being forwarded to the Historical Commission and to the Board of Supervisors.

B. *Submission Requirements.* In addition to submission of any documentation required by the Township's Building Code [Chapter 5, Part 1], an applicant seeking a demolition permit for an historic resource shall provide the following:

- (1) The identity of the owner of record; and equitable owner, if any.
- (2) Site plan showing all buildings and structures on the property and all proposed development of the property on which the resource is located.
- (3) Reasons for the demolition.
- (4) Proposed method of demolition.
- (5) Intended future use of the site and of the materials from the demolished resource.
- (6) List of alternatives to demolition which the applicant has considered.
- (7) An historic resource impact study.
- (8) Where the applicant specifically alleges that demolition is necessary due to undue economic hardship or the lack of a reasonable economic alternative, a narrative statement, together with supporting documentation, shall be submitted to demonstrate what alternate consideration to demolition, if any, the applicant has given to practical, adaptive uses of the historic resource, particularly considering the incentives potentially available as conditionally permitted by §§27-2506 and 27-2507, and written estimates of the cost(s) of restoration and/or renovation from at least two contractors or architects specializing in historic preservation/restoration.

C. *Period for Decision.* The Board of Supervisors shall have a period of 60 days from the date of the filing of a complete application for demolition permit to schedule a public hearing. The Board of Supervisors shall have 45 days from the close of the public hearing(s), unless extended in writing by the applicant, to issue or deny the demolition permit.

D. *Review by Historical Commission.* The Historical Commission shall have a period of 30 days from the date of the filing of a complete application for a demolition permit to schedule a meeting to review and comment upon the application. The applicant shall receive notice seven days prior to the meeting. The Historical Commission shall review the application, and the applicant shall have the right to appear in support of his/her application. The Historical Commission shall consider the following:

- (1) The effect of demolition on the historical significance and architectural integrity of the resource in question and neighboring historic resources, if any.
- (2) Whether the applicant has demonstrated that he has considered all alternatives to demolition.
- (3) Economic feasibility of adaptive reuse of the historic resource proposed for demolition.
- (4) Alternatives to demolition of the resource.
- (5) Whether the resource in its current condition presents a threat to public safety.

(6) Whether the resource has been intentionally neglected.

(7) The anticipated cost to repair and/or adapt the resource in relation to the appraised value of the property on which the resource is located.

E. *Historical Commission Recommendation.* The Historical Commission shall, within 15 days from the conclusion of its meetings, communicate its recommendation(s) in a written report which specifically addresses the items set forth in subsection .2.D(1) through (7) to the applicant, with copy mailed to the Board of Supervisors, either recommending approval of the application as submitted, recommending approval of the application with conditions, or recommending denial of the application. Failure of the Commission to act upon the application and/or issue a recommendation shall not result in a deemed approval of the application but shall be grounds for the Board to consider the application without reference to the Commission's review.

F. *Issuance or Denial of Demolition Permit.* Where the Board acts to either approve or deny the permit application, it shall authorize the Zoning Officer to either issue the permit or give written notice of denial, as applicable. Where the approval is authorized to be granted with conditions attached, with written notice of denial and the reasons therefor, as applicable, the Zoning Officer shall be authorized to issue the permit upon his receipt from the applicant of his/her written acceptance of those conditions; otherwise, the permit shall be deemed denied. The Board may deny a demolition permit, if the applicant fails to adequately present evidence to address the criteria listed in subsection .2.D(1) through (7). The decision shall be communicated to the applicant by decision of the Zoning Officer. The applicant, if aggrieved by the decision of the Zoning Officer, shall have the right to appeal the Zoning Officer's decision in accordance with the provisions of §27-2202.

(Ord. 2005-9, 12/29/2005, §2510; as added by Ord. 2007-7, 11/19/2007, §1)

§27-2511. Historic Resource Impact Study.

1. *Applicability.* An historic resource impact study (HRIS), prepared by a registered architect specializing in historic preservation and adaptive reuse of historic buildings and structures, shall be submitted to the Township, unless waived or modified by the Board of Supervisors, in the following situations:

A. As part of a preliminary plan submission for any subdivision or land development application which proposes new construction of buildings, structures, roads, driveways, parking areas, or other land disturbance within 250 feet of the exterior walls of any Class I or II historic resource.

B. As part of a tentative plan submission for any application for a planned residential development (PRD) which proposes new construction of buildings, structures, roads, driveways, parking areas, or other land disturbance within 250 feet of the exterior walls of any Class I or II historic resource.

C. As part of a demolition permit application.

D. As part of a conditional use application.

2. *Contents.* The HMS shall contain the following information, unless waived or modified by the Board of Supervisors:

A. *Background Information:*

(1) If not otherwise provided by the applicant, a general description of the site subject to the application, including topography, watercourses, vegetation, landscaping, existing drives, etc.

(2) A general description and classification of the historic resources located within 250 feet of any proposed land development or land disturbance.

(3) A physical description of the interior and exterior of the historic resource(s), including an interior floor plan.

(4) A narrative description of the historical significance of the historic resource, relative to both the Township and to the region in general, including the names of past owners and their significance to the Township, region or nation.

(5) A sufficient number of 4-inch by 6-inch photographs to show the exterior of the historic resource in its setting and, if the applicant is the owner, then photographs of the interior.

B. An assessment of potential impacts to the historic resources:

(1) A description of potential impact(s) to each historic resource with regard to architectural integrity, historic setting, and future use.

C. *Mitigation Measures.* Suggested approaches to mitigate potentially negative impacts to historic resources, including design alternatives, buffering, landscaping, conservation of existing vegetation, and any other appropriate measures permitted under the terms of this Chapter and other Township ordinances.

(Ord. 2005-9, 12/29/2005, §2511; as added by Ord. 2007-7, 11/19/2007, §1)

§27-2512. Violations and Penalties; Enforcement.

1. Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this Part shall, upon being found liable therefore in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than \$500, plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied, or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.

2. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the 5th day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

3. All judgments, costs, and reasonable attorney fees collected for the violation of this Chapter shall be paid over to the Township.

4. In the event any person demolishes an historic resource in violation of the provisions of this Part or in violation of any conditions or requirements specified in a

permit issued under the terms of this Part, the Board of Supervisors may institute any proceeding, at law or in equity, necessary to enforce the provisions of this Part, including, but not limited to, an action to compel the reconstruction and/or restoration of the historic resource to its condition and appearance as existed immediately prior to the violation. Such restoration shall be in addition to, and not in lieu of, any penalty or remedy available under this §27-2512 or any other applicable law.

5. In the event the Board of Supervisors authorizes the commencement of an action pursuant to subsection .4 of this Section, the Zoning Officer or Building Code Official shall not issue any building permit for the construction of any building or structure proposed to be located in any location on the property which would preclude reconstruction or restoration of the historic resource demolished in violation of this Part or intended to replace such historic resource, unless issued for the purpose of restoring the historic resource to its condition and appearance as existed immediately prior to the violation.

6. The Board of Supervisors may, as a condition of approval of any conditional use application or subdivision or land development application involving any property which, at the date of enactment of this Part, was occupied by an historic resource(s) that subsequently was demolished in violation of §§27-2510 and 27-2511 of this Part, impose a condition requiring the satisfactory reconstruction or restoration of any such historic resource(s).

(Ord. 2005-9, 12/29/2005, §2512; as added by Ord. 2007-7, 11/19/2007, §1)

Zoning Map Amendments

Ord./Res.	Date	Subject
Ord. 2008-13	4/14/2008	Incorporating a Zoning Map change affecting the Zoning District characterization of approximately 96 parcels, 33 parcels being changed from R3 to R2, 23 parcels from I1 to I2, 19 parcels from R3 to C2, 16 parcels from I1 to C2, 2 parcels from R2 to C1, 2 parcels from C2 to I1 and 1 parcel from C2 to R3

